



REPUBLIC OF MOZAMBIQUE

**MINISTRY OF MINERAL RESOURCES AND ENERGY
EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE**

Response to the Draft Report of the Second Validation of Mozambique

The validation process to assess the level of implementation of the transparency initiative in the extractive industry started on 23 April this year. On 12 June 2019, the international secretariat sent the EITI Coordination Commission the draft report of the 2nd Validation which was shared with the members of the MSG and the relevant extractive sector institutions, namely: Ministry of Mineral Resources and Energy (MIREME), National Mining Institute (INAMI), National Petroleum Institute (INP), National Enterprise of Hydrocarbons (ENH), Mozambique Mining Exploration Company (EMEM), Mozambique Institute of Management of State Holdings (IGEPE) Advisory Boards. The boards had the opportunity to write comments which has resulted in the drafting of the following response:

Corrective Action 4 (# 2.2)

Assessment of the International Secretariat

The International Secretariat's preliminary assessment is that the corrective action has not been fully addressed and that Mozambique has made meaningful progress on Requirement 2.2. The process for awarding licences is comprehensively disclosed, and the Secretariat commends the EITI Report for critically assessing the licensing framework and for making recommendations to address deficiencies. However, the report does not include a list of licences awarded and transferred in the period under review, and the licence cadastre does not allow the user to search for licences by award or transfer date. The report does not specify the process for transferring a petroleum concession or specify whether such transfers took place in 2015-2016.

In accordance with Requirement 2.2, Mozambique is required to disclose licences awarded and transferred in the period covered by the EITI Report

and ensure that information about the licences is publicly available, for example in the licence cadastre or on the INAMI and INP websites. Mozambique is required to disclose the process and criteria for transferring a petroleum licence. INAMI and INP are encouraged to carefully consider the recommendations presented in the report on strengthening the licence allocation process.

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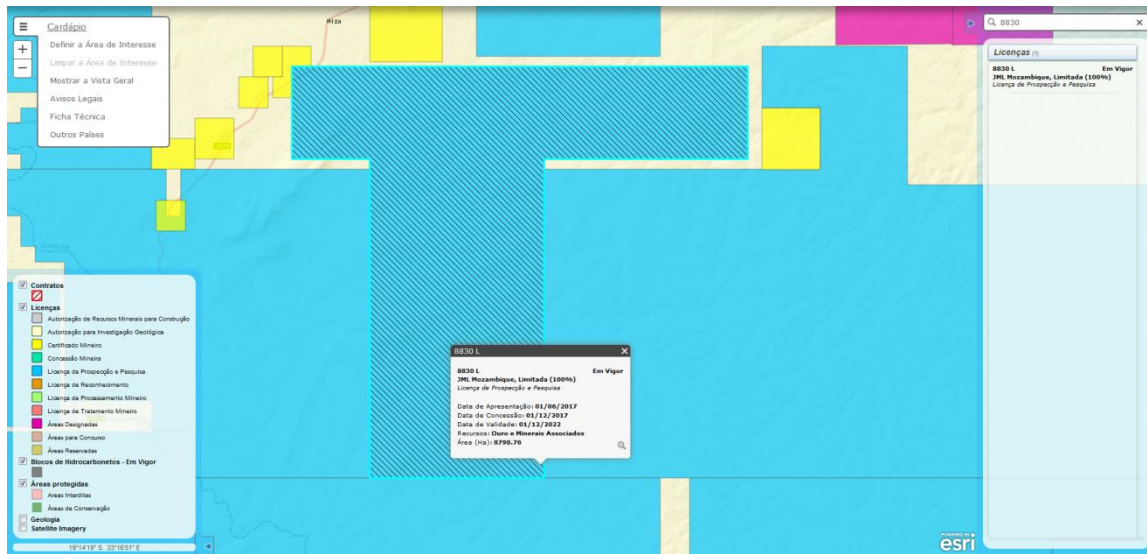
3.4 Corrective Action 4 (# 2.2)

In accordance with Requirement 2.2.a, Mozambique should ensure annual disclosure of which mining, oil, and gas licences were awarded and transferred during the year under review, highlighting the processes for transferring licences, technical and financial requirements and any non-trivial deviations from the applicable legal and regulatory framework governing licence awards and transfers. The MSG could further consider tasking the Independent Administrator to provide an evaluation of the licensing process and make recommendations for its improvement.

