TRANSPARENCY INTERNATIONAL
the global coalition against corruption

MINING AWARDS CORRUPTION RISK ASSESSMENT TOOL

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. With more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.

www.transparency.org

Mining Awards Corruption Risk Assessment Tool (2nd edition)

ISBN: 0975243934

Author: Michael Nest

Editing: Lisa Caripis

Design: sophieeverett.com.au

Andrew McDevitt (Transparency International), Andrea Shaw and Lisa Caripis (Transparency International Australia) contributed to the development of this tool.

This Tool was developed as part of Transparency International's Mining for Sustainable Development Programme (M4SD). Phase I of the Programme (2016 – 2017) was funded by the BHP Billiton Foundation and the Australian Government through the Department of Foreign Affairs and Trade.

Note on this edition and acknowledgements

The first edition of the MACRA Tool was originally designed for Transparency International national chapters participating in the *Mining for Sustainable Development Programme*. In this second edition, we have adapted the tool for a broader audience and included clarifications and additional guidance based on feedback from the participating chapters.

Special thanks to the following individuals whose feedback helped us develop the second edition: Helen Langley, Michael Nest, Norman Mukwakwami, Richard Biastoch, Randall Makor, Artur Grigoryan, Karunia Macdonald, Rosana Madrid, Davis Osoro, Magaly Avila, Adriana Muñoz Criado, Maricarmen Monardes and Emilio Moya Diaz.

Transparency International also thanks members from the following organisations for their comments and assistance in the development of the first edition of the MACRA Tool in 2016:

Luke Balleny, Manager, International Council on Mining and Metals (ICMM)

Rob Pitman, Governance Officer, Amir Shafaei, Senior Legal Analyst and Aaron Sayne, Senior Governance Officer, Natural Resource Governance Institute (NRGI)

Degol Hailu, Senior Advisor and Global Lead – Extractive Industries, UNDP

Elisa Peter, Executive Director, Publish What You Pay

Gavin Hayman, Executive Director, Open Contracting Partnership

Michael Jarvis, Executive Director, Transparency and Accountability Institute (TAI)

James Ensor, Executive Director, BHP Billiton Foundation

Isabel Cane, Project Lead – Partnering Against Corruption Initiative, World Economic Forum

Kendra Dupuy, Natural Resource Management Advisor, U4 Anti-Corruption Resource Centre

We are very grateful to the three Transparency International (TI) national chapters who participated in the pilot implementation of the MACRA Tool in mid-2016: Chile Transparente, the Transparency International Anti-Corruption Centre (Armenia) and Transparency International Mongolia.

Thanks, finally, are due to the 20 national chapters who used the first edition of the MACRA Tool to assess the risks of corruption in mining awards in their country between 2016 and 2017: TI Australia, TI Anti-Corruption Centre (Armenia), Chile Transparente, TI Cambodia, TI Canada, Transparencia por Colombia, Ligue Congolaise de Lutte Contre La Corruption (DRC), Acción Ciudadana (Guatemala), TI Indonesia, TI Kenya, Center for Transparency and Accountability in Liberia, TI Mongolia, Centro de Integridade Pública (Mozambique), Association Nigérienne de Lutte contre la Corruption (Niger), TI Papua New Guinea, Proética (Peru), TI Sierra Leone, Corruption Watch South Africa, TI Zambia and TI Zimbabwe.

MINING FOR SUSTAINABLE DEVELOPMENT

Transparency International's Mining for Sustainable Development Programme (M4SD) has two phases:

Phase I: Assessing corruption risks

National chapters from 18 resource-rich countries completed risk assessments to understand the nature and sources of corruption risks in mining approval processes. The Mining Awards Corruption Risk Assessment (MACRA) Tool was developed specifically to conduct these assessments.

Phase II : Addressing corruption risks

National chapters will develop and implement action plans to prevent the corruption risks identified in Phase I. They will work with key stakeholders – in government, civil society, local communities and the mining industry – as part of national, regional and global strategies to build trust, improve transparency and accountability, and positively influence behaviour change of all actors in the mining sector. The Programme will advocate for the strengthening of national and international policy and practice, and existing mining transparency initiatives, to enhance the contribution of mining to sustainable human development.

The Programme is:

- Led by Transparency International Australia, acting as a global centre of expertise
- Put into practice by Transparency International national chapters and local stakeholders
- Supported by the Transparency International Secretariat

TABLE OF CONTENTS

ACRONYMS

CSO Civil Society Organisation

EIA Environmental Impact Assessment

EITI Extractive Industries Transparency Initiative

GIS Geographic Information System

GPS Global Positioning System

SIA Social Impact Assessment

SOE State-Owned Enterprise

TI Transparency International

TABLES

FIGURES

01 MAP THE MINING AWARDS PROCESS AND CONTEXT

STEP 1
DEFINE THE SCOPE

STEP 2
MAP THE AWARDS PROCESS AND PRACTICE

STEP 2A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE PROCESS AND PRACTICE

STEP 3
ANALYSE THE AWARDS PROCESS

STEP 3A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE AWARDS CONTEXT

02 ASSESS THE CORRUPTION RISKS

STEP 4
IDENTIFY CORRUPTION RISKS RESULTING FROM THE VULNERABILITIES

STEP 5
ANALYSE EVIDENCE ABOUT THE LIKELIHOOD AND IMPACT OF EACH RISK

STEP 6
SCORE THE LIKELIHOOD AND IMPACT OF THE RISK

STEP 7
VALIDATE THE RISK ASSESSMENT RESULTS

03 COMMUNICATE THE FINDINGS

STEP 8
PRIORITISE THE CORRUPTION RISKS FOR ACTION

STEP 9
WRITE A CORRUPTION RISK ASSESSMENT REPORT

INTRODUCTION

A lack of transparency and accountability in the awarding of mining sector licences, permits and contracts – the first stage in the mining value chain – is a root cause of corruption in the mining sector. Yet other initiatives to improve governance and prevent corruption in extractive industries (oil, gas and mining) do not focus fully or exclusively either on the mining sector or this stage of the value chain.

This tool fills this gap by helping users to identify and assess the underlying causes of corruption in mining sector awards – the corruption risks that create opportunities for corruption and thereby **undermine the lawful, compliant and ethical awarding of mining sector licences, permits and contracts**.

This tool is designed for *legal* mining. It is not designed for *illegal* mining, or for the oil and gas sector, which has a distinctive set of risks that are beyond the scope of this tool.

The tool was developed for Transparency International's Mining for Sustainable Development Programme, which aims to enhance transparency and accountability in the award of mining sector licences, permits and contracts in participating countries. However, the tool can be used by any organisation seeking to identify, assess and mitigate corruption risks in a country's mining awards process.

HOW TO USE THIS TOOL

The mining sector has some similar features in every country, such as the need to obtain government licences and permits for activities, the basic geological data required to characterise a deposit, and the technology required to get certain minerals out of the ground.

However, because context has such an important impact on the awards process, it is important that you develop a risk assessment that is specific to your particular setting.

This tool helps you to do that by combining a rigorous research method with a flexible approach.

It guides you step-by-step to:

- Define the scope of your risk assessment (Step 1)
- Identify the vulnerabilities in the awards process design, practice and context (Steps 2 and 3)
- Identify, assess and validate the risks (Steps 4-7)
- Prioritise your risks and communicate your findings (Steps 8 and 9)

It is important that you plan and implement the steps in this tool **in the order they are presented**. It is particularly important to map the awards process and do the contextual analysis *before* deciding what risks are relevant. Doing these activities in the correct order will help you to avoid bias. Bias occurs when people only use opinion or perceptions to define a problem, instead of properly researching it. An anti-corruption strategy based on biased research is unlikely to address the problem adequately and could be easily discredited.

Worksheets

There are five worksheets annexed to this tool to help you to clarify and record information in a systematic way. The worksheets build on each other. They are intended as a guide, so you can modify the layout of the worksheets or organise this information in another format (for example, in Excel).

- **Worksheet A** is to record vulnerabilities identified in **Steps 2A** and **3A**, and match these vulnerabilities to risks in Step 4.
- **Worksheet B** is to record information from the contextual analysis in **Step 3**.
- **Worksheet C** is to record information about your assessment of the likelihood and impact of each risk in **Step 5** and **6**.
- **Worksheet D** is a matrix on which to plot each risk in **Step 6**.
- **Worksheet E** is a table to record all the information you have gathered to help you decide if a risk should be a priority for action. Use this in **Step 7**.

KEY CONCEPTS AND TERMINOLOGY

Corruption in the awards process

Transparency International defines corruption as **the abuse of entrusted power for private gain**.

This definition extends beyond power entrusted to government officials. For example, corruption occurs when community leaders abuse the power entrusted in them to represent community interests in negotiations with government and companies. Similarly, companies can be corrupt when they abuse the power entrusted in them to behave in a certain way during negotiations with communities or with the government.

This definition of corruption may cover conduct that is not necessarily prohibited by law. However, when individuals abuse their position, power or privilege, whether lawfully or unlawfully, to benefit themselves or a select group, there are still negative consequences for people, the environment, democratic and government institutions, and the economy.

Using this definition will enable you to identify what measures need to be taken to make the processes involved in approving mining projects more ethical, transparent and accountable.

Corrupt acts prohibited by law

What conduct the law defines as corruption – and therefore which acts can be investigated and prosecuted – will depend on your country's laws.

Examples of acts that are commonly prohibited in different jurisdictions include:

- **Bribing public officials**, e.g., by mining companies
- **Receiving bribes**, e.g., public officials or community leaders
- **Embezzlement**, e.g., of mineral rights by the Minister of Mines
- **Misappropriating or diverting public funds**, e.g., officials stealing application fees
- **Abuse of office**, e.g., a public official corruptly using his or her position to demand benefits from companies or communities
- **Trading in influence**, e.g., a politician using political influence to obtain favourable contractual terms for a friend's company
- **Favouritism**, e.g., bias by public officials in awarding licences to applicants
- **Extortion**, e.g., a public official refusing to handover licence documents unless a mining company pays money
- **Unauthorised facilitation payments**, e.g., by a mining company to an official to speed up a process
- **Not declaring a private interest in a mining project**, e.g., by a minister, official or community representative

This is not a complete list of illegal corrupt behaviour. It simply clarifies some of the acts that are typically defined as corrupt under many national laws.

Note that even if your country does not prohibit activities commonly considered corrupt, an individual or company engaging in certain corrupt activities may be liable to prosecution under the UK *Bribery Act 2010 or the US Foreign Corrupt Practices Act 1977*.[1]

Transparency International's *Anti-Corruption Plain Language Guide*[2] has definitions for various corrupt practices, including some terms not included in this list.

1. The UK *Bribery Act 2010* applies to companies that are (a) registered in the UK, (b) owned by a company registered in the UK, or (c) conduct business in the UK, *even where the bribery takes place wholly outside the UK*. The US *Foreign Corrupt Practices Act 1977* applies to US citizens, foreign companies that are listed on US stock exchanges, or US or foreign firms that cause a corrupt payment to be made on US territory.

2. Transparency International (2009). *Anti-corruption Plain Language Guide*. Berlin.

Negative impacts of corruption

Corruption in the awards process can have a negative impact on:

- Impartiality in decision-making
- Security of property rights
- Environmental, labour and social standards
- Revenue to the state
- Company profits
- Competition in the mining sector
- Fairness to applicants
- Reputation of companies, governments and community leaders
- Innovation in the sector
- The quality of applications
- Accountability of decision-makers and
- Transparency over the management of public resources.

Preventing corruption

The approach to corruption prevention used in this tool is underpinned by the two principles that drive Transparency International's work: transparency and accountability.

- We want **transparency** which means: (1) *the transparency of rules*: when we know what laws, regulations and processes are in place – that is, when this information is in the public domain – we can compare what should happen with what is actually happening; and (2) *transparency of practice*: when we have information about actual decisions and actions it is possible to hold individuals and organisations to account for their conduct. Genuine transparency requires that information doesn't just exist, but that it is publicly available, easily accessible and useable by all stakeholders.
- We want to make decision-makers **accountable** for their decisions and actions. In the case of mining approvals, decision-makers may need some degree of discretion to ensure efficient allocation of permits and licences. It is therefore crucial that functioning accountability mechanisms such as clear and transparent decision-making criteria, publication of licence details and other documents and audits are in place so that such discretion is not abused.

How this tool helps you understand corruption risk

This tool will help you identify what measures are needed to prevent corruption in mining awards in your country by enabling you to first understand where the mining awards process is vulnerable to corruption and to assess and then prioritise the corruption risks created by these vulnerabilities. You need to understand the source and nature of corruption risk before you can prevent it.

Vulnerabilities are systemic, regulatory, institutional or other weaknesses that create opportunities for corruption to occur or pass undetected. They are specific to the awards process in your jurisdiction. Vulnerabilities may arise from the design of the awards process (the law), the awards practice (implementation) or from surrounding contextual factors.

Examples of vulnerabilities

Corruption risks can result from vulnerabilities such as:

- Unregulated lobbying
- No due diligence on companies' financial and technical claims
- Development of new mining laws and policies without public scrutiny
- No system for declaring and managing conflicts of interest
- Someone accessing confidential information
- No verification of information about the environmental and social impacts of the proposed mining project
- Information withheld from companies or communities
- Lack of scrutiny over officials' decisions (whether by the public, managers or parliament)
- Lack of transparency over what decisions are made and why

The tool guides you to define the ***corruption risks*** that correspond to the specific vulnerabilities in the awards process. Annex 1 contains a list of common corruption risks.[3] A corruption risk is a combination of the likelihood of the vulnerability occurring and how severe the resulting corruption could be.

The following example can help to illustrate the relationship between the vulnerability and its corresponding corruption risk:

> *The analysis of the awards process reveals that there is no standard timeframe for receiving and processing licence applications once an area has been opened to mining. This creates uncertainty and an incentive for licence applicants to bribe or to exercise influence over decision-makers to speed-up the process.*
>
> *The specific **vulnerability** you have identified in the awards process is the absence of a standard timeframe for receiving and processing licence applications.*
>
> *The corresponding **corruption risk** from Annex 1 that you will assess is PD12: What is the risk that the duration and timing of each step of the awards process can be manipulated?*

In other words, you will assess the likelihood that staff at the cadastre agency will manipulate the timing of steps in the awards process by examining the factors that enable that kind of behaviour. Such factors include, for example, the degree of discretion that cadastre agency staff have to control the duration of different steps, and the existence and effectiveness of mechanisms to supervise them and hold them accountable. You will also assess the potential severity of corruption that could result – e.g., whether bribes are almost always offered or demanded to manipulate the time required for processing the licence application, or whether this only happens in some cases.

Mining awards terms

The terms used in mining sector awards depend on the country. ***Licences*** are usually the instrument the government uses to grant the rights required for prospecting, exploration and mineral production in a particular area; multiple ***permits*** are usually required for planning permission, workplace safety, environmental issues, importing capital or equipment, or employing foreign staff; and ***contracts*** between the mining company, the state, subcontractors, and suppliers might be required for associated infrastructure works.

Other names for mining licences

A mining licence may also be referred to as a lease, permit, title, right, concession or claim.

All or a combination of these may be used in your country, and they may have different names. In your risk assessment, use whatever terms are appropriate for your context, but make sure that you clearly understand their definition.

The authority responsible for awarding licences, permits and contracts varies from country to country. This tool uses the term ***cadastre agency*** to refer to the authority with key responsibilities for performing this function, but in some countries the authority with these responsibilities will be called something else, or several agencies might share these responsibilities. In your analysis and for your risks you should substitute “cadastre agency” with the term relevant to your country.

In this tool, the ***mining cadastre*** refers to the register of all mining awards (licences, permits etc.) and information related to the awards. It also refers to the cadastral maps that visually plot the licence boundaries.

3. Common risks were identified using existing tools and documents that focus on corruption risks in the awards process, especially Wolfe, A. and Williams, A. (2015). Constructing a Diagnostic Framework on Corruption Risks in Mining Sector Licencing. Crawley, WA.

CONNECTION TO OTHER TOOLS

It can be helpful to refer to other tools when using the MACRA Tool. Table 1 contains a list of some of these tools and their relevance to corruption risks in mining approvals. A full list is available in Annex 10. Note that these tools have a broader focus and many deal with the entire value chain and the oil and gas sectors and only the relevant sections will support the MACRA Tool.

Table 1. Other tools on extractive industry awards

TOOLS	RELEVANCE TO RISKS IN THE AWARDS PROCESS
Natural Resource Governance Institute, National Resource Charter Benchmarking Framework[4]	Contains some helpful questions and guidance in precept 2 (transparency and accountability) and precept 3 (exploration, licensing and monitoring operations).
Natural Resource Governance Institute, Twelve Red Flags: Corruption Risks in the Award of Extractive Sector Licenses and Contracts[5]	Identifies 12 indicators that corrupt conduct has occurred in the award of oil, gas and mining licenses and contracts. A useful complement to this tool, which is about identifying the vulnerabilities that make it more likely that corruption will occur.
OECD, Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives[6]	Identifies some risk factors relevant to the awards process in chapter 1 (cross-cutting risks, mitigation measures and incentives) and chapter 3 (corruption risks in the awarding of mineral, oil and gas rights).
UNDP, A Practitioner's Guide to Corruption Risk Mitigation in Extractive Industries[7]	Identifies some risks relevant to this tool, but its focus is on the entire mining value chain. The document offers some guidance on contextual analysis.
Wolfe and Williams, Constructing a Diagnostic Framework on Corruption Risks in Mining Sector Licencing (IM4DC)[8]	An excellent resource that identifies contextual factors affecting awards, suggests sources of information to understand context, and contains many useful risk questions that were used when compiling the common risks in this tool.
World Bank, Mining Governance and Investment Review – Questionnaire[9]	Contains some useful questions in section 1 (contracts, licences and exploration) regarding policy, legislation and regulation, accountability and institutional capacity.

4. Manley, D. and Pitman, R. (2016). *National Resource Charter Benchmarking Framework.* New York: Natural Resource Governance Institute.

5. Sayne, A., Gillies, A. and Watkins, A. (2017). *Twelve Red Flags: Corruption risks in the award of extractive sector licenses and contracts.* New York: Natural Resource Governance Institute.

6. OECD (2016). *Corruption in the Extractive Value Chain: Typology of risks, mitigation measures and incentives.* Paris.

7. UNDP (2016). *A Practitioner's Guide to Corruption Risk Mitigation in Extractive Industries.* New York.

8. Wolfe, A. and Williams, A. (2015). *Constructing a Diagnostic Framework on Corruption Risks in Mining Sector Licencing.* Crawley, WA.

9. World Bank (2016). *Mining Governance and Investment Review – Questionnaire.* Washington DC.

RESEARCH METHODS

Robust evidence and analysis will be critical to the accuracy, credibility and effectiveness of your corruption risk assessment.

Data collection

The steps in this tool guide you to collect information on:

- **The mining awards process** as contained in official laws, regulations, guidelines and policy documents
- **What happens in practice** in the mining awards process
- **The context** in which the process takes place – the political, economic, social, legal and technological factors
- **Sources of vulnerability to corruption** in the awards process deriving from the design of the process, the practice and the context
- **The likelihood and impact of resulting corruption risks**, including the effectiveness of existing corruption controls, transparency and accountability mechanisms

The MACRA Tool does not prescribe any particular data collection method, but you should use a range of methods and sources that are appropriate to your context, including desk reviews examining legislation and journal and news articles, key informant interviews and focus groups.

Annex 3 Sources of evidence provides a list of useful sources and types of evidence for desktop research organised around political, economic, social and technological factors. This will be useful for your contextual analysis (Step 3) and to analyse the likelihood and impact of risks (Step 5).

Expert interviews can help you to collect information:

- When data are not available via desk review or for which interviews are a relevant data source (particularly about institutional behaviour and what happens in practice)
- For which additional data (a "second opinion") might be required since existing data are questionable, inconclusive, or controversial
- About issues that you are having trouble understanding and for which you need expert explanation

Retired or former public officials and mining company representatives may be more willing to assist you than people currently in these positions, and be more open about vulnerabilities in the awards process. As long as the processes have not changed significantly, these individuals can still be a valuable source of information.

> Consider whether you need to maintain confidentiality around the identity of your experts. Confidentiality may even be a requirement before some people will be willing to talk to you.

Field visits and case studies

Depending on the scope of your research, it may be helpful to travel to mining regions to speak with key stakeholders such as local government authorities and affected communities.

You may choose to use case studies to guide and focus your assessment. A combination of general analysis and specific case studies can tell a compelling story about corruption risks in your country.

Critically analyse the information

Verify the information

You need to check whether the conclusions of different kinds of evidence – a report, an expert interview, a media article, your own map of the awards process – independently match-up. If these all suggest the same thing (for example, they all suggest there is a corruption risk in the same place in the process), then you can probably feel confident about concluding that this is true.

If you have only one piece of evidence suggesting this risk, even if it is from an "expert", then consider carefully whether it is likely to be reliable information and sufficient evidence on its own. If evidence is contradictory, try to work out why.

Remember, evidence is usually *contested*: there may be disagreements between experts about what it tells us, how important it is, the assumptions on which it is based, and it may sometimes even be contradictory. This means it is important to question the evidence and not to simply accept it straightaway. You need to analyse it, look at it from different angles, check what other experts are saying about the same thing, see if other evidence supports the same conclusions, assess whether it is relevant to your jurisdiction, and then make a judgement about what it tells you.

Explain uncertainty in the data

Where there are contradictory statements or uncertainty in the data, it is best to make this clear in the way that you present and explain the information you have collected. Using qualifying language like "this suggests/indicates/could mean" and contrasting the different views to reflect to the weight of the information will show that you have conducted a considered and robust analysis.

Validate your findings

Step 7 requires you to validate the risk assessments. It can be helpful to validate some of your findings at earlier stages to make sure you are on the right track. For example, you should check the process map you created in Step 2 with someone from the cadastre agency and/or the relevant person in a mining company. You can check with experts that the vulnerabilities you identified in the awards process, practice and context do exist.

A final note on the research process

Research is an iterative process, so while it is important to follow the steps in the order they are presented in the tool, you will find that as your understanding increases and you collect more information, you may have to return to earlier steps and make changes. Be sure to allow for extra time in your research schedule so that you have enough time to complete all the steps.

01

MAP THE MINING AWARDS PROCESS AND CONTEXT

01 MAP THE MINING AWARDS PROCESS AND CONTEXT

STEP 1
DEFINE THE SCOPE

STEP 2
MAP THE AWARDS PROCESS AND PRACTICE

STEP 2A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE PROCESS AND PRACTICE

STEP 3
ANALYSE THE AWARDS PROCESS

STEP 3A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE AWARDS CONTEXT

02 ASSESS THE CORRUPTION RISKS

STEP 4
IDENTIFY CORRUPTION RISKS RESULTING FROM THE VULNERABILITIES

STEP 5
ANALYSE EVIDENCE ABOUT THE LIKELIHOOD AND IMPACT OF EACH RISK

STEP 6
SCORE THE LIKELIHOOD AND IMPACT OF THE RISK

STEP 7
VALIDATE THE RISK ASSESSMENT RESULTS

03 COMMUNICATE THE FINDINGS

STEP 8
PRIORITISE THE CORRUPTION RISKS FOR ACTION

STEP 9
WRITE A CORRUPTION RISK ASSESSMENT REPORT

STEP 1: DEFINE THE SCOPE OF THE ASSESSMENT

The first important step of your risk assessment is to define the scope of your research: *which* awards processes are you going to examine and *why*?

There may be many different mining licence application and awards processes in your country depending on the type of mineral (commodity), the phase of the mining (exploration or production) and/or the sub-national jurisdiction.

In many cases, it will not be possible to map and assess all of these awards processes, so you need to decide which ones you will assess.

Differences between awards in the exploration and production phases

A different context surrounds the exploration phase of mining. Different actors will be involved and the awards process is likely to be different to that in production (exploitation) awards. This means that the opportunities for and the nature of corruption might also be different. See, for example, the corruption risks specific to the exploration phase in Guatemala.[10]

10. Dougherty, M. (2015). *By the Gun or by the Bribe*. Chr. Michelsen Institute U4 Issue 17. Bergen.

PRELIMINARY RESEARCH

You may need to do some preliminary research before making decisions about the scope, including consulting with relevant stakeholders, key actors or experts.

You will need to collect some preliminary information about:

- The main laws and regulations that govern the awards process(es)
- The administrative institutions and other key stakeholders involved in the awards process(es)
- Important related approvals or requirements; for example, environmental permits, community consultation or agreements, land access rights and permits
- Fundamental features of the mining sector: types of minerals and metals mined, location of mining operations and level of mining activity, size and types of mining companies, existing good governance and community initiatives

How to use this tool if your country has a decentralised mining regime

In some countries, the awards process occurs at a sub-national level (i.e., province or state) because of the decentralisation of the cadastre agency or because mining rights are controlled by provinces/states, not by the national government.

If the mining regime in your country is decentralised, you need to understand relevant provincial/state laws and regulations; combine a contextual analysis for your province/state with national-level analysis (where appropriate); clarify any overlap between national/subnational laws, such as those related to environmental and social impacts or water and pastoral rights; and identify and understand the power of stakeholders relevant to the subnational level.

How to deal with mining-related approvals

The primary focus of the assessment should be on the processes related to the award of rights to explore and mine (***mining rights***).

There are usually a number of permissions, approvals and activities that a mining company must obtain as part of the licence application process. For example, companies may have to consult with communities, negotiate land access agreements, or assess the environmental and social impacts of the mining operations.

These mining-*related* approvals might also be vulnerable to corruption. If you decide to examine any of these aspects of the awards process, it is important that you explain how they relate to the primary process for awarding the mining right.

What if there are many requirements and related approvals?

The fact that so many additional permits and licences are required may create a situation that is vulnerable to corruption, especially where the requirements are not clear or many different government authorities are involved. You do not need to examine every single related approval process, but you may identify that the situation as a whole creates vulnerabilities to corruption.

Background reading

The details and elements of mining awards are complex, but there are many resources with useful information that can help you improve your general understanding of mining awards processes. A more extensive list of resources is available in Annex 10.

Table 2. Useful resources on mining awards

Title	Description
Natural Resource Governance Institute, Primer for Granting Rights to Natural Resources[11]	Clear short descriptions of basic principles and elements of awarding rights.
Natural Resource Governance Institute, Natural Resource Charter Decision Chain[12]	Precepts 1, 2, 3 and 6 identify key areas in the resource development chain are relevant to awards processes.
Extractive Industry Transparency Initiative, EITI 2016 Standard[13]	Best practice standards for specific aspects of awarding licences etc., including licence allocations, license registers, disclosure of contracts and beneficial ownership (see requirements 2.2-2.5).
World Bank, Extractive Industry Sourcebook[14]	Written for a general audience. See Chapter 4 particularly 4.6 *Contracts and Licenses* and 4.7 *The Award of Contracts and Licenses.*
World Bank, Sector Licensing Studies: Mining Sector[15]	Detailed information about general risks around licensing and the importance of the rule of law for competitive awards processes, as well as useful case studies.
World Bank, Mineral Rights Cadastre: Promoting Transparent Access to Mineral Resources[16]	Excellent resource on some of the more technical aspects of awarding and managing mineral licences. Also contains case studies, but was published in 2009.

