



TAX INCENTIVES IN MOZAMBIQUE'S EXTRACTIVE INDUSTRY

A TAX JUSTICE PERSPECTIVE

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The FtG project is implemented by CDD and Oxfam Mozambique in close collaboration with the Centre for Research on Multinational Corporations (SOMO) and Oxfam Novib. It aims to strengthen democratic and accountable governance in the extractive sector. In its first year of implementation, the project is working directly with communities affected by extractive activities in Mozambique, building their capacity and fostering dialogue with government representatives to promote concrete reforms in the sector. The project is being implemented in four countries: Mozambique, Kenya, South Africa, and the Netherlands.

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Executive Summary

In recent years, Mozambique has initiated reforms to its tax incentive regime for the extractive sector in an effort to improve fairness and efficiency. These reforms included shortening the duration of incentives, eliminating unjustified exemptions and reductions, and strengthening performance requirements for investors. While designed to maintain investment attractiveness, the reforms also aim to ensure that natural resources generate significant revenues to fund public infrastructure, education, and health services.

This study evaluates to what extent the current regime ensures fiscal equity, prevents abuses by multinational enterprises (MNEs), and preserves the country's fiscal sovereignty. The research involved:

- (i) a comprehensive mapping of the fiscal regime applicable to the mining and hydrocarbon industries;
- (ii) An assessment of the transparency and governance of the incentives;
- (iii) An analysis of investor behavioral responses and their implications; and
- (iv) A review of the efficiency and effectiveness of the incentives

The study used both qualitative and quantitative methods. Interviews were conducted with three mining MNEs and three petroleum MNEs, as well as key public institutions. Secondary data was sourced from financial reports, the EITI, the Administrative Court, IMF, World Bank, OECD, and government databases.



Key Findings and Recommendations

- Significant losses to the State: Between 2014 and 2022, tax incentives accounted for an average of 40% of the annual budget deficit. If reversed, these could have proportionally reduced public debt.
- Concentration of benefits and low reciprocity: Between 2013 and 2023, six MNEs received tax benefits estimated at 31.2 billion meticaís (14.4% of the national total). However, only 4.84% of that amount was allocated to training, institutional capacity building, or social projects. It is estimated that MZN 147 billion were spent on local content and economic linkages, representing only 0.003% of their total turnover.

Executive Summary

- **Regressive regime and fiscal inequality:** The regime violates principles of horizontal and vertical equity. Taxpayers with similar incomes pay different taxes, and MNEs with higher revenues pay proportionally less. The average tax burden of the studied companies is significantly below the national average (36.67%), except for one company not benefiting from cost- or profit-based incentives.
- **Behavioral risks and illicit financial flows:** Tax incentives have incentivized practices such as below-market sales to Free Zones, abusive transfer pricing, inflated management fees, and excessive deductions for interest and capital costs. The fiscal stability clause limits the State's ability to revise the regime to ensure greater progressivity.

In summary, the implemented reforms have not ensured progressivity, fiscal justice, or strengthened investment attractiveness, as they do not apply to projects approved before 2006 due to fiscal stability clauses. While renegotiating these contracts could be an option, many include anti-renegotiation clauses that significantly constrain the Government's leverage. To mitigate behavioral risks associated with tax incentives and make the tax system fairer and more effective at revenue mobilization, policymakers should consider the following measures:



Recommendations

1

Enhance control over customs duty exemptions for mining and petroleum imports by issuing a specific "mining and petroleum goods list" that distinguishes between items genuinely used in extractive operations and general-use goods (e.g., photocopiers). A partial customs duty (e.g., half the standard rate) could be considered.

2

Avoid tax incentives that create parallel domestic fiscal regimes, as they facilitate abusive transfer pricing practices. Incentives that apply to only one part of the value chain (e.g., processing) and exclude others (e.g., extraction) encourage artificial profit shifting.

Executive Summary

3

Regularly review tax incentives, ideally annually, and include sunset clauses to limit their duration (e.g., time limits on the use of tax credits) to reduce the costs of poorly designed programs.

4

Adopt measures to improve extractive sector revenue collection, including: setting fixed percentages for management fees; ensuring that related-party transactions within Mozambique are subject to transfer pricing rules; and considering legislation to apply the cost-plus method to calculate management fees

5

Carefully assess the BEPS (Base Erosion and Profit Shifting) risks associated with incentives that lower taxes on outbound payments. Reducing or exempting taxes on cross-border payments may encourage investors to inflate the volume and value of related-party debt and administrative services, with the intent of reducing the taxable base and shifting profits to low-tax jurisdictions.

6

Invest in strengthening the State's institutional capacity, through continuous training of technical staff and specialists in fiscal policy for the extractive industry. Developing expertise in financial and commercial modeling is crucial to support evidence-based decision-making.

ABBREVIATIONS

- APIEX – Exports and Investment Promotion Agency
- AT – Mozambique Tax Authority
- BEPS – Base Erosion and Profit Shifting
- CFMP – Cenário Fiscal de Médio Prazo (Medium Term Fiscal Scenario)
- CGE – Conta Geral do Estado (General State Account)
- CRM – Republic of Mozambique Constitution
- CTA – Economic Associations Confederations (Confederações das Associações Económicas)
- DTA – Double Taxation Agreement
- EEZ – Special Economic Zone
- EITI – Extractive Industry Transparency Initiative
- EPZ – Export Processing Zones
- FDI – Foreign Direct Investment
- GMT – Global Minimum Tax
- IFZ – Industrial Free Zone
- IMF – International Monetary Fund
- INE – National Institute of Statistics
- IRPC – Corporate Income Tax (Imposto sobre o Rendimento das Pessoas Colectivas)
- IRPS – Personal Income Tax (Imposto sobre o Rendimento das Pessoas Singulares)
- ITID – Investment Tax Incentives Database
- MEF – Ministry of Economy and Finance
- MIREME – Ministry of Mineral Resources and Energies
- MNE – Multinational Enterprises
- OECD – Organisation for Economic Co-operation and Development
- SEZ – Special Economic Zone
- TBC – Tax Benefits Code

LIST OF GRAPHS

Graph 1: Mozambique's Tax Benefits Structure.....	34
Graph 2: Share of Tax Benefits on State Budget Deficit.....	35
Graph 3: Evolution of Internal and External Budget Credits and Tax Benefits.....	37
Graph 4: GDP Growth, FDI and Extractive Industry Dynamics.....	37
Graph 5: Tax Burden - Mining Industry.....	41
Graph 6: Tax Burden - Petroleum Industry.....	43

LIST OF TABLES

Table 1: Surveyed Companies and Institutions.....	11
Table 2: Petroleum and Mining Tax Incentives (Summary).....	17
Table 3: Tax Incentives Risk Behaviors.....	18
Table 4: SPT Fiscal Regime.....	28
Table 5: MRV Fiscal Regime.....	28
Table 6: Total Energies Fiscal Regime.....	29
Table 7: Mining MNEs Fiscal Regime.....	32

TABLE OF CONTENTS

Executive Summary.....	iii
Abbreviations.....	vi
List of Graphs.....	vii
List of tables.....	vii
1. Introduction.....	9
1.1. Objectives of the Study.....	10
1.2. Methodology.....	12
1.3. Research Limitations.....	12
2. Literature Review.....	13
2.1. Concept of Tax Benefits.....	13
2.2. Classification and Types of Tax Benefits.....	14
2.3. Behavioral risks of tax Incentives.....	19
2.4. Tax Competition and Effectiveness of Tax Incentives.....	23
3. Tax Incentives in Mozambique.....	23
3.1. Tax Benefits legal Framework.....	23
3.2. Legal and Fiscal Framework for Petroleum MNEs.....	25
3.3. Legal and Fiscal Framework Mining MNEs.....	29
4. Effectiveness and Efficiency of Tax Incentives in Mozambique.....	33
4.1. Tax Incentives Economic Dynamics.....	33
4.2. Case Study Tax Incentive Efficiency and Effectiveness.....	38
4.3. Petroleum and Mining MNEs Tax Incentives Assessment	40
4.4. Tax Justice perspective.....	44
4.5. Global Minimum Tax.....	45
5. Conclusions and Recommendations	47
6. References.....	52
7. Annexes.....	55

1. Introduction

Mozambique engaged in meaningful economic reforms, including investment and tax laws to attract investment in strategic sectors such as export-oriented and extractive industries. The investment promotion tools relied on granting tax incentives to multinational enterprises (MNEs), resulting in several billions of dollars flowing in the form of foreign direct investment (FDI) to the extractive industry. Henceforth, Kenmare project to explore heavy sands in Nampula Province, SASOL to explore natural gas, Vale do Rio Doce to explore mineral coal, and in the mid-2000s contracts were signed.

In the mid-2000s, a significant natural gas reserve was discovered in the Rovuma Basin, generating even more FDI. The capital inflow had a significant impact on economic growth, rising to around 7% per year, and the fiscal ratio to 30% in 2014. The strategy was also meant to generate substantial tax revenues, but recently the tax revenue-to-GDP ratio reduced to roughly 20%, with the contribution of the extractive industry consistently low, averaging 4.5% of the total tax revenue. Therefore, the tax incentives strategy did not work out, putting into question the effectiveness and efficacy of this strategy. As a result, policymakers, including those responsible for investment law and policy frameworks, have responded by tightening the governance of tax incentives—by shortening the duration of incentives or requiring that investors meet additional performance requirements.

In the extractive industry, the reforms consisted of shortening the duration of the incentives, ensuring the progressivity of taxes by removing the tax holidays, reductions, and exemptions, and clarifying the concepts of fiscal stability and taxation of capital gains mechanisms. The changes were supposed to continue boosting investments but also generating tax revenue to improve public infrastructure, education, and health systems. After all, it is interesting to evaluate if the tax reforms implemented ensured progressivity, tax justice, and investment attractiveness. Therefore, the importance of developing empirical evidence to generate knowledge-based policy on the tax justice agenda in the extractive industry will support advocacy actions on national and regional levels to ensure fairness and progressivity for increased domestic resource mobilization.

1.1. Objectives of the Study

The main objective of the study is to assess the fairness and progressiveness of Mozambique's tax incentives regime applied to extractives and to what extent it counters tax abuses by multinationals and preserves the country's tax rights, through:

- Comprehensive mapping of Mozambique's tax incentives regime for the mining and hydrocarbon industries.
- Assessment of the transparency and broader governance performance of the country regarding tax incentives in the extractive industry.
- Reviewing the incentives based on potential behavioral responses by investors and unintended revenue losses that may result.
- Assessment of the efficiency and effectiveness of tax incentives.
- Examining the implications of recent developments in the global tax architecture on the country's tax incentives.