Response

The mining cadastre platform has two components, one in the public domain (Portal) and the other for information handling and querying which has username and password access (Landfolio Mining Titles Management System). The portal is a public consultation interface for mining processes registered in the Landfolio mining titles management system. The system intends to show availability of areas undergoing licensing processes and provide data linked to participants (companies/people) such as process number, area, application date, award date, expiration date and licence status, as well as the minerals involved. That said, the searches on the portal can only be made on licence code or the licence-holder name.

Figure 1: Landfolio Portal showing search 8830L.



The Mining Titles Management System is a software through which one can register, manage and cancel mining titles, see figure 1 below.

Figure 2: Searches using the mining titles management system

Tudo	Mapa	Código	Participantes	Tipo	Interesse	Substâncias	Grupo de Estado	Estado	Região	Data de Pedido	Data de Concessão	Data de Validade	Área	Referência Geográfica
<input type="checkbox"/>		940/CM/2017	Bassirou Ndiaye	COM - KIM (D) Pessoa Singular	DIA		Em Vigor	Vigor		20-03-2017 14:18:14	27-05-2019	27-05-2024		CABO_DELGADO, GAZA, INHAMBANE, MANICA, MAPUTO, NAMPULA, NIASSA, SOPALA, TETE, ZAMBEZIA
<input type="checkbox"/>		954/CM/2017	Moujtaba Fakih	COM - KIM (D) Pessoa Singular	DIA		Em Vigor	Vigor		06-04-2017 11:35:36	12-03-2019	12-03-2024		CABO_DELGADO, GAZA, INHAMBANE, MANICA, MAPUTO, NAMPULA, NIASSA, SOPALA, TETE, ZAMBEZIA
<input type="checkbox"/>		1007/CM/2017	Patricio Mpagai	COM - KIM (GEM) Pessoa Singular	AQU, COR, MOR, QTZ, RUB, TOU		Em Vigor	Vigor	Mozambique	11-05-2017 08:56:23	13-03-2019	13-03-2024		CABO_DELGADO, MANICA, NAMPULA, NIASSA, TETE, ZAMBEZIA
<input type="checkbox"/>		1026/CM/2017	Abilio Abdul Abilio, DEPHFA-sociedadeUnipessoal, Limitada	COM - KIM (GEM) Pessoa Colectiva	Agt, AMA, AME, AQU, GAR, QTZ, RCR, RUB, SAF, TOU		Em Vigor	Vigor	Mozambique	04-07-2017 12:30:24	11-03-2019	11-03-2024		CABO_DELGADO, GAZA, INHAMBANE, MANICA, MAPUTO, NAMPULA, NIASSA, SOPALA, TETE, ZAMBEZIA
<input type="checkbox"/>		1041/CM/2017	Expresso Combustiveis e Derivados, Limitada (100%)	COM - KIM (MP) Pessoa Colectiva	AG, AU, PT		Em Vigor	Vigor		29-08-2017 08:52:32	25-03-2019	25-03-2024		CABO_DELGADO, GAZA, INHAMBANE, MANICA, MAPUTO, Maputo Cidade, NAMPULA, NIASSA, SOPALA, TETE, ZAMBEZIA
<input type="checkbox"/>		1066/CM/2017	Gems Informatica, Lda	COM - KIM (GEM) Pessoa Colectiva	AQU, BER, GAR, QTZ, RUB, SAF, TOU		Em Vigor	Vigor	Mozambique	14-11-2017 10:29:18	06-03-2019	06-03-2024		CABO_DELGADO, MANICA, Maputo Cidade, NAMPULA, NIASSA, SOPALA, TETE, ZAMBEZIA
<input type="checkbox"/>		1070/CM/2017	Pedra sol Limitada	COM - KIM (GEM) Pessoa Colectiva	Agt, AQU, BER, COR, EME, GAR, MOR, QTZ, RUB, SAF, SIQZ, TOU		Em Vigor	Vigor	Mozambique	09-11-2017 10:35:56	06-03-2019	06-03-2024		CABO_DELGADO, GAZA, INHAMBANE, MANICA, MAPUTO, NAMPULA, NIASSA, SOPALA, TETE, ZAMBEZIA

This type of search can also search for new applications and mining title expirations.

The System also allows searches on actions (set of procedures that decide the length of the licence), annexed documents, people registered among other entities who may be linked to a licence.