11. Natural Resource Governance Institute (2015). Granting Rights to Natural Resources. New York.
12. Natural Resource Governance Institute (2015). Natural Resource Charter Decision Chain. New York.
13. Extractive Industry Transparency Initiative (2016). EITI 2016 Standard. Oslo.
14. Cameron, P. and Stanley, M. (2017). Oil, Gas and Mining: A sourcebook for understanding the extractive industries. Washington DC: World Bank.
15. World Bank (2009). Sector Licencing Studies: Mining sector. Washington DC.
16. Ortega Girones, E., Pugachevsky, A. and Walser, G. (2009). Mineral Rights Cadastre: Promoting transparent access to mineral resources. Washington DC: World Bank.

MATTERS TO CONSIDER WHEN DEFINING THE SCOPE

When deciding which commodities, mining phase and/or sub-national jurisdiction(s) to include, it can be helpful to consider the impact of mining, strategic value and practical matters in relation to each of these. The questions below are a guide to help you make your decision, but you may develop your own criteria. It is important that you justify the scope of your research.

Table 3. Guiding questions for defining scope

In relation to the specific mineral commodity, the phase of mining, or the subnational jurisdiction…

Impact of mining	… does mining make a **significant contribution** to the economy? … is there a high level of **exploration** or **mining activity?** *A high level of activity may increase the chance of corruption.* … are there **many active operators**? … does mining have **negative social and environmental impacts**? *For example, in causing community disruption or creating socio-environmental conflicts.*
Strategic value	… is there a known **history of corruption**? … are mining approval corruption risks **on the (public) agenda**? … is there existing **community concern**? … is there existing **government and/or corporate sector willingness** to tackle corruption? … would tackling corruption in the awards process have a **positive flow-on effect** on transparency and accountability in other areas of the mining value chain? … would working on this **complement** your **existing strategic priorities**? *For example, are you seeking to have a greater presence in this area? Do you do other work in this sub-national jurisdiction?* *Would any of your other initiatives or projects benefit from this work (for example, work on tendering processes or contract negotiation).*
Practical considerations	… will information be **accessible**? *For example, will it be easy and cost-effective to travel to the area or gain access to local or relevant experts?* … do you have/can you gain **access to relevant stakeholders** and experts?

STEP 2: MAP THE PROCESS AND THE PRACTICE

Start by developing a process map that shows the steps involved in granting mining awards to build the foundation of your risk assessment.

The methods used by different countries to award licences create their own distinct set of vulnerabilities and risks for each national or subnational context. For example, governments may use:

- Auctions
- An open competitive tender process
- Direct negotiations with the government and a mining company
- A first-come, first-served process
- Direct allocation to a specific firm
- A limited expression of interest process that invites targeted companies only
- A combination of the above

In simplified terms, all of these allocation methods comprise three main stages:

Understanding which methods are used in your jurisdiction and the steps involved will help you focus on relevant vulnerabilities and corruption risks.

Why create a process map?

Mapping the process:

- Helps you to understand and to explain the steps, actors and requirements of the awards process, and, if applicable, how it relates to the other processes you are assessing
- Helps you identify where information is confusing, absent, difficult to access or conflicting
- Gives you an instrument that you can use to prompt discussion in interviews and meetings
- Provides a structured way of identifying where there are vulnerabilities to corruption in the structure or design of the process
- Sets the “baseline”, so that you can see where practice diverges from the official process, or where upon implementation issues arise that were not contemplated or intended by the legislation

2.1 WHAT TO INCLUDE IN YOUR PROCESS MAP

The process map or diagram should show which authorities and stakeholders are involved in and responsible for each step. A process map should also show:

- All steps in the awards process and the timeframe for each step
- Where – in which agency, or unit within the agency – decisions are made
- Who makes these decisions
- Where there is and is not oversight of decisions
- What documents are required for each step

If necessary, you can make separate maps for different types of mining and mining-related licences and permits. You should also make different process maps for sub-national jurisdictions (e.g., provinces or states), commodities or exploration phases if these have different awards processes. Annex 2 contains two examples of process maps for two different jurisdictions: the state of New South Wales in Australia and Ethiopia.

It is a good idea to accompany the maps with text that explains the detail.

2.2 WHAT HAPPENS IN PRACTICE

The gap between the awards process as set out in policy and law, and what happens in practice can be a major source of corruption risk.

Do not to be blinded by a good process on paper, but find out how the process works in practice. It is important that process maps show (1) the official requirements for an awards process, and (2) the practice – so you may need to do **separate maps for both the process and the practice** if all the information does not fit on one map or if the map becomes too confusing.

Figures 1 and 2 show hypothetical process maps of the process *and* the practice to illustrate how you can use the mapping exercise to identify where practice diverges from an official process.

Sources of evidence

Your maps of both the process and practice should be based on evidence. Table 4 suggests sources of evidence you could use to create your maps.

Because there is usually less evidence available about the way the awards process works in practice, you may have to be creative about generating evidence. Sometimes people will also be reluctant to talk about the gap between the official process and practice, so you may have to contact knowledgeable people early in your assessment and persuade them to speak. Retired staff may be a good place to start, as long as the process has not changed much since they were employed.

Table 4. Possible sources of evidence for mapping the awards process

Evidence about the official process	Evidence about actual practice
Official websites for tracking exploration and production licence applications	Interviews with miners
Application forms (these might be available for free or cheaply from the cadastre agency)	Interviews with cadastre staff (retired staff may speak more freely than current staff)
Government policy documents	Interviews with the minister or advisors
National laws and the mining code	Action research observing Department of Mines staff receiving and processing applications
Interviews with cadastre staff	Lodgement of a hypothetical case to test and analyse processes
Interviews with miners (retired staff may speak more freely than current staff)	Academic papers and other research on the awards process
Interviews with the minister or advisors	Interviews with CSOs with expertise in mining
Academic papers and other research on the awards process	

Tips for mapping the awards process and practice

- **Involve different perspectives** – Speak to relevant stakeholders and actors who participate in the awards process because different perspectives and expertise help to identify both formal steps and what happens in practice.
- **The absence of information is relevant** – Sometimes you will not have enough information about an awards process or a particular step. It is important to understand why this information is missing:
  - Is it because there is a deliberate lack of transparency over that step? (If yes, this could be a red flag for corruption risk.)
  - Is it because your team lacks the research capacity to obtain the information? (In which case, you may need to bring in additional expertise.)
  - Is it because there is simply not much research on that aspect of the process? (In which case, you may need to do some original research.)
  - Is it because the relevant authority is confused itself about what happens? (This could be because of frequent political intervention.)

Place the actors in separate columns – this is a useful visual element to show which authorities are responsible for different steps and decisions. In the sample maps on the following pages, the mining company, the cadastre agency and the government ministries are in separate columns. Using columns in your map will help to clarify where responsibilities are located and where they are not sufficiently separated/segregated.

Figure 1. Hypothetical map of awards process

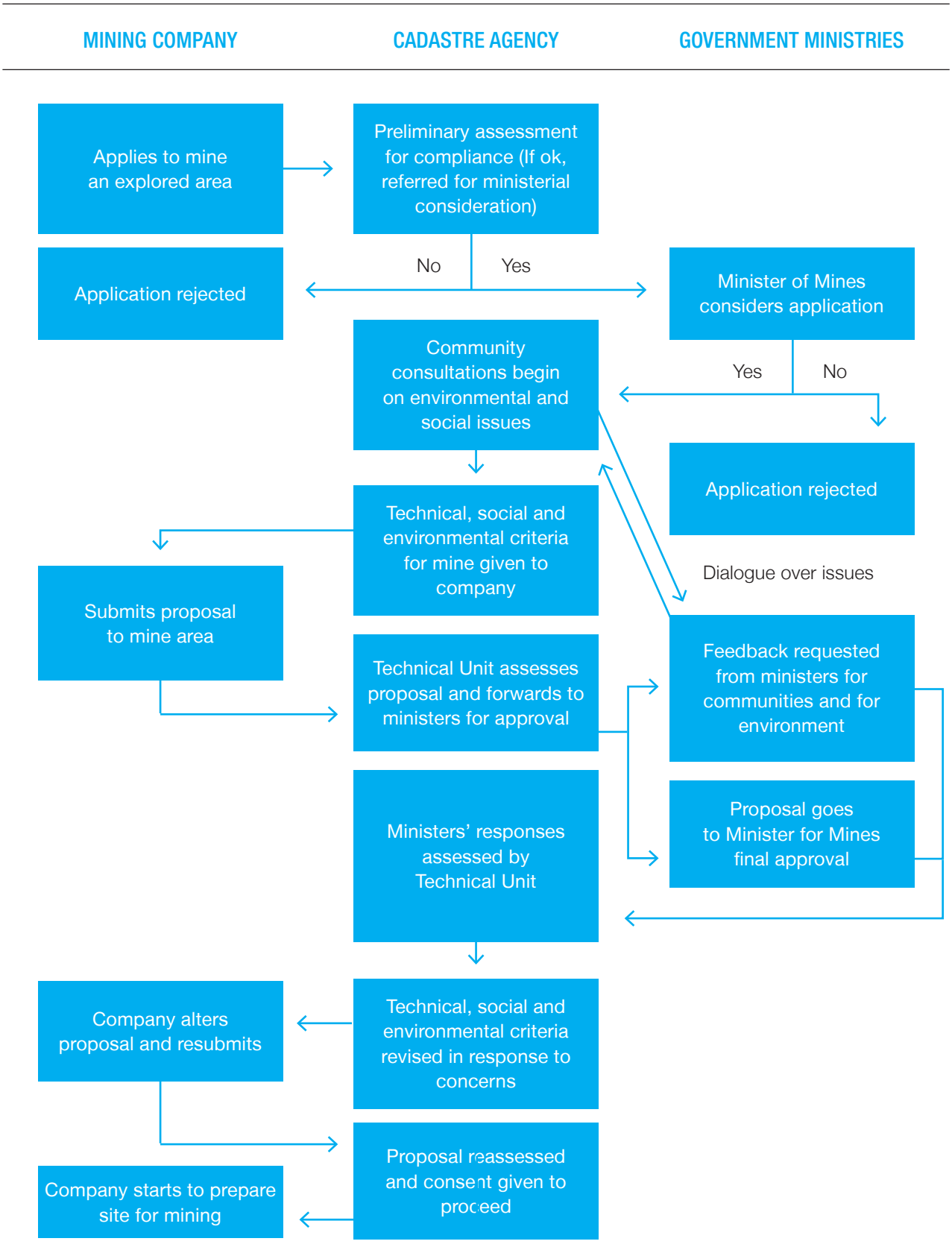
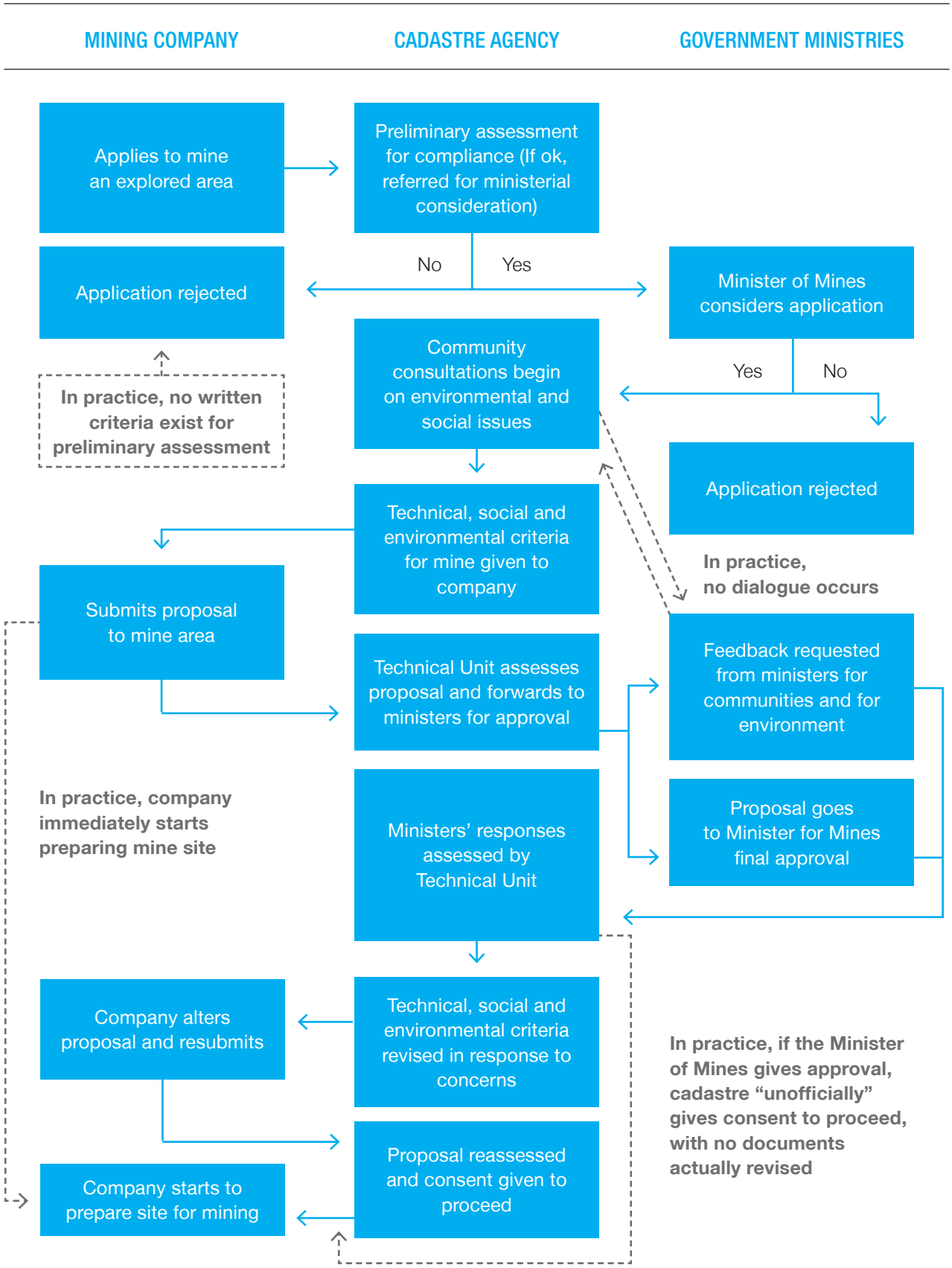


Figure 2. Hypothetical map of awards practice (red/dashed line indicates practice)



STEP 2A: IDENTIFY VULNERABILITIES IN THE PROCESS AND PRACTICE

Analyse the process and practice to identify where they are vulnerable to corruption. Mark the vulnerabilities on your maps and record them on Worksheet A.

Once you have mapped an awards process and understand the formal process and practice, you can start to think about what the vulnerabilities are – in either the official process, the practice, or both – that create opportunities for corruption.

Some indicators of vulnerability are included in Table 5 (on the following page). This is not an exhaustive list. You may find it helpful to refer to the corruption risks in Annex 1.

2A.1 MARK THE VULNERABILITIES ON YOUR MAPS

Annotate your maps with the vulnerabilities you have identified.

Sample vulnerability analysis

As an example, the process maps in Annex 2 (the process for awarding coal exploration licences in New South Wales, Australia, and the federal mining licence application process in Ethiopia) have been recreated with vulnerabilities added in and indicated with a red/dashed line.

The vulnerabilities identified for New South Wales[17] (Figure 3) are, in fact, real vulnerabilities found as part of a corruption investigation. By contrast, the vulnerabilities "identified" in the form of work-arounds for Ethiopia[18] (Figure 4) are hypothetical and have been invented simply to help illustrate how to use process maps to identify vulnerabilities through this exercise.

17. Process map adapted from Independent Commission Against Corruption (2013). *Reducing the Opportunities and Incentives for Corruption in the State's Management of Coal Resources.* Sydney, 18.

18. Process map adapted from Plummer, J. (ed.) (2012). *Diagnosing Corruption in Ethiopia: Perceptions, realities, and the way forward for key sectors.* Washington DC: World Bank, 389.

Table 5. Indicators of vulnerability

Indicators
Unrestricted decision-maker discretion: where there are no decision-making criteria (or transparency about the criteria) and a single authority or individual has broad discretion or decision-making power with little scrutiny.
Deviations from the law: where what happens in practice is different to what is required by law.
No fixed timeframe: no clear time limits on conducting steps in the awards process.
No documentation requirements: where an agency does not require applicants to submit documentation to support decisions.
Lack of independence: steps particularly vulnerable to external influence, for example by ministers.
Conflicting duties: inadequate segregation of duties amongst cadastre or other officials, for example, where the government authority responsible for promoting mining is also responsible for awarding licences.
No decision-maker: points where nobody is responsible for certain steps, or it is confusing who is responsible.
Multiple decision-makers: points where more than one person can sign-off on a decision, creating opportunities for “signature shopping” by applicants or officials.
Work-arounds: accepted informal processes that depart from formal procedure.
Face-to-face contact: points where manual input of information is required creates an opportunity for corruption, and human error generally.
Complexity in the awards process: due to, for example, unclear requirements, recent or frequent changes to the law that are not well understood, or involvement of multiple government authorities with overlapping responsibilities.
Potential decision-making bottlenecks: can create delays in the processing of licence applications.
Confusion about steps in the application and awards process: can indicate that transparency about steps in the process is weak.

Figure 3. Vulnerabilities in coal exploration licence award process in New South Wales

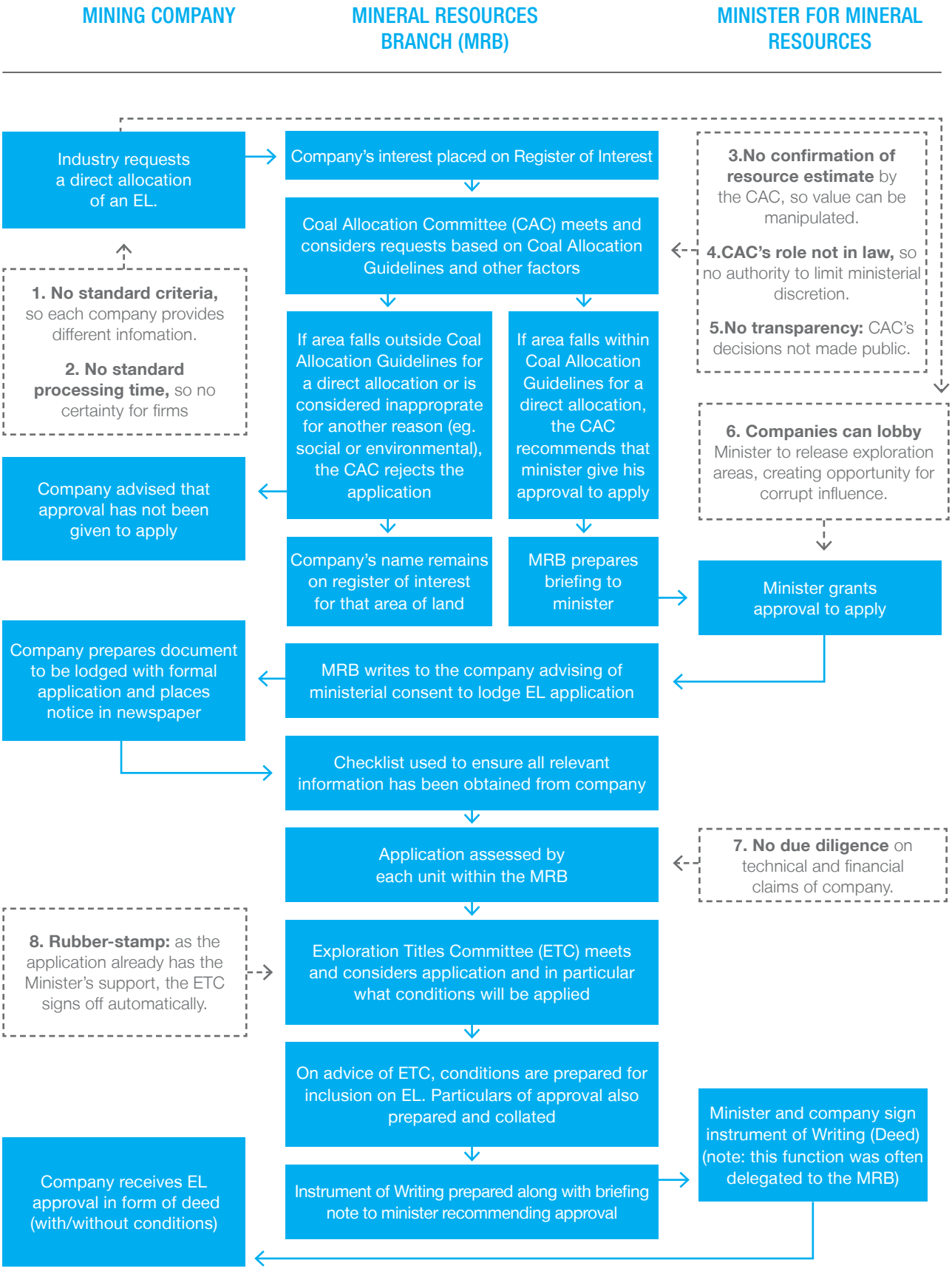
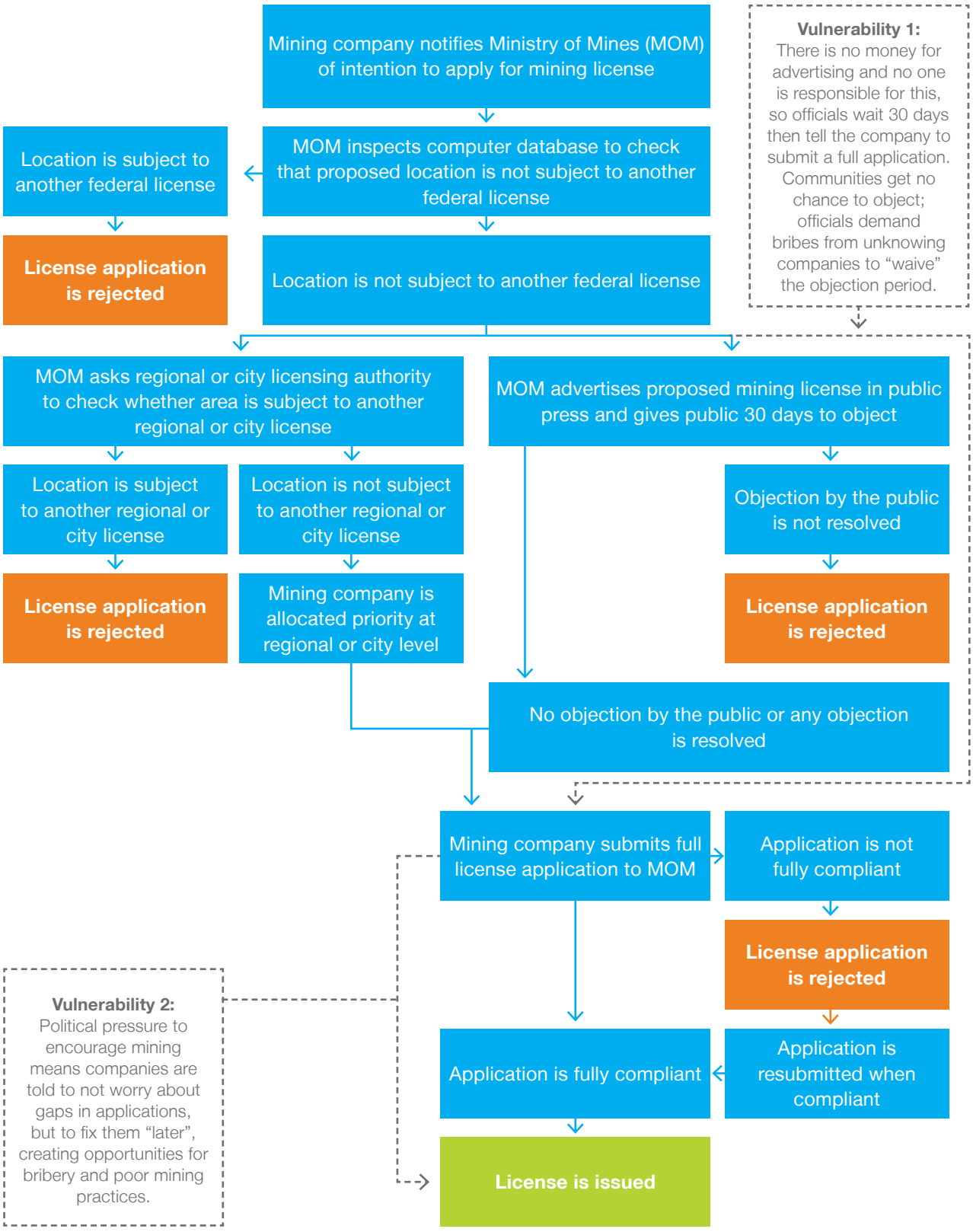


Figure 4. Map of *hypothetical* vulnerabilities creating opportunities for corruption in the awards process in Ethiopia



2A.2 COMPLETE WORKSHEET A

Vulnerabilities that you identify should be added to the first column of Worksheet A (a blank version of Worksheet A is at Annex 5).

Sample Worksheet A

To illustrate how this is done, on the following page is an example Worksheet A that has been completed for Step 2A in that it shows vulnerabilities identified through process mapping for both the awarding of coal exploration licences in New South Wales (NSW), Australia and the federal mining awards process in Ethiopia.

Some text has been added to clarify why the vulnerability is relevant to corruption in the awards process. When you get to Step 4, you will need to identify the corruption risks created by each vulnerability and record them in the right-hand column.

Worksheet A: Vulnerabilities identified from process maps (Step 2A version)

Vulnerabilities (Complete at Steps 2A and 3A)	**Resulting corruption risks...** (Complete at Step 4)
NSW 1: No standard criteria for information from companies, so there is no "level playing field", merit is hard to judge, and companies' applications can be refused without much explanation.	
NSW 2: No standard timeframe, creating uncertainty and risks for corruption around bribery to speed-up the process or to obtain more information.	
NSW 3: No confirmation of the market value of the resource by the government, so the company can lie about its true value, which has an impact on taxes and royalties.	
NSW 4: The role of the key decision-making body (the Coal Allocation Committee) is not set out in legislation. This means it has no legal authority to limit ministerial discretion, creating opportunities for corrupt ministerial intervention.	
NSW 5: The Coal Allocation Committee's decisions are never made public, so it cannot be held to account and it is not possible to determine if the Minister is following its recommendations or not.	
NSW 6: Companies are able to freely lobby the Minister to release areas for exploration, so there are opportunities to corruptly influence the Minister.	
NSW 7: No due diligence is done on companies' technical and financial claims, which means companies can lie, have undesirable beneficial owners, or be affected by conflicts of interest, and these things are unlikely to be detected.	
NSW 8: The Exploration Titles Committee, which considers applications, assumes that as the Minister has already approved the application, he wants it to be awarded. The committee therefore simply rubber-stamps the application.	
Ethiopia 1: There is no money for advertising companies' applications and no one is responsible for doing this, so officials just wait 30 days then tell the company to submit a full application. Communities get no chance to object, and officials demand bribes to "waive" the objection period.	
Ethiopia 2: Political pressure to encourage mining means that in practice cadastre officials tell companies not to worry about gaps in applications but to fix them "later", creating opportunities for bribery, and poor quality mining practices.	