1.2. Methodology

To deliver the research objectives, a mixed methodology approach was adopted, incorporating both qualitative and quantitative methods. The qualitative research involved reviewing existing literature on tax incentives in the extractive sector, focusing on studies related to Mozambique and other developing countries, through academic research, policy documents, reports from international organizations, and publications from civil society organizations. The quantitative work involved collecting primary and secondary data.

The primary data were collected through semi-structured surveys and analysis of three mining MNEs and three petroleum MNEs operating in Mozambique. The secondary data were collected from companies' financial reports, Extractive Industry Transparency Initiative (EITI) reports, Mozambique Auditor General reports, IMF reports, World Bank reports and databases, OECD reports and papers, and INE databases.

The population of the study consists of all mining and petroleum MNEs operating in Mozambique, and the sample was chosen through a convenience sampling method - a quantitative research sampling strategy that involves selecting participants based on their accessibility and availability to the researcher, using three (3) selection criteria: (i) being a petroleum or mining company, (ii) being a beneficiary of tax benefits or incentives under a concessionaire contract, investment law, Mining or Petroleum Law, Tax Benefits Code (TBC) or another tax-specific law, and (iii) investment dimension of the project.

Kenmare Moma Mining (KMML), Montepuez Ruby Mining (MRM), and Vulcan Minerals Mozambique (VMM) were selected in the mining sector, and Sasol Petroleum Temane (SPT), Mozambique Rovuma Venture (MRV), and Total E&P Mozambique Area 1 (TEPMA 1) were sampled in the petroleum sector.

Additionally, key public institutions were surveyed: the Ministry of Mineral Resources and Energy (MIREME), National Mining Institute (INAMI), National Petroleum Institute (INP), Ministry of Economy and Finance (MEF), and Mozambique Revenue Authority (AT), and their respective actors were interviewed to gather a wide range of information from differing profiles and perspectives on the impact of tax benefits on internal revenue mobilization and policy making. The table 1 summarizes the list of institutions inquired.

Table 1: Surveyed Companies and Institutions

Companies inquired			
N.	Mining Companies	N.	Oil and Gas Companies
1	Kenmare Mining	1	Sasol Petroleum Temane
2	Montepuez Ruby Mining	2	TotalEnergies EP Rovuma Area 1
3	Vulcan Minerals Mozambique	3	Mozambique Rovuma Venture
Institutions Interviewed			
1	Deputy Nacional Director - Public Policy Directorate		MEF
2	National Director - Planning and Cooperation		MIREME
3	Deputy General Director		INAMI
4	Director of Economic Studies		INP
5	General Coordinator of Extractive Taxation Unity		AT

1.3. Research Limitations

To carry out the study, pre-selected companies and institutions were surveyed, as illustrated in table 1, however none of the companies responded to the request, except public institutions, with emphasis on AT and INP. Therefore, the research only relied on financial reports and other information available on their websites, facing the following limitations:

- For some companies, the financial reports presented are consolidated financial results, which do not allow analyzing the individual performance of the resident entity, nor do they have reports of detailed information on employment, social investments, and the volume of transactions with Mozambican-owned or registered companies.
- The information contained in the Extractive Industry Transparency Initiative (EITI) reports does not provide detailed data on the jobs generated by each project/company, only aggregated values for all companies included in the report. Furthermore, the EITI report only presents contributions to training and institutional capacity building and social projects of the petroleum MNEs, without mentioning any contribution from mining MNEs.
- Disaggregated data on tax benefits granted to the projects under the study were not made available by the competent authorities, which would allow more detailed analysis.

2. Literature Review

2.1. Concept of Tax Benefits

There is no meaningful difference between tax benefits and tax incentives. The tax benefit is a broader concept than tax incentive, and both are related to the elimination or reduction of taxes; therefore, a tax incentive is a kind of tax benefit. Therefore, we consider the same meaning for both concepts in this research. In Klemm (2010)^[1], tax benefits are defined as measures that provide a more favorable tax treatment for certain activities or sectors compared to what is granted to the general industry, or as special provisions that allow for exclusions, credits, preferential tax rates, or deferral of tax liability. Typical tax incentives in developing countries include tax holidays, investment tax credits, investment allowances, accelerated depreciation, and reduced tax rates. Tax benefits can take many forms, such as tax holidays for a limited duration, current deductibility for certain types of expenditures, or reduced import tariffs or customs duties.^[2]

Tax incentives can also be defined in terms of their effect on reducing the effective tax burden for a specific project^[3]. This approach compares the relative tax burden on a project that qualifies for a tax incentive to the tax burden that would be borne in the absence of a special tax provision. This approach is useful in comparing the relative effectiveness of different types of tax incentives in reducing the tax burden associated with a project.^[4]

At another level, it can be difficult to distinguish between provisions considered part of the general tax structure and those that provide special treatment. This distinction becomes more important when countries become limited in their ability to adopt targeted tax incentives. For example, a country can provide a 10% corporate tax rate for income from manufacturing. This low tax rate can be considered simply an attractive feature of the general tax structure as it applies to all taxpayers (domestic and foreign) or it can be seen as a special tax incentive (restricted to manufacturing) in the context of the entire tax system.

[1] Klemm, A. (2010), "Causes, benefits and risks of tax incentives", International Tax and Public Finance.

[2] DESIGN AND ASSESSMENT OF TAX INCENTIVES IN DEVELOPING COUNTRIES: https://digitallibrary.un.org/search?ln=en&p=of+tax+incentives+in+developing+countries&f=&action_search=Search&c=Resource+Type&c=UN+Bodies

[3] This concept is very important in Mozambique context, where tax incentives are driven to attract Direct Foreign investment through specific project contract.

Tax benefits are also economic spending or tax expenses. A tax benefit is a tax expense, strictly speaking, in the case of a situation subject to taxation, in quantitative terms, as an indirect substitute for direct public expenditure, translated into uncollected tax revenue. For the beneficiary, it is equivalent to the perception of a subsidy or public subsidy in cash, attributed to them with political, economic, social, cultural objectives, etc.

1.2. Classification and Types of Tax Benefits

In tax cuts in a broad sense, we can distinguish the structural tax cuts inherent to the standard taxation and tax benefits or exceptional relief from taxation rule. Therefore, tax benefits in a broad sense encompass static tax benefits, aimed at already accomplished situations (e.g., Churches, Cooperatives, etc.) and the dynamic tax benefits, that is, stimuli, incentives or fiscal promotion measures intended to influence recipients' future behaviors (e.g., to encourage investment, savings, exports, etc.).

As mentioned previously, dynamic benefits are also called tax incentives, however, not every type of tax benefit is a tax incentive. In current language, these expressions are considered synonymous, however, in strict terms they are not.

The tax incentive, as the word “incentive” suggests, should motivate economic subjects towards adopting a certain behavior, which is its reason for being, being the characteristic that fundamentally distinguishes the tax benefit from the tax incentive.

Sá Gomes, understands that the most correct expression to cover both situations will be tax benefits in the broadest sense, reaching the conclusion that, a given figure can be conceived as a tax incentive and in reality be a tax benefit and vice versa; because the tax incentive acts *ex ante*, at the moment before the verification of the behavior that is intended to be carried out in the future and, the tax benefit in turn, acts *ex post*.

[4] H. Zee, Janet Gale Stotsky and Eduardo Ley, “Tax Incentives for Business Investment: A Primer for Tax Policy Makers in Developing Countries”, International Monetary Fund (Washington, D.C., IMF, 2001).

The typology of tax benefits can be made according to their nature common to all taxes or specific to any of them and according to Klemm^[6] can take the two forms, a profit-based tax incentives or cost-based tax incentives, namely:

2.2.1. Profit-based Tax Incentives

a) Tax holidays

Temporary exemption of a new firm or investment from certain specified taxes, typically at least corporate income tax. Sometimes administrative requirements are also waived, notably the need to file tax returns. Partial tax holidays offer reduced obligations rather than full exemption.

b) Reduced tax rates

Reduction in a tax rate, typically the corporate income tax rate, Royalties, and others.

c) Special Economic Zones

Geographically limited areas in which qualified firms can locate and thus benefit from exemption of varying scope of taxes and/or administrative requirements. Zones are often aimed at exporters and located close to a port. In some countries, however, qualifying companies can be declared “zones” irrespective of their location, such as Industrial Free Zone (IFZ) and Especial Economic Zones (EEZ).

d) Exemptions from various taxes

Exemption from certain taxes, often those collected at the border such as tariffs, excises, and VAT on imported inputs. Financing incentives: Reductions in tax rates applying to providers of funds, e.g., reduced withholding taxes on dividends. Now, not every type of exemption can be qualified as a tax benefit, as, sometimes exemptions are used for technical reasons, to avoid double taxation, forming part, in this case, of the normal taxation regime, such as tax credit for international double taxation.

[6] <https://www.imf.org/external/pubs/ft/wp/2009/wp0921.pdf>

2.2.1. Cost-based Tax Incentives

a) Accelerated depreciation

Depreciation at a faster schedule than available for the rest of the economy. This can be implemented in many ways, including a higher first year depreciation allowances, or increased depreciation rates. Tax payments in nominal terms are unaffected, but their net present value is reduced, and the liquidity of firms is improved.

b) Investment allowance

Deduction of a certain fraction of an investment from taxable profits (in addition to depreciation). The value of an allowance is the product of the allowance and the tax rate. Unlike a tax credit, its value will thus vary across firms unless there is a single tax rate. Moreover, the value is affected by changes to the tax rate, with a tax cut reducing it.

c) Investment tax credit

Deduction of a certain fraction of an investment from the tax liability. Rules differ regarding excess credits (credits more than tax liability) and include the possibility that they may be lost, carried forward or refunded.

d) Longer loss carryforward

The general tax code usually allows operating losses to be carried forward to offset taxable income in a future year, with a limit on the loss carryforward period. The large, upfront costs involved in petroleum and mining mean that a longer loss carryforward period may be appropriate. This reduces tax revenues where losses that would have otherwise expired can continue to be carried forward to reduce taxable income.

e) Others – Fiscal Stability

A legal guarantee that part of or all fiscal terms will not change adversely for the duration of the investment, or a shorter period, depending on how the clause is designed, to ensure economic and financial feasibility.