As regards the observations made in the EITI report in corrective action 4, requirement 2.2, it is important to clarify that in legal terms the correct term is *transmissão* and not *transferência* for the term transfer in English. This is set out in section I, chapter IV, articles 128 and 129 of the Mining Law. The transfer of mining titles is always reflected in the Mining Cadastre while pending (period between the receipt of the application and its approval).

Figure 3: Search on Title 3939C, which is found in Transfer Pending.



Licence transfers are registered in the mining titles management IT system. The transfer itself must be approved by the Minister or Governor of the Province, according to the title type. No mining title transfer is valid unless it has been approved by the Mozambique Tax Authority on capital gains.

However, there are cases or situations in which mining operations are carried out through a mining operator (natural or legal person titleholder of the mining title or authorisation or who has been contracted by the titleholder to conduct the mining activity). The process for registering the mining operator is set out in the Mining Law Regulation (RLM) and is assigned by registering at the National Directorate of Geology and Mines, in accordance with the standards established by Ministerial Order.

The Mining Titles Management System permits searches by date of mining title award or transfer. The list of licences transferred during the period

under review is shared on the INAMI website and is updated when necessary.

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During the period under review (2025[sic]-2016) no licences were issued, there was no petroleum concession transfer process.

(See annex 1 which contains the table of concessions where current concessions for the period under review, their respective geographic coordinates as well as links to consult are provided. It should be noted that these concessions were granted in previous periods. However, during the period under review they remain in effect.)

Corrective Action 5 (# 2.3)

Assessment of the International Secretariat

The International Secretariat is satisfied that the corrective action has been addressed and considers that Mozambique has made satisfactory progress on Requirement 2.3. Required data points for petroleum licences are available on the INP website. Although details are partly only available in the contracts themselves, the website provides an overview of existing licences and the contracts are easy to access.

To strengthen implementation, INP is encouraged to add to its website an overview of petroleum licences that includes all data points listed in Requirement 2.3.b. INAMI is encouraged to continue to develop the mining cadastre and to consider linking the cadastre with other datasets, notably on production, exports, tax payments and beneficial ownership.

3.5. Corrective Action 5 (# 2.3)

In accordance with Requirement 2.3, Mozambique should also ensure that the licence-holder names, dates of application, award and expiry, commodity(ies) covered and coordinates for all petroleum licences held by material companies are publicly available. Where this information is already publicly available, it is sufficient to include a reference or link in the EITI Report. Where such registers or cadastres do not exist or are incomplete, the EITI Report should disclose any gaps in the publicly available information and document efforts to strengthen these systems.

Response

It should be noted that terminology used for some of the terms in the text above do not match that in the mining legislation, so we will clarify:

Data de candidatura (Dates of application) - refers to the date the application is submitted;

Concessão e vencimento (Award and expiry) - refers to the date the mining title is awarded and expires;

Mercadorias (Commodities) - refers to the mineral product. This term is defined in the glossary of the Mining Law Regulation.

In the sixth paragraph of corrective action no. 5, the International Secretariat assessment notes that the mining sector regulator started modernising the licence cadastre in 2017 and expects the work to be completed in the second half of 2019.

The mining cadastre was first operational in 2003 with the use of an IT system called "Flexicadastre", version 1.0, implemented by Swedish Geological AB in partnership with Spatial Dimension (Pty), Limited. Since then, MIREME has always made efforts to modernise the system to respond to the demands of the public in general, simplify procedures and increase the transparency and flexibility of the processes. For this reason, we completely disagree with the statement made in the sixth paragraph referred to above.

In 2010 the updating and modernisation of the mining cadastre licensing process IT system started, with the introduction of the updated version Flexicadastre v 4.0.

In 2012, when Mozambique signed up to EITI, the design of a portal compatible with the principles of transparency in the extractive industry was started.

From 2013/2014 the Mining Cadastre Portal in Mozambique was implemented and launched, compatible with the EITI requirement from the event that took place in the international conference of down under in Australia - Perth.

From 2013-2018 the functionalities of the systems were updated to accommodate adopted legislation, namely the Mining Law and its Regulations, the Regulation on the Trade of Diamonds, Precious Metals and Gems and the Law pertaining to the Special Taxation and Tax Benefits Regime for Mining Activity. Migration from the Flexicadastre Software to the new version Landfolio v 6.0 also took place.