2A.3 RECORD THE STRENGTHS OF THE AWARDS PROCESS

While the steps of this tool tend to lead you to focus on vulnerabilities to corruption, your corruption risk assessment will be more convincing if you can develop a more complete **risk profile** of the awards process. This means that your results should also show the **strengths** of the awards process; that is, important points at which the awards process is *not vulnerable* to corruption.

Here are three options for presenting your findings about the strengths of the awards process:

1. **Record the strengths separately** to the vulnerabilities. Include a brief explanation for each strength about why this aspect of the awards process or practice is not vulnerable to corruption.
2. **Record the strengths on Worksheet A**, but indicate that they do not result in the corresponding corruption risk and explain why.
3. **Record the strengths on Worksheet A and assess the corresponding corruption risks**, but give them a score of one (1) when you do Step 5 and 6.

You should choose the approach that best suits you and the way you want to communicate this information about the strengths of the awards process.

STEP 3: ANALYSE THE CONTEXT IN WHICH THE PROCESS TAKES PLACE

To identify specific vulnerabilities to corruption in the mining awards context, you can do a PEST analysis to analyse the political, economic, social and technological factors. Use Worksheet B as a guide for your contextual analysis.

Every country has a context that is shaped by its specific politics, economics and society. The particular context of each country influences how the mining awards process is administered and operates.

For example:

- A politically powerful family might dominate investments in the mining sector in your country, whereas this might not be the case in another country.
- Your country may have a very active civil society and independent press that understand and scrutinise the mining sector, but in other countries there may be little public participation due to political repression or a lack of understanding or interest in mining.
- Your country might rely on state-owned enterprises (SOEs) for developing new mines, whereas another country might rely entirely on private sector competition.
- Your country might have an active and well-resourced anti-corruption agency, but another country might rely on police with little capacity to investigate corruption.

Aspects of the context in which the awards process takes places may make it vulnerable to corruption and so it is important to include them your risk assessment.

3.1 CONTEXTUAL ANALYSIS

The objective of the contextual analysis in Step 3 is to identify specific vulnerabilities to corruption in the mining awards context.

For your contextual analysis to be most useful, it should focus on the context in which the mining awards process takes place, rather than be a general political-economic analysis of your country. This means that you *first need to map your process* as outlined in Step 2 to ensure your contextual analysis does not become too general or disconnected from the awards process.

A risk management approach to building contextual knowledge typically involves analysing different aspects of the relevant context. In this case, legal, political, economic, technological and social factors specific to your country context all affect mining awards and may increase the risk of corruption.

3.2 IDENTIFY RELEVANT CONTEXTUAL FACTORS

Annex 6 contains a guide on the factors that may be relevant in your context.

There are also a number of other resources that can indicate relevant factors (see Table 6). While you are not expected to exhaustively analyse every aspect of your country's context, you will need to use your judgement to determine whether you have covered the main areas that have an impact on corruption risk in mining awards.

Table 6. Resources for identifying relevant contextual factors

Resource
OECD, Corruption in the Extractive Value Chain: Typology of risks[19] • Chapter 1: Cross-cutting corruption risks • Chapter 2: Corruption risks in the decision to extract
Natural Resource Governance Institute, Natural Resource Charter Benchmarking Framework[20] • Precept 1: Strategy, legal framework and institutions • Precept 2: Transparency and accountability. Refer also to the corresponding transparency tables in the annexes.
World Bank, Sector Licensing Studies: Mining sector[21] • Describes features of good and bad practices in mining licensing and the interaction of the process with relevant contextual factors.

Annex 3 of this tool contains a list of useful sources for evidence relating to different contextual factors.

19. OECD (2016). *Corruption in the Extractive Value Chain: Typology of risks, mitigation measures and incentives.* Paris.
20. Manley, D. and Pitman, R. (2016). *Natural Resource Charter Benchmarking Framework.* New York: Natural Resource Governance Institute.
21. World Bank (2009). *Sector Licencing Studies: Mining sector.* Washington DC.

3.3 ANALYSE THE CONTEXTUAL FACTORS

One option for your contextual analysis is to conduct a PEST analysis. Worksheet B: PEST analysis (Annex 6) lists major political, economic, social, and technological factors that frequently shape the context in which awards are made. Worksheet B is one option you can use to do your contextual analysis.

Worksheet B is organised in a question and answer format, where each factor is structured as a question and an example answer is given that explains the situation. You need to research the questions to answer them, and you must include the sources of evidence for your answer.

The full range of questions listed on Worksheet B in Annex 6, is a guide to help you get started. You can include, exclude, modify, or add to the questions as is necessary for you to create a suitably thorough contextual analysis. The answers are for a fictional jurisdiction to illustrate a range of possible contexts – they are examples only.

Do not worry too much about which category is best for different analytical questions as there is often overlap. The important thing is to capture relevant factors somewhere on the worksheet.

Add categories to your contextual analysis

You can add other categories to expand the PEST model. Another commonly used model for contextual analysis is STEEPLE, which stands for analysis of social, technological, economic, environmental, political, legal and ethical factors.[22]

22. There are many resources online that can provide a *general* guide to PEST or STEEPLE analyses. See, for example, http://pestleanalysis.com/steep-and-steeple-analysis/.

Sources of evidence

It is important that your analysis is supported by credible evidence.

Annex 3 lists sources of information you can draw on for your contextual analysis, including anti-corruption and governance tools and data, and surveys of different countries that identify weaknesses in mining sector governance. You can use other sources of information that are based on expert analysis or other reliable data and that could provide evidence for your assessment.

Sample PEST analysis

Below is an example of Worksheet B with sample questions and answers to illustrate an analysis of political, economic, social and technological factors.

Worksheet B: Sample questions and answers for PEST analysis (full version is at Annex 6)

Note: "Evidence for answer" is all hypothetical and gives an indication of the evidence you could use. To support your answer you should use and cite references for your sources such as the example references contained in square brackets in the example analysis of the political factor.

Political factors

Q: Do politicians or officials have private interests in mining?

There are widespread conflicts of interest involving politicians and officials having mining interests.

Evidence for answer:

- Anti-corruption agency report [National Integrity Agency, Special Report on the Mining Sector in Minlandia (2012) pp 34-39]
- Subsequent legal prosecution of politician [R v Houston 12 DLR 49]
- Three media articles about business links between cabinet ministers and mining companies [R. Johns, 'Minister's involvement in Dig Co. raises eyebrows', The Minlandian Times, 13 December 2015 (online)]
- One academic article on corruption in the country [R. Adani, 'Examining corruption risks in Minlandia' (2011) Governance and Society Journal 234]
- Expert interview with opposition politicians (x2) and with former cadastre agency official [Interview 2, J. Petersen, 15 December 2016]
- Weak parliamentary regulations on politicians declaring conflicts of interest [Mining Regulations 2007, regs 22-23]
- Interview with mining company representative [Interview 13, Name withheld (mining company representative), 2 December 2016]

Economic factors

Q: Are major new projects being planned?

Many new deposits have been identified and the government is actively planning to bring them into production.

Evidence for answer: Government's 2015-2020 mining policy; government press releases and media articles on foreign investor tours; business media articles (x5), including interview with Minister for Mines; Cadastre Agency's annual reports, 2010-2015; press release of Minister for Mines.

Social factors

Q: How organised are affected communities about mining issues?

The level of organisation by affected communities is mixed, although there is some collaboration with civil society organisations (CSOs) and there are vocal leaders who are interested in reforming the mining sector.

Evidence for answer: Expert interview with leaders from five affected communities; reports (x3) on mining and communities by foreign CSOs; interview with two local and one national politician; media coverage from 2014-2015 about ongoing grievances around a gold mine; expert interview with academic researcher doing research in communities affected by mining.

Technological factors

Q: How important is the potential for undersea mining?

There are many new discoveries, but government staff do not understand the technology, costs, profits, or risks.

Evidence for answer: Annual reports (2014-2015) of mining company mentions plans to exploit undersea deposits, and creation of subsidiary to do this; business media articles (x2) on new technology that will allow undersea mining; reports by foreign environmental NGO on negative impact of undersea mining; proceedings from mining conference on challenges of undersea mining; interview with cadastre agency on knowledge/skill gaps concerning undersea mining; interview with Minister for Mines on need for government to improve its capacity and knowledge about undersea mining.

STEP 3A: IDENTIFY VULNERABILITIES IN THE AWARDS CONTEXT

Record the vulnerabilities you have identified in the awards context on Worksheet A. Record the strengths consistently with the approach you adopted in Step 2A.

Identify vulnerabilities in the *awards context* using information from your contextual analysis.

The example of Worksheet A, below, shows how you can add in the vulnerabilities identified through your contextual analysis.

Worksheet A: Vulnerabilities identified from contextual analysis (Step 3A version)

Vulnerabilities (Complete at Steps 2A and 3A)	**Resulting corruption risks...** (Complete at Step 4)
Political factor 3: There are widespread undeclared and unmanaged conflicts of interest involving politicians.	
Economic factor 2: New deposits have been discovered that are increasing the workload of cadastre staff as the government tries to bring the deposits into production.	
Social factor 2: The level of organisation of communities affected by mining is mixed, although some of them work with CSOs and have vocal leaders who are interested in reforming the mining sector.	
Technological factor 3: Investors know much more than the government does about the new area of undersea mining, including the technology, costs, profits and risks involved.	

02

ASSESS THE CORRUPTION RISKS

01 MAP THE MINING AWARDS PROCESS AND CONTEXT

STEP 1
DEFINE THE SCOPE

STEP 2
MAP THE AWARDS PROCESS AND PRACTICE

STEP 2A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE PROCESS AND PRACTICE

STEP 3
ANALYSE THE AWARDS PROCESS

STEP 3A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE AWARDS CONTEXT

02 ASSESS THE CORRUPTION RISKS

STEP 4
IDENTIFY CORRUPTION RISKS RESULTING FROM THE VULNERABILITIES

STEP 5
ANALYSE EVIDENCE ABOUT THE LIKELIHOOD AND IMPACT OF EACH RISK

STEP 6
SCORE THE LIKELIHOOD AND IMPACT OF THE RISK

STEP 7
VALIDATE THE RISK ASSESSMENT RESULTS

03 COMMUNICATE THE FINDINGS

STEP 8
PRIORITISE THE CORRUPTION RISKS FOR ACTION

STEP 9
WRITE A CORRUPTION RISK ASSESSMENT REPORT

STEP 4: IDENTIFY THE CORRESPONDING CORRUPTION RISKS

Identify the corruption risks that correspond to the vulnerabilities you found in the awards process, practice and context. Record these risks in the second column of Worksheet A.

Now that you have identified the vulnerabilities in the awards process, practice and context, you need to determine the corruption risks created by these vulnerabilities. You will assess these corruption risks in Steps 5 and 6.

There should be a logical connection between the vulnerability and the associated corruption risk.

4.1 CHOOSING FROM THE COMMON RISKS

Annex 1 contains a list of 80 common risks.

- The common risks are described in a deliberately broad way to make them relevant to many different contexts. You may need adapt or change the wording to best suit the specific vulnerabilities you have identified.
- You do not have to use all the common risk questions. For example, there is a common risk question about barter deals involving infrastructure swaps for mineral production, but if such deals never occur in your jurisdiction ignore this risk.
- The list does not include all relevant risks. It is impossible to list all risks because they vary from country to country. The risk profile for your country is likely to look different to another country's profile.

Here is an example of a common risk from Annex 1. All common risks have this structure.

Figure 5. Structure of a common risk

1. **PD14:** What is the risk of external interference in the cadastre agency's awarding of licences etc?

External interference, such as by politicians, is sometimes built into the design of a process, e.g., when ministers are given rights to veto or to 'act in the interests of the state' on certain matters. However, unless such interference is guided by known criteria it creates opportunities for bias, undermines officials' decisions and may be motivated by bribery.

2.

1. **Risk code**

Each risk is assigned a code that corresponds to the risk category. Codes are useful when it comes to analysing the risk assessment results as they can help you organise the risk assessments results by category.

2. **Explanation of the connection to corruption**

The text in italics explains what kind of corrupt effect could be caused if the risk event occurs.

4.2 CATEGORIES OF RISK

There are three methods to finding a risk that matches the vulnerabilities you identified in Part 1:

- **Use** a common risk from the list in Annex 1
- **Modify** a common risk from Annex 1 to better fit your context
- **Create** an additional risk

The common risks in Annex 1 are divided into **five categories**, as illustrated in Table 7. The categories refer to the *location* or *source* of the risk in the area of the mining awards framework.

The easiest way to identify the corruption risk created by a vulnerability is to start by working out which category the vulnerability (and therefore its corresponding risk) belongs to. Analytically separating risks into different categories helps to identify more precisely where risks are distributed, and therefore this will also help you to develop a more targeted strategy after the assessment.

Ask yourself the questions in the far-right column to help identify the category of risk that is likely to match the vulnerabilities you have identified.

Table 7. Five categories of risk

Area	Category Risks related to	Code	Guiding questions
Context	1. Contextual factors	(CF)	**Does this vulnerability arise from the context in which the awards process takes place?** E.g., Individuals commonly move from government and politics to the mining sector (and vice versa) and there are weak controls to prevent conflicts of interest.
Awards process	2. Process design	(PD)	**Is this vulnerability due to the laws, regulations and policies that establish the design of the awards process?** E.g., there is no requirement to publish licence information or clear decision-making criteria.
	3. Process practice	(PP)	**Does this vulnerability arise from the way the awards process is implemented in practice?** E.g., licence applications are submitted in person rather than electronically.
Mining-related approvals	4. Environmental and social impact assessment	(ESIA)	**Does this vulnerability relate to the process for commissioning, conducting and approving environment and social impact assessments?** E.g., the relevant government authority does not have the resources to verify impact assessment reports.
	5. Community consultation	(CC)	**Is this vulnerability related to the way that community consultation is conducted?** E.g. Agreements with local communities are made in secret and are not published.

New risks

Because the awards process and context in each country is different, it is almost certain that you will identify new risks that are additional to the common risks.

For new risks, remember to:

- Give the new risk an appropriate **code** based on the category it best fits into
- Formulate the risk as a **question** "What is the risk that/of…?"
- Include an **explanation** that justifies why it is a *corruption* risk

The explanation will help others understand why you included that risk and establishes your justification of how the risk creates the opportunities or conditions that could allow corrupt conduct to occur or to pass undetected.

4.3 ADD THE RISKS TO WORKSHEET A

Complete the second column of Worksheet A with the corruption risk that corresponds to the vulnerability you identified in Steps 2A and 3A. Include the risk code.

Sample Worksheet A

This sample Worksheet A (Step 4 version) shows how to match risks contained in Annex 1 to vulnerabilities, by listing risks for all the illustrative vulnerabilities identified for the awards process in the New South Wales and Ethiopia awards processes from Step 2A, and for four of the contextual factors from Step 3A.

As you can see, the risks are based on the vulnerabilities and are a mix of common risks from Annex 1, modified common risks, and new risks.

Note also:

- Some vulnerabilities create the same type of risk, e.g., the risk of external interference from a politician (PD14) appears twice in the New South Wales case. This is fine as it is basically telling you there is a specific risk that is unmanageable and is relevant to several areas.
- Some vulnerabilities create more than one risk, such as the vulnerabilities for NSW 7 and Ethiopia 1, which create multiple risks. This is also OK.

A note on coding

If you are assessing risks in multiple jurisdictions and or different awards processes and intend to *compare* the results, you will need to use a consistent coding method. One option is suggested below:

For new risks: Identify which of the five categories your additional risk best fits into and add **[-N#]** to the end of the code. For example, the first new PD risk would be **PD-N1**, the second, **PD-N2**. This will make it easier for readers to identify additional risks.

For repeated risks: Where the same type of risk is repeated, add **[.2]** to the end of the code for the first repetition, **[.3]** for the next, and so on.

For example, in sample Worksheet A, below, both NSW 1 and 5 are vulnerable to risk PD4. They are labelled PD4 and PD4.2 respectively.

Worksheet A: Matching vulnerabilities to risks (Step 4 version)

Vulnerabilities (Complete at Steps 2A and 3A)	**Resulting corruption risks...** (Complete at Step 4)
NSW 1: No standard criteria for information from companies, so there is no "level playing field", merit is hard to judge, and companies' applications can be refused without much explanation.	**PD4:** What is the risk that criteria for awarding licences etc. will not be clear or publicly available?
NSW 2: No standard timeframe, creating uncertainty and risks for corruption around bribery to speed-up the process or to obtain more information.	**PD12:** What is the risk that the duration and timing of each step of the awards process can be manipulated?
NSW 3: No confirmation of the market value of the resource by the government, so the company can lie about is true value, which has an impact on taxes and royalties.	**PP6 (modified):** What is the risk that inadequate expert technical input into direct allocation decisions will result in a below-market price to government?
NSW 4: The role of the key decision-making body (the Coal Allocation Committee) was not set out in legislation, which means it has no legal authority to limit ministerial discretion.	**PD14:** What is the risk of external interference in the cadastre agency's awarding of licences etc.?
NSW 5: The Coal Allocation Committee's decisions are never made public, so it cannot be held to account and it is not possible to determine if the Minister is following its recommendations or not.	**PD4.2 (repeat from NSW 1):** What is the risk that criteria for awarding licences etc. will not be clear or publicly available?
NSW 6: Companies are able to freely lobby the Minister to release areas for exploration, so there are opportunities for corrupt influence.	**PD14.2 (repeat from NSW 4):** What is the risk of external interference in the cadastre agency's awarding of licences etc.?
NSW 7: No due diligence is done on companies' technical and financial claims, which means companies can lie, have undesirable beneficial owners, or be affected by conflicts of interest, and these things are unlikely to be detected.	**PP12:** What is the risk that in practice there is inadequate due diligence on applicants' claims regarding their capacity and financial resources? **PP13:** What is the risk that there is inadequate due diligence on applicants' integrity, such as past lawful conduct and compliance?
NSW 8: The Exploration Titles Committee, which considers applications, assumes that as the Minister has already approved the application, he wants it to be awarded, effectively this committee is just a rubber-stamp.	**PD14.3 (repeat from NSW 4):** What is the risk of external interference in the cadastre agency's awarding of licences etc.?

Vulnerabilities (Complete at Steps 2A and 3A)	**Resulting corruption risks...** (Complete at Step 4)
Ethiopia 1: There is no money for advertising companies' applications and no one is responsible for doing this, so officials just wait 30 days then tell the company to submit a full application. Communities get no chance to object, and officials demand bribes to "waive" the objection period.	**CC3:** Assuming consultation with affected communities is required, what is the risk that their free, prior, informed consent will be ignored? **CF3:** What is the risk that cadastre staff and managers will be unable to cope with the workload of the agency?
Ethiopia 2: Political pressure to encourage mining means that in practice cadastre officials tell companies not to worry about gaps in applications but to fix them "later", creating opportunities for bribery, and poor quality mining practices.	**PP-N1 (new risk):** What is the risk that there is political pressure on cadastre staff to award licences without questions, or quickly?
Political factor 3: There are widespread undeclared and unmanaged conflicts of interest involving politicians.	**CF16:** What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?
Economic factor 2: New deposits have been discovered that are increasing the workload of cadastre staff as the government tries to bring the deposits into production.	**CF3.2 (repeat from Ethiopia 1):** What is the risk that cadastre staff and managers will be unable to cope with the workload of the agency?
Social factor 2: The level of organisation of communities affected by mining is mixed, although some of them work with CSOs and have vocal leaders who are interested in reforming the mining sector.	**CC4 (modified):** What is the risk that community leaders negotiating with a mining company do not have the capacity to represent community members' interests?
Technological factor 3: Investors know much more than the government does about the new area of undersea mining, including the technology, costs, profits and risks involved.	**CF-N1 (new risk):** What is the risk that the cadastre agency does not understand the technology, costs or profits involved in undersea mining?

4.4 DETERMINE HOW MANY RISKS TO ASSESS

It is reasonable to assess around 20 risks.

If you have identified considerably more than this number, you can reduce the number of individual risk assessments by:

- Grouping similar or related risks and assessing them together, for example risks that arise from the same vulnerability and for which you would probably rely on the same evidence
- Grouping repeated risks and assessing them together, for example where a single type of risk arises from multiple, different vulnerabilities
- Checking that the new risks you have defined are linked to corruption and removing them if they are not
- Removing risks that are not related to the first stage of the mining chain, for example risks related to collection or royalties or to the monitoring of compliance with licence conditions

How to deal with risks of very low probability

Some of the vulnerabilities and corresponding risks that you identify may be hypothetical.

Hypothetical risks are extremely unlikely to occur, and in fact indicate **strengths** in the awards process. You could remove these low-probability risks from the list of risks that you will assess and present them separately as a summary of the strengths in the awards process.

If, however, you have chosen to include the specific strengths in your risk assessment and give them a low score in Steps 5 and 6 (one of the options for presenting strengths discussed in Step 2A (p.31)), this will increase the number of risks that you need to assess.

STEP 5: ANALYSE THE RISKS

Assess each risk by analysing evidence about the likelihood and impact of the risk. Record this information on Worksheet C and include your conclusion about how likely it is that the risk will occur and how serious its impacts would be.

Having identified the risks, you need to analyse the evidence about their likelihood and impact. It will be faster and more efficient to score the risk at the same time as you analyse (scoring is explained in Step 6).

Likelihood is the probability that the risk will occur.

Impact refers to the negative consequences of the risk if it occurs – the corruption impact and the "costs of corruption".

So, for example, when assessing the risk ESIA 3 – *What is the risk that Environmental Impact Assessment reports will not be publicly available once finalised?* – you would analyse evidence in response to the following two questions:

- What is the *likelihood* that Environmental Impact Assessment reports will not be publicly available once finalised?
- What *would be the corruption impact if* Environmental Impact Assessment reports *are not* publicly available once finalised?

The scoring guide under each common risk indicates the kinds of matters to consider when analysing likelihood and impact for each risk.

Record your analysis of the likelihood and impact of the risks (and the scores) on Worksheet C.

You may choose to use a different format, but be sure to include all elements that are in Worksheet C of this tool. Figure 6 explains how to complete the different sections of the worksheet. At point 1, you may like to include a description of how the risk manifests itself in your particular context in addition to the general explanation of how the risk increases opportunities for corruption from Annex 1.

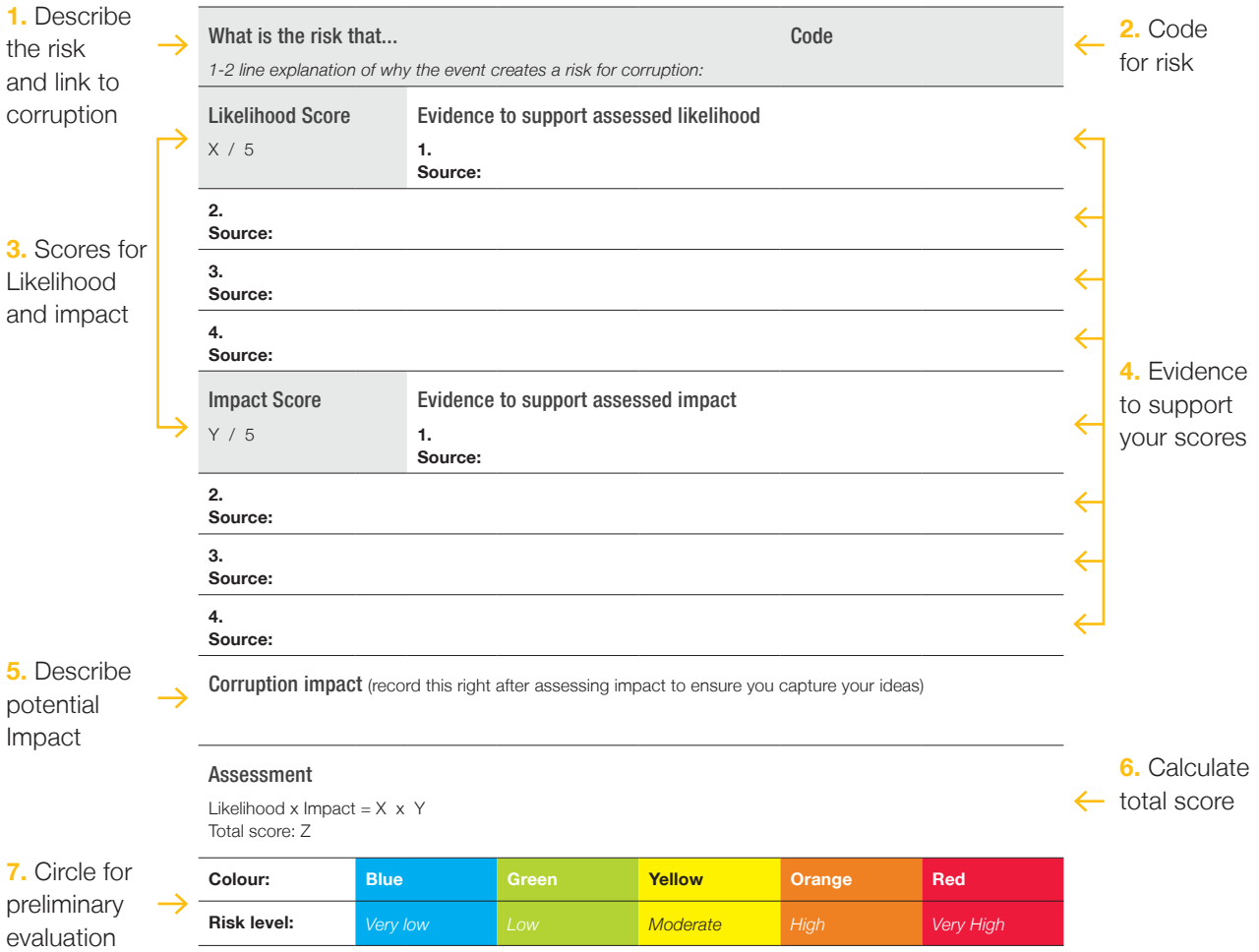
TIP: Do Steps 5 and 6 simultaneously.

The most efficient way to analyse and score your risks is to do these steps simultaneously. Analyse the risk (Step 5) and then score it (Step 6) before moving on to the next risk. Worksheet C – or your variation of this worksheet – can be completed for both Steps 5 and 6 at the same time, which saves you time and also means you can score risks while your analysis and evidence are fresh.

Annex 7 contains four examples of completed worksheets to show you how they can be filled out, including suggested types of evidence.