In Extractive Industry tax incentives (detailed in table 2) may be found in three types of legal instruments: (i) General tax income code, (ii) Mining or Petroleum laws, (iii) The petroleum and mining specific tax laws, and (iv) petroleum and mining contracts that include project-specific fiscal terms. There are two additional potential legal instruments that may contain Petroleum and mining tax incentives. These are Double Taxation Agreements (DTAs) and national investment laws. DTAs are bilateral or multilateral agreements between countries that set out which country has the right to collect tax on different types of income, preventing companies from being taxed twice for commercial activities that occurred between two signatory States, known as double taxation. Therefore, DTAs defines under what conditions each country can tax certain cross-border income (such as dividends and interest) and what rate. Mozambique has signed 8 DTAs with: South Africa, Portugal, Mauritius, United Arab Emirates, India, Italia, Botswana, Vietnam.

Table 2: Petroleum and Mining Tax Incentives (Summary)

Petroleum and Mining Fiscal Instruments	Corresponding Tax Incentives
Tax on Income (e.g., corporate income tax, resource rent taxes, withholding taxes)	<ul style="list-style-type: none"> Income tax holiday Accelerated depreciation. Investment allowance/tax credit Longer loss carry-forward. Withholding tax relief on interest (expense dividends, services, e.g., management fees)
Taxes on Production (e.g., mineral and petroleum royalties)	<ul style="list-style-type: none"> Reduced royalties Royalty holidays Sliding-scale royalties
Tariffs on imports and exports (e.g., tariffs on import of capital inputs)	<ul style="list-style-type: none"> Imports exemptions Export processing zones (EEZ, IFZ, others)
Others	<ul style="list-style-type: none"> Stabilization of Fiscal Terms

2.3. Behavioral risks of tax Incentives

Tax incentives may provide an additional motivation for investors to engage in Base Erosion and Profit Shift (BEPS) practices. The OECD BEPS refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax. The use of tax incentives may make government revenues more vulnerable to these BEPS practices than if the general tax treatment applied.

According to IGF - OECD report^[6] the Profit-based Incentives such as Income tax holidays may trigger behaviors such as: (i) high grading^[7], resulting in much higher amount of tax relief that originally envisioned by government, mostly occur when the tax holiday is time-limited. (ii) abusive transfer pricing, resulting profits shift to the preferred activity located in preferential tax regimes jurisdictions. The Withholding tax relief may allow investors to engage in (i) excessive interest deductions, and (ii) inflated management charges.

Table 3: Tax Incentives Risk Behaviors

Tax Incentive	Potential Behavioural response	Risk
Income Tax holidays	Investors may increase their income during the tax-free period by speeding up the rate of production and shifting the profits offshore	High
Export processing zones (EPZs)	EPZs may set up a competing fiscal regime between the mineral processing facility and mine. In response, investors may seek to reduce their taxable income by selling their mineral production at a below-market rate to its related party, which is subject to a lower rate of tax in the EPZ	
Royalty-based incentives	Investor may shift revenues into the tax-free period, like the response to a tax holiday. A sliding-scale royalty may encourage tax planning strategies to avoid falling into a higher royalty bracket	
Fiscal stabilization assurances	Fiscal stabilization does not trigger a specific behavioural response, but combining incentives with excessive use of broad and long-term fiscal stability provisions will magnify the adverse impact of tax incentives, including the unintended consequences, by potentially cutting off government's ability to correct mistakes and unexpectedly large revenue losses	
Withholding tax relief on interest and services	Investors may increase the amount of interest expense and charges for administrative service paid to foreign affiliates, usually in low tax jurisdictions	Medium-High
Cost-based incentives (e.g., accelerated depreciation)	Investors may inflate their capital expenditure (i.e. money spent on assets, building and equipment) above what is needed in order to maximise the tax benefit. This may be actuality ("gold plating") or merely on paper in related party transactions. Note that the investment tax credit are higher risk than other cost-based incentives. If not well designed, such a regime may also encourage companies to export fully depreciated assets to claim further deductions in other mining jurisdictions (i.e., same asset may cycle through multiple countries).	Medium
Import Exemptions	investors may increase the cost of machinery and equipment purchased from related parties to increase their deductible expenses	

[6] Tax Incentives in Mining - Minimizing risks to Revenue: <https://www.oecd.org/tax/beps/tax-incentives-in-mining-minimising-risks-to-revenue-oecd-igf.pdf>

[7] Involves companies increasing the rate of extraction or preferentially extracting high-grade ore compared to what they would otherwise do absent tax considerations.

In Exporting Process Zones, there is an incentive for the company to shift profits from the mine to the processing facility to reduce its overall tax bill. The most obvious way to do this is by underpricing the intermediate mineral product sold to the processing facility for smelting and refining, thus reducing the company's taxable income.

For import exemptions, the investors may pay the retail price for older equipment and machinery that has been used by an affiliate company in operations elsewhere and should therefore be purchased at a lower price that reflects the reduction in the value of the asset, particularly due to wear and tear. Paying a higher markup on the cost of equipment and machinery purchased through a corporate services hub located in a low- or zero-tax jurisdiction (See table 3 for detailed potential behavior response).

According to Tax Justice Network , among others, tax incentives are source of illicit financial flows in Extractive Industry due to complex value chain, lack of transparency in contracts, through abusive transfer pricing and DTAs, and poor governance of tax incentives and their risk behaviors.

2.4 . Tax Competition and Effectiveness of Tax Incentives

According to OECD (2022)^[9], the main reason of the popularity of tax incentives in developing countries is the attracting the foreign investment that could bring capital and technology to a host country and promote economic growth and employment. While tax is one of the many factors that determine multinational corporations' investment location, governments might prefer to use a more visible and readily available tool like tax holidays rather than making efforts to improve the overall investment climate such as macroeconomic stability and adequacy of public infrastructure. In that sense tax incentives are all about tax competition—how can a country attract investment that otherwise would have gone to a different region or country.

[9] [Tax Incentives in Mining - Minimizing risks to Revenue:https://www.oecd.org/tax/beps/tax-incentives-in-mining-minimising-risks-to-revenue-oecd-igf.pdf](https://www.oecd.org/tax/beps/tax-incentives-in-mining-minimising-risks-to-revenue-oecd-igf.pdf)

Though, their cost effectiveness has been challenged by fiscal experts for many years. In addition to foregone revenue, tax incentives can incur distortions in resource allocation, complicate tax administration and provide opportunity for corruption and rent seeking. The empirical evidence on tax incentives, though, is very sparse and inconclusive. The question is then why governments have made use of such a seemingly ineffective and inefficient? One immediate answer in the practical context of policymaking is that unlike budget expenditure, tax breaks do not require a new source of revenue to finance an activity.

Tax revenue in developing countries is generally low so that their governments operate a tight budget in financing infrastructure and public education. Instead of introducing a new spending item, governments may find it convenient to choose a tax expenditure that can even be heralded as a 'tax cut'^[10]. There are other reasons for companies to engage in cross-border investments: (a) to exploit natural resources; (b) to facilitate the selling or production of goods or services in a particular market; and (c) to take advantage of favorable conditions in a particular country (such as relatively low wages for qualified workers) to produce goods for export (either as finished products or as components)^[11].

Some studies demonstrate that Tax Benefits are not considered a condition to attract foreign investors. Now, the OECD carried out a questionnaire to several investors in several developing countries and they demonstrated that they would have invested, even without the existence of tax incentives, presenting the redundancy indices regarding the importance of tax incentives for such investors, noting that in Guinea, Rwanda, Tanzania and Uganda, more than 90% of Investments, it seems, would have been made even without the incentives. The weight of the evidence also indicates that tax considerations are far less influential than are other economic and political factors in the location of industry (See Figure 1).

[10] See Zee et al. (2002) for a review of the past empirical studies and James (2013) for recent econometric evidence. Both papers recommend a cautious approach in implementing tax incentives, stressing the importance of general investment climates in enhancing their efficacy.

[11] DESIGN AND ASSESSMENT OF TAX INCENTIVES IN DEVELOPING COUNTRIES:

<https://digitallibrary.un.org/search?>

[In=en&p=of+tax+incentives+in+developing+countries&f=&action_search=Search&c=Resource+Type&c=UN+Bodies](https://digitallibrary.un.org/search?In=en&p=of+tax+incentives+in+developing+countries&f=&action_search=Search&c=Resource+Type&c=UN+Bodies)

Tax Benefits are considered effective when they achieve the objectives set out in the priori by the State with low social costs. However, this does not always go as planned, as there are cases in which such incentives do not correspond to the objectives set, increasing costs. Many developing countries do not offer attractive general investment conditions for most multinationals companies, often due, for example, to precarious infrastructures, macroeconomic instability, unclear property rights, weak judicial systems, among others. In these circumstances, Tax Benefits do not counterbalance the precarious conditions that these countries present, making them largely ineffective. The costs depend on:

- **Net losses of public revenue** - public revenue falls if tax incentives are redundant or create leakages and tax abuse. However, investments and net additional jobs may recover some of the lost revenue.
- **Administrative and compliance costs** - may increase due to incentives taxes, especially if they are complex or create revenue opportunities rent seeking and corruption.
- **Shortage of public funds** - it is often forgotten that \$1 in revenue tax has a greater social value than \$1 in private income because it is the greater value of public expenditure that finances and justifies the transfer of resources from the public sector to the private sector through distortionary taxes.
- **Distorted allocation of resources** - discrimination for and against others investment implies that taxes, not productivity differences, determine the allocation of resources. This distortion reduces average productivity and reduces per capita income.

Therefore, the Tax Incentives to be effective, it is necessary to consider how they are designed and governed to achieve the required efficiency and effectiveness, for this the Tax incentive policies involve three main issues, namely: (i) Choice of tax instrument to encourage investment, (ii) Eligibility criteria used in investment selection (incentives need to be well targeted, taking into account the investments that the government intends to attract); (iii) Monitoring and reporting during different stages of the product lifecycle tax incentive (serves to prevent cases of tax abuse).

Figure 1: Locational and Behavioral Objectives of Tax Incentives

Objectives	Attract New Investment	Grow Strategic Sectors	Create Jobs	Promote R&D & innovation	Promote Exports
Objective Type	Locational Objectives (Attracting New Firms)		Behavioral Objectives (Shifting Firm Behavior)		
Incentive Aim	Raise firms' expected level of profitability • Effect on profit • Transparency/clarity		Lower user cost of specific behavior • Effect on input cost • Effect on output cost		
Incentive Success	New firms establish in the country/region due to incentives		Firms use inputs more/produce more output due to incentives		
Incentive Failure	Firms receiving incentives would have located there anyway		Firms receiving incentives would have used the same inputs/same outputs anyway		

Source: World Bank Investment Climate Report ^[12]

[12] <https://documents1.worldbank.org/curated/en/180341583476704729/pdf/Evaluating-the-Costs-and-Benefits-of-Corporate-Tax-Incentives-Methodological-Approaches-and-Policy-Considerations.pdf>

[13] 1990 republic of Mozambique constitution. <https://archive.gazettes.africa/archive/mz/1990/mz-government-gazette-series-i-supplement-dated-1990-11-02-no-44.pdf>

3. Tax Incentives in Mozambique

3.1. Tax Benefits legal Framework

The attraction of FDI through granting tax incentives in Mozambique emerged in early 1990s as part of profound economic reforms that began in the late 1980s. The first step was the approval of the Law No. 3/93 of June 24 – the first private investment generation law, under Economic Rehabilitation Program (PRE) and New Republic of Mozambique Constitution^[13], aiming to adopt a more objective, open economic policy that favors greater participation, complementarity, and equal treatment of national and foreign investments.