Also, in the eighth paragraph of corrective action no. 5, the International Secretariat assessment reads that INAMI is encouraged to continue to develop the Mining Cadastre and to consider linking the cadastre with other datasets, notably on production, exports, tax payments and beneficial ownership.

According to the terms of article 56 of the Mining Law Regulation, mining titleholders present monthly production and trade reports for mineral products. They also submit quarterly and yearly activity reports.

Production statistics and any sales in the internal and external market are presented in the monthly reports. In the quarterly and annual reports, a summary of activities during these periods such as extraction, geological works on the mine, costs incurred and any investment made, are presented.

Pursuant to Law No. 15/2017 of 28 December, mining titleholders, besides taxes included within the Mozambican Tax System, are subject to the Mining Production Tax (IPM), Surface Tax (ISS) and Mineral Resource Rent Tax (IRRM). These are paid to the respective regional Tax Office or Large Taxpayer Units.

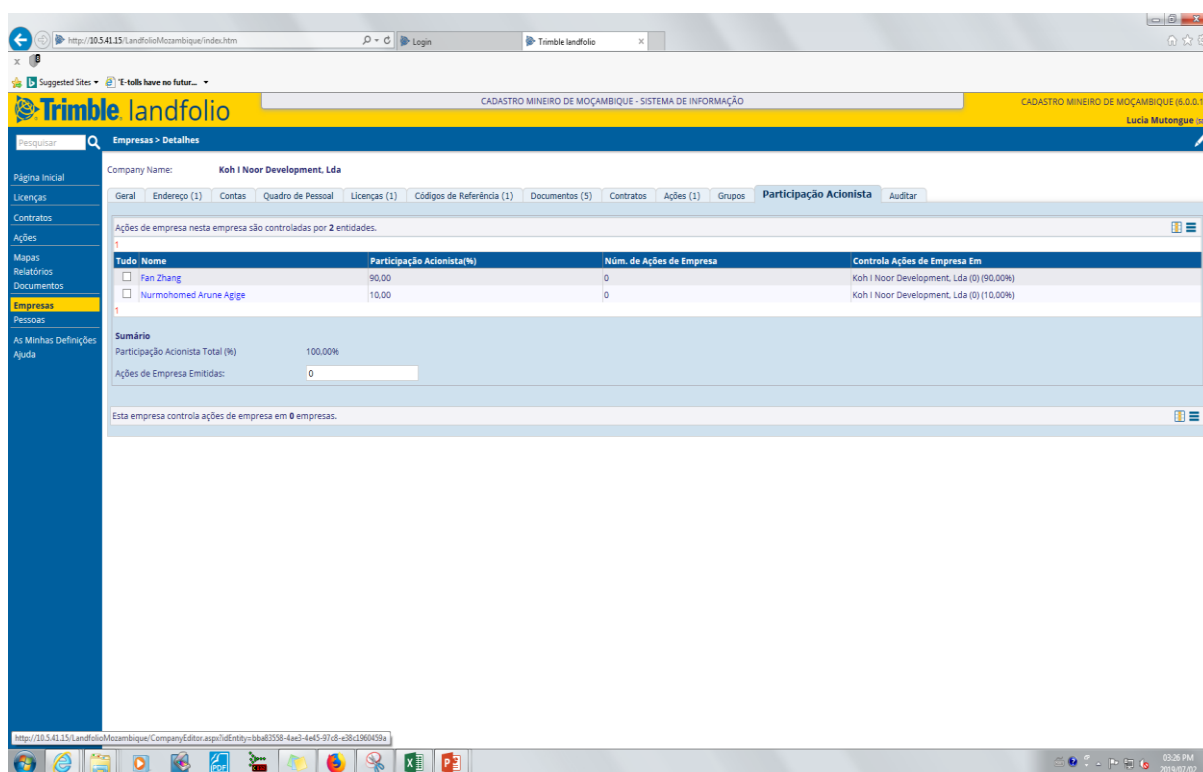
Figure 4: Search performed on Title 735C, with data on taxes filed.