Figure 6. Worksheet C: Risk assessment, with explanatory notes

(A blank copy of Worksheet C is at Annex 7)



Worksheet C is for you to record seven things:

1. The risk question, its link to corruption and a brief summary of how the risk manifests itself your context
2. Include the code for the risk
3. Record your scores for likelihood and impact (Step 6)
4. List the evidence on which you have based your analysis and scores (Step 5)
5. Briefly describe your conclusion about the potential corruption impacts of the risk (Step 5)
6. Calculate a total score (Step 6)
7. Do a preliminary evaluation by circling the appropriate risk category for the risk (Step 6)

5.1 HOW TO USE EVIDENCE IN YOUR RISK ASSESSMENT

Your conclusions about the likelihood and impact of each risk must be supported by evidence that you can explain to others. The credibility of your assessment depends on using and analysing good quality information to support your judgement.

Keep in mind the following tips and your risk assessment will be more convincing.

1. **Use a range of sources** – use more than one source of evidence and include full references (including URL links, if possible).
2. **Use your map and contextual analysis as evidence** – draw on your analysis (from Steps 2 and 3) of the process, laws, institutions, policies, practices and context that shows how these enable or prevent the risk from occurring. You can use the sources of evidence you relied on in your earlier analysis of the process, practice and context.
3. **Use repeated risks as evidence** – if your analysis shows the same risk is created by multiple vulnerabilities, you can use that as evidence of likelihood and impact.
4. **Explain why the evidence is relevant** – if it is not obvious, you need to explain how the item of evidence supports likelihood/impact.
5. **The evidence for likelihood will often also be evidence for impact,** but with a different angle. For example, the evidence of careful internal monitoring reduces the probability that a cadastre official will solicit bribes etc. At the same time, this means that if such corrupt conduct does occur, it is detected and so the impact on the integrity of the licensing process is minimised.
6. **Mitigation measures** – include evidence of controls that reduce the probability of the risk occurring or that could minimise its impact, for example, independent audits, active monitoring regimes, managerial supervision, and other checks.
7. **Context is important** – for example, for countries with a fast-growing mining sector that already have risks related to the capacity of cadastre staff to process applications, the projected growth of the sector and therefore added strain on the cadastre workload could increase the likelihood of this risk. Or, for countries with few mineral deposits, the corrupt transfer of a potentially profitable resource to a favoured applicant could have a disastrous impact.
8. **Get different perspectives on the score** – there is no definitive answer to likelihood or impact. So, the best approach to give credibility to this part of the risk assessment is to show that you obtained and considered different people's views on your analysis of the likelihood and impact when deriving your final scores (see Step 7 Validation).

How to analyse and assess "likelihood"

What does the evidence say about the probability that the risk will occur?

Some questions that can be helpful to consider when analysing the likelihood of a risk are:

- How long has it been a problem? Are there any examples of this risk occurring in the past?
- What existing measures are in place to prevent the risk? How well do they work?

The information you collected and analysed about the vulnerabilities will be your primary input when analysing likelihood. In addition to the sources listed above in section 5.1, other relevant sources of evidence are:

- **Previous instances or allegations of this risk occurring** (even in other sectors); is it a known or recognised problem?

  Evidence: academic research reports, news articles, legal cases, government/integrity agency reports, expert interviews, your country's EITI report, reports with specific case studies.

- **Low scores in mining governance indices,** which indicate the existence of weak mining awards laws and mining governance generally.

  Evidence: World Bank MinGov, NRGI Resource Governance Index, Fraser Institute Index.

How to analyse and assess "impact"

What are the consequences if the risk occurs? For what? For whom?

Some questions to ask when analysing the corrupt impact of a risk are:

- What kind of corruption can result from the risk? Is it "systemic" (almost always problematic) or "sporadic" (contained to "one-off" incidents), or something in between?
- What existing measures are in place to prevent or mitigate the potential consequences (corruption) of the risk? How well do the current measures work?
- What is the potential negative impact of the resulting corruption and who or what does it affect?

Evidence should show:

- Examples of corruption in your country or a similar country resulting from this type of vulnerability
- How well systems work to stop corruption and manage or minimise its impacts
- The impact on other corruption risks
- The potential impact of corruption, when it does occur

Low scores in corruption and good governance indices can indicate propensity to corruption as well as the negative impact of corruption. For example, the World Justice Project Rule of Law Index, Transparency International Corruption Risk Perception Index, World Governance Indicators.

"The cost of corruption" – what is the impact of corruption?

You need to provide some conclusions about the potential impact of corruption resulting from the risk with reference to its impact on, for example, economic development, rights, the rule of law, the integrity of the awards process, investment in mining, environmental standards etc.

It is important to have a solid understanding about the impacts of corruption that flow from this risk so that you can make a strong case to other stakeholders about why it is important to tackle this risk.

Provide your conclusions about the potential corruption impact of the risk in the "Corruption impact" section at the bottom of Worksheet C (point 5).

Corruption in the awards process can weaken or undermine:

Impartiality and fairness in decision-making about allocation of public resources

Rights to ownership and access by communities to land and water

Standards for the environment, labour or treatment of communities

Revenue to the state from application fees, and flow-on effects on royalties and taxes from poor projects that result from a corrupt awards process

Profits as companies can be fined or lose licences if they are found to be corrupt, and bribes and other benefits are an additional cost

Competition in the mining sector and thereby preventing the state from optimising mining activity and causing the withdrawal of honest investors

Fairness to firms obeying the law and following proper process

Reputation of your country and government

Innovation of new technology or processes, because established interests get protected

Quality of projects because the firm that bribes the most gets the licence, not the best applicant

Accountability of persons who are or have been corrupt

Transparency for the public and landholders about management of their resources

Legitimacy of public institutions and the mining sector as a whole, which can lead to social conflict

STEP 6: SCORE AND RECORD THE RISKS

Having analysed and made a conclusion about what the evidence means, give the likelihood and impact of the risk a score out of five. Record the scores at point 3 on Worksheet C.

The purpose of scoring the likelihood and impact is to create information to be used for identifying priority risks. Scoring gets easier as you develop your judgement and confidence, but it is important to not spend too much time on it. Scoring is not an end in itself, and scores are just one factor to consider for prioritisation as is explained in Step 8.

In making a judgement about how to score the likelihood and impact of each risk you have analysed, involve a range of perspectives and arrive at your judgement via group discussion on the evidence.

6.1 GUIDANCE FOR SCORING OF COMMON RISKS

Each common risk in Annex 1 contains suggestions to help you score both the likelihood of the risk occurring and the impact if it occurs. For risk PD14 depicted in Figure 5, the following suggestions are made:

PD14: What is the risk of external interference in the cadastre agency's awarding of licences etc?

External interference, such as by politicians, is sometimes built into the design of a process, e.g., when ministers are given rights to veto or to 'act in the interests of the state' on certain matters. However, unless such interference is guided by known criteria it creates opportunities for bias, undermines officials' decisions and may be motivated by bribery.

Likelihood: Suggest: 5/5 if the cadastre agency's awarding of licences etc is completely politicised; 3/5 if the government gets involved in projects of significant public interest only; 1/5 if there is not outside interference and technocrats makes awards decisions.

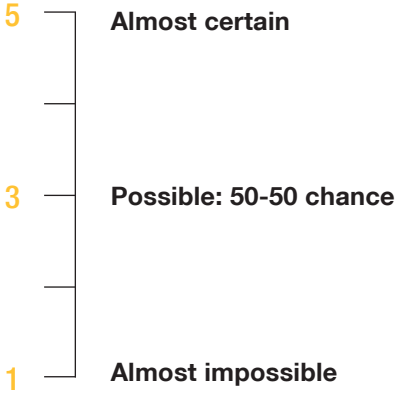
Impact: Suggest: 5/5 if the market for exploration and production licences, is not competitive or merit-based due to interference; 3/5 if there is some interference creating some uncertainty around the criteria for being awarded a licence etc; 1/5 if there is minimal impact, e.g., because there is little actual mining.

The suggested scores for PD14 are not the only answer. You need to assess potential impacts based on your own knowledge of your own country or jurisdiction.

Scoring likelihood

This tool requires you to give the likelihood of each risk a score out of 5, and you are able to choose any score along the 5-point scale, i.e., 1, 2, 3, 4 or 5:

- 5 out of 5 means you are almost certain an event is going to happen.
- 3 out of 5 means it is possible an event will occur – there is a 50-50 chance.
- 1 out of 5 means an event is almost impossible.



Scoring impact

How you score impact requires you to use your judgement about how corruption will cause one or more of the impacts listed in Step 5 (corruption typically has multiple impacts). It can be difficult to score impact, but here is some general guidance:

- **Score 4-5 (major-catastrophic impact)** for anything that has an impact on the *entire awards system*. "Systemic corrupting" of the process can be from any stakeholder's perspective.
- **Score 4-5 (major-catastrophic impact)** for single serious events, e.g., the corrupt transfer of a potentially profitable resource to a favoured applicant, especially if your country has few deposits.
- **Scores of 2-3 (minor-moderate impact)** will depend on how systemic and manageable are the potential impacts.
- **Score 1 (insignificant impact)** for one-off events ranging from a minor impact to moderate impacts.

6.2 CALCULATE THE TOTAL SCORE

Calculate the total score by multiplying the score for likelihood and impact (likelihood x impact = total score). Once you have the total score for each risk, record it at point 6 on Worksheet C.

Issues to consider when scoring likelihood and impact

You might find it helpful to develop criteria or a scale for assessing the risks. Table 8 includes some of the criteria that were used by Transparency International chapters in their risk assessment.

Table 8. Risk assessment criteria used by Transparency International chapters

Criteria used in the Cambodian risk assessment[23]
Likelihood
Opportunity (score out of 5) refers to the set of legal process that allows discretionary or monopoly power on decision-making, or circumstances when misconduct will not be detected or punished.
Accountability (score out of 5) refers to administrative, social, or legal structures that monitor actions and behaviours of people in influencing or decision-making roles.
Integrity (score out of 5) refers to ethics and values adhered to in respect of their interactions with people they deal with generally or professionally.
Total likelihood score = average of three indicators.
Impact
Scale (score out of 5) refers to the possible size of malpractice resulting from the risk, whether it is at individual or institutional level and/or systemic versus a random one-off occurrence.
Consequence (score out of 5) refers to the result or effect on fiscal revenue, economic, social, and environment.
Duration (score out of 5) refers to the period of time that the impact will have negative socio-economic consequences including post-license period.
Total impact score = average of three indicators.
Criteria used in the Colombian risk assessment[24]
Likelihood
5/5 Almost certain that risk will occur: it occurred more than once in the previous year.
4/5 Occurs in most cases: it has occurred 4-5 times, or occurred once in the past year.
3/5 Possible that risk occurs: it has occurred 2-3 times, or at least once in the last two years.
2/5 May occur: at least one occurrence in the last five years.
1/5 Exceptional: there is no evidence that this risk has occurred, or risk occurs as an exception, no appearance in the last five years.
Impact
5/5 Disastrous consequences not just over the awards process, but on the mining sector.
4/5 Impacts the entire awards process in a systematic way.
3/5 Partial impact on the awards process.
2/5 Impacts the way the awards process is carried out in a minor way.
1/5 Does not directly affect the process; impact is low and insignificant.

23. Kim, M. (2017). *Cambodia's Mineral Exploration Licensing Process: Governance risk assessment.* Phnom Penh: TI Cambodia.

24. Puertas Velasco. A. and Muñoz Criado, A. (2017). *Mapa de riesgos de corrupción en el otorgamiento de títulos mineros y licencias ambientales.* Bogota: Transparencia por Colombia.

6.3 PLOT YOUR RISKS ON THE MATRIX

Worksheet D is a two-dimensional risk matrix that is standard in risk management. Plot the total scores (likelihood x impact) on the matrix. A blank copy of Worksheet D is at Annex 8.

The example of Worksheet D shown below has been filled in with the following four hypothetical risks:

Risk 1	Likelihood = 2; Impact = 1	2 x 1 = 2
Risk 2	Likelihood = 5; Impact = 2	5 x 2 = 10
Risk 3	Likelihood = 2; Impact = 4	2 x 4 = 8
Risk 4	Likelihood = 4; Impact = 5	4 x 5 = 20

Figure 7. Worksheet D: Risk matrix, with four example risks

Likelihood	1 Insignificant	2 Minor	3 Moderate	4 Major	5 Catastrophic
5 Almost Certain	5	Risk 2 10	15	20	25
4 Likely	4	8	12	16	Risk 4 20
3 Possible	3	6	9	12	15
2 Unlikely	Risk 1 2	4	6	Risk 3 8	10
1 Almost impossible	1	2	3	4	5

Impact

Writing scores onto Worksheet D *using the code you have given the risk* is a quicker and less-cluttered way of entering many risks onto the matrix compared to using words.

Colour codes indicate importance of the risk

Because the risk matrix has already been divided into five recommended colour zones, simply plotting a risk on the matrix will suggest a level of importance. There are five levels of importance, each with a different colour, as shown at point 7 on Worksheet C and in Figure 8 below.

Figure 8. Colour coding scale

Colour:	**Blue**	**Green**	**Yellow**	**Orange**	**Red**
Risk level:	*Very low*	*Low*	*Moderate*	*High*	*Very High*

After you have (1) calculated a total score for the risk, and then (2) plotted it on Worksheet D to see into which colour category it fits, return to Worksheet C and circle the appropriate colour and risk level at point 7 at the bottom of the worksheet.

Differences between total scores and colour coding

You will see in Worksheet D that identical total scores may have a different colour and therefore represent different levels of risks.

The difference in colour coding occurs because the matrix emphasises **impact** as the key factor of concern. Risks that have a high likelihood, but which do not have an equally high impact, are categorised as less important than risks with the same total score where that score is based on low likelihood/high impact.

For example, “Risk 2” has a total score of 10 (5 x 2) and is categorised yellow (moderate), whereas Risk 3 has a lower total score of 8 (2 x 4) but is categorised orange (high). This means that Risk 3 is more serious than Risk 2 even though it has a lower score.

STEP 7: VALIDATE THE RISK ASSESSMENT

Validate the individual risk assessments with different stakeholders to ensure that the overall assessment is credible and robust.

Assessing the likelihood and impact of a risk involves making a judgement. Even though you have used evidence and other sources (and not just your personal opinion), the risk assessment is still based on your experience. Therefore, a solid validation process that involves other perspectives can minimise the potential for subjectivity and perceptions of bias. It is an important step to make your risk assessment more convincing.

Who can validate the results?

Get the views of representatives from different sectors, representing different perspectives. Get at least three different perspectives per risk assessment.

The people validating the results should not be the same people who you interviewed or whose evidence you relied on when assessing the risk. Choose people that have some knowledge or experience of the aspect of the awards process that the risk relates to.

How should they participate?

You could hold a multi-stakeholder validation workshop or one-on-one meetings. Bringing different perspectives together can generate interesting discussion, but where there is tension between stakeholders or you think that some stakeholders will be intimidated or reluctant to participate in a group setting, one-on-one meetings may be better.

Begin by explaining the purpose of the research project and explain the methods used in the risk assessment, including the process map and contextual analysis, as well as the evidence on which your risk assessment is based.

What should they validate?

Ask the validators for their views on your individual risk assessments:

- How valid is the evidence you have relied on? Is any evidence missing?
- Is the analysis of the evidence of likelihood and impact reasonable?
- Are the conclusions (scores) reasonable? What score would they give and why?

As risk assessment is a matter of judgement, ask the validators to explain why they agree or disagree.

Sending the validators a copy of the risk assessment before meeting in person can give them more time to review your assessment.

How to deal with disagreement

Consider the views of the validators: Are their comments reasonable? Should you change or add any evidence? Should you change any of the scores?

You will need to make a judgement about whether you should make any changes, but do not feel pressured to make changes that you do not believe are justified (this may, however, affect your communications strategy, so keep in mind issues that have been controversial).

03

COMMUNICATE THE FINDINGS

MAP THE MINING AWARDS PROCESS AND CONTEXT

STEP 1
DEFINE THE SCOPE

STEP 2
MAP THE AWARDS PROCESS AND PRACTICE

STEP 2A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE PROCESS AND PRACTICE

STEP 3
ANALYSE THE AWARDS PROCESS

STEP 3A
IDENTIFY VULNERABILITIES TO CORRUPTION IN THE AWARDS CONTEXT

ASSESS THE CORRUPTION RISKS

STEP 4
IDENTIFY CORRUPTION RISKS RESULTING FROM THE VULNERABILITIES

STEP 5
ANALYSE EVIDENCE ABOUT THE LIKELIHOOD AND IMPACT OF EACH RISK

STEP 6
SCORE THE LIKELIHOOD AND IMPACT OF THE RISK

STEP 7
VALIDATE THE RISK ASSESSMENT RESULTS

COMMUNICATE THE FINDINGS

STEP 8
PRIORITISE THE CORRUPTION RISKS FOR ACTION

STEP 9
WRITE A CORRUPTION RISK ASSESSMENT REPORT

STEP 8: PRIORITISE THE RISKS FOR ACTION

In this step, you will determine which are the priority risks to prevent or manage. You will not be able to act on all the risks you assessed, so this step is crucial to transition from research to action.

By the end of Step 7 you will have identified and assessed many different risks relevant to your country. Determining which of the corruption risks are priorities for your anti-corruption strategy is critical to transitioning from research to action. This section explains how to identify which risks should be a priority for action.

You must be pragmatic about the risks you can target given the resources you have available, and this means prioritising risks using more criteria than just the total score and colour category. Addressing risks that are ultimately selected as priorities has to be "do-able" given your resources, your potential partners for action and your context.

As effective action relies on the cooperation of key stakeholders, you may like to organise a workshop or meeting to present the findings from your risk assessment and get support for joint action on priority risks. Who you invite will depend on which stakeholders you engaged with during the research process and whose support and collaboration you need for action on priority risks in the future. Use the meeting to determine the interest and willingness of different stakeholders to work on different risks.

It is useful to get an idea of your priority risks before consulting with a larger group.

Who to invite to a meeting on priority risks

Potential attendees could come from **civil society organisations** e.g., environmental or indigenous groups, or leaders from communities affected by mining; **government officials**, especially the cadastre agency, but also environmental or indigenous affairs agencies, as well as finance or treasury as both are interested in lost revenue; **politicians**; **local government officials** from areas affected by mining; **representatives from mining companies** (foreign and domestic); **chambers of commerce**; and your **anti-corruption agency or justice department**.

8.1 PRIORITISATION METHOD

The precise mix of risks that you prioritise should be based on:

- The **urgency** of the risk
- The **impact** you can make if you address this risk, and
- The **feasibility** of addressing the risk

You have collected lots of information throughout the risk assessment process that will help you when evaluating the risks against these criteria:

Source of information:	What tells me the risk is **urgent**?	What tells me addressing it will have an **impact**?	What tells me addressing it is **feasible**?
1. Score	✓		
2. Colour category	✓	✓	
3. Contextual analysis	✓	✓	✓
4. Stakeholder analysis			✓
5. Available resources			✓

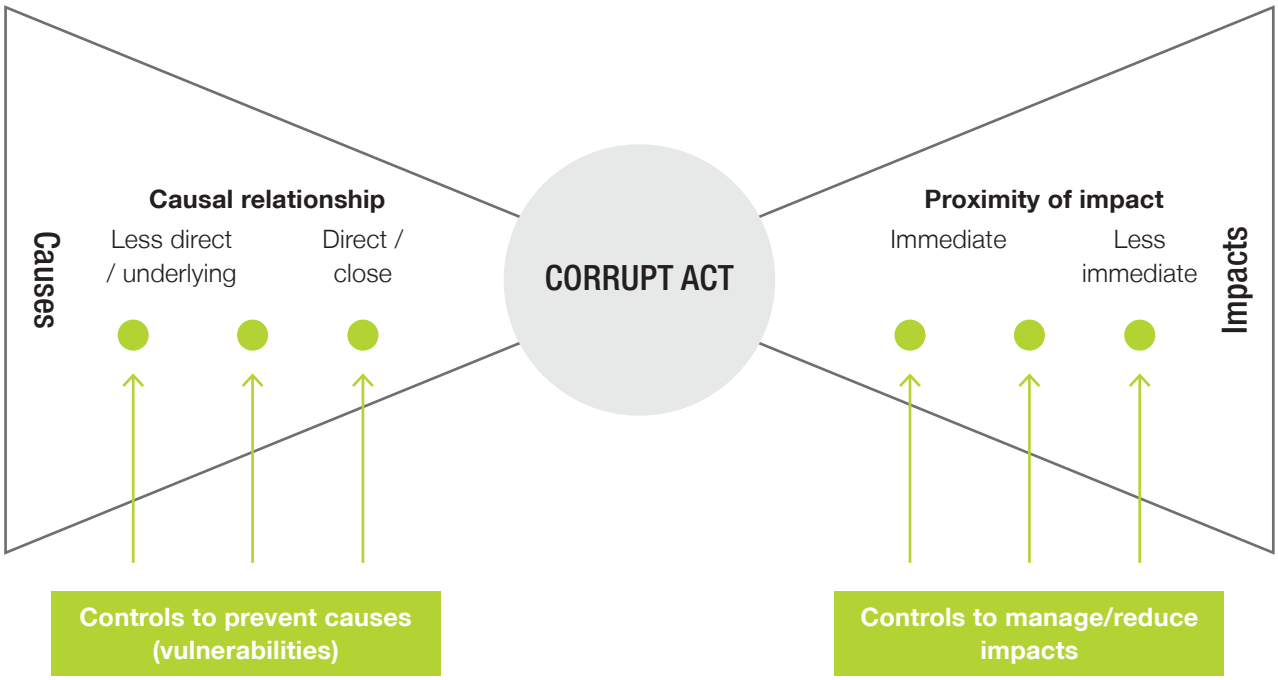
Urgency and impact

It should be clear from the risk assessment which risks are urgent to address and for which you could have the most impact. These will generally be the risks that fell into the “very high” (red) or “high” (orange) colour categories.

Feasibility

To determine whether it is feasible to address a risk as part of your action strategy, you first need to think about the change that would be required to mitigate (prevent) the risk or manage its impacts.

Figure 9. Bow tie analysis



What change is needed?

You need to think about the change (or intervention) required to address the risk. Is it better to try to prevent the corruption risk by dealing with the vulnerabilities? If so, what are the underlying causes of the vulnerability? Or should you focus on managing the impacts of corruption if it occurs? What kind of controls would you need? A bow tie analysis as depicted in Figure 9 can help you think about this.

Is it feasible?

With that in mind, you can consider whether an intervention to control the causes or reduce the impacts of the corruption risk is likely to be successful given your context, the level of relevant stakeholder interest and the human and financial resources available to you.

Context: Your analysis of the political situation will inform you of, for example, whether mobilising public support to advocate for change will be effective. Where there is political repression and people are afraid to speak out, this may not be a feasible option.

Stakeholder interest and support: Do you need the support of other actors to address this risk? Which actors will have the most influence? Are those actors interested and willing to support you?

You may need to conduct a stakeholder analysis. Refer to Annex 4: Stakeholder analysis for guidance.

Resources: An important element to consider is the human and funding resources available to you and that you would need to address the risks. You will probably not have the resources available to address all the red risks, so choices will need to be made.

8.2 DETERMINE THE PRIORITY RISKS

You can bring this information together in a table like the one in Worksheet E, at Annex 9. Evaluate the information and come to a conclusion about whether the risk is a priority for action.

Sample Worksheet E

What tells me the risk is URGENT?	What tells me addressing the risk will have an IMPACT?	What tells me addressing it is FEASIBLE?			Is the risk a PRIORITY for action?
Score + Colour	**Impact Score + Context**	**Stakeholder Interest + Resources**			
Risk 1: What is the risk that landholders' rights are not observed or protected? Likelihood = 4 Impact = 5 **Total score = 20** ***Colour is RED*** *(Score + colour suggests risk level is very high)*	***Impact score*** *is 5/5, therefore addressing the risk will also have a big impact.* **Contextual factors:** There is increased public interest in mining, including harmful impacts on communities. Mining companies are frustrated with the government's lack of direction. It is a good issue, and now is a good time to lobby politicians.	**Stakeholders:** Mining companies and landholders are both interested in resolving this issue, but politicians and government officials are likely to be difficult.	**Cost:** Probably expensive. Action will require background research (but a foreign CSO is interested in funding this), followed by political lobbying and consultations.	**Time required:** It could take 2 years to get any meaningful change on this issue. Political lobbying and community consultation will be time consuming.	**Yes.** This is a costly and time-consuming risk, but stakeholders are interested, an opportunity for action exists, and it is a significant systemic issue. *Will have flow-on effects for managing other risks.*

Watch lists

Some risks have a low likelihood of occurring, but if they did occur would have a significant negative impact on the awards process. Other risks may have a higher likelihood of occurring but may be too sensitive to discuss, or too expensive to address, or may require multi-stakeholder collaboration which is difficult to achieve. It is usually not worth setting aside many resources to deal with such risks, but it is useful to have them on a watch list in case it becomes possible to deal with them in the future.

STEP 9: WRITE A RISK ASSESSMENT REPORT

To communicate your results and findings to key stakeholders, you should write a risk assessment report. You can use your report to make the case for action and support your anti-corruption strategy.

9.1 SUGGESTED REPORT STRUCTURE

The outline on the right contains a suggested structure and elements that are useful to include in your risk assessment report. You may modify the structure to present the information in a way that best fits your context and the way you conducted the research.

Executive summary: Highlight your main findings and recommendations.

Introduction: Outline the purpose of the risk assessment and the structure of the report.

Background:

- Provide essential background information on the mining sector and mining sector governance in your country (the key actors, legal and policy framework).
- Include an explanation of how mining rights are allocated (the relevant licencing, permitting, contracting processes).

Explanation of the scope:

- Explain which of awards processes were examined and why
- Which regions/case studies and why
- Which related processes (e.g. environmental approvals, etc.) and why

Methods:

- Describe MACRA Tool key steps
- Data collection and research methods (e.g. including types of sources, number of interviews, location, if applicable), and justification of these methods
- Method used to score risk (focus group, number of people involved, from which sectors)
- Validation and review process
- Limitations (e.g. regarding the availability and accessibility of information)

The awards process, practice and context:

- Describe the awards process, practice and context (from Steps 2 and 3):
  - Include the process maps from step 2 with explanatory text.
- Highlight the vulnerabilities and their corresponding corruption risks (from Steps 2A, 3A and 4), and strengths, and cite evidence in support:
  - You could include Worksheet A as a summary.

Results – the risk profile and risk assessment scores:

- Present a summary of the scores from the assessment (Steps 5 and 6), as well as the key strengths
  - You could include the risk matrix.

Discussion of results: Interpret the results and make some observations about what they mean.

Limitations of the results: Acknowledge limitations due to accessibility of information, interviewees, etc.

Conclusions:

- Include recommended priority risks and actions.
- Indicate if necessary what further research is required.

Reference list: List all references cited in your report.

Annexes: Include the risk assessment worksheets (Worksheet C) and other worksheets if you like.

9.2 INTERPRET THE DATA

The section discussing the results is where you analyse and make some meaningful observations about the patterns and trends in the vulnerabilities and risk assessment scores.

For example, you could make some observations about patterns and trends related to:

- The **types/categories of risk**: Are the risks from any one particular category? What could be some of the reasons for this?
- The **sources of risk**: Are the risks mainly related to any particular institution or law? Are there any risks that arise multiple times from different vulnerabilities?
- The **context**: Does the subnational jurisdiction/type or size of company/aspect of the mining awards process make a difference to the risk profile?
- The **relationships between risks**: How do the risks relate to each other? Are there any risks that increase the likelihood of other risks?
- The **types of impacts**: Who or what is most affected by the risks?