In this context, was approved the Tax Benefits Code Decree No. 12/93, of July 21, whose repeal resulted from the approval of Decree 16/2002, of June 27, where in addition to this, the Decree n ° 16/98, of April 16, Decree n ° 73/99, of October 12, articles 23 to 28 of Decree n ° 62/99, of September 21, paragraph d) of article 5 of Decree n ° 14/93, of July 21 were also repealed. In 2009, were approved the Law 4/2009, of January 12, TBC, which repealed the Decree 16/2002, of June 27. The TBC defines tax Benefits as measures that imply the exemption or reduction of the amount payable from taxes in force, with the aim of favoring activities of recognized public interest, as well as encouraging the economic development of the country.

Specific tax benefits cover commerce and industry in rural areas, investment in basic infrastructure, agriculture, manufacturing and assembly Industry, agriculture and fishing, hotel and Tourism, science and Technology Parks, Large Projects, Rapid Growing Zones, SEZs and IFZs, consisting of:

(i) Taxable income deductions – 10% deduction from taxable income for modernization and introduction of new technologies investment costs, a 5% deduction for professional training costs and 110% taxable income tax deduction for other tax cost if the business is in Maputo City and 120% for other provincial cities, and 50% for the acquisition of heritage and other art.

(ii) Tax deductions – these vary according to the project.

(iii) Accelerated amortizations and reintegration – 50% increase in the reintegration of new properties used in the pursuit of the investment project.

(iv) Tax credit for investment – 5% tax credit of effective total investment during 5 years in Maputo City, and 10% for investment made in other provinces.

(v) Exemptions – on Customs duties, VAT, and ICE on K class Imports according Customs tariffs, on IRPC rate in EEZs and IFZs.

(vi) The Tax rate reduction and Tax deferral – on IRPC rate on basic infrastructures creation, fishing and Agriculture, Technology, and science parks, SEZs and IFZ. Usually are temporary between 5 to 15 years and some are permanent.

Tax benefits are granted under the Investment Law no. 3/93 of June 24 and the respective regulations, but with due exceptions, specifically for the benefits provided under concession contracts. The Investment Law was recently updated through Law No. 8/2023, of June 9.

In accordance with Decree 43/2009, of August 21 (Regulation of the Investment Law 3/93 of 24 June), the Planning and Development Minister (Actual Minister of Economy and Finance – MEF) is responsible for coordinating investment processes, under the responsibility of APIEX – Investment and Export Promotion Agency (former CIP and GAZEDA). Also, Ministers, Governors and Municipal Councils ensure the necessary inter-institutional coordination and implementation of investment projects. (More details, see annex 3)

The competence to decide on investment projects depends on the value of the project, scales from 1.500.000,00MT authorized by Province Governor to over 13.500.000,00MT authorized by the council of Ministers. It is up to the APIEX General Director to approve investment projects under the SEZ and IFZ, and depending on the complexity, may submit the proposals for MEF for joint decision. Competes to the Council of Ministers, upon proposal from the Investment Council, to create ZFIs and ZEEs. The recognition of tax benefits is carried out depending on the nature of the tax benefit in the Customs Services, on import exemption request or in the competent Tax Area (DAF or UGC), with the order and the terms of authorization, for other tax benefits.

The tax benefits granted under the Investment Law are not applicable to investments made or to be made in prospecting, research, production of oil and gas areas, and the extractive industry of mineral resources. However, the provision above does not affect the application of this Law to processing, marketing and transportation of mining and/or petroleum products, when carried out by entities that are dedicate themselves exclusively to their development. Therefore, the tax benefits for extractive industry are granted only according to contracts or specific fiscal regimes.

The tax benefits legal framework is clear, and the governance is not complex, because the law and regulations are simple and few, but there is lack of transparency in granting process as well as monitoring and evaluation. Once there are multiple entities granting and administering investment tax incentives from central to provincial level with no balance and checks.

3.2. Legal and Fiscal Framework for Petroleum MNEs

The Mozambican government approved in 2000, the first Natural Gas project in Pande and Temane^[14], Inhambane province, with the South African petrochemical company Sasol, signing a Production Agreement of Petroleum (PPA) Contract, under Law 3/81 of 3 October. The Sasol Petroleum Temane (SPT), holds 70% of the shareholder structure of project, Empresa Nacional de Hidrocarbonetos (ENH E.P), through its subsidiary, Companhia Moçambicana de Hidrocarbonetos (CMH) holds 25% and International Finance Corporation (IFC) holds 5%.

The production and exportation of Natural Gas began in 2004, with the gas purchase and sales contract signed between Sasol Oil (Pty) Lda, as buyer, CMH and SPT, as sellers. The SPT tax incentives were granted under the PPA Contract, Decree 14/82 de December 3 and under Decree 31/90 of December 7, all of them revoked.

SPT PPA grant a mix of profit-based and cost-based tax incentives, since provides 50% reduction in IRPC rate to 17.5% (from 35% industrial contribution rate which later become 32% IRPC), in the first 6 years of commercial production, a 5% Royalty rate, and exemptions on customs duties, VAT and ICE, on income and goods of the Expatriates and accelerated depreciation (see table 4 for detailed SPT tax regime). Also benefits from fiscal stability under the Contract. SPT invested more than USD1.2 billion in capital costs with the Upstream activities and Gas Pipeline construction from the gas field at Pande/Temane in Mozambique to SASOL petrochemical facilities at Secunda in South Africa.

Following that, more two projects for exploration and production Natural Gas contracts were signed in 2006, the Rovuma Basin Areas 1 and 4 Liquefied Natural Gas projects, the first one signed with Anadarko Mozambique Area 1^[15] (whose participation in the project was ceded to TotalEnergies Rovuma Area 1 in 2019) in form of EPCC (Exploration and Production Concession Contract), at the moment Total E&P Mozambique Area 1 Limited (TEPMA 1 -Operator) holds– 26.5% of the shareholder structure, Mitsui E&P Mozambique Area 1 Limited holds 20%, ENH, E.P holds 15%, BPRL Ventures Mozambique B.V. holds 10%, Beas Rovuma Energy Mozambique Limited holds 10%, ONGC Videsh Limited holds 10% and PTTEP Mozambique Area 1 Limited holds 8.5 %.

[14] signed on 26 October 2000 by Sasol, Empresa Nacional de Hidrocarbonetos (ENH), Companhia Moçambicana de Hidrocarbonetos (CMH) and the Government of Mozambique with the aim of developing and producing gas resources from Pande and Temane Deposits, such as part of the “Natural Gas from Mozambique to South Africa” Project. <https://www.inp.gov.mz/pt/Pesquisa-Producao/Areas-de-Pesquisa-e-Producao-Actuais/Area-PPA-Pande-Temane>.

[15] Following the 2nd public tender for the concession of areas for research and production of hydrocarbons, the companies Anadarko Mozambique Area 1 and Empresa Nacional de Hidrocarbonetos were awarded Area 1 in the offshore of the Rovuma Basin. This Area is located in the northern part of the Province of Cabo Delgado, in shallow to very deep waters. The Concession Contract for areas for Hydrocarbon Research and Production (CCPP) was signed on December 20, 2006 and with an effective date of February 1, 2007. <https://www.inp.gov.mz/pt/Pesquisa-Producao/Areas-de-Pesquisa-e-Producao-Actuais/Rovuma-offshore-Area-1>

Another one was signed with ENI EAST AFRICA^[16], in form of EPCC, now Mozambique Rovuma Venture (MRV a Joint Venture between Eni S.p.A 35.7%, ExxonMobil 35,7%, CNPC 28,6%) holds 70% in project shareholder structure, ENH, E.P holds 10%, KOGAS holds 10% and GALP holds 10 %. For both the tax incentives were granted under the EPCC and Law 3/2001, of February 21 and Decree 16/2002, de June 27. In 2017, Coral South project moved to Final Investment Decision (FID), after signing the Purchase and Sale Agreement^[17], for dedicated sales with BP Poseidon.

The MRV Coral South project, after completing of 3.4 mtpa Coral South Floating LNG (FLNG) construction, with an investment of USD7 billion, began commercial production of LNG in October 2022 and in November of the same year carried out the first export of LNG. Recently, MRV has submitted to the Government a development plan for approval of the Coral North project valued around USD9 billion. TEPMA 1 is the operator of the Area 1 project, after the Final Investment Decision (FDI) announcement for the Golfinho/Atum on June 18, 2019, the production was expected to start production in 2024, but the Force Majeure declared stopped the development phase due to insecurity caused by the insurgency attacks in Afungi, north of the Province of Cabo Delgado. It is expected to be lifted in the second half of 2024, once all the security issues are settled.

The Area 1 and 4 Rovuma Basin projects, also have a mix of cost-based and profit-based tax incentives, their fiscal and contractual regime are quite similar, except the rates of the cost recovery mechanism. In practice, they are exempted from customs duties, VAT, and ICE on the importation of the petroleum operations equipment, have an accelerated depreciation mechanism for Exploration and Operational Capital Costs. A 75% reduction in IRPC for 8 years after the start of commercial production and exemption and 50% reduction on SISA. For both the royalty rates depends on the depth level of the oil or natural gas deposits, however due to the greater depth, which is between 1500 and 2600 meters, the applicable royalty rate is minimum 2% on Liquefied Natural Gas (detailed information on table 5 and 6).

[16] Following the 2nd public tender for the concession of areas for research and production of hydrocarbons, to the companies Eni East Africa and Empresa Nacional de Hidrocarbonetos, they were awarded Area 4 in an offshore environment in the Rovuma Basin. This Area is located in the northern part of the province of Cabo Delgado, in waters whose depth varies from 1500 to 2600 meters. The due Concession Contract for Petroleum Research and Production (CCPP) was signed on December 20, 2006.