Term	Data de Início	Data de Fim	Unidade/ Moeda	Comprometido	Atual	Diferença
Capacidade Anual de Produção	01-01-2018	31-12-2018	Toneladas			
			Toneladas	1.300.000,00	1.043.138,00	-256.862,00
Custo Produção	01-01-2018	31-12-2018	MT			
			MT	3.180.000.000,00	5.441.609.966,40	2.261.609.966,40
Impostos/Taxas	01-01-2018	31-12-2018	MT			
			MT	0,00	193.640.030,77	193.640.030,77
Investimento	01-01-2018	31-12-2018	MT			
			MT	984.000.000,00	0,00	-984.000.000,00
Mão de Obra			MT			
			MT	0,00	0,00	0,00

On the matter of NUIT (Individual Tax Identification Numbers), it should be noted that it is currently undergoing regularisation. Since April this year around 37 requests for regularisation have been received, in coordination with the Mozambique Tax Authority that has already designed a new model to be implemented for more effective and integrated action to monitor mining activity in country.

Relating to effective property, mining legislation establishes that mining title applicants who are incorporated should attach the document proving the incorporation of the company when submitting the application, including the identification of shareholders and the respective value of share capital undersigned in Mozambique, according to article 7 of the Mining Law.

Figure 5: Search performed on Title in which data about business partners is filled in.



Corrective Action 6 (# 2.6)

Assessment of the International Secretariat

The International Secretariat's preliminary assessment is that the corrective action has not been fully addressed and that Mozambique has made inadequate progress on Requirement 2.6. The EITI Report discloses the level of state ownership and describes state participation in general terms. However, the policy defining the financial relationship between the state and extractive sector SOEs remains unclear and practices are only partly covered.

In accordance with Requirement 2.6.a, Mozambique should provide a comprehensive explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs), including the rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing. The government should also disclose a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies operating in the country. The government should also disclose details regarding the terms attached to their equity stake in each project, including their level of responsibility to cover expenses at various phases

of the project cycle, e.g., full-paid equity, free equity, carried interest. The MSG should discuss and document its definition of SOEs taking into account national laws, government structures and ongoing reforms.

The government and the MSG are encouraged to undertake a study on the rules and practices of state participation in the extractive sector. Government agencies, such as INP, INAMI, IGEPE, the tax authority (TA) and state-owned enterprises are encouraged to routinely disclose data about the extractive sector through their own reporting systems and websites.

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- a) We note that the team of consultants (Independent Administrator) does not have a clear definition of SOEs, at times they are confused with public companies and others with state companies. **Law 3/2018 of 19 June**, defines the Stated Owned Enterprise Sector (SOEs), in article 2, as *being the set of productive and commercial units of the State, organized and managed as businesses, integrating public companies and companies in which the State has exclusive or majority stakes. This is why there is no need for MSG to create a definition of a state business.*
- b) Reports and accounts of companies generally reflect the financial relation between the company, the State and affiliates or subsidiaries (should there be any) comparing two financial years. Across the period the variation in share capital could also be observed. The analysis of these instruments may not have been described in depth as this can be gleaned from the deduction in page 15 (e.g. EMEM shareholdings 2015/2016).
- c) The new SOE law (Law 3/2018) sets out the rules applicable to SOEs, including, among others, the rules on investment, debt, profit appropriation and aspects of business governance.
- d) The same law under review awards powers to IGEPE to exercise the shareholder function of the State in these companies, as the MEF (Ministry of Finance) representative. When there are investment situations with borrowed capital, there are cases in which the State can issue a comfort letter or guarantee through the viability of the project but the company must perform the respective debt servicing. The rules and hierarchies to follow for their approval are also incorporated in Law 3/2018, of 19 June and in the respective regulation (Decree No. 10/2019, of 26 February).

e) In accordance with the conclusion of the draft report that mentions, on page 14, second paragraph in subparagraph 2... it says that: “the report notes that dividends are paid when decided by the Board of Directors of the companies” it should be noted that dividends are approved by the General Assembly, this being the applied policy.

As regards the need for a policy on dividends or profit retention, it should be noted that the SOE Law establishes the General Assembly as the deliberating body as regards company profit appropriation proposals (in the scope of approving the financial year accounts).

The Boards of Directors can propose the allocation of profits obtained, for example with a part being allocated to invest, to distribute among shareholders or to recapitalise but only the General Assembly can deliberate on this proposal.

f) Henceforth, as a way to mitigate concerns and produce a quality report, it would be best, as we have always requested, to produce a template by which to fill in the necessary information and to establish workshops for this purpose, instead of applying the emergency regime that has been current practice.