Don't forget to summarise your findings about the strengths of the awards process to provide a more complete picture of the risk profile.

9.3 WRITE A CONVINCING REPORT

It is important to write clearly and be concise. Do not use overly technical language or assume the reader has expertise in the mining sector. Explain key concepts.

Do not use emotive language and avoid presenting personal views or opinions – all conclusions should be based on analysis of evidence.

Ensure that you reference evidence to support your statements, particularly about the vulnerabilities. Don't leave the evidence in the worksheets, but incorporate it into the body of the report.

Include your judgment on the quality and credibility of the information, especially from interviews, in the way you present the information. Acknowledge where there are limitations in the evidence, or where there are conflicting views and use qualifying language where evidence is not conclusive (for example, "this could indicate that … However,") to allow the reader to come to their own conclusions.

Ask yourself, are you comfortable defending the content and conclusions of the report in the way they are presented?

It is a good idea to get one or two experts who have not participated in the research process to review the report.

A convincing report will be a powerful instrument for advocacy to combat corruption in mining sector awards and support your anti-corruption strategy.

ANNEXES

Annex 1: Common risks

Annex 2: Maps of awards process

Annex 3: Sources of evidence

Annex 4: Stakeholder analysis

Annex 5: Worksheet A - Vulnerabilities and risks

Annex 6: Worksheet B - PEST analysis

Annex 7: Worksheet C - Risk assessment

Annex 8: Worksheet D - Blank risk matrix

Annex 9: Worksheet E - Example prioritisation table

Annex 10: References and reading list

ANNEX 1: COMMON RISKS

NOTES:

Most of the common risks listed here do not distinguish between risks for licences, permits and contracts, but simply refer to “awards” or “awards processes”.

The risks are organised into five categories. Some of these categories are broken down into sub-categories:

Finally, remember that you are not limited to the suggested scores for likelihood and impact. You need to assess potential impacts based on your own knowledge and context. The suggested scores for each risk simply represent a range of possible scores to guide your thinking.

Corruption risk categories

Context	1. Contextual factors (CF)	• Mining awards framework • Mining sector actors • Land rights • Anti-corruption legal framework
Awards process	2. Process design (PD)	• Application • Evaluation • Approval and oversight
	3. Process practice (PP)	• Application • Evaluation • Approval and oversight
Mining-related approvals	4. Environmental and social impact assessment (ESIA)	
	5. Community consultation (CC)	

CONTEXTUAL FACTORS (CF)

Corruption risks in the context in which the mining awards process takes place

MINING AWARDS FRAMEWORK

CF1. What is the risk that the awards process itself has been, or will be if reform is planned, structured to favour mining interests above the public interest?

In some countries the administrative framework for the awards process may be designed to benefit certain interests instead of the public interest. In such cases, the awards decision may appear to be unaffected by corruption but, in fact, the entire process has been corrupted from the start.

Likelihood: Suggest 5/5 if mining companies have been directly involved in designing the awards process; 3/5 if companies did some lobbying, but technocrats had the final say on process design; 1/5 if companies have been excluded from designing the process.

Impact: Suggest 5/5 if the awards process was designed to advantage companies' interests before the public interest; 3/5 if the awards process caters to private interests, but this is limited to certain areas; 1/5 if there is minimal impact, e.g., because other controls protect the public interest.

CF2. What is the risk that decentralisation of government decision-making (such as to agencies at the provincial or local government level) will create uncertainty in the awards process?

Decentralisation can create confusion and inefficiencies around communicating information and authorising licences, which create opportunities for corruption.

Likelihood: Suggest: 5/5 if decentralisation is already identified as a major problem causing uncertainty; 3/5 if decentralised agencies have some capability, but some uncertainty still exists; 1/5 if decentralisation does not contribute to uncertainty.

Impact: Suggest: 5/5 if decentralisation is causing systemic confusion and uncertainty; 3/5 if there is some uncertainty, but only in less significant areas; 1/5 if there is uncertainty caused by decentralisation, but it has a minimal impact.

CF3. What is the risk that cadastre staff and managers will be unable to cope with the workload of the agency?

Overwork and insufficient resources slows down the awards process, creating incentives for "speed money" and for officials to manipulate the process by working on selected applications.

Likelihood: Suggest 5/5 if understaffing or overwork is a widely acknowledged problem; 3/5 if there are occasional delays due to the agency's workload, but staff are usually able to cope; 1/5 if there are sufficient staff for the amount of work required.

Impact: Suggest 5/5 if systemic workload pressures and delays encourage widespread offers and requests for bribery and speed money; 3/5 if there are some delays and some corruption because of workload pressures, but only for less significant projects; 1/5 if corruption caused by workload or delays is highly unusual.

CF4. What is the risk that salaries of cadastre (or equivalent) agency staff are less than a living wage?

Low salaries may be an incentive to demand bribes, speed money or gifts, especially if salaries of their private sector mining counterparts are far higher. Importantly, mining companies will be aware of any differences in pay and may target officials' grievances around salary.

Likelihood: Suggest: 5/5 if staff salaries are known to be very low, such as below a living wage; 3/5 if some salaries are low, but salaries of key decision-makers are adequate; 1/5 if salaries are high.

Impact: Suggest: 5/5 if demands from cadastre officials for bribes, speed money and gifts are systemic; 3/5 if there are some demands by some staff, but these are not systemic; 1/5 if there is a minimal impact, e.g., because there are few applications for licences etc.

CF5. What is the risk that cadastre agency officials will engage in secondary employment with mining companies?

Secondary employment with a mining company creates risks around the leaking of confidential information and making decisions in favour of the private employer.

Likelihood: Suggest: 5/5 if secondary employment with mining companies is widespread; 3/5 if there are some recorded cases of secondary employment, but this is unusual; 1/5 if there are no records of secondary employment occurring, or if there are strong checks and penalties in place.

Impact: Suggest: 5/5 if secondary employment is widespread and officials routinely make decisions favouring their mining employer; 3/5 if secondary employment has been detected, but it seems to have little impact on decision-making, e.g., due to controls; 1/5 if there is minimal impact, e.g., because few licences etc. are being awarded.

CF6. What is the risk that cadastre agency staff do not have the skills to perform their job?

A lack of skills or incompetence on the part of cadastre agency staff allows mining companies to take advantage of their ignorance and errors in order to engage in corrupt non-compliance, or to offer bribery or facilitation payments.

Likelihood: Suggest: 5/5 if the incompetence of cadastre agency staff is a widely acknowledged problem; 3/5 if there is some incompetence, but in important areas of the agency staff have good skills; 1/5 if the agency has a good reputation for the skills and competence of its staff.

Impact: Suggest: 5/5 if there are systemic errors and delays that facilitate bribery, speed money and corrupt non-compliance; 3/5 if there are some errors and delays that encourage corruption; 1/5 if there is minimal impact, e.g., because although there are errors and delays these do not facilitate corruption.

CF7. What is the risk of "regulatory capture" of cadastre agency staff by mining companies?

Regulatory capture occurs when public officials start to identify with companies' objectives instead of their government's goals, creating opportunities for companies to manipulate them. Such capture of cadastre staff can occur through gifts, benefits, or reliance by staff on company infrastructure during visits to mine sites.

Likelihood: Suggest: 5/5 if it is widely acknowledged that cadastre agency officials identify with companies' concerns; 3/5 if this is uncommon, e.g., because the cadastre agency has controls in place to address this problem; 1/5 if such capture never happens.

Impact: Suggest: 5/5 if decisions made by cadastre officials overwhelmingly favour company interests before the public interest; 3/5 if there is some favouritism, but only in limited areas; 1/5 if there is minimal impact, e.g., because other controls exist to manage the potential negative impact.

MINING SECTOR ACTORS

CF8. What is the risk that domestic state-owned enterprises (SOEs) will receive preferential legal treatment compared to other mining companies?

Preferential treatment for SOEs means the market for licences and permits may not be genuinely open to competition from private mining companies, creating incentives for private parties to bribe to access the market via partnerships.

Likelihood: Suggest: 5/5 if domestic SOEs always get preferential treatment; 3/5 if there is some preference for SOEs, but only if their applications are worthy; 1/5 if domestic SOEs never get preferential treatment.

Impact: Suggest: 5/5 if there is no effective private market for mineral rights even though there is supposed to be; 3/5 if the private market for mineral rights is narrow, but it exists for certain projects or minerals; 1/5 if there is minimal impact, e.g., because there are almost no private competitors anyway.

CF9. What is the risk that SOEs with interests in mining do not have to publish information about their mining-related activities and investments?

Laws or practices that protect SOEs from reporting arrangements such as annual reports, international accounting standards, or releasing information on production figures and assets held, create opportunities for corruption around the awards process by reducing transparency about how they are spending money and the scope of their rights over public and private land.

Likelihood: Suggest 5/5 if SOEs are never required to publish information; 3/5 if SOEs partially release information or if information is released by some SOEs, but not all; 1/5 if SOEs are required to publish information like any other company.

Impact: Suggest: 5/5 if there is no transparency over SOEs' activities; 3/5 if there is partial transparency about SOEs' activities; 1/5 if there is minimal impact, e.g., because there is not much mining or other mechanisms exist to track SOEs' activities.

CF10. What is the risk that a proposed project is critical for the survival of the applicant?

If the company has all its funds invested in a single project (this is known as asset specificity), this creates incentives for the company do whatever it takes to ensure the project is approved. This is a particular problem with junior mining companies.

Likelihood: Suggest: 5/5 if the sector is dominated by single-project firms; 3/5 if there are some single-project firms, but also a significant presence of multi-project firms; 1/5 if there are no single-project firms.

Impact: Suggest: 5/5 if single-project investors constantly engage in corruption to secure licences etc.; 3/5 if there are attempts to corruptly obtain some projects, but this is not a problem across the whole sector; 1/5 if there is a minimal impact, e.g., because despite many asset specific companies, there are tight controls and penalties that deter corruption.

CF11. What is the risk that investors will disguise bribes as facilitation payments when reporting in their home countries?

Facilitation payments are a form of corruption, but some countries (e.g. Australia) allow their companies to make facilitation payments in overseas operations. Companies from countries that allow facilitation payments may use these to disguise other corrupt payments (e.g. bribes), possibly also escaping prosecution at home and gaining an advantage over companies from elsewhere. If investor companies in your country are mostly from countries that allow facilitation payments, this heightens the risk of corruption.

Likelihood: Suggest: 5/5 if most investors are from countries that permit facilitation payments; 3/5 if some investors are from countries that permit facilitation payments; 1/5 if investors are not from relevant countries.

Impact: Suggest 5/5 if illegal facilitation payments undermine the competitiveness of the market for licences etc.; 3/5 if there is some undermining of market competition because of payments, but the problem is contained; 1/5 if facilitation payments do not affect awards.

CF12. What is the risk of mining rights being expropriated (confiscated)?

Insecure property rights create incentives for rights owners and for officials to engage in corruption to ensure their rights are protected. Other parties have an incentive to try to corruptly obtain the concession if expropriation is an option because rule of law is weak or the regime has changed.

Likelihood: Suggest: 5/5 if expropriation is systemic and normal; 3/5 if expropriation occurred in the past, but only in unusual or acceptable circumstances; 1/5 if there is no precedent for expropriation and rights are very secure.

Impact: Suggest: 5/5 if there is systemic uncertainty around ownership of rights; 3/5 if laws around property rights function, but specific projects may be threatened; 1/5 if there is a risk of expropriation, but this has minimal impact (this would be a very unusual situation).

LAND RIGHTS

CF13. What is the risk that surface rights in areas being opened for mining are not clear in law?

Uncertainty around surface rights, such as for pasture and water, creates incentives and opportunities for corruption around which rights have precedence over other rights.

Likelihood: Suggest: 5/5 if confusion is widely acknowledged; 3/5 is there is some confusion, but only for certain rights; 1/5 if there is no confusion because rights are very clear.

Impact: Suggest: 5/5 if there is systemic neglect of surface rights; 3/5 if there is some corruption and rights are ignored, but this is contained to projects of less significance; 1/5 if there is a minimal impact, e.g., because there are few uses for surface rights so it is not a significant issue.

CF14. What is the risk that there will be corrupt speculation around land subject to a mining permit application, such as by officials working with collaborators to change the status of the land to extract payments out of the licence-holder?

Sudden new developments on licence areas, deliberate escalation of land rental frees or changes to relinquishment conditions following a mining permit application, can indicate corruption or create opportunities to corruptly manipulate the licence-holder.

Likelihood: Suggest: 5/5 if corrupt speculation around land subject to applications is routine; 3/5 if there is occasional, but not systemic, speculation; 1/5 if there is no precedent and it is highly unlikely this will occur.

Impact: Suggest: 5/5 if applicants lack certainty about the scope of their obligations to land-users/ owners; 3/5 if the speculation that occurs would have a moderate impact; 1/5 if there is speculation, but it has minimal impact, e.g., because it is of very low value.

CF15. If there is corrupt speculation around land subject to a mining permit application (such as by officials working with collaborators to change the status of the land to extract payments out of the licence-holder), what is the risk that there will be no legal process to settle the grievance?

If people or companies engaging in corrupt land speculation cannot be held accountable, this creates a culture of speculation that can undermine the awards system.

Likelihood: Suggest: 5/5 if there are no legal processes to settle grievances around land speculation; 3/5 if there are some legal processes available to settle such grievances, but not for all cases; 1/5 if a robust and routinely applied legal process exists to settle such grievances.

Impact: Suggest: 5/5 if there is widespread uncertainty on the part of applicants about their rights as a result of unresolved land speculation over licence areas; 3/5 if applicants have some uncertainty about their rights, but only on less significant issues; 1/5 if there is minimal impact, e.g., because any speculation over land is of minor nature anyway.

ANTI-CORRUPTION LEGAL FRAMEWORK

CF16. What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?

When governments require declarations of wealth and business interests it helps to identify and manage conflicts of interest that could lead to corruption in the awards process and creates a psychological deterrent to corruption by requiring public officials and politicians to lie if they want to hide mining interests.

Likelihood: Suggest 5/5 if there are no requirements to declare such interests, or undeclared interests are normal; 3/5 if there are some requirements to declare, or many politicians make declarations; 1/5 if there is tight scrutiny and laws around officials' and politicians' private interests.

Impact: Suggest: 5/5 if there are multiple cases of politicians and officials with an influence over the awards process and interests in mining projects being awarded licences; 3/5 if there are few such cases; 1/5 if there is minimal impact, e.g., because politicians and officials lack such interests in the first place.

CF17. What is the risk that people with knowledge of corruption in the awards process will not make a report?

If potential whistleblowers think they will be (a) ignored, or (b) targeted and persecuted for complaining about corruption, reporting is unlikely to occur. Formal whistleblower protections can encourage whistleblowers.

Likelihood: Suggest 5/5 if corruption is never reported; 3/5 if there are some reports about some corruption issues; 1/5 if there is a strong culture of reporting, so complaints about corruption are very likely to occur.

Impact: Suggest: 5/5 if there is systemic corruption and a culture of impunity because corruption is never reported; 3/5 if there is a sense of impunity around some breaches but not all, or if there is no reporting but other mechanisms exist to detect corruption (e.g., surveillance or robust auditing); 1/5 if there is minimal impact, e.g., because while people do not report corruption, any breaches are of a minor nature anyway.

CF18. What is the risk that whistleblowers will not be legally protected?

Laws to encourage and protect whistleblowers are critical to developing and maintaining anti-corruption reporting systems.

Likelihood: Suggest: 5/5 if no whistleblower protection laws exist; 3/5 if there are some protections for whistleblowers; 1/5 if strong laws exist and whistleblowers always protected.

Impact: Suggest: 5/5 if there is widespread persecution or retribution against whistleblowers; 3/5 if some whistleblowers experience persecution sometimes; 1/5 if there is minimal impact, e.g., because there is no practice of persecuting whistleblowers anyway.

CF19. What is the risk that decentralisation of law enforcement agencies will negatively affect the investigation and prosecution of alleged corruption in the awards process?

Decentralisation can delay investigations, cause conflict and confusion about jurisdictional boundaries and powers, creating loopholes that enable corrupt firms and individuals to escape prosecution.

Likelihood: Suggest: 5/5 if investigations and prosecutions are systemically obstructed or delayed because of confusion around jurisdictional boundaries or communication problems; 3/5 if there are some obstruction and delays, but investigations and prosecutions usually still occur; 1/5 if investigations and prosecutions are well-coordinated and timely, notwithstanding decentralisation.

Impact: Suggest: 5/5 if it is almost impossible to successfully investigate or prosecute perpetrators because of obstacles created by decentralisation; 3/5 if some investigations and prosecutions are possible despite decentralisation, but only for less significant cases; 1/5 if there is minimal impact, e.g., because wrongdoing is of a minor nature anyway.

PROCESS DESIGN (PD)

Corruption risks in the design of the awards process (laws, regulations, administrative orders, policy)

Application | **Evaluation** | **Approval and oversight**

PD1. When a number of allocation methods are available, what is the risk that the criteria for selecting a specific method for awarding a licence etc. will not be clear or publicly available?[25]

When the criteria for selecting a particular awards process (e.g., "first come first served", auctions or negotiation) are clear and set out in policy or regulations, it is easier to make public officials accountable for their decisions. If there is uncertainty, this can be manipulated by mining companies to try to corruptly influence which process gets selected.

Likelihood: Suggest: 5/5 if these criteria are never explained or announced; 3/5 if these criteria are sometimes available, but only for less significant projects; 1/5 if these criteria are always publicly available, e.g., they are published online.

Impact: Suggest: 5/5 if there is widespread uncertainty and probable corruption in which process is selected to award a licence etc.; 3/5 if there is some uncertainty and corruption around the selection of a process, but only for less significant projects; 1/5 if there is minimal impact.

PD2. What is the risk there will be no independent external review of the award method chosen – e.g., auction, limited expression of interest, or other competitive process – and the final result?

An independent external review of competitive awards processes, such as by performance auditors or probity auditors, makes cadastre agencies accountable for their management of the process and is a deterrent to corrupt decision-making.

Likelihood: Suggest: 5/5 if independent reviews of the selection of awards processes never occur; 3/5 if there are occasional independent reviews; 1/5 if independent reviews are always done.

Impact: Suggest: 5/5 if there is widely acknowledged or suspected corruption in the selection of awards processes that are never investigated; 3/5 if there is some suspicion of corruption in competitive processes, or if investigations only occur sometimes; 1/5 if there is minimal impact, e.g., because while there are no independent external reviews, selection of awards processes are usually sound.

25. "Publicly available" refers to the information being both available to the public, easily accessible (not expensive or difficult to obtain). Just because information about laws, licences, companies and decision-makers exists, does not necessarily mean that it is publicly available.

PD3. What is the risk that the steps of an awards process will not be clear or publicly available?

When all information is publicly available, especially if published in a flowchart or diagram, stakeholders know precisely what a licence application should involve, what to expect in the handling of the process and can hold officials to account if the proper process is not followed.

Likelihood: Suggest: 5/5 if this information is never made available; 3/5 if some information is available, but confusion remains in important areas; 1/5 if the full process is publicly available, e.g., published online.

Impact: Suggest: 5/5 if there is widespread confusion and historic reports of corruption; 3/5 if there are some opportunities for corruption, but it is contained to insignificant areas; 1/5 if there is minimal impact, e.g., because little actual mining takes place.

PD4. What is the risk that criteria for awarding licences etc. will not be clear or publicly available?

If criteria, including technical and financial criteria, for awarding licences etc. are not clear, this creates opportunities for manipulation and interference in the process.

Likelihood: Suggest: 5/5 if criteria are not known at all; 3/5 if some criteria are known, but other important criteria are not; 1/5 if criteria are publicly available, e.g., published online.

Impact: Suggest: 5/5 if the reasons companies win awards are impossible to understand, at least officially; 3/5 if there is some information about why companies win awards; 1/5 if there is minimal impact, e.g., because there is little actual mining, or mining is only ever done by a SOE anyway.

PD5. What is the risk that information about application fees and other charges is not clear or publicly available?

Uncertainty about application costs creates opportunities for officials to demand bribes or defraud companies.

Likelihood: Suggest: 5/5 if such information is impossible to obtain; 3/5 if some information, or less important information, is available about costs; 1/5 if full information about costs is easily available.

Impact: Suggest: 5/5 if application fee rates routinely vary and appear suspicious; 3/5 if there is some uncertainty about fees and charges, but the scale of fees is generally known; 1/5 if fees are very limited, so there is minor impact anyway.

PD6. What is the risk that the details of all companies applying or competing for a licence etc. will not be made public?

Disclosure of all applicants competing for a licence reduces the risk that shell companies, companies owned by politicians or mining officials, or companies that have had no due diligence checks, will become involved in a project.

Likelihood: Suggest: 5/5 if all firms competing for a licence are never disclosed; 3/5 if there is partial disclosure (this is probably unusual); 1/5 if all applicants are always publicly disclosed.

Impact: Suggest: 5/5 if firms with undesirable backgrounds or compromised ownership (e.g., they are owned by politicians) appear to be routinely awarded licences; 3/5 if some undesirable applicants are awarded licences, but only for less important projects; 1/5 if there is minimal impact, e.g., because reputable firms always win projects anyway.

PD7. When tender assessment panels are used in the awards process, what is the risk that people appointed to the panel are not independent, e.g., because they have been carefully chosen by the government to create a specific desired outcome?

It is good practice to appoint reputable independent experts to tender assessment panels, to reduce the possibility of corrupt interference in decisions.

Likelihood: Suggest: 5/5 if the appointment of panel members is always politicised; 3/5 if political appointees are uncommon or are never a majority on a panel; 1/5 if independent experts are always chosen for tender panels.

Impact: Suggest 5/5 if awards via tender are never merit-based because of biased and politicised panels; 3/5 if there is some politicisation of tenders, but applicants with merit are usually selected anyway; 1/5 if there is minimal impact, e.g., because there is little actual mining activity.

PD8. Assuming contract negotiations are required, what is the risk that the roles and responsibilities of the government negotiating team will not be clear prior to negotiation?

Opportunities for corruption in contract negotiations are reduced when roles and responsibilities are announced prior to negotiations to ensure there is transparency about who is making decisions.

Likelihood: Suggest: 5/5 if negotiation roles and responsibilities are never announced; 3/5 if there is some clarity around some areas of negotiations; 1/5 if roles and responsibilities always known.

Impact: Suggest: 5/5 if negotiators are unaccountable because the limits of their discretion unknown; 3/5 if there is some information about roles and responsibilities, creating some scope to make negotiators accountable; 1/5 if roles and responsibilities are not clear, but negotiations are about projects of minimal value.

PD9. What is the risk that the terms for contract negotiation, including what is negotiable and what is non-negotiable, will not be made public prior to negotiations?

The potential for corruption in negotiations is reduced when the terms of negotiations are publicly available prior to negotiations, including any technical and financial specifications that are being negotiated.

Likelihood: Suggest: 5/5 if the terms of negotiations are never publicly available; 3/5 if some terms are available, or if terms are available for some important contract negotiations; 1/5 if the terms of negotiation are always known, e.g., because they are published online.

Impact: Suggest: 5/5 if it is impossible to know what is being negotiated, and therefore impossible to hold anyone to account for the eventual contract; 3/5 if some information about terms is available, but not for important areas; 1/5 if contract negotiations do not cover anything important, even if terms are not clear.

PD10. What is the risk that an SOE with mining interests will be directly involved in awards, e.g., because of the structure of the government's mining portfolio and organisations?

If mining-related SOEs perform multiple roles in the sector, such as exploration, production and also have involvement in the awarding licences etc., this can result in inadequate segregation of duties reducing competition and creating opportunities for favouring SOE interests and staff. The performance of multiple roles has to be balanced with good segregation of responsibilities.

Likelihood: Suggest: 5/5 if SOE representatives are always directly involved in awards processes; 3/5 if there is some SOE involvement in some steps of the process; 1/5 if SOEs never have these kinds of conflicting roles.

Impact: Suggest: 5/5 if awards always favour SOEs, regardless of the merits of other applicants; 3/5 if there is some involvement by SOEs, but merit also plays a role in who is awarded a licence etc.; 1/5 if SOEs are involved in awarding licences etc., but applicants of merit still get awarded licences etc.

PD11. When foreign companies are legally required to partner with local companies, including a local SOE, for mining activities, what is the risk that the laws and rules governing local partnerships will not be clear?

Lack of clarity in laws and rules creates uncertainty that can facilitate corruption by local partners, foreign companies and officials.

Likelihood: Suggest: 5/5 if laws and rules are unknown or not at all clear; 3/5 if some of the requirements for local partnerships are clear, but not key aspects; 1/5 if laws and rules are clear and known.

Impact: Suggest: 5/5 if there is systemic inconsistency in the requirements for partnerships that means merit plays no role; 3/5 if merit plays a part, but there is still inconsistency between partnerships in important areas; 1/5 if there is strong consistency in the way partnerships are formed and governed.

PD12. What is the risk that the duration and timing of each step of the awards process can be manipulated?

Unless the there are set timeframes for completing each step of the awards process, deadlines for payments or renewals of licences can be manipulated for corrupt purposes.

Likelihood: Suggest: 5/5 if officials have full discretion over the duration and timing of steps, and their discretion is never checked or controlled; 3/5 if some, less important, steps of the awards process can be manipulated; 1/5 if manipulation never happens due to tight controls or checks, e.g., because there is full automation.

Impact: Suggest: 5/5 if there is systemic manipulation of the duration and timing of the steps in the awards process for all applications; 3/5 if there is some manipulation in less important steps of the process; 1/5 if other controls and checks prevent corruption, even if manipulation is possible.

PD13. What is the risk that companies will be unable to find out the status of their application and could be confused or misled about the stage their application is at in the awards process?

If information about the stage an application is not easily available (e.g., published online) it creates opportunities for officials to withhold the information for corrupt purposes, e.g., to obtain bribes.

Likelihood: Suggest: 5/5 if applicants are always confused about the stage of their application; 3/5 if there is some confusion at less important stages of the awards process; 1/5 if there is never any confusion or possibility of being misled, e.g., because applications can be tracked online.

Impact: Suggest: 5/5 if there is systemic corruption around applicants being informed of the stage their application is at, e.g., bribes requested or paid; 3/5 if there is occasional corruption of lower value, but in less significant projects; 1/5 if there is minimal impact, e.g., because the cadastre agency responds quickly and thoroughly if applicants complain.

PD14. What is the risk of external interference in the cadastre agency's awarding of licences etc.?

External interference, such as by politicians, is sometimes built into the design of a process, e.g., when ministers are given rights to veto or to "act in the interests of the state" on certain matters. However, unless such interference is guided by known criteria it creates opportunities for bias, undermines officials' decisions and may be motivated by bribery.

Likelihood: Suggest: 5/5 if the cadastre agency's awarding of licences etc. is completely politicised; 3/5 if political figures get involved in projects of significant public interest only; 1/5 if there is no outside interference and technocrats make awards decisions.