[17] Eni, through Eni East Africa S.p.A., and its partners in the Area 4 Block in Mozambique, Galp, Kogas and ENH, signed today a binding LNG sale agreement with BP Poseidon Ltd., a company entirely controlled by BP Plc, for the sale of the Liquefied Natural Gas (LNG) produced by the Coral South Floating LNG facility, to be installed offshore Mozambique. <https://www.eni.com/en-IT/media/press-release/2016/10/eni-and-its-partners-in-area-4-offshore-mozambique-sign-with-bp-a-binding-agreement-for-the-sale-of-lng-produced-in-coral-south.html>

Table 4: SPT Fiscal Regime

Project	Tax Incentives -SPT		
	Exemptions	Reductions (IRPC and allowances)	Royalties
Sasol Petroleum Temane	<p>(According to Decree 14/82, December 3)</p> <ul style="list-style-type: none"> Import Exemptions - Customs Duties on goods imported for Petroleum Operations, exemption on the export of goods that remain the property of the Contractor when their disposal has been authorized by the regulatory authority. Other Exemptions <ul style="list-style-type: none"> Urban Property Contribution. Obligation to withhold any amount as tax in relation to the payment of dividends or interest. General Customs duties and fees on oil exports. General Customs duties and fees on the transport and export of Natural Gas. The above exemptions are applicable to Subcontractors undertaking Petroleum Operations. Exemption on Expatriate - The obligation relating to tax on income from work – Section A of the income tax code, or any other tax of the same nature that is levied on the income from work of these expatriate personnel. General Customs Duties and Emoluments on personal and domestic goods of these expatriate personnel and their dependents imported into the Republic of Mozambique upon first arrival, these General Customs Duties and Emoluments on such goods becoming due if their sale takes place in the Republic of Mozambique is a person who is not exempt from these rights. Expatriate Personnel may export from the Republic of Mozambique, free from General Customs Duties and Fees, the same personal and domestic goods that they imported. For the purposes of clause above, personal and household goods imported into the Republic of Mozambique by expatriate personnel of the contractor and their subcontractors are considered to be imported on first arrival, the importation of which occurred within a period of 6 (six) months from the date of date on which these expatriate personnel accepted employment or began working in the Republic of Mozambique with links to oil operations. 	<ul style="list-style-type: none"> Industrial contribution under the terms of the Income Tax Code approved by Decree no. 3/87, of 30 January. IRPC Reduction - 17.5% (seventeen-point five percent) for a period of 6 (six) years from the date on which commercial production began, and the rate of 35% (thirty-five percent) until the end of production from the field, a rate of less than 35% (thirty-five percent) Industrial contribution of general application. Accelerated Depreciation - 100% (one hundred percent) in relation to expenses in research operations, including the drilling of research and evaluation wells. 25% (twenty-five percent) in relation to investment expenses in development and production operations. 	<ul style="list-style-type: none"> 5% (five percent) in relation to condensed natural gas produced and extracted and sold to third parties, in accordance with article 9; All-Natural Gas that is paid by these third parties under the "Take-or-Pay" provisions contained in the Natural Gas sales contract, but not withdrawn, will not be considered as Natural Gas produced and sold to this third party for the purpose of calculating tax on oil production. All Natural Gas that is collected by such third parties as make-up gas (under the terms of the Gas sales contract) will be considered as Natural Gas produced and sold to that third party for the purpose of calculating production tax for the purposes of calculating tax on oil production on make-up gas, it will be assessed at the price of Natural Gas determined in accordance with article 9, in relation to the month in which this make-up gas (make-up gas) - up-gas) is delivered to these third parties;

Table 5: Mozambique Rovuma Venture Fiscal Regime

Project	Tax Incentives - MRV			
	Exemptions	Reductions (SISA and IRPC)		Royalties
Mozambique Rovuma Venture	<ul style="list-style-type: none"> Import Exemptions <ul style="list-style-type: none"> Customs duties relating to import of goods intended for be used in Company's Petroleum Operations, vehicles and others imported supplies, excluding light vehicles for transport of passengers from in accordance with paragraph a) of article 44 from the CBF (Decree 16/2002, June 27). Customs duties and other duties customs and tax duties import time supply of goods for use in Petroleum Operations, including but not limited to probes drilling vessels, seismic vessels, machinery, equipment, aero ships, and vessels in accordance with paragraph b) of article 44 of the CBF (Decree 16/2002, June 27). Customs duties on exportation of the goods to which the previous bullet once lost its usefulness for Operations Oil companies, according to the paragraph c) of article 44 of the CBF Customs duties and other customs duties relating to export of Oil Produced in Mozambique, in accordance with paragraph d) of article 44 of the CBF (Decree 16/2002, June 27). VAT on imports and exports referred to in paragraphs an interior as provided in the VAT Code, approved by Decree no. 51/98, of 29 September, in accordance with paragraph e) article 44 of the CBF. IRPS Personal and Stamp duty Exemptions <ul style="list-style-type: none"> Expatriate personnel and their subcontractors, of all tax that is levied on or is related to the income of that non-resident personnel of the dealership or its subcontractors or any other tax similar nature that affects their income from such personnel. Customs and other duties charges due on import and Export of personal goods and domestic maid for expatriate staff and their dependents. Stamp duty upon incorporation of the company and changes to the company's share capital for a period of 5 years from the start date of production. 	<ul style="list-style-type: none"> SISA Reduction <ul style="list-style-type: none"> 50% of the fee SISA in property acquisition purchased in first 3 years date of investment authorization or start of operations. 	<ul style="list-style-type: none"> IRPC rate Reduction <ul style="list-style-type: none"> 25% IRPC rate reduction of the net income from any investment made continuously to a deposit or field, started before the end of 2010 and that production has starting at a future date, for a period of 8 years. After the first eight years calculated from of the first year of commercial production of a such field or deposit and to other fields in production begins during and after the year 2010, the IRPC will be in the rate of 32%. Accelerated Depreciation <ul style="list-style-type: none"> 100% Depreciation rate for Exploration and Operational costs 25% Depreciation rate for Development costs 	<ul style="list-style-type: none"> 5% Relative to natural gas produced from deposits located in the area situated onshore. 4% Relative to natural gas produced in deep waters less than 100 m. 3% Relative to natural gas produced from deposits located offshore of equal or greater depth at 100m and less than 500m and or greater than 100m and less than 500m. 2% Relative to natural gas produced offshore depth equal to or greater than 500m.

Table 6: Total Energies Rovuma 1 Fiscal Regime

Project	Tax Incentives - TEPMA 1			
	Exemption	Reductions (SISA and IRPC)	Royalties	
Total Energies Rovuma Area 1	<p>• Import Exemptions - Customs duties relating to import of goods intended to be used in Petroleum operations, vehicles and/or other supplies impose vehicles, excluding light vehicles for passenger transport in accordance with paragraph a) of the article 44 of the CBF (Decree 16/2002, of June 27);</p> <p>• Customs duties and other duties customs and tax duties import time supply of goods for use in Petroleum Operations, including but not limited to such such as drilling rigs, seismic boats, machine river, equipment, aircraft and vessels in accordance with paragraph b) of article 44 of the CBF (Decree 1/2002, June 27);</p> <p>• Customs duties on exportation of the goods to which the previous bullet once lost its usefulness for the Petroleum operations, according with paragraph c) of article 44 of the CBF Customs duties and others customs taxes relating to the export of Oil Produced in Mozambique, in accordance with paragraph d) of the article 44 of the CBF;</p> <p>• VAT on imports and exports referred to in paragraphs previous ones as provided in the VAT Code, approved by Decree No. 51/98, of 29 September, in accordance with the paragraph e) of article 44 of the CBF.</p> <p>IRPS Exemptions on Expats - Expatriate personnel and their subcontractors, of any and all tax that applies with or if relate to income of these non-resident personnel of the dealership or its subcontractors or any other tax of a similar nature.</p> <p>• Customs and other duties charges due on import the first arrival of personal goods personal and domestic expatriate and their dependents.</p> <p>Stampy Duty Exemption - Stamp duty at the time of incorporation of the company and the changes to the share capital of the company for a period of 5 years from the start date of the production.</p>	<p>• SISA Reduction - 50% of the fee of SISA in acquisition in properties acquired in the first 3 years of date authorization from the investment or beginning of operations.</p>	<p>• IRPC Rate reduction - 75% of IRPC net income of any investment made in form continues to a deposit or field, started before the end of 2010 and production begins at a future date, for a period 8 years old.</p> <p>• After the first 8 years calculated from the first year of commercial production of such field or warehouse and for other fields in which the production begins during and after the year 2010, the IRPC will be the tax on the net income derived from petroleum operations of such fields in contract area at a rate of 32% or the rate in force in height 32%.</p> <p>• Depreciation and Amortizations - Accelerated depreciation (100% for exploration and operations costs) and 25% for development costs.</p>	<p>• 5% Relative to natural gas produced from deposits located in the area situated onshore.</p> <p>• 4% Relative to natural gas produced in deep waters less than 100 m.</p> <p>• 3% Relative to natural gas produced from deposits located offshore waters length equal to or greater than 100m and less than 500m.</p> <p>• 2% Relative to natural gas produced in coastal waters depth equal to or greater than 500m.</p>

3.3. Legal and Fiscal Framework Mining MNEs

In 2002, the Mozambique Government and Kenmare Moma Mining Limited (KMML)^[18] signed a contract for prospecting, research, development, and production of Heavy Sands in the areas of Moma, Congolone and Quinga in Nampula Province. The project is divided in two parts, Mining and Processing. The KMML is responsible only for mining activities and Kenmare Moma Processing Limited (KMPL) is the complementary project responsible for processing and separating the heavy sands into zircon, ilmenite and rutile, classified as industrial project located in SEZ^[19] an IFZ.

[18] The contract signed under Law No. 2/86 of April 16 (Mining Law), establishes that KMML has the exclusive right to carry out heavy mineral operations in these areas for 25 years, with the possibility of extension as long as exceeds 15 years. <https://www.inami.gov.mz/images/Contratos/KENMARE%20MOMA%20MINING%20LTD.pdf>.

[19] According to the World Bank in 2008, the modern Special Economic Zone generally includes a "geographically limited, normally physically secure (fenced) area; single management or administration; eligibility for benefits based on physical location within the zone; separate customs area (benefits tax-free) and simplified procedures.

KMML is 20 years contract, benefits from both profit-based and cost-based tax incentives, ranging from 50% of the IRPC rate for a period of 10 years, after the start of production, exemption from customs duties, VAT, and ICE on the import of equipment, machines, and class K material for a period of 5 years. The royalty rate is reduced by 50% compared to actual of 6%. Meanwhile, the complementary part of the project, KMPL, has a specific fiscal regime, that exempts all the taxes and only tax 1% of the financial year turnover. The tax incentives were granted under Law 5/94, of September 3, decrees 53/94 and 3/87 of January 30.