Mozambique Mining Exploration Company - EMEM

We would like to clarify that, in relation to that described on page 15 of the draft report relating to EMEM, stakes over 5% as well as the free carried interest [TN: the original says free care route but given the context of the previous report it would appear to be referring to this], represents the total equity in participated companies. However, the financial holdings are recorded on the EMEM balance sheet on the award date with the respective cost of acquisition, plus the directly attributable transaction costs.

Corrective Action 7 (# 4.2)

Ministerial order no. 173/2014 appoints ENH as the entity to receive gas delivered by the producer by way of production tax, and to administer and manage the natural gas resulting from the tax on petroleum production paid in kind by concession companies. As regards production monitoring, ENH presented INP the data: **(See data in annex 2)**

Corrective Action 15 (# 6.1)

Hydrocarbon Prospection and Exploration Contracts (EPCCs) signed between the Government and concession-holding companies form the legal basis for social projects. According to Article 18.3 and 18.7 of the EPCC stipulates a cash deposit for the implementation of mandatory social projects. These are implemented in cash or in kind.

Mandatory Social Projects are implemented after definition of the project by the beneficiary communities and approval by the Local Consultation Councils of the beneficiary communities in accordance with the guiding instruments for the Province, such as the Social Economic Plan (PES), the Strategic Development Plan and the portfolio of Projects in accordance with the Pillars of Development.

Project procurement complies with that set out in Decree 5/2016 of 8 March, on the Contract for Public Works, Supply of Goods and Services to the State (Public Tender).

Note: During the period under review (2015/2016) social project monitoring actions took place. The projects result from the prospection and exploration of hydrocarbon contracts (that form the legal basis) concluded in 2008 and 2009.

Corrective Action 9 (# 4.4)

Assessment of the International Secretariat

The International Secretariat's preliminary assessment is that the corrective action has not been fully addressed and that Mozambique has made meaningful progress on Requirement 4.4. The report describes thoroughly the actors involved in the transportation of gas and coal, changes in ownership structures and transportation routes. The Secretariat considers that ROMPCO's revenues from the transport of gas are not government revenue as such, but any material revenues that

CMG as an SOE receives from its shareholding in ROMPCO are transportation revenues as defined in Requirement 4.4. The report fails to clarify whether the state, through CMG, received material revenues from the transport of gas.

The Secretariat disagrees with the Independent Administrator's interpretation that the requirement was not necessarily not applicable to the coal sector during the year of review, on the basis that the transportation companies are not majority state-owned. The state or SOEs (e.g. CFM) could still be receiving material revenues through their shareholdings. However, as CFM sold its stakes in companies involved in the transportation of coal in 2017, a corrective action on coal transportation revenues does not appear practical.

In accordance with Requirement 4.4, Mozambique is required to clarify whether SOEs receive revenues from the transportation of oil, gas or minerals and if these are found material, disclose them.

Below is the illustrative map of dividends received by the Mozambican Gasduct Company, CMG, during years 2015 and 2016, originating from the transportation of natural gas by the company ROMPCO.

Dividendos recebidos pela CMG provenientes da ROMPCO

Ano Fiscal	Valor Dividendos em ZAR	Valor Dividendos em Meticais
2015 *	117 300 000.00	334 936 615.00
2016 **	138 000 000.00	565 800 000.00
Total	255 300 000.00	900 736 615.00

*O ano fiscal 2015 compreende o primeiro semestre do ano civil 2014 e segundo semestre do ano civil 2015

**O ano fiscal 2016 compreende o primeiro semestre do ano civil 2015 e segundo semestre do ano civil 2016

Dividends received by CMG originating from ROMPCO

Tax Year	Dividends Value in ZAR	Dividends value in Meticais
2015*	117 300 000.00	334 936 615.00
2016**	138 000 000.00	565 800 000.00
Total	255 300 000.00	900 736 615.00

* Tax year 2015 comprises the first 6 months of 2014 calendar year and the second 6 months of the 2015 calendar year

** Tax year 2016 comprises the first 6 months of 2015 calendar year and the second 6 months of 2016.

As regards transport of minerals, the company Caminhos de Ferro of Mozambique is responsible for coal transportation, however it does not

currently perform commodity breakdown. However, the MSG will persuade and work together with the company with a view to obtain a breakdown of the commodities, particularly relating to minerals so the contribution to the sector as regards transportation will be known.