Impact: Suggest: 5/5 if the market for exploration and production licences etc. is neither competitive nor merit-based as a result of interference in awards decisions; 3/5 if there is some interference creating some uncertainty around the criteria for being awarded a licence etc.; 1/5 if there is minimal impact, e.g., because there is little actual mining.

Application | Evaluation | Approval and oversight

PD15. What is the risk that the applicant awarded a licence etc. will not be publicly announced?

Lack of transparency in the awarding of licences to successful applicants is a red flag for possible substitution of other companies onto the application or an attempt to cover-up corruption in the awards process.

Likelihood: Suggest: 5/5 if successful applicants are never announced; 3/5 if there are delays in announcements, but announcements are eventually made; 1/5 if announcements are always made promptly.

Impact: Suggest: 5/5 if there is systemic manipulation of "successful" applications, e.g., other companies becoming involved in the bid after the award; 3/5 if there are delays in announcements, or a lack of announcements, that facilitate minor manipulation; 1/5 if there is no impact, because even if successful applicants are never announced manipulation still never happens.

PD16. What is the risk that all firms or partners awarded a licence etc. will not be publicly announced?

If applications only require a single applicant to be publicly announced, it enables shell companies, companies owned by politicians or mining officials, or companies that have had no due diligence checks to become involved in a project.

Likelihood: Suggest: 5/5 if all firms in a single application are never named and there are no laws requiring the naming of all firms; 3/5 if some applications lack the names of all involved parties, or if this occurs for less important applications. 1/5 if all firms involved in an application are always named.

Impact: Suggest: 5/5 if unnamed firms, especially ones with undesirable backgrounds, appear to be involved in most applications and mining projects; 3/5 if some applications appear to include unnamed firms, but this is limited to applications for less important projects; 1/5 if there is minimal impact, e.g., because unnamed firms never have a significant role in projects anyway.

PD17. What is the risk that cadastral information about licence areas is incomplete, unclear or otherwise not publicly available?

At the awards stage, incomplete cadastral information can result in overlapping licence areas, which may induce licence-holders or applicants to engage in corruption to get cadastre officials to "fix" the problem in their favour.

Likelihood: Suggest 5/5 if cadastral information is never publicly available; 3/5 if some information, or if less important information, is available; 1/5 if cadastral information is almost always available.

Impact: Suggest: 5/5 if there is uncertainty around data that gives cadastre staff broad discretion in setting the licence area; 3/5 if there is some uncertainty due to incomplete or unavailable data, but staff discretion is limited by internal controls; 1/5 if there is minimal impact, e.g., because few new mining applications are made.

PD18. What is the risk that geological data about specific licence areas will not be publicly available?

When geological data are knowable it allows all stakeholders to judge whether a licence, permit or contract is fair and reasonable.

Likelihood: Suggest: 5/5 if geological data are never made public; 3/5 if some data, or less important data, are available; 1/5 if geological data are always available.

Impact: Suggest 5/5 if it is impossible to evaluate if a licence etc. is fair and reasonable because no geological data are publicly available about the deposit; 3/5 if the data that are available are inadequate, but it is still possible for stakeholders to do some estimation or judgements about the quality of licences etc.; 1/5 if there is minimal mining activity, or if geological data can be known through other sources.

PD19. What is the risk that the licences or details of licences etc. that have been awarded will not be publicly available?

Lack of transparency around licence details (e.g., coordinates of licence area, date of award, duration of licence, social and environmental obligations, work programme, or the commodity being produced) creates opportunities for illegal mining (e.g., mines outside the licence area, beyond the licence period, and to exploit non-approved minerals), and therefore allows companies to bribe officials to ignore these activities.

Likelihood: Suggest: 5/5 if there is never any transparency around licences awarded or licence details; 3/5 if some details are known, or if there are some delays in publishing details but they are eventually published; 1/5 if the details of licences etc. are always announced promptly.

Impact: Suggest: 5/5 if there is systemic violation of licence conditions, or it is impossible for the public to understand the conditions of licences etc.; 3/5 if the details of licences etc. are often not known, but violations are unusual; 1/5 if there is no impact, because even if conditions are publicly unknown applicants observe conditions anyway.

PD20. What is the risk that details of contracts (and annexes) will not be publicly available?

Secrecy around contracts reduces the ability of stakeholders to make governments and mining companies accountable, and creates opportunities for corruption because no one except those directly involved will know the obligations of the company and the government.

Likelihood: Suggest: 5/5 if the details of contracts are never publicly available; 3/5 if some important details of contracts are made available, but only for less important projects; 1/5 if there is always full disclosure of the details of contract, e.g., published online.

Impact: Suggest: 5/5 if there are widespread breaches, impropriety or substandard work on mining projects, with companies – or responsible government officials – not being held to account; 3/5 if there are some breaches, impropriety and substandard work, but only for a limited number of less important projects; 1/5 if there is minimal impact, e.g., because while the details of contracts are not publicly available, contracts are always of good quality and the government acts quickly to investigate wrongdoing.

PD21. What is the risk that awards decisions cannot be appealed if a company's application is rejected?

A formal, transparent, appeals process permits resolution of disagreements with awards decisions.

Likelihood: Suggest: 5/5 if no appeals mechanism exists or if appeals are never allowed; 3/5 if an appeals mechanism exists, but it is not always available or the criteria for appealing is unclear; 1/5 if there is an effective appeals mechanism.

Impact: Suggest: 5/5 if there is systemic lack of accountability in the rejection of applications; 3/5 if there is some unfairness and lack of accountability, but it is contained to appeals around less important projects; 1/5 if there is no appeals mechanism, but the awards process is very well regarded so the lack of a mechanism has little importance.

PD22. When foreign companies are legally required to partner with local companies or a local SOE for mining activities, what is the risk that details of these partnerships will not be publicly available?

Obligatory local content ownership creates opportunities for local elites to demand bribes or favours (such as staff positions) from foreign companies, in return for partnering. Companies also have an incentive to offer gifts and benefits to obtain local partnerships. Partnerships involving political elites can create unmanageable conflicts of interest.

Likelihood: Suggest: 5/5 if information about partnerships, including details about local content requirements, are never made public; 3/5 if some information about partnerships is available, but not key technical or financial information; 1/5 if full details of partnerships are always announced.

Impact: Suggest: 5/5 if there is systemic secrecy, unmanaged conflicts of interest and evidence of illegal gifts around the creation of foreign-local partnerships; 3/5 if there is some corruption, but it is contained to less important areas; 1/5 if projects requiring local partnerships are of minimal significance, so any corruption does little damage.

PD23. If awards processes involve barter deals or infrastructure swaps, what is the risk that the value and terms of these deals will not be publicly available?

Barter deals and infrastructure swaps (companies promising to build infrastructure in return for licences or permits) create incentives to be corrupt because of uncertainty around the value of both the promised infrastructure and deposits being mined, and because of the potential for officials' own companies to be involved in any deal.

Likelihood: Suggest: 5/5 if the values and terms of such deals or swaps are never announced; 3/5 if some details of such deals or swaps are announced, but not the most important details; 1/5 if the values and terms of such deals or swaps are always announced.

Impact: Suggest: 5/5 if barter deals and infrastructure swaps mean decision-makers cannot be held to account and the public does not get any benefit, e.g., in the form of revenue to government; 3/5 if such deals or swaps exist, but they are unusual and are not of very high value; 1/5 if there is minimal impact, e.g., because such deals are of minor importance and the awards process in most of the mining sector is open and competitive.

PD24. What is the risk that anti-corruption and anti-bribery clauses will not be included in mining contracts?

Anti-corruption and anti-bribery clauses in contracts do not guarantee corruption will never occur, but including them can be more of a deterrent than general anti-corruption laws, signals that the government is focused on this issue in mining, and may make it easier for the contract to be cancelled or penalties applied.

Likelihood: Suggest: 5/5 if such clauses are never included in contracts; 3/5 if some clauses are included, or they are included for only some contracts; 1/5 if such clauses are always included in contracts.

Impact: Suggest 5/5 if holding firms accountable for corruption is difficult due to a lack of legal clauses that enable this; 3/5 if there is some corruption by mining companies that is hard to punish due to a lack of contractual clauses, but only in less important areas; 1/5 if there is minimal impact, because other anti-corruption mechanisms are available.

PD25. What is the risk that a licence, permit or contract will be transferred to another owner without any transparency or regulation of the transfer?

A lack of controls on the transfer of licences etc. can allow corrupt cadastre officials to permit or arrange this to occur without it coming to the attention of the public or even other government authorities. This can prevent the government from regulating the sale of licences or collecting any transfer fees, and allow undesirable owners (e.g., with a criminal background) into the mining sector.

Likelihood: Suggest: 5/5 if such transfers are frequent and widespread; 3/5 if such transfers happen occasionally; 1/5 if this kind of transfer has never been reported or would be highly unusual.

Impact: Suggest: 5/5 if undesirable company owners are widespread in the mining sector and there are difficulties holding them to account for their activities; 3/5 if there are some undesirable owners and some difficulties regulating owners, but only in less important areas; 1/5 if there is a minimal impact, e.g., because while transfers occur, it is only for very insignificant projects.

PD26. What is the risk that a licence, permit or contract will be renewed without being publicly explained or justified?

A clear and open process for renewing a licence, permit or contract is essential for officials to be accountable for their decisions. Uncertainty creates opportunities for favouritism and bribery.

Likelihood: Suggest: 5/5 if renewal without justification is a very common occurrence, or the government makes statements about its right to do this; 3/5 if renewal without justification is uncommon, and only occurs in less significant cases; 1/5 if such renewal has never happened.

Impact: Suggest: 5/5 if there is widespread uncertainty about the reasons for renewal of licences etc.; 3/5 if there is some confusion about the renewal of licences etc., but only for limited cases; 1/5 if there is minimal impact, e.g., because although renewal is not explained, it only occurs for projects of very limited significance.

PD27. What is the risk that a licence, permit or contract will be terminated without being publicly explained or justified?

A clear and open process for cancelling or annulling an award is essential for officials to be held accountable for their decisions. Uncertainty can create opportunities for favouritism or bribery.

Likelihood: Suggest: 5/5 if termination without explanation is very common, or if the government makes statements about its right to do this; 3/5 if termination without explanation is uncommon, or only occurs for less significant projects; 1/5 if this has never happened.

Impact: Suggest: 5/5 if there is widespread uncertainty about the government's reasons for terminating licences etc.; 3/5 if there is some confusion, but only in a limited number of cases; 1/5 if there is minimal impact, e.g., because although termination is not explained, it only occurs for projects of very limited significance.

PD28. If a licence, permit or contract is improperly cancelled or changed, what is the risk that there will be no legal process to settle the grievance?

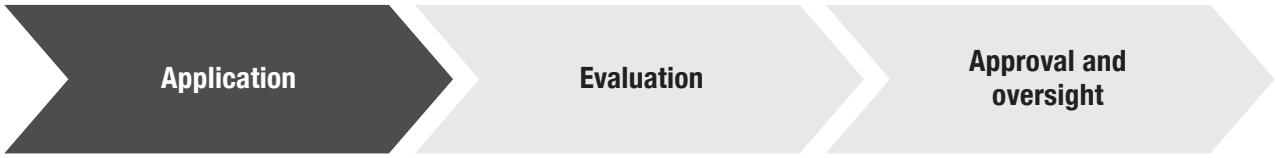
If officials can act with impunity in cancelling or changing the conditions of licences etc., it creates opportunities for corruption; for example, they can cancel licences for the purposes of corruptly re-issuing them to a favoured party.

Likelihood: Suggest: 5/5 if there are no legal processes to settle grievances around alleged improper cancellation or changes to licences etc.; 3/5 if there are some legal processes available to settle such grievances, but not for all cases; 1/5 if a robust and routinely applied legal process exists to settle such grievances.

Impact: Suggest: 5/5 if there are systemic changes or cancellations to licences etc., that are not investigated or resolved; 3/5 if there are some cancellations or changes to licences, but only for less significant projects; 1/5 if there is minimal impact, e.g., because any changes are of a minor nature or cancellations are of licences etc. of minor significance.

PROCESS PRACTICE (PP)

Corruption risks in the way the awards process is implemented



PP1. What is the risk that some applications for licences etc. will not be registered?

An awards system that registers all applications for exploration or production licences, not just successful ones, enables stakeholders (including multiple levels of government and government officials) to identify the status of their applications and whether they are candidates for a licence or not. A system that does not register all applications creates uncertainty for applicants that can be manipulated by officials.

Likelihood: Suggest: 5/5 if there is a systemic failure to register all applications; 3/5 if there is some lack of registration, but this is unusual; 1/5 if all applications are always registered, e.g., because the process is automated.

Impact: Suggest: 5/5 if there is widespread confusion around who has applied for and won a licence etc.; 3/5 if there is some confusion around what applications have been lodged, but if this is usually eventually resolved; 1/5 if there is minimal impact, e.g., because the process for awarding licences etc. allows for immediate appeal or investigation if an application is not immediately registered.

PP2. What is the risk that the holder of an exploration licence will not, in practice, have first right of refusal or another form of certainty when seeking to obtain the related production licence?

If what is known as "follow-on title" is not automatic, exploration licence-holders have an incentive to engage in corruption to obtain the related production licence. Non-holders of exploration licences also have incentives to try to corruptly obtain the production licence.

Likelihood: Suggest: 5/5 if exploration licence-holders routinely do not get first right of refusal; 3/5 if the first right for a production licence is occasionally refused, but this only occurs in specific circumstances that are known to everyone; 1/5 if this has never happened and is highly unlikely to happen in the future.

Impact: Suggest 5/5 if exploration licence-holders have no certainty regarding their rights to receive follow-on production licences, despite officially having a "first right of refusal"; 3/5 if there is some uncertainty around "follow-on title" due to unclear criteria for refusals; 1/5 if there is no impact.

PP3. If a "first come, first served" system is in place, what is the risk that the first applicant will not be awarded the licence or permit?

Unless there is an automated system that records the time and order of an application submission, it may be possible for officials to corruptly manipulate which applicant is announced as first.

Likelihood: Suggest: 5/5 if first applicants are routinely not awarded a licence or permit even though they should be according to the procedure in place; 3/5 if first applicants sometimes do not get awarded a licence or permit, but only in unusual circumstances; 1/5 if the first applicant always receives the licence or permit.

Impact: Suggest: 5/5 if there is widespread corruption around who is announced as being the first applicant to apply for a licence etc., or if there is no guarantee of licence rights even when an applicant is acknowledged as being first; 3/5 if first applicants occasionally do not receive licences etc., but only for less significant projects; 1/5 if there is minimal impact, e.g., because the "first come, first served" system only applies to very insignificant projects.

PP4. What is the risk that applicants for licences etc. will be controlled by undeclared beneficial owners?

Undeclared beneficial ownership creates the possibility of unmanageable conflicts of interest, favouritism and entry into the sector of criminal or inexperienced actors.

Likelihood: Suggest: 5/5 if undeclared beneficial owners are common and there are no laws or practices around identifying them; 3/5 if beneficial ownership is occasionally undeclared; 1/5 if undeclared beneficial ownership is highly unusual.

Impact: Suggest: 5/5 if it is impossible to tell who owns projects and undesirable operators exist in the sector; 3/5 if undeclared beneficial ownership is an uncommon problem for a small number of projects; 1/5 if there is a minimal impact, e.g., because little actual mining occurs.

PP5. What is the risk that collusion or bid-rigging will occur in auctions for licences etc.?

Collusion or bid-rigging by applicants for licences, including corrupt exchanges of information, results in governments getting a reduced price for the concession or activity.

Likelihood: Suggest: 5/5 if collusion or bid-rigging are widely acknowledged problems; 3/5 if this happens occasionally, but never for important projects; 1/5 if there is no evidence that collusion or bid-rigging has ever occurred.

Impact: Suggest: 5/5 if auctions are never fair and applicants routinely engage in corruption to "win" an auction; 3/5 if some auctions are corrupted sometimes, but never for significant projects; 1/5 if there is minimal impact, e.g., because even if collusion or bid-rigging occurs, only insignificant licences etc. are auctioned anyway.

PP6. In the case of a single bidder for a licence or permit, what is the risk that auctions for licences and permits will yield a below-market price to government?

Unless there is a law or regulation requiring a minimum number of bidders or a single bidder to meet a minimum threshold, there is an incentive for bidders to bribe officials to conduct an auction where there is no competition, thereby allowing for a low winning bid.

Likelihood: Suggest: 5/5 if there is widespread acknowledgement that auctions by single bidders always yield below-market prices; 3/5 if below-market prices are sometimes received, but only for less valuable licences etc.; 1/5 if auctions are always competitive or there are laws mandating a minimum price threshold.

Impact: Suggest: 5/5 if governments routinely lose revenue by auctioning licences etc. below their market value; 3/5 if there is some loss of revenue, but this is limited to auctions involving less valuable licences; 1/5 if there is minimal impact, e.g., because while auctions yield a below-market price, the loss is very low.

PP7. What is the risk of bias in the distribution and sharing of information about forthcoming awards, such as coordinates and ore body characteristics?

Officials may favour certain companies and therefore limit what information competitors are able to obtain. Mining companies may also corruptly influence officials to engage in biased distribution of information.

Likelihood: Suggest: 5/5 if favoured applicants always get important information not available to others; 3/5 if there is some bias in the distribution of some information, but all companies usually eventually get the necessary information; 1/5 if bias in the distribution of information never happens, e.g., because all information is simultaneously distributed to all applicants electronically.

Impact: Suggest: 5/5 if favoured companies always get awards because of their information advantage caused by biased distribution; 3/5 if there are some information advantages for favoured companies, but competitors usually obtain the same information; 1/5 if there is minimal impact, e.g., because there is little mining activity.

PP8. What is the risk that confidential information in applications for licences etc. will be leaked?

Corrupt cadastre agency officials could sell confidential information to competing applicants, so it is important that information is properly managed and securely stored.

Likelihood: Suggest: 5/5 if there is systemic leaking of confidential information from applications; 3/5 if there is some leaking of information; 1/5 if confidential information is never leaked, e.g., because there are strong security measures.

Impact: Suggest: 5/5 if there is widespread selling of confidential information that weakens the competitiveness of the market for licences; 3/5 if there is some leaking of confidential information, but only in relation to less significant projects; 1/5 if there is minimal impact, e.g., because although information is leaked, it is traceable and there are prompt investigations.

PP9. What is the risk that payment of application fees or other charges will be made in person and not electronically?

When application payments must be made in person, especially in cash, and when information is not publicly available about the exact amount of application fees and charges, this creates opportunities for theft, bribery and fraud.

Likelihood: Suggest: 5/5 if payment of fees and other charges always happens in person or there is no electronic system; 3/5 if there is an electronic system, but payment is often made in person; 1/5 if payments are made electronically and there is no cash handling.

Impact: Suggest 5/5 if there is systemic theft of fees and charges causing significant loss of revenue to the state; 3/5 if there is some theft, but it is of lower value; 1/5 if there is minimal impact, e.g., because fees are of low value anyway.

PP10. What is the risk that terms and conditions for upfront bonus or "signature" payments (i.e., to pay for resources that may otherwise take several years to generate income via royalties or other forms of taxation) will not be publicly available?

If the public does not know the technical and financial details of bonus or signature payments, it means government officials can lie about how much money was received, creating opportunities for theft and misuse.

Likelihood: Suggest: 5/5 if this information is never published or known; 3/5 if incomplete information of less importance is available; 1/5 if details are always announced promptly and publicly.

Impact: Suggest: 5/5 if bonus payments are common and there are major concerns about what happens to the money; 3/5 if bonus payments are uncommon, and when they are paid the government usually gets the money; 1/5 if there is minimal impact, e.g., because payments are of very low value anyway.

PP11. What is the risk that lodged applications will be deliberately mishandled?

If applications can be mishandled (e.g., if they are submitted on hardcopy forms to officials, rather than lodged online), this creates opportunities for applications to be deliberately "lost", or processing to be deliberately slowed unless a bribe is paid.

Likelihood: Suggest: 5/5 if applications are routinely lost, moved up or down the queue for processing, or are altered; 3/5 if there is some mishandling, but this is unusual; 1/5 if such mishandling never occurs, e.g., because the awards system is automated or there is extremely good records management.

Impact: Suggest: 5/5 if applicants can never be certain that their applications are treated properly (unless a bribe is paid); 3/5 if there is some confusion around handling of applications, but this is unusual; 1/5 if there is minimal impact, because the cadastre agency responds quickly and thoroughly if applicants complain about mishandling.

PP12. What is the risk that in practice there is inadequate due diligence on applicants' claims regarding their capacity and financial resources?

A cadastre agency may have no system to do due diligence on applicants, or it may have a system but in practice no checks are actually done. If companies' proof of capacity and financial resources is not checked, it creates an opportunity to falsify details or to bribe officials to accept their bona fides at face value.

Likelihood: Suggest: 5/5 if due diligence is never done; 3/5 if due diligence is usually done, but some aspects of applications are not checked; 1/5 if due diligence always done.

Impact: Suggest: 5/5 if there is widespread falsification by companies of details that result in incompetent companies operating in the mining sector; 3/5 if there is some falsification and some incompetent operators exist in the sector, but only in limited areas; 1/5 if there is a minimal impact, e.g., because although due diligence is not good applicants are always reputable firms anyway.

PP13. What is the risk that in practice there is inadequate due diligence on applicants' integrity, such as past lawful conduct and compliance?

An absence of background checks on integrity could mean that criminal interests or past illegal behaviour are overlooked, allowing applicants with a high likelihood of engaging in corruption into the mining sector.

Likelihood: Suggest: 5/5 if integrity checks never done; 3/5 if there are some checks sometimes, but less important applicants are often not checked; 1/5 if due diligence on integrity is always done.

Impact: Suggest: 5/5 if there is a widespread presence of undesirable firms in the mining sector due to inadequate integrity checks; 3/5 if there are some undesirable firms in the sector, but these seem to create only limited problems; 1/5 if there is a minimal impact, e.g., because although integrity checks are not performed, only applicants with good reputations seem to operate in the sector anyway.

PP14. What is the risk of awards decisions being based on unclear or imprecise data?

If the cadastre agency uses high-quality GIS and GPS data as the basis for awarding licences etc., it greatly reduces the risk of officials' corrupt interference in decisions about boundaries or deposit size.

Likelihood: Suggest: 5/5 if it is recognised that awards are based on highly flawed data; 3/5 if there are flaws in some data; 1/5 if licences etc. are always awarded based on high-quality data.

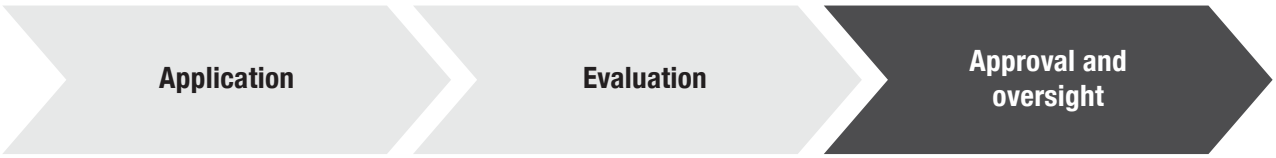
Impact: Suggest: 5/5 if there is so much uncertainty around data that the awarding of licences etc. is always corruptly manipulated; 3/5 if uncertainty around data allows for some manipulation, but this is contained to insignificant areas; 1/5 if there is minimal impact, such as because there are other controls that can compensate for poor quality data.

PP15. What is the risk of awards decisions being based on cadastre maps that are not coordinated or not geodetically compatible with other land management organisations, such as agriculture and forestry?

Coordination in mapping reduces the ability of public officials to extort bribes from companies to "fix" the problem, as well as reduces their ability to improperly make registrations that are not coordinated or compatible with other government land management tools.

Likelihood: Suggest: 5/5 if there is no coordination or geodetic compatibility between mapping systems; 3/5 if there is some lack of coordination or incompatibility in less significant areas; 1/5 if there is full coordination and compatibility of maps.

Impact: Suggest: 5/5 if there are systemic opportunities for corrupt manipulation because of inconsistencies across maps; 3/5 if there is some opportunity for manipulation, but this is contained to less important areas; 1/5 if there is minimal impact, e.g., because other controls compensate for lack of coordination or compatibility in mapping systems.



PP16. What is the risk that mining companies can stockpile licences or permits, without actually doing any work?

Sometimes stockpiling licences is not officially permitted but is possible in practice because the cadastre agency has no effective system to track licence use, including no monitoring of exploration investment benchmarks or no rescinding of areas on which work has not been done. Such practices permit corrupt accumulation of licences etc.

Likelihood: Suggest: 5/5 if stockpiling of licences etc. is a widespread problem; 3/5 if stockpiling is uncommon, and occurs only in unusual circumstances; 1/5 if stockpiling has never happened.

Impact: Suggest 5/5 if the competitiveness of the market for licences etc. is greatly weakened due to stockpiling, e.g., because companies are not forced to rescind claims to unused concessions; 3/5 if there is some stockpiling, but there are controls in place that reduce the scale of the problem; 1/5 if there is minimal impact, e.g., because stockpiling only occurs for very insignificant projects.

PP17. What is the risk that permits or licences will be awarded without required authorisation from other departments (e.g., indigenous affairs, social affairs, environment, water) or levels of government (e.g., local government)?

Obtaining a licence often involves gaining approvals from numerous government agencies. When another agency is likely to object to an application or impose tight conditions (e.g., over land or water use), the mining company may engage in corruption (such as bribing cadastre officials) to minimise input from these other agencies.

Likelihood: Suggest: 5/5 if awards are always made without necessary authorisations by other government organisations; 3/5 if required authorisations are sometimes made without necessary authorisation from other government organisations, but not for anything important; 1/5 if required authorisations are always obtained.

Impact: Suggest: 5/5 if there is systemic confusion or uncertainty around mining rights due to the full set of requirements not being obtained; 3/5 if there is some confusion or uncertainty about mining rights due to required authorisations not being obtained, but only for less significant projects; 1/5 if there is minimal impact, e.g., because additional required authorisations only concern insignificant issues.

PP18. What is the risk that there will be inadequate monitoring of compliance with mining licence or permit obligations?

Where licence applicants know that government monitoring and enforcement is weak they could dishonestly commit to licence conditions with which they have no intention of complying. Responsibilities for monitoring should be clearly defined; results should be publicly available; and if companies are allowed to self-report, it must be to international standards and open to audit.

Likelihood: Suggest: 5/5 if monitoring of licence- and permit-holders never occurs; 3/5 if there is some monitoring of some projects, but monitoring is inadequate; 1/5 if comprehensive monitoring always occurs.

Impact: Suggest: 5/5 if there are widespread breaches across significant issues in many mining projects, and no one is held accountable; 3/5 if there are some breaches in less significant areas of projects, but investigations are inadequate; 1/5 if there is minimal impact, e.g., because despite monitoring being inadequate, mining companies routinely adhere to licence conditions.

PP19. What is the risk that licence- and permit-holders that breach their licence conditions and contracts can escape prosecution or other sanctions?

If non-compliant individuals or companies can escape punishment, e.g., by bribing investigators or judges, this creates a culture of impunity and the opportunity for companies to accept licence conditions with which they do not intend to comply. This undermines both the legal system and the awards process.