In 2007 the Government signed a Concession contract^[20] Companhia Vale do Rio Doce (later on VALE Moçambique^[21]), actual Vulcan Minerals Mozambique (VMM) for exploration of two types of mineral coal, Thermal coal, and coking coal, in Moatize District, Tete province. The VMM is largest exporter, and the Coal is largest exported Commodity in Mozambique in the last years.

The VMM profit-based and cost-based tax incentives were granted under the Law 3/2001, of February 21 and Decree 16/2002, de June 27, for 25 years contract benefits from exemption of customs duties, VAT and ICE on the import of class K equipment, machinery and other materials, reductions of 25% reduction in the IRPC rate, in the first 5 years of profits and a 50% reduction in SISA, tax allowances on tax losses for 15 years thereafter of the start of production and investment uplifts, special conditions of WHT on services provided by non-resident entities (as summarized in Table 5 above). Only the royalty rate was not covered by any type of incentive, remaining at 3%, in accordance with current legislation (see Table 7).

[20] The contract for coal exploration was signed in 2007 between the Government of Mozambique and the company Rio Doce Moçambique (RDMZ) under Law no 14/2002 of 26 June (Mining Law). The contract provides for a term of 25 years, renewable for the same period. <https://cipmoz.org/wp-content/uploads/2021/01/Vale-decide-Desinvestir-em-Moc%CC%A7ambique-2.pdf>

[21] Vale entered into a binding agreement with Vulcan to sell the Moatize coal mine and the Nacala Logistics Corridor for a total of US\$270 million, comprising US\$80 million at the conclusion of the transaction and US\$190 million from existing business to completion; plus a 10-year Royalty Agreement subject to certain mine production conditions and coal price. Completion of the transaction was subject to compliance with customary conditions precedent, including the approval of the Ministry of Mineral Resources and Energy of Mozambique under the terms of Mining Law No. 20/2014, and the approval of the Government of Mozambique under the terms of the Concession Agreements for the change of control and antitrust. <https://vale.com/pt/w/vale-announces-the-sale-of-its-coal-assets-1>

Montepuez Ruby Mining (MRM) project was not approved under a concession contract, but by simply granting of concession license no. 4703, issued on November 11, 2011, and valid until November 11, 2036, for the exploration of Aquamarine, Granada, Rubi, and tourmaline, in a total area of 34,965.18Ha, located in Nhamanhubir, District of Montepuez in the province of Cabo Delgado. The company is 75% owned by Gemfields Plc and 25% by Mwiriti Lda, and was approved under Mining law no. 14 /2002, of June 26th and Law no. 11/2007, of July 27th (Updates tax legislation, especially relating to mining activity).

However, MRM did not celebrate any contract with the Government, but fulfill tax obligations under Law 11 /2007, of July 27, and other general tax laws, does benefit for any profit-based or cost-based tax incentives, but only general tax incentive on investment, the exemption on customs duties, VAT and ICE on imports of the equipment, machines and K class material by a period of 5 years within the scope of the tax law (Including the TBC), however the actual tax regime, law 15/2017 of December 28, is not applicable to MRM due to the stability clause, since the company chose to continue complying with tax obligations under law 11 /2007, of July 27, therefore the royalty rate applicable is 10% and IRRM is not levied on the project's extraordinary cash flows.

Table 7: Mining MNEs Fiscal Regime

Project	Tax Incentives				
	Exemptions	IRPC Reduction	WHT Exemption	Royalties	
Vulcan Minerals Mozambique	<p>Import Exemptions</p> <ul style="list-style-type: none"> Exemption from customs duties, VAT and ICE on the import of materials construction, machinery and equipment, work vehicles, accessories, used parts and spare parts for the implementation and start of operation of the project for a period of 10 years. Exemption for a period of 25 years from customs duties on the import of goods classified in the class "K" of the customs tariff. Authorization for the temporary import of equipment, work vehicles, utensils, tools, and machines upon provision of a guarantee as established by customs legislation. <p>WHT Exemption</p> <ul style="list-style-type: none"> Exemption from IRPC withholding tax on interest arising from investment loans taken out during the same period. 	<p>IRPC Reduction</p> <ul style="list-style-type: none"> 25% of the IRPC rate, due on distribution of dividends, for 5 years, counting from of the 1st year in which the respective distribution is made. 25% of the IRPC rate, on profits for 10 years, counting from the year in which you make profits. The IRPC rate is 32% (Law 34/2007, of December 31). <p>SISA Reduction</p> <ul style="list-style-type: none"> Reduction by 50%, during the first 3 years of the project counting from the effective date of the contract, of the SISA fee on the acquisition of properties exclusively intended for the implementation and exploitation of project activity. 	<p>WHT Exemption</p> <ul style="list-style-type: none"> Withholding of IRPC, at the rate of 20% on the provision of services for values less than or equal to 1 million dollars Americans, when these are not available on the market national for a period of 5 years from project start. 	<p>Longer Carryforward Loss</p> <ul style="list-style-type: none"> Deduction of confirmed tax losses from taxable profits up to the first 15 years from the start date of production. <p>Investment Allowance</p> <ul style="list-style-type: none"> For 10 years, counting from the beginning of project implementation, consider as costs for purposes of determining the IRPC tax base, the amount corresponding to 150% of the values spent on expenses incurred in the construction and rehabilitation of roads, railways, telecommunications, water supply, electricity, schools, hospitals, and other works when considered to be of public domain and utility. 	The applicable rate is 3% on the value of the mining product commercial, deducting expenses relating to transport and insurance incurred before the sale and are supported by the implementing company.
Kenmare Moma Mining Limited	Exemption of Customs duties ICE, VAT by a 5 year period	<ul style="list-style-type: none"> 50% of IRPC in the first 10 years after the start of the production (normal rate 35%) or investment recovery 15% WHT on non-residents payments 			3% of heavy mineral concentrate
Kenmare Moma Processing Limited (INDUSTRIAL FREE ZONE)	Exemption of Customs duties, VAT and ICE for period of 5 year		1% of sales quarterly gross income, the from the 7th year onwards against		
Montepeuz Ruby Mining	Exemption of Customs duties, VAT and ICE for period of 5 years				10% mineral product value

[22] <https://theconversation.com/developing-countries-would-benefit-from-improved-tax-collection-what-can-help-113126>

4. Effectiveness and Efficiency of Tax Incentives in Mozambique

4.1. Tax Incentives Economic Dynamics

The ability to raise revenues from taxes – called “fiscal capacity” – is a crucial aspect for the functioning of any State. Being able to tax citizens, and collect revenues efficiently, is a cornerstone of state formation and survival. Secondly, greater fiscal capacity implies greater access of the state to resources needed to provide public goods and services. Generally, developing countries are only able to raise a small share of taxes. Typically, they collect between 10% to 20% of GDP. The average in high-income countries are double this, over 40%^[22].

According to the Medium-Term Fiscal Scenario (CFMP)^[23], Mozambique fiscal ratio in the decade 2010 – 2020, has reached around 30%, but more recently following the economic crisis caused by hidden debts scandal and COVID-19 Pandemic has dropped to around 20%, and is expected to remain at the same level until 2026. This fact demonstrates Mozambique's persistent weak fiscal capacity to mobilize tax revenues to finance public goods and services, despite the high tax base provided by MNEs exploring mineral resources.

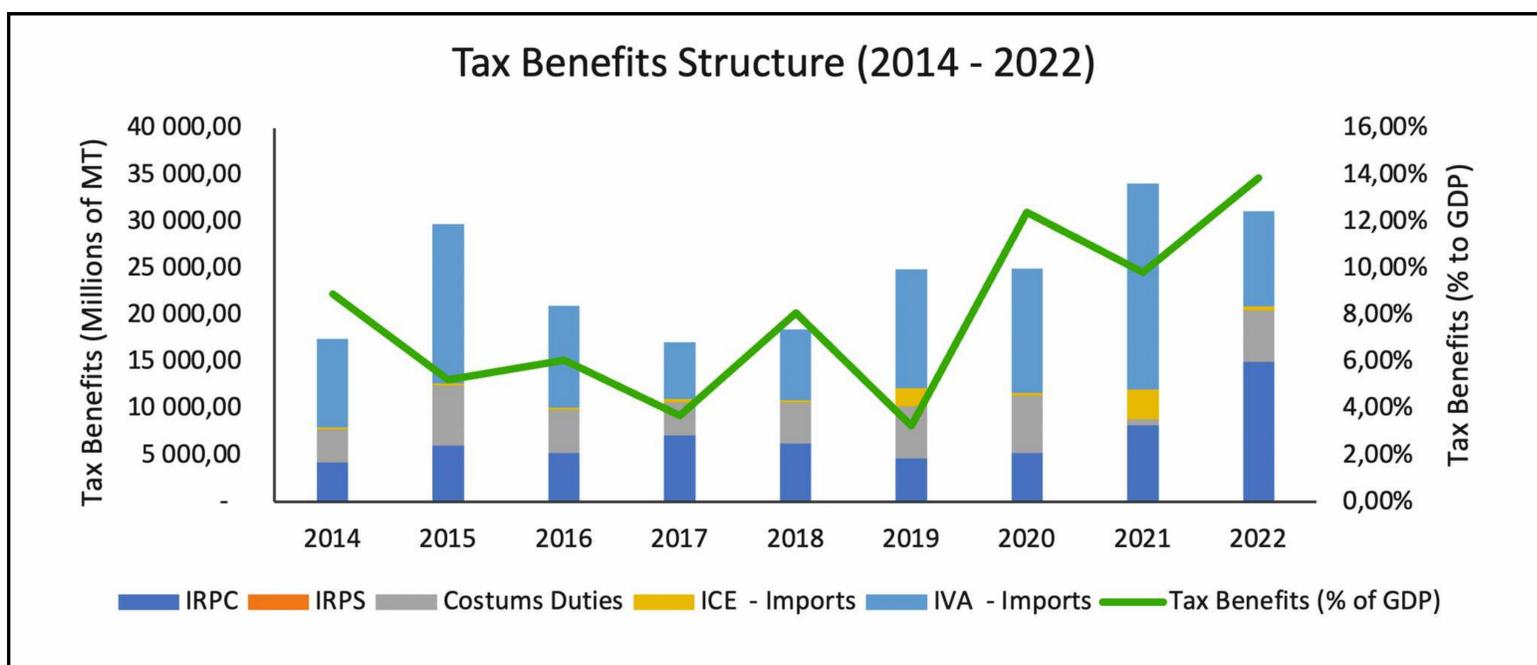
Between 2013 – 2022, the volume of tax revenue losses derived from tax benefits in Mozambique has increased consistently. During that period, was recorded cumulative tax expense of around 218,811.45 million MT an average share of 7.9% to GDP per year. In 2014, tax benefits reached the amount of 17,475.60 million MT, around 8.9% to GDP and in 2022, amounted 31,090.90 million MT around 13.9% to GDP, as can be seen in figure 2. The VAT exemption, especially on the import of equipment and other materials from K class, make the biggest revenues loss, with a record value of 22,070.09 million MT in 2021, the IRPC reached the peak in 2022, with a total amount of 15,008.8 million MT.

