



# Corruption Risk Assessment and Mitigation Strategies in Mining

## 16<sup>th</sup> Risk Mitigation & CSR Seminar

Canada-Southern Africa Chamber of Business  
London, October 15, 2014

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# Determinants of Corruption Risk in the Resource Sector

- Weak governance in resource-rich countries
  - Remaining resources located in increasingly challenging locations
  - Extractive projects require large capital investment and generate substantial cash flow
  - Long-term nature of resource projects means extended exposure to risk



## Determinants of Corruption Risk (Cont'd)

- Uneven playing field
  - Scarcity of resources means fierce competition
  - Competitors include private companies, publicly listed companies, and state-owned enterprises
  - Competitors are subject to varying anti-corruption regulation and reporting standards in home jurisdictions





# International Enforcement of Supply-Side Anti-Corruption Rules

- International treaties (OECD, OAS, EU, UN) and other initiatives (e.g., World Bank sanctions) have changed the international legal and business environment
- All 34 OECD member countries and many emerging/developing countries have adopted strict laws against corruption
- Conduct once widely tolerated is increasingly subject to investigation and prosecution in multiple jurisdictions
- Penalties are growing in severity for both corporations and individuals



## Key Points of Exposure to Corruption Risk

- Obtaining the concession
- Partners and intermediaries
- Regulatory approval process
- Development process
- Managing the revenue stream



## The Concession Stage

- Gating issues - projects cannot proceed without a permit, licence or concession agreement
- Lack of transparent rules and guidelines
- Officials enjoy considerable leverage
- Local ownership or participation requirements
- Concessions may be held/owned by local persons or entities linked to officials – investor may have no ability to verify ownership of seller
- Expectation that investor will hire family members of officials
- Poorly paid officials may peddle influence to supplement incomes



## Partners & Intermediaries

- Investors may incur liability through the actions of a third party
- Extractive projects are high-risk and therefore often structured as joint ventures to distribute risk and reward
- Host countries may require foreign companies to collaborate with local partners
- Unfamiliarity with local business environment may require project owner to engage local agent or representative to navigate the political, cultural and regulatory environment
- Extended ecosystem of third party services providers, engineering firms and other contractors with their own local contacts (and points of exposure)



# The Regulatory Approval Process

- Numerous regulatory and compliance approvals are required before a project can become operational
  - Environmental
  - Health & safety
  - Immigration
  - Regional & municipal operating licenses
  - Land use matters
  - Road permits
  - Site security
  - Access to water
- Each approval is another point of contact with government officials where a bribe can be extracted





# The Development Process

- Sunk costs make parties more vulnerable to corruption pressure
- Ongoing cooperation by government officials required throughout the life of a project
  - Customs clearances for high-value supplies
  - Police security on-site and for transporting goods
  - Labour relations issues
  - Immigration permits to bring in specialized personnel
  - Favourable outcomes of tax assessments
- Operational realities
  - Lack of infrastructure (roads, water, power) could necessitate parallel construction projects raising independent opportunities for corruption
  - Lack of banking infrastructure could require large sum cash payments that are difficult to track



## Managing the Revenue Stream

- Extractive projects are often the largest revenue sources for the local population
- Substantial cash flow a lightning rod for bribe solicitation and embezzlement
- Resource revenue transparency initiatives attempt to address this problem



## CSR & Anti-Corruption Compliance

- CSR is voluntary but not entirely altruistic – it presents concrete business advantages
- CSR strategies can be used to mitigate corruption risk
- Short-term: Generates local goodwill and a "social license to operate"
  - Incentives for officials to solicit bribes are weakened when the success of the venture is intertwined with the well being of the community
- Long-term: Contributes to institutional development in the host country, thereby reducing corruption risk
- Be aware that CSR may itself attract corruption risks
  - Anti-corruption laws prohibit advantages conferred both directly and indirectly
  - Make use of risk mitigation strategies (documentation, transparent criteria, etc.)



## Resource Revenue Transparency

- Requires companies to publicly disclose payments they make to governments or government officials
- Objective is to deter embezzlement and encourage accountability from government officials in the management of public funds
- Demand-side anti-corruption strategy – reinforces good governance and the rule of law within government
- US, EU and Canada have introduced legislation to establish mandatory reporting thresholds
- Initiatives led by non-governmental organizations
  - Extractive Industries Transparency Initiative





## Conclusion

- Resource sector is particularly exposed to corruption
- Corruption is not just a “cost of doing business”
- Corruption risk can be mitigated or eliminated even in the most challenging jurisdictions
- Corruption policies on their own are just paper
- Effective compliance requires risk assessment, planning, in-country implementation and follow-through
- Compliance is mere wind-dressing without active senior management and board commitment



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