Likelihood: Suggest: 5/5 if there is systemic corruption in the legal system that enables individuals and companies to escape prosecution or punishment; 3/5 if there is some corruption in the legal system, but more serious breaches are still properly investigated and prosecuted; 1/5 if corruption in the legal system is highly unusual and compliance is always enforced.

Impact: Suggest: 5/5 if perpetrators are always able to use corrupt means to escape sanctions, such as by bribing investigators and judges; 3/5 if there is some corruption that enables less important perpetrators to escape prosecution and sanctions; 1/5 if there is minimal impact, e.g., because only extremely minor officials who have no say in the final outcome are corrupted.

PP20. What is the risk that barter deals or infrastructure swaps will not be audited after they have been awarded and completed?

Post-award audits allow governments to determine if specifications for delivering infrastructure have been fulfilled, holding companies to account and thereby creating an incentive for companies to participate in infrastructure negotiations in good faith.

Likelihood: Suggest: 5/5 if such audits never occur; 3/5 if there are audits of some aspects of barter deals and infrastructure swaps, or if less significant deals are fully audited; 1/5 if barter deals and infrastructure deals are always audited.

Impact: Suggest: 5/5 if there is suspected widespread corruption, impropriety or non-compliance that is not detected due to a lack of auditing; 3/5 if there is some corruption or impropriety in barter deals and infrastructure swaps, but only for less significant projects; 1/5 if there is minimal impact, e.g., because other mechanisms exist to detect or deter corruption in such deals.

A ANNEX 1

ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA)

ESIA1. What is the risk that the criteria or terms of reference for environmental impact assessment (EIAs) will not be clear or publicly available?

Unclear or unknown criteria for EIAs create uncertainty about what environmental factors were assessed; creating an opportunity to manipulate what gets assessed.

Likelihood: Suggest: 5/5 if criteria for EIAs are never announced; 3/5 if some criteria are announced or known, or if criteria are known but only for some projects; 1/5 if the criteria for EIAs are always publicly known, e.g., published online.

Impact: Suggest: 5/5 if there is systemic manipulation of the focus or scope of EIAs to ensure certain issues do not get assessed; 3/5 if there is some manipulation of the focus or scope of EIAs, but only for less significant projects; 1/5 if there is minimal impact, e.g., because there are other avenues for reporting the environmental impacts of mining.

ESIA2. What is the risk there is no verification of the accuracy or truthfulness of EIA reports?

If EIA reports are not verified it allows stakeholders to be misled about the environmental impacts of a mine. Companies can corruptly manipulate environmental data, including creating false baselines for environmental data and falsifying impacts.

Likelihood: Suggest 5/5 if EIAs are never verified; 3/5 if EIA reports are sometimes verified, or if the most important parts of EIAs are always verified; 1/5 if EIAs are always verified.

Impact: Suggest 5/5 if there is frequent and widespread misrepresentation or hiding of serious environmental impacts in EIAs; 3/5 if some environmental impacts are not reported or revealed, but only ones that are less significant; 1/5 if there is minimal impact, e.g., because other mechanisms exist to identify environmental impacts.

ESIA3. What is the risk that EIA reports will not be publicly available once finalised?

Uncertainty around the content of EIAs can facilitate corruption if communities and other stakeholders do not know what issues have been raised or ignored.

Likelihood: Suggest: 5/5 if EIA reports are never made publicly available; 3/5 if some reports are available for some projects; 1/5 if EIA reports are always made available.

Impact: Suggest: 5/5 if it is impossible to know EIA recommendations and findings, and therefore difficult to make mining companies accountable for addressing environmental issues; 3/5 if EIA recommendations and findings are sometimes known, but only for less significant projects; 1/5 if there is minimal impact, e.g., because environmental issues related to the project are already publicly known and the EIA report has less significance.

ESIA4. Assuming social impact assessment (SIAs) are required, what is the risk that criteria or terms of reference for SIAs will not be clear or publicly available?

Unclear or unknown criteria for SIAs create uncertainty about what social factors were assessed; creating an opportunity to manipulate what gets assessed.

Likelihood: Suggest: 5/5 if the criteria for SIAs are never announced; 3/5 if SIA criteria are partly announced or announced for some projects only; 1/5 if criteria are always publicly available, e.g., published online.

Impact: Suggest: 5/5 if there is systemic manipulation of the focus or scope of SIAs to ensure certain issues do not get addressed; 3/5 if there is some manipulation of the focus or scope of SIAs, but only for less significant projects; 1/5 if there is minimal impact, e.g., because there are other avenues for social issues to be reported.

ESIA5. What is the risk there is no verification of the accuracy or truthfulness of SIA reports?

If SIA reports are not verified it allows stakeholders to be misled about the social impact of a mine. Companies can corruptly manipulate social impact data, including falsifying impacts, creating false baselines for social indicators and omitting certain groups from any programmes.

Likelihood: Suggest: 5/5 if SIAs are never verified; 3/5 if verification happens sometimes, or if the most important parts of SIAs are usually verified; 1/5 if SIAs are always verified.

Impact: Suggest: 5/5 if there is systemic misrepresentation or hiding of serious social impacts across the mining sector; 3/5 if some social impacts are not reported or revealed, but relate to issues that are less significant; 1/5 if there is minimal impact, e.g., because other mechanisms exist to identify social impacts.

ESIA6. Assuming SIAs are required, what is the risk that SIA reports will not be publicly available once finalised?

Uncertainty around the content of SIAs can facilitate corruption if communities do not know what social issues have been raised or ignored.

Likelihood: Suggest: 5/5 if SIA reports are never made publicly available; 3/5 if some reports are available for some projects; 1/5 if SIA reports are always made publicly available.

Impact: Suggest: 5/5 if it is impossible to know SIA recommendations and findings, and therefore difficult to make mining companies accountable for addressing social issues; 3/5 if SIA recommendations and findings are sometimes known, but only for less significant projects; 1/5 if there is minimal impact, e.g., because social issues related to the project are already publicly known and the SIA report has less significance.

COMMUNITY CONSULTATION (CC)

CC1. Assuming consultation with communities or landholders is required, what is the risk that the legal framework for consultation is not clear or publicly available?

If the legal framework for consultation cannot be accurately identified and understood, this creates opportunities for corruption around the obtaining of consent.

Likelihood: Suggest: 5/5 if the legal framework is not known at all; 3/5 if some important parts of the framework are known; 1/5 if the framework is publicly available.

Impact: Suggest: 5/5 if it is impossible to know the legal rights of communities and landholders or companies' obligations to them; 3/5 if the legal framework is not known, but there are some controls around violating community and landholder rights; 1/5 if there is a minimal impact, e.g., because there is little mining activity or rights are protected through other laws.

CC2. Assuming consultation with communities or landholders is required, what is the risk that negotiations for landholder or community agreements can be manipulated?

Having laws that guarantee and standardise terms and conditions for conducting negotiations reduces the risk of corrupt behaviour, such as the marginalisation of certain landholders, unauthorised contact in breach of terms, or the giving of bribes, gifts and benefits.

Likelihood: Suggest: 5/5 if manipulation of terms and conditions routinely occurs in the obtaining of consent; 3/5 if there is some past manipulation, but it was limited to certain areas; 1/5 if such manipulation never happens and the correct terms and conditions for negotiations always apply.

Impact: Suggest 5/5 if landholder and community rights are systemically violated; 3/5 if there is some manipulation of terms and conditions for negotiations, but this is contained to less important areas; 1/5 if there is minimal impact, e.g., because there is little actual mining.

CC3. Assuming consultation with affected communities is required, what is the risk that their free, prior, informed consent will be ignored?

Requirements to obtain the consent of communities may be ignored or manipulated where there is insufficient guidance about the scope and nature of consent or where there is a lack of government oversight of the consultation process.

Likelihood: Suggest: 5/5 if there is systemic marginalisation or non-consultation with communities despite laws requiring consultation; 3/5 if consent is occasionally ignored, but only about less significant issues; 1/5 if consent is always obtained.

Impact: Suggest: 5/5 if community interests are totally neglected as a result of their consent being ignored; 3/5 if some community interests are neglected because of lack of consent, but only in less significant areas; 1/5 if there is minimal impact, e.g., because community rights are protected through other mechanisms.

CC4. What is the risk that community leaders negotiating with a mining company will not represent community members' interests?

Community leaders who are only weakly accountable to their community members, or who are aligned to the ruling political party, have a network of business interests and contacts, or have few other sources of income, present a corruption risk to the integrity of community agreements because they have incentives to pursue private interests instead of community interests.

Likelihood: Suggest: 5/5 if community members have no way of holding their leaders to account; 3/5 if they have some way of holding them to account; 1/5 if community leaders are accountable to the community they represent.

Impact: Suggest: 5/5 if community leaders routinely use negotiations to pursue their own interests to the detriment of the rights and interests of their community; 3/5 if this happens sometimes, but is uncommon; 1/5 if there is a minimal impact, e.g., because other mechanisms exist to protect community interests when community leaders do not do this.

CC5. What is the risk that community leaders negotiating with a mining company can remain anonymous?

Although anonymity may be a legal right, mining companies should be required to publicly disclose which community representatives they are meeting in order to reduce the risk of corruption around who gets consulted and which groups get represented.

Likelihood: Suggest: 5/5 if community leaders are never publicly identified; 3/5 if there is some secrecy around who is negotiating on behalf of a community, but only for less significant projects; 1/5 if leaders engaging in negotiations are always identified.

Impact: Suggest: 5/5 if wider community interests are routinely overlooked and negotiations are known to only benefit certain individuals; 3/5 if this sometimes happens, but only in less significant projects that will not have large costs or benefits for the community; 1/5 if community concerns are addressed through other mechanisms, even if the leaders engaging in negotiations remain anonymous.

CC6. What is the risk that the content of final agreements between mining companies and communities or landholders will not be publicly available?

Unless there is full transparency about the content of landholder agreements, there is uncertainty around what rights community members have to protections, compensation or other benefits, allowing these rights to be manipulated by companies, community leaders or officials. For example, leaders might steal compensation packages, or companies might pay bribes to officials and leaders to reduce what is actually delivered in practice.

Likelihood: Suggest: 5/5 if the content of final agreements is never announced; 3/5 if important content is usually announced, but not for all projects; 1/5 if the details of final agreements are always fully announced, e.g., published online.

Impact: Suggest: 5/5 if there is widespread marginalisation or unequal treatment of some community groups as a result of lack of transparency and accountability around final agreements; 3/5 if there is some marginalisation or neglect of issues, but only for a small number of communities; 1/5 if there is minimal impact, e.g., because even if final agreements are not known, other mechanisms exist to protect community interests or compensate members.

CC7. What is the risk that compensation packages for communities and their leaders will be kept secret?

Details of compensation should be publicly available to reduce the risk of corruption around bribery, gifts and benefits, or unequal and unfair compensation for different groups within the community.

Likelihood: Suggest: 5/5 if the details of compensation packages are always kept secret; 3/5 if only less important aspects of compensation are not announced, or announcements are made but only for less significant projects; 1/5 if full details of compensation packages are always announced.

Impact: Suggest: 5/5 if there is widespread confusion or mistrust about who is getting compensation and what compensation is actually being offered; 3/5 if there is some confusion or mistrust, but only around less significant projects; 1/5 if there is minimal impact, e.g., because compensation packages are of very little significance anyway.

CC8. Assuming consultation with affected communities is required, what is the risk that breaches of consultation laws or regulations governing free, prior, informed consent will not be prosecuted?

If mining companies (or mining departments) know they will not be prosecuted for ignoring consultation laws around consent, they are likely to (a) ignore those laws, and (b) engage in corrupt forms of consultation if it facilitates obtaining consent.

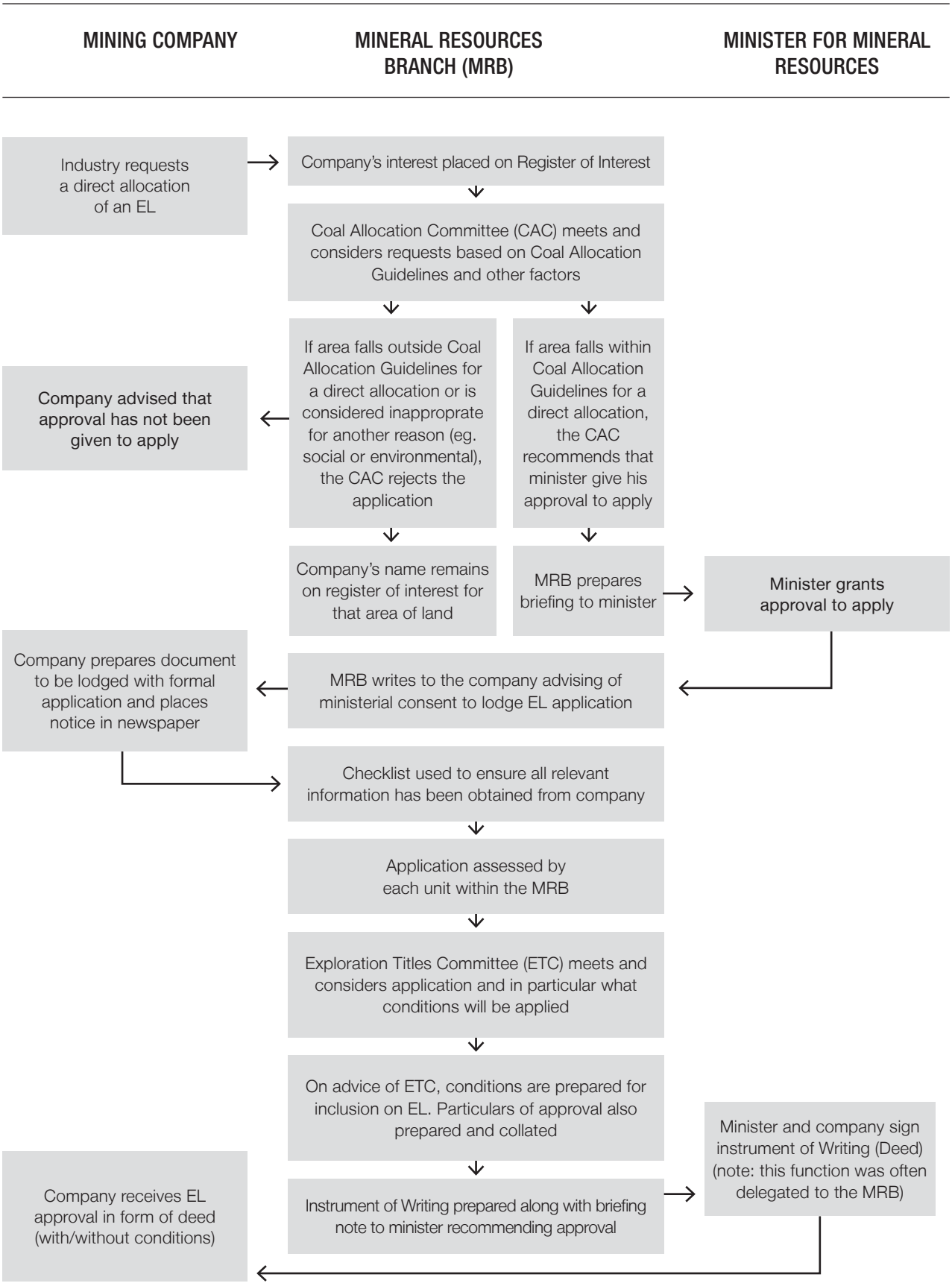
Likelihood: Suggest: 5/5 if breaches of laws around consultation and consent are never prosecuted; 3/5 if there are some prosecutions, but only for less significant projects; 1/5 if breaches of laws around consultation and consent are always prosecuted.

Impact: Suggest: 5/5 if there is systemic marginalisation of groups and abuse of community rights as a result of consultation and free, prior, informed consent laws being breached; 3/5 if there is some neglect of community rights, but only on less significant issues in a limited of projects; 1/5 if there is minimal impact, e.g., because any breaches of consultation and consent laws are of a very minor nature.

ANNEX 2: MAPS OF AWARDS PROCESS

Process map for granting a coal exploration licence via direct allocation in NSW, Australia

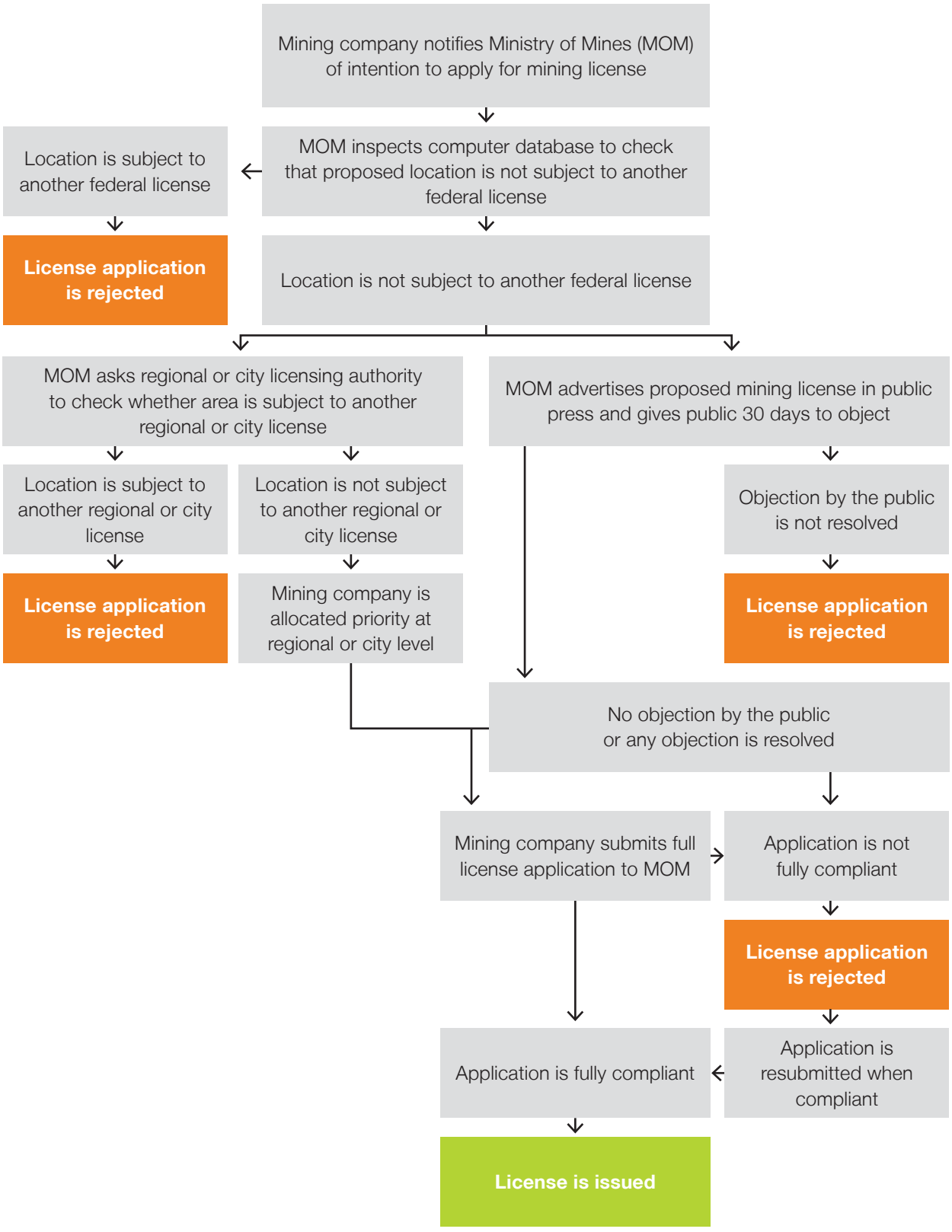
Source: Independent Commission Against Corruption (2013). Reducing the Opportunities and Incentives for Corruption in the State's Management of Coal Resources. Sydney, 18.


MINING COMPANY
MINERAL RESOURCES BRANCH (MRB)
MINISTER FOR MINERAL RESOURCES
Industry requests a direct allocation of an EL
Company's interest placed on Register of Interest
Coal Allocation Committee (CAC) meets and considers requests based on Coal Allocation Guidelines and other factors
If area falls outside Coal Allocation Guidelines for a direct allocation or is considered inappropriate for another reason (eg. social or environmental), the CAC rejects the application
If area falls within Coal Allocation Guidelines for a direct allocation, the CAC recommends that minister give his approval to apply
Company advised that approval has not been given to apply
Company's name remains on register of interest for that area of land
MRB prepares briefing to minister
Minister grants approval to apply
Company prepares document to be lodged with formal application and places notice in newspaper
MRB writes to the company advising of ministerial consent to lodge EL application
Checklist used to ensure all relevant information has been obtained from company
Application assessed by each unit within the MRB
Exploration Titles Committee (ETC) meets and considers application and in particular what conditions will be applied
On advice of ETC, conditions are prepared for inclusion on EL. Particulars of approval also prepared and collated
Minister and company sign instrument of Writing (Deed) (note: this function was often delegated to the MRB)
Company receives EL approval in form of deed (with/without conditions)
Instrument of Writing prepared along with briefing note to minister recommending approval

ANNEX 2

Process map for large-scale federal mining licence in Ethiopia

Source: Plummer, J. (ed.) (2012). Diagnosing Corruption in Ethiopia: Perceptions, realities, and the way forward for key sectors. Washington DC: World Bank, 389.



ANNEX 3: SOURCES OF EVIDENCE

POSSIBLE SOURCES OF EVIDENCE FOR MAPPING THE AWARDS PROCESS

Evidence about the official process	Evidence about actual practice
Official websites for tracking exploration and production licence applications	Interviews with miners
Application forms (these might be available for free or cheaply from the cadastre agency)	Interviews with cadastre staff (retired staff may speak more freely than current staff)
Government policy documents	Interviews with the minister or advisors
National laws and the mining code	Action research observing Department of Mines staff receiving and processing applications
Interviews with cadastre staff	Lodgement of a hypothetical case to test and analyse processes
Interviews with miners (retired staff may speak more freely than current staff)	Academic papers and other research on the awards process
Interviews with the minister or advisors	Interviews with CSOs with expertise in mining
Academic papers and other research on the awards process	

A ANNEX 3

POSSIBLE SOURCES FOR PEST ANALYSIS AND RISK ASSESSMENT

Political factors

Including governance and corruption

- African Mining Legislation Atlas
- Anti-corruption agency reports and investigations into corruption in the mining sector
- EITI report for your country
- Expert interviews
- Focus group and roundtable discussions of contextual factors affecting sector
- Fraser Institute's Annual Survey of Mining Companies
- International Country Risk Guide (Bureaucratic quality, rule of law, and corruption) – this requires a fee to purchase the information
- Legal research of precedents and cases about corruption related to awarding licences
- National and subnational laws, regulations and policies relating to the mining sector
- Natural Resources Governance Institute's Resource Governance Index
- Open Budget Index (International Budget Partnerships)
- POLITY Index
- Reviews of literature about the politics of mining in your country
- Surveys of cadastre agency staff, miners, community leaders, and other stakeholders (Annex 5 of UNDP's A Practitioner's Guide to Corruption Risk Mitigation in Extractive Industries contains a list of useful sample survey questions)
- Transparency International's Corruption Perceptions Index
- World Bank Governance Indicators, especially rank and numerical score for rule of law and regulatory quality
- World Bank's Statistical Capacity Indicator
- World Justice Project Rule of Law Index (all factors, especially absence of corruption)

Economic factors

Including business conditions, mining laws and awards processes

- Action research observing Department of Mines staff receiving and processing applications
- Annual report of your cadastre agency (if available)
- Expert interviews (e.g., with cadastre agency staff, politicians, miners, community leaders, labour leaders, and academics)
- Focus group and roundtable discussions of contextual factors affecting the mining sector
- Fraser Institute's Annual Survey of Mining Companies, especially tables about uncertainty related to investment calculations
- Government, business or stock exchange registers of company ownership
- Information from the annual report of the cadastre agency or equivalent (if available)
- Information published by the Chamber of Mines, e.g., reports, seminars and conferences
- International Country Risk Guide, section on politics refers to corruption (this report costs money)
- Interviews with experts knowledgeable about the mining sector and the awards process
- Law reports and media articles about the mining sector
- Lodgement of a hypothetical case to test and analyse processes
- Media articles about the mining sector
- Mining company reports about projects, including reports published in their home country
- National and subnational laws, regulations and policies relating to the mining sector, especially relating to rates for investment, revenue, taxation, royalties, and employment
- Responsible Mining Index (this focuses on individual mining companies, and reports will be published from early 2017, providing background information about their performance)

- Reviews of economic literature about the mining sector
- Transparency International's Bribe Payers Index
- Transparency International's Corruption Perceptions Index
- World Bank Governance Indicators, especially rank and numerical score for rule of law and control of corruption
- World Bank's Mining Investment and Governance Review
- World Economic Forum's Global Competitiveness Report (includes a focus on corruption)

Social factors

Including civil liberties, such as around information

- Academic and other research (e.g., civil society) on communities and mining
- Census data on population and ethnicity
- Expert interviews
- Field visits to mines and exploration lease areas to talk to communities
- Focus group and roundtable discussions of contextual factors affecting sector
- Freedom House's Freedom in the World Index (political and civil liberties)
- Reporters without Borders, World Press Freedom Index
- Freedom House's Freedom of the Press Index
- Interviews with mining and anti-corruption activists
- Legal research about precedents and cases involving community grievances and mining
- National and subnational laws, regulations and policies relating to the mining sector, especially relating to corporate social responsibility, communities and landholders.
- Reporters sans Frontières reports
- Surveys of cadastre agency staff, miners, community leaders, and other stakeholders (Annex 5 of UNDP's A Practitioner's Guide to Corruption Risk Mitigation in Extractive Industries contains a list of useful sample survey questions).
- Transparency International's Bribe Payers Index
- World Bank Governance Indicators, esp. rank/ numerical score for voice and accountability
- World Justice Project Rule of Law Index, especially fundamental rights and civil justice

Technological factors

- Annual report of your cadastre agency (if available)
- Expert interviews and surveys, e.g., with mine engineers and geologists
- Information published by the Chamber of Mines or the relevant industry association, e.g., reports, seminars and conferences
- Mining company public reports about projects (in home and foreign jurisdictions)
- Mining company publications on projects, including from their home country
- Mining industry journals
- Newspaper and media articles about new developments in mining

ANNEX 4: STAKEHOLDER ANALYSIS

Stakeholders are people and groups with an interest in the awards process, and consequently in your risk assessment project.

A stakeholder analysis will help you identify individuals and organisations:

- With information who you should interview
- Who you could invite to validate the risk assessments
- Whose support you need to address the risks you found

To complete a stakeholder analysis:

1. List all the stakeholders who have an interest in the project and their role
2. Determine their interests in the project and their ability and willingness to participate
3. Estimate their power or influence over the project

1. LIST ALL THE STAKEHOLDERS WHO HAVE AN INTEREST IN THE PROJECT

List the stakeholders and write down their role in the awards process. Identify those who will be affected by the project in some way, even if they are not actively engaged yet (e.g. mining-affected communities).