[23] <https://www.mef.gov.mz/>

[24] According to article 12 of Law 32/2007, VAT Code, the VAT and ICE are exempted on Customs duties exemption on imports of equipment class K as classified in Customs tariffs and Investment Code.

Looking closer to tax benefits structure, the VAT exemptions on the imports of goods and services, especially K Class goods averaged 50%, while WHT IRPC on services provided by non-resident entities, has averaged 28%, in third place comes the customs duties[24] with an average contribution of 19.05%. ICE and IRPS have shared around 2.88% and 0.01%, respectively. The share of VAT, customs duties and IRPC, reveals that effectively the tax benefits granted by the Government focus on avoiding taxation of investments on imported goods - equipment and machines, as well as specialized services provided by non-resident entities as an incentive to investment.

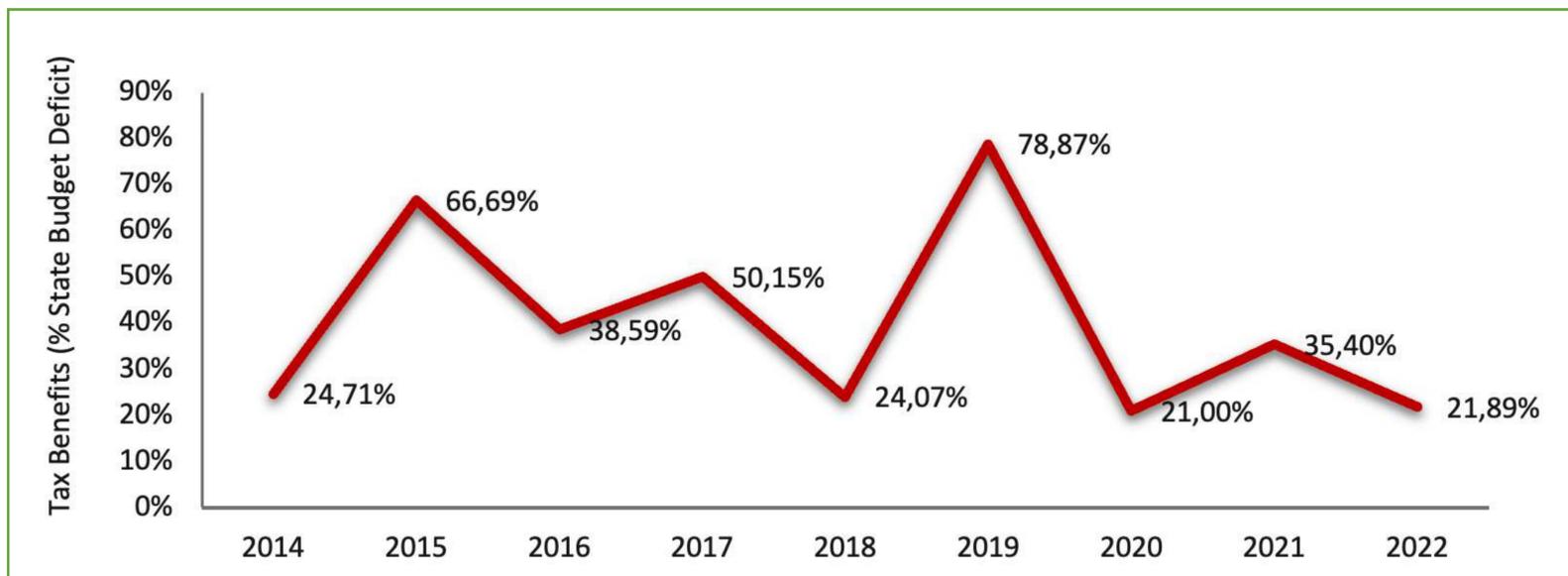
Graph 1: Mozambique's Tax Benefits Structure



Source: CGE (<https://www.mef.gov.mz/>)

The Tax benefits, in 2014 shared 24.1% in the overall Government Budget deficit before Donations and Loans (External or Internal), in 2015 it increased to 66% and peaked 78.87% in 2019, after that in 2022 dropped to 21.09%, as illustrated in Figure 3. On average over the period under analysis (2014 to 2022), the tax benefits granted would be sufficient to cover around 40% of the government budget deficit. Therefore, the tax benefits would have played a significant impact on reducing the fiscal deficit and internal debt, ensuring a sound macroeconomic stability by allowing less exposure to debt shocks.

Graph 2: Mozambique's Tax Benefits Structure



Source: CGE (<https://www.mef.gov.mz/>)

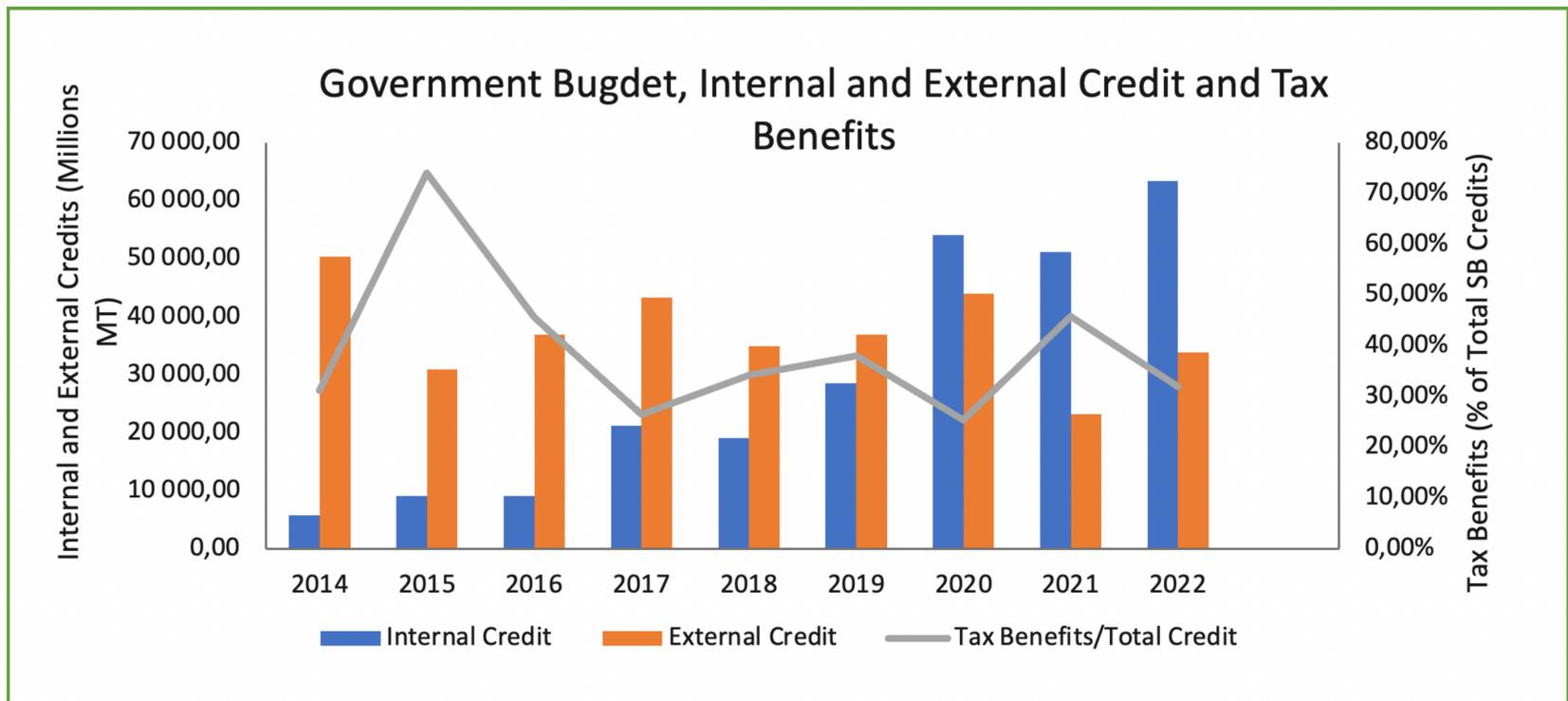
Between 2014 and 2022, according to Figure 4, the internal credits grew faster than external credits, on average rate of 42.58%, while external debt only 0.28%. The rise of internal debt to fund the government budget deficit recently, is related to limited access to international markets, therefore the Government relied more on domestic market, specifically the national banking system, to fund the deficit. The tax benefits in 2014 would have been enough to cover around 75% of the total State Budget (SB) loans and in 2022 around 30%, and from 2014 to 2022 would have been enough to cover around 40% of the total credits taken out by the government. Therefore, the tax benefits would have contributed to reduce the government debt by 40%.

The use of domestic loans to fund Government budget deficit can cause an economic problem known as crowding out^[25]. Between 2016 to 2021 to curb inflation pressures provoked by the excessive depreciation of exchange rates the Central Bank (Banco de Moçambique) adopted more tight monetary policy rising interest rates. This situation has had harmful effects on economic growth, on consumption and investment. In 2015 and 2017 according to INE the Investment measured as Gross Capital Formation dropped by 9.5% and 22.9%, respectively, therefore the economic growth rate dropped from around 7% in 2015 to -1.2% in 2020 and is expected to remain in the range of 4% to 5 % between 2023 and 2026, driven by LNG exports.

[25] A situation when increased interest rates lead to a reduction in private investment spending such that it dampens the initial increase of total investment spending is called crowding out. effect.

<https://economictimes.indiatimes.com/definition/crowding-out>.