The following list of actors, based on that in UNDP's *A Practitioner's Guide for Corruption Risk Mitigation in Extractive Industries*, is a useful place to start identifying stakeholders:

- **Public officials:** regulators, politicians, ministers, local government personnel
- **Public entities:** cadastre agency, SOEs, ministries (e.g., with responsibilities for mining, economy, finance, water, environment, indigenous, or social affairs), parliamentary commissions, public agencies implementing government programmes, and sub-national governments and agencies
- **Private individuals:** executives, consultants, bankers, brokers, investors, lawyers, facilitator agents, community leaders, union leaders
- **Private organisations:** international companies, institutional investors, domestic companies, supply companies, consulting firms, financial institutions, chambers of commerce and business associations
- **CSOs:** NGOs, labour unions, research organisations, landholder organisations, community associations

2. DETERMINE THEIR INTERESTS IN THE PROJECT

For each of the identified stakeholders:

- Determine their **interests** in the project – what significance does the project have for their role or involvement in the awards process?
- Identify their **motivations and expectations** from the project. What is the problem they will expect the project to solve? What do they expect to gain from the project? What do they need from the project or what will they be worried about?

3. ESTIMATE THEIR POWER OR INFLUENCE OVER THE PROJECT

You should also consider their **willingness and ability to engage** with the project – do they have the knowledge, skills, experience or resources to make a useful contribution to the research or to addressing the risk?

Who are the powerful stakeholders who could help or hinder the success of your project? Consider who has the authority to support or resist change, because of their position or legal role or because of their connections.

Focus your efforts on those stakeholders with high interest and influence. Stakeholders with high interest, but low influence should be kept engaged as they will be your supporters and may have useful information. Think carefully about how you will manage those with high influence, but low interest or opposition to the project or to addressing a particular risk.

Example stakeholder analysis

Who	Role	Interests	Motivations and expectations	Ability and willingness to participate
Foreign mining company	New investor. Media coverage suggests it has good links to government. No evidence it has previous mining experience; company ownership is unclear.	The company has no active mines, but is applying for many exploration licences. There is some evidence of partnerships with domestic companies.	The company has an incentive to be corrupt to enter the market, to obtain exploration and production licences and to protect its new assets. It has little reputation to protect. It will expect the project to open doors and will resist the project if it perceives that the outcomes will make things more difficult for approvals.	Information about the company suggests that it doesn't understand the CSO context here. It will not talk to community or CSO leaders, and releases no information about its activities.
Community leader	A powerful and politically connected leader in an area with a potentially very profitable mine, which is now open to exploration licence applications.	Evidence suggests the leader is very critical of the government. He made a public statement refusing to join the ruling party, and is respected by the community. He has identified mining approvals as a key concern for his community and will reject any project that offers unreasonable compensation to the community.	His public speeches and testimony from community members suggests that he is strongly against corruption. He will expect the project to expose the problems that he has identified and vindicate his position.	He is a likely partner for future action. He is approachable and knowledgeable about the government's mining policy, but is also very critical of the government. He has limited resources and works full time in an unrelated area.

Who	Role	Interests	Motivations and expectations	Ability and willingness to participate
Cadastre agency	Evidence from international surveys and mining reports suggests the agency is capable and well-run, but may struggle with an expansion of the country's mining sector.	Managers are motivated by technical concerns. Evidence shows the agency CEO is willing to oppose the government if applications appear to be improper/corrupt.	There are some previous legal cases that are evidence the agency resists corruption, but its expanding workload is probably creating opportunities for bribery and speed money. The agency will expect the project to support their efforts to keep up with an expanding industry, perhaps by supporting a streamlined approvals process and by helping to identify and prevent opportunities for corruption.	The agency is a likely partner with considerable resources for engagement. The CEO may be willing to assign an official to help with process mapping, reviewing assessment results and organising the validation workshop.

ANNEX 5: WORKSHEET A - VULNERABILITIES AND RISKS

Vulnerabilities (Complete at Steps 2A and 3A)	Resulting corruption risks... (Complete at Step 4)

ANNEX 6: WORKSHEET B - PEST ANALYSIS

Political factors

1. **Q: Do politicians or officials have private interests in mining?**
   Example answer: There are widespread conflicts of interest involving politicians and officials having mining interests.
   Evidence for answer:

2. **Q: How secure are property rights?**
   Example answer: Property rights are mostly secure, but in certain areas armed groups occupy licence areas.
   Evidence for answer:

3. **Q: How stable are mining laws and policies?**
   Example answer: The new mining code has been introduced, and more changes are unlikely soon.
   Evidence for answer:

4. **Q: How effective is the government response to corruption?**
   Example answer: There is a well-resourced and respected anti-corruption agency to investigate complaints.
   Evidence for answer:

5. **Q: Is there open access to government information about mining?**
   Example answer: There is a good Freedom of Information law, but there is poor compliance with it across government.
   Evidence for answer:

Economic factors

1. **Q: Are major new projects being planned?**
   Example answer: Many new deposits have been identified and the government is actively planning to bring them into production.
   Evidence for answer:

2. **Q: How important is mining to the economy?**

   Example answer: Mining is very important to the economy. The government is encouraging foreign investment that could bring it more potential revenue.

   Evidence for answer:

3. **Q: How effective is the regulatory regime for mining?**

   Example answer: There are major gaps in regulations around the environmental impacts of mining.

   Evidence for answer:

4. **Q: How open is the sector to new entrants?**

   Example answer: New companies have access to a limited number of projects due to dominance by domestic state-owned enterprises.

   Evidence for answer:

5. **Q: How competent are cadastre agency officials?**

   Example answer: Executives are political appointees lacking knowledge, but senior and mid-level staff have good technical skills.

   Evidence for answer:

6. **Q: How important are SOEs for the sector, compared to private business?**

   Example answer: Domestic SOEs are being privatised and the sector liberalised, but foreign SOEs are entering the sector.

   Evidence for answer:

Social factors

1. **Q: How organised are affected communities about mining issues?**

   Example answer: The level of organisation by affected communities is mixed, but there is some collaboration with CSOs and there are vocal leaders who are interested in reforming the mining sector.

   Evidence for answer:

2. **Q: How much public interest and scrutiny is there of the mining sector?**

   Example answer: There was little interest in mining in the past, but new investments are creating more interest. Civil society groups are very active and publicly denounce corruption in the mining sector.

   Evidence for answer:

3. **Q: Are there marginalised groups vulnerable to mining?**

   Example answer: The rights of many poor communities, especially in areas remote from the capital city, are routinely ignored.

   Evidence for answer:

4. **Q: Do cadastre officials struggle to survive on their salaries?**

   Example answer: Only senior officials receive an adequate wage. Private mining companies offer far higher salaries.

   Evidence for answer:

Technological factors

1. **Q: How important is the potential for undersea mining?**

   Example answer: There are many new discoveries, but government staff do not understand the technology, costs, profits, or risks.

   Evidence for answer:

2. **Q: Is there much use of IT to manage the awards process?**

   Example answer: A program is in place to adopt electronic processes for awards and for record-keeping.

   Evidence for answer:

3. **Q: Is technical data used to inform awards decisions?**

   Example answer: There is increasing use of GIS/GPS, but only for new licences. Problems exist with old concessions.

   Evidence for answer:

4. **Q: Does the country/jurisdiction have minerals important to future technologies?**

   Example answer: There are some discoveries, but in small quantities that are not viable at the current prices.

   Evidence for answer:

5. **Q: Are new geological surveys or methods being adopted?**

   Example answer: New technology is available, but the cadastre agency cannot afford it, so is trying to interest private companies in doing surveys using the new technology.

   Evidence for answer:

6. **Q: Are new production techniques being adopted?**

   Example answer: Newcomers to the sector are offering production methods that will reduce environmental waste, but they have not been awarded any projects.

   Evidence for answer:

ANNEX 7: WORKSHEET C - RISK ASSESSMENT

BLANK RISK ASSESSMENT WORKSHEET

What is the risk that...	Code
1-2 line explanation of why the event creates a risk for corruption:	

Likelihood Score	Evidence to support assessed likelihood
X / 5	**1.** **Source:**
2. **Source:**	
3. **Source:**	
4. **Source:**	

Impact Score	Evidence to support assessed impact
Y / 5	**1.** **Source:**
2. **Source:**	
3. **Source:**	
4. **Source:**	

Corruption impact (record this right after assessing impact to ensure you capture your ideas)

Assessment

Likelihood x Impact = X x Y
Total score: Z

Colour:	**Blue**	**Green**	**Yellow**	**Orange**	**Red**
Risk level:	*Very low*	*Low*	*Moderate*	*High*	*Very High*

FOUR EXAMPLES OF A COMPLETED WORKSHEET C

These are completely hypothetical examples based on four fictitious countries.

What is the risk of external interference in the cadastre agency's awarding of licences etc.?	Code
External interference, such as by politicians, is often built into the design of a process, e.g., when ministers are given rights to veto or to "act in the interests of the state" on certain matters. However, unless such interference is guided by known criteria it creates opportunities for bias, undermines officials' decisions and may be motivated by bribery.	PD14

Likelihood Score	Evidence to support assessed likelihood
4 / 5	**1.** A case of political interference in the cadastre agency's decision to refuse a licence was previously reported by the foreign media. **Source:** BBC Radio Business Daily Programme, 29-06-14.

2. It is common knowledge that the agency's CEO is a member of the ruling party.

Source: 'Mining a Party Affair' article in *African Business* magazine, 13-01-15: cadastre head interviewed and quoted on party membership and statements supporting ruling party.

3. Foreign mining companies have previously complained publicly in their home countries about political interference in the awarding of licences etc.

Source: Newspaper interviews with mining CEOs in *Globe & Mail* ('No Free Market', p.26, 22-03-16) and *The Australian* ('Mining Sector Politicised', p.46, 22-04-16).

4. A foreign not-for-profit has identified bribes paid by foreign firms to the Minister for Mining, allegedly in return for exploration licences.

Source: 'Cash for Licences' briefing report by Global Witness, 5-12-15.

Impact Score	Evidence to support assessed impact
5 / 5	**1.** If the agency's autonomy is discredited, investors will doubt the openness and fairness of the entire market for licences etc. **Source:** Fraser Institute's *Annual Survey of Mining Companies,* 2016.

2. The agency has a key gatekeeping role in the sector, and political interference in awarding licences etc. undermines the entire awards framework.

Source: World Bank, *The Impact of Corruption in Cadastre Agencies: Six Case Studies,* 2012.

3. Media reports exist of foreign investors withdrawing because of interference.

Source: *National Times* article ('Investors Flee Our Corrupt System', 12-07-15, p.9) interviewing of four CEOs of mining companies that withdrew from country in 2014-2015.

Corruption impact

The discretion of cadastre officials is undermined by political interference, causing their decisions and advice to be ignored. This has a potentially severe impact in that awards will be made in return for bribes or gifts, regardless of national laws, regulations or the technical merit of applications.

Assessment

Likelihood x Impact = 4 x 5
Total score: 20

Colour:	**Blue**	**Green**	**Yellow**	**Orange**	**Red**
Risk level:	*Very low*	*Low*	*Moderate*	*High*	*Very High*

A ANNEX 7

What is the risk that surface rights in areas being opened for mining are not clear in law?	Code
Uncertainty around surface rights, such as for pasture and water, creates incentives and opportunities for corruption around which rights have precedence over other rights.	CF13

Likelihood Score	Evidence to support assessed likelihood
5 / 5	**1.** There are known contradictions and unreconciled differences between surface and mining rights in new areas for exploration. **Source:** Review of national laws; 'Undermining rights: the threat to surface rights law in Islandstan', J. Smith, *Asian Law Review* 10(5), pp.67-78.

2. Exploration licences continue to be awarded and successful applicants quickly state that resolution of legal inconsistencies in rights is a priority for the sector.

Source: Sumatra Mining Inc. *Annual Report*, 2015 ('Challenges', pp.7-9); Press release (15-01-16) by Mr. Budi Ditoyo, CEO, Pulau Jaya Mining Inc. (www.pulaujaya.com/pressrelease).

Impact Score	Evidence to support assessed impact
3 / 5	**1.** The anti-corruption agency is currently investigating cases of bribery in awarding licences for new exploration areas. **Source:** Islandstan Anti-Corruption Agency, Investigation reports no°.3 and no°.5, 2015; Report no°.2, 2016.

2. Expert interviews with company representatives state that uncertainty over rights makes them vulnerable to bribe requests from government officials.

Source: Expert interviews: CEO, Pulau Jaya Mining Inc. (23-04-16); Chief Financial Officer, Bourke Street Mining Inc. (phone interview, 24-04-16); CEO, NZ Mining Inc. (26-01-16).

3. Three community leaders report that they have been offered bribes by mining companies to drop their claims to pastures.

Source: Expert interviews: Mr Rudi, Sapi Village Chief (2-04-16); Mr Desai, Kambing Village Chief (4-04-16); Ms Wiwin, Kambing Village Community Leader (4-04-16).

4. Although there is corruption around unclear rights in certain exploration areas, these are only 20% of the total area for mining. The overall impact is limited.

Source: Maps of exploration areas (obtained 22-03-16 from provincial cadastre agency).

Corruption impact

There are incentives for companies to use bribery to get decisions made in their favour if there is a dispute over rights. Pastoralists will have their rights and livelihoods weakened because cadastre agency decisions are influenced by bribes and gifts, instead of a court ruling about rights.

Assessment

Likelihood x Impact = 5 x 3
Total score: 15

Colour:	Blue	Green	Yellow	Orange	Red
Risk level:	*Very low*	*Low*	*Moderate*	*High*	*Very High*

What is the risk that there will be inadequate monitoring of licence- and permit-holders and their obligations? *Where licence applicants know that government monitoring and enforcement is weak they could dishonestly commit to licence conditions with which they have no intention of complying. Responsibilities for monitoring should be clearly defined; results should be publicly available; and if companies are allowed to self-report, it must be to international standards and open to audit.*	Code PP18

Likelihood Score 1 / 5	Evidence to support assessed likelihood
	1. The government mandates that self-reporting adheres to international standards and this is a condition of all licences and permits. **Source:** National Mining Code; copies of licences/permits (available online).

2. By law, companies can still be audited by independent auditors, and this actually occurs in that there are regular audits of companies that operate in the sector. **Source:** Independent auditors' reports in annual reports (2010-2015) of the following mining companies: Bourke Street Mining, NZ Mining, St Paul's Gold, and New World Copper.

3. The government regularly demands more information from companies before it officially accepts their reports.

Source: Statements by Juan Araoza, Minister for Mines, 23-07-13, 29-07-14, 24-08-15.

4. Foreign companies present in the country self-report in a standard way across all the countries in which they operate.

Source: This information is available from company annual reports and company websites. It is also noted by EITI and World Bank reports on the mining sector in 2013, 2014 and 2016.

Impact Score 2 / 5	Evidence to support assessed impact
	1. If reports falsify data, there is active monitoring of operations by CSOs and the media that is likely to quickly identify any false data. **Source:** *National Times* article, 17-02-15, p.6; Global Witness report on false data by Jaya Gold Inc., 8-08-14; Economist article 10-09-14, p.62.

2. There is an annual reporting requirement, and anything odd is usually detected within 1-4 months. Local CSOs routinely ask companies to explain unusual data, and they do.

Source: Press releases: EnviroAction 30-03-15; Forest Alliance 25-04-15; StandUp 3-09-14.

3. The government publishes how much revenue it collects, so this can be matched against the revenue that is reported by companies. **Source:** See EITI reports from 2007 to 2014: discrepancies are documented and explained.

4. Major investors are publicly owned, so there is shareholder pressure for compliance with global reporting standards and laws. Faulty reporting reduces companies' share price. **Source:** Shareholder and board statements for Bourke Street Mining (2008-2015), St Paul's Gold (2008-2015), NZ Mining (2014), and New World Copper (2013-2015).

Corruption impact

False production and profit data could potentially cheat the government out of revenue in the short-term, but this is difficult to do in practice given the other ways that companies are monitored and held accountable by CSOs, the media and their shareholders.

Assessment

Likelihood x Impact = 1 x 2
Total score: 2

Colour:	Blue	Green	Yellow	Orange	Red
Risk level:	*Very low*	*Low*	*Moderate*	*High*	*Very High*

A ANNEX 7

What is the risk that licence- and permit-holders that breach their licence conditions and contracts can escape prosecution or other sanctions? *If non-compliant individuals or companies can escape punishment, e.g., by bribing investigators or judges, this creates a culture of impunity and the opportunity for companies to accept licence conditions with which they do not intend to comply. This undermines both the legal system and the awards process.*	Code PP19

Likelihood Score	Evidence to support assessed likelihood
2 / 5	**1.** Despite past corruption, there is now a stronger anti-corruption agency and anti-bribery law, and investigations are occurring. **Source:** The country ranks poorly in TI's CPI, but its anti-bribery law was strengthened a year ago (analysis of new law from Parliament's website).

2. The new government is actively prosecuting foreigners accused of paying bribes.

Source: National Law Archives: 6 cases of prosecution (5 successful) from 2014.

3. WBGI and Fraser Institute reports show perceptions of corruption control are improving.

Source: WBGI Country Report 2016, and Fraser Institute's *Annual Survey of Mining Companies*, 2016 (country comment).

4. Due to inadequate resources, ACA investigations are sometimes delayed.

Source: ACA's Chief's interview with National Times (22-11-15, p.1); Minister for Justice statement on TV5 (22-2-16); Expert interview with former ACA Commissioner (23-05-2016).

Impact Score	Evidence to support assessed impact
4 / 5	**1.** The previous government did not prosecute corruption, causing a negative impact on perceptions of awards, e.g., contract negotiations. **Source:** Global Witness investigative report on corruption in the sector, July 2014; *Global Mining* article on corruption in the sector (03-05-2013, p. 2).

2. Fraser Institute survey ranking and CPI rankings are still not good, so if the government's anti-corruption response weakens further this will negatively affect investment.

Source: Fraser Institute's Annual Survey, 2016; and TI's CPI 2015, 2016

3. Mining is a major political issue, so if there is corruption by licence-holders or cadastre officials, this will cause instability.

Source: Media, academic, CSO reports on past scandals, 1998-2015; a company survey by Corruption Watch NGO, March 2012; *Business Weekly* pre-election special report on mining and corruption (20-10-14, pp.17-23).

Corruption impact

The overall integrity of the awards process is a major political issue, and if there is corruption, this will cause instability for the new government: a lack of investigations and prosecutions discourages reputable investors, attracts disreputable investors and discourages whistleblowers.

Assessment

Likelihood x Impact = 2 x 4
Total score: 8

Colour:	**Blue**	**Green**	**Yellow**	**Orange**	**Red**
Risk level:	*Very low*	*Low*	*Moderate*	*High*	*Very High*

ANNEX 8: WORKSHEET D - BLANK RISK MATRIX

Likelihood						
	5 Almost Certain	5	10	15	20	25
	4 Likely	4	8	12	16	20
	3 Possible	3	6	9	12	15
	2 Unlikely	2	4	6	8	10
	1 Almost impossible	1	2	3	4	5
		1 Insignificant	2 Minor	3 Moderate	4 Major	5 Catastrophic

Impact

Colour:	Blue	Green	Yellow	Orange	Red
Risk level:	*Very low*	*Low*	*Moderate*	*High*	*Very High*

ANNEX 9: WORKSHEET E - EXAMPLE PRIORITISATION TABLE

What tells me the risk is URGENT?	**Score + Colour**	**Risk 1:** What is the risk that landholders' rights are not observed or protected? Likelihood = 4 Impact = 5 **Total score = 20** ***Colour is RED*** *(Score + colour suggests risk level is very high)*	**Risk 2:** What is the risk that laws and policies to award licences reduce mining companies' accountability? Likelihood = 3 Impact = 5 **Total score = 15** ***Colour is RED*** *(Score + colour suggests risk level is significant)*
What tells me addressing the risk will have an IMPACT?	**Impact Score + Context**	**Impact score** is 5/5, therefore addressing the risk will also have a big impact. **Contextual factors:** There is increased public interest in mining, including harmful impacts on communities. Mining companies are frustrated with the government's lack of direction. It is a good issue, and now is a good time to lobby politicians.	**Impact score** is 5/5, therefore addressing the risk will also have a big impact. **Contextual factors:** Law reform is needed to improve company accountability but extensive conflicts of interest (involving politicians and officials with private interests in mining) exist. This makes it difficult to separate mining law reform from broader systemic corruption problems around politicians' conflicts of interest.
What tells me addressing it is FEASIBLE?	**Stakeholder Interest + Resources**	**Stakeholders:** Mining companies and landholders are both interested in resolving this issue, but politicians and government officials are likely to be difficult.	**Stakeholders:** There is donor interest in funding law reform in the mining sector, including about beneficial ownership, e.g., by politicians. Some opposition politicians recognise the need for reform.
		Cost: Probably expensive. Action will require background research (but a foreign CSO is interested in funding this), followed by political lobbying and consultations.	**Cost:** A law reform campaign would be expensive, because research and legal expertise would be required, including research to understand similar laws in other countries.
		Time required: It could take 2 years to get any meaningful change on this issue. Political lobbying and community consultation will be time consuming.	**Time required:** A lot of time is required to lobby political parties and politicians to initiate reform, but politicians in the ruling party are mostly not enthusiastic due to their private mining interests.
Is the risk a PRIORITY for action?		**Yes.** This is a costly and time-consuming risk, but stakeholders are interested, an opportunity for action exists, and it is a significant systemic issue. *Will have flow-on effects for managing other risks.*	**No.** Although the availability of donor funding and some political interest creates an opportunity – *and law reform could create significant flow-on effects* –there is a bigger systemic problem of politicians' and officials' conflicts of interest that needs to be addressed first. **Put on watch list.**

Blank prioritisation table

What tells me the risk is URGENT?	**Risk #:** Likelihood = Impact = **Total score =** ***Colour is...*** *(Score + colour suggests risk level is...)*	**Risk #:** Likelihood = Impact = **Total score =** ***Colour is...*** *(Score + colour suggests risk level is...)*
What tells me addressing the risk will have an IMPACT?	**Impact score** is... **Contextual factors:**	**Impact score** is... **Contextual factors:**
What tells me addressing it is FEASIBLE?	**Stakeholders:**	**Stakeholders:**
	Cost:	**Cost:**
	Time required:	**Time required:**
Is the risk a PRIORITY for action?		

ANNEX 10: REFERENCES AND READING LIST

Alba, E.M. (2009). *Extractive Industries Value Chain: A comprehensive integrated approach to developing extractive industries.* Washington DC: World Bank.

Cameron, P. and Stanley, M. (2017). Oil, Gas and Mining: *A sourcebook for understanding the extractive industries.* Washington DC: World Bank.

Dougherty, M. (2015). *By the Gun or by the Bribe.* Chr. Michelsen Institute U4 Issue 17. Bergen.

Extractive Industries Transparency Initiative (2016). *The EITI Standard 2016.* Oslo.

Extractive Industries *Transparency Initiative (2015). Validation Guide.* Oslo.

Fraser Institute (2017). *Annual Survey of Mining Companies.* Vancouver.

Global Witness (2010). *A Near Miss? Lessons learnt from the allocation of mining licences in the Gola Forest Reserve in Sierra Leone.* London.

Heller, P.R.P, and Westenberg, E. (2016). *Five Steps to Disclosing Contracts and Licences in EITI.* New York: Natural Resource Governance Institute.

Independent Commission Against Corruption (2011). *Corruption Risks in NSW Government Procurement: The management challenge.* Sydney.

Independent Commission Against Corruption (2013). *Reducing the Opportunities and Incentives for Corruption in the State's Management of Coal Resources.* Sydney.

Kim, M. (2017). *Cambodia's Mineral Exploration Licensing Process: Governance risk assessment.* Phnom Penh: TI Cambodia.

Kingsmill, W. and Williams, G. (2013). *Towards a Framework for Extractive Industries Governance Assessment.* Washington DC: World Bank.

Lindner, S. (2014). *Good Practice in Mitigating Corruption Risks in the Extractives Sector.* U4 Anti-Corruption Resource Centre. Bergen.

Manley, D. and Pitman, R. (2016). *Natural Resource Charter Benchmarking Framework.* New York: Natural Resource Governance Institute.

Natural Resource Governance Institute (2017). *Resource Governance Index.* New York.

Natural Resource Governance Institute (2015). *Granting Rights to Natural Resources.* New York.

Natural Resource Governance Institute (2015). *The Natural Resource Charter Decision Chain: Converting resources into development.* New York.

OECD (2016). *Corruption in the Extractive Value Chain: Typology of risks, mitigation measures and incentives.* Paris.

Ortega Girones, E., Pugachevsky, A. and Walser, G. (2009). *Mineral Rights Cadastre: Promoting transparent access to mineral resources.* Washington DC: World Bank.

Plummer, J. (2012). "Corruption in the mining sector: Preliminary overview", in *Diagnosing Corruption in Ethiopia: Perceptions, realities, and the way forward for key sectors.* Washington DC: World Bank, 377-417.

Puertas Velasco. A. and Muñoz Criado, A. (2017). *Mapa de riesgos de corrupción en el otorgamiento de títulos mineros y licencias ambientales.* Bogota: Transparencia por Colombia.

Sayne, A., Gillies, A. and Watkins, A. (2017). *Twelve Red Flags: Corruption risks in the award of extractive sector licenses and contracts.* New York: Natural Resource Governance Institute.

Transparency International (2010). *Analysing Corruption in the Forestry Sector.* Berlin.

UNDP (2016). *A Practitioner's Guide to Corruption Risk Mitigation in Extractive Industries.* New York.

Votava, C., Hauch, J. and Clementucci, F., *License to drill: A manual on integrity due diligence for extractive sector licensing* (Washington DC: The World Bank Group, forthcoming, 2018).

Venugopal, V. (2014). *Assessing Mineral Licensing in a Decentralized Context: The case of Indonesia.* New York: Natural Resource Governance Institute.

Wolfe, A. and Williams, A. (2015). *Constructing a Diagnostic Framework on Corruption Risks in Mining Sector Licencing.* Crawley, WA.

World Bank (2016). The Mining Investment and Governance Review (MinGov): Questionnaire. Washington DC.

World Bank (2011). *Mineral Resource Tenders and Mining Infrastructure Projects Guiding Principles: Case study: The Aynak Copper Deposit, Afghanistan.* Washington DC.

World Bank Group (2009). *Sector Licencing Studies: Mining sector.* Washington DC.

NOTES

Transparency International
International Secretariat
Alt-Moabit 96, 10559 Berlin, Germany

Phone: +49 30 34 38 200
Fax: +49 30 34 70 39 12
ti@transparency.org

www.transparency.org
Blog: voices.transparency.org
Facebook: /transparencyinternational
Twitter: @anticorruption

Transparency International Australia
Registered office:
Level 4, Deutsche Bank Place
126 Philip St, Sydney, NSW 2000, Australia
PO Box 2041 Blackburn South, VIC
3130, Australia

Phone: +61 3 9877 0369
info@transparency.org.au
mining@transparency.org

www.transparency.org.au
Twitter: @TIAustralia @SusDevMining #M4SD