Graph 3: Evolution of Internal and External Budget Credits and Tax Benefits



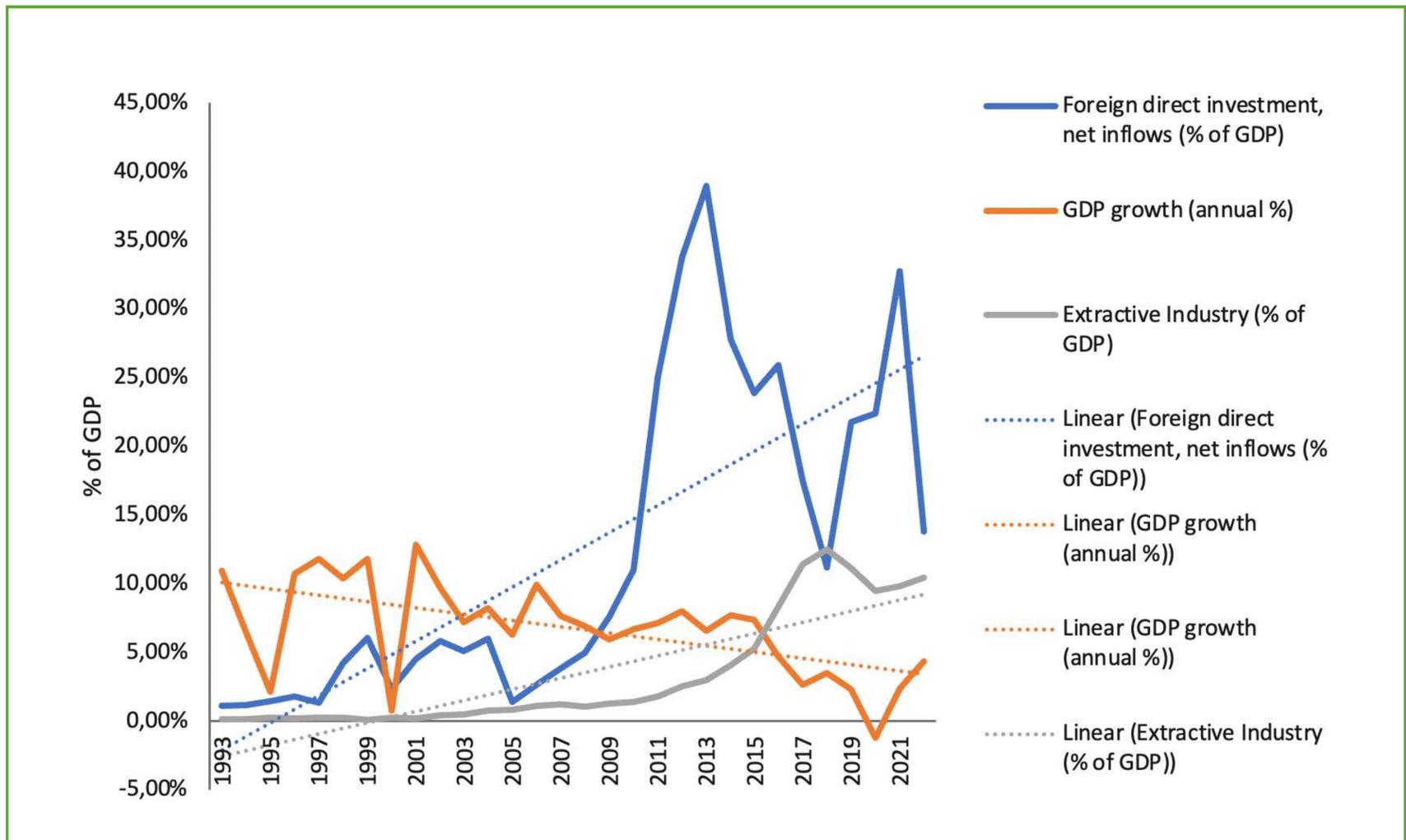
Source: CGE (<https://www.mef.gov.mz/>)

On the other hand, the tax incentives can be explained for specific reasons, such as attracting investments that generate jobs and transference of technologies, effects not captured by taxation. The figure 7, describe the role of tax policy on investment showing the relationship between Foreign Direct Investment (FDI)^[26], the Extractive Industry contribution to GDP and GDP Growth.

Since 1993, FDI remained strong and stable, following the first major investments - Mozal and Sasol projects and then in 2010s increased quickly following the discovery of Natural Gas in the Rovuma Basin, reaching its peak in 2013 with FDI net inflows around 40% of GDP, hereafter decreased until 2018 and then increased over the years with the expansion of projects in the mining and petroleum industries, start of the development phase of Rovuma basin projects. Recently, the suspension of the Golfinho Atum project and COVID-19 had big impact on FDI reduction.

[26] Foreign direct investment are the net inflows of investment to acquire a lasting management interest (10 percent or more of voting stock) in an enterprise operating in an economy other than that of the investor. It is the sum of equity capital, reinvestment of earnings, other long-term capital, and short-term capital as shown in the balance of payments. This series shows net inflows (new investment inflows less disinvestment) in the reporting economy from foreign investors and is divided by GDP.

Graph 4: GDP Growth, FDI and Extractive Industry Dynamics



Source: INE and World Bank Data Base^[27]

Therefore, the investment raised quickly since the Petroleum and mining contracts were signed, confirming the strong relationship between economic growth and direct and indirect employment. The Extractive Industry as share of the GDP increased from 0.13% in 1993 to roughly 10.42% in 2022. The economic growth over the time kept stable around 7% over the higher FDI times, but recently GDP growth has showed decrescent tendency, due to recent economic shocks. Therefore, is clear the relationship between FDI and Extractive Industry but not with GDP Growth.

[27] <https://databank.worldbank.org/source/world-development-indicators>

4.2. Case Study Tax Incentive Efficiency and Effectiveness

On one hand, between 2013 and 2023, the studied projects were granted around 31.6 billion meticaís in tax exemptions, around 14.4% of the total tax benefits granted over the same period. VAT exemption comes first with 21.4 billion MT, making around 67.67% of tax benefits and second comes the Customs Duties with 10.1 billion MT, sharing 31.93%.

On the other hand, the petroleum surveyed companies have paid in contributions to training and institutional capacity building under the terms of the EPCC, between 2013 and 2022, around 871.3 million MT and to social projects 658.2 million MT, amounting 1.5 billion MT, making around 4.84% of the total tax benefits granted to the 6 surveyed projects, during the same period. The projects observed have created more than 17.000 direct jobs and 12.000 indirect jobs, most of the in-mining operations. The researcher's estimative shows that more than 147 billion MT have been spent in local content and economic linkages with Mozambican owned or registered companies, that makes only 0.003% the income generated by the studied projects.

In terms of employment, SPT^[28] generated more than 300 permanent jobs and more than 3500 indirect jobs. MRV^[29], aims to create around 858 new direct, indirect, and induced jobs during the life cycle of the project. In terms of direct hiring, Eni Rovuma Basin and Coral FLNG will generate 386 direct jobs, 90% of which are national, which represents a total of 350 Mozambicans. Currently more than 300 local resources are directly employed by Eni Rovuma Basin and Coral FLNG, with more than 1,200 working for their contractors and subcontractors. TEPMA 1^[30] foresees the hiring of around 5000 workers only in the construction phase (development, and around 7261 workers throughout the project's life cycle, 1853 for the District of Palma, 943 for other Districts of Cabo Delgado and 4465 for other provinces of Mozambique.

In 2023, KMLL employed around 1708 workers, 1557 of whom were Mozambicans and the remained expatriates. VMM generated more than 20 thousand jobs, currently the company employs 13 thousand direct and indirect jobs. MRM created more than 1,500 jobs locally, 95% of which are for Mozambicans, with 65% coming from Cabo Delgado.

[28] <https://www.inp.gov.mz/pt/layout/set/print/Noticias/Multinacional-Sul-Africana-Divulga-Oportunidades-de-Negocios-em-Pande-e-Temane>

[29] <https://www.inp.gov.mz/pt/Conteudo-Local/Forca-de-Trabalho/Projecto-Coral-Sul-FLNG>

[30] <https://www.inp.gov.mz/pt/Conteudo-Local/Forca-de-Trabalho/Projecto-Golfinho-Atum>

In terms of local content and economic linkages, SPT establishes economic links with the national market through the acquisition of goods and services provided by Mozambican Small Medium Enterprises (SMEs) mainly located in Inhambane. In 2020, SPT hired 1527 national companies registered in Mozambique. Up to date, Sasol has spent approximately USD1.56 billion on the procurement of goods and services nationally, of which approximately 44% (USD692 million) has been paid to Mozambican suppliers and suppliers registered in Mozambique. In social projects SPT finances various social projects in the areas of agriculture, livestock, and technical and professional training, which generate direct and indirect jobs.

TEPMA 1^[31] committed to making around \$2.5 billion available for the National Market. In fact, to date around USD650 million has been spent, of which USD139 million has been allocated to Mozambican companies, around 294 Mozambican companies supply goods and services to the Project, of which 163 are Mozambican-owned (20 from Cabo Delgado) and 131 are registered in Mozambique (17 from Cabo Delgado). MRV is implementing an Enterprise Development program^[32]. This program is part of the Coral South project Local Content Plan and aims to promote business opportunities and strengthen the capabilities of SMEs.

KMML operates in several areas: (i) local economic development, (ii) health development, (iii) education development and (iv) water and sanitation. Invested on average around USD2 to USD3 million per year in social projects. Invested on average around USD1.2 million in professional training activities, on average spent USD78.2 million on purchasing goods and services supplied locally. Since its creation, VMM^[33] has invested an average of more than 290 million MT in the acquisition of goods and services in national companies, a sum that corresponds to around 17% of VMM's expenses, and at least 52% of contracted suppliers that are local companies. MRM finances social activities in the areas of agriculture, education, and health, having invested around USD1.2 million between 2014 and 2017.

[31] <https://databank.worldbank.org/source/world-development-indicators>

[32] Ibidem

[33] Ibidem

4.3. Petroleum and Mining MNEs Tax Incentives Assessment

According to the Mozambique Economic Association Conference (CTA) on Tax Burden^[34] (ETR or Government take) study, shows that Mozambique current tax burden is 36.1% (according to Doing Business 2018 - World Bank report) and is above the tax burden of most developing countries and if it rises to 43%, the profitability of business companies will become zero, which could make private sector business activity unviable. Additionally, it was found that the current tax burden (36.1%) is very close to the maximum point of the Laffer curve^[35] (36.67%), and if the tax burden exceeds this limit, the increase in taxation on companies will result in a reduction in public revenue.

The Extractive industry, differs from other sectors because the resources are finite and according to the Mozambique Constitution belong to the state, thus has a special fiscal regime to ensure taxation in all stages of the project and the necessary progressivity to capture the mineral resources extraordinary earnings. Therefore, the Extractive Industry tax burden is generally above that of other sectors, generally called Government Take^[36], which reflects all the Government's revenue in extractive projects through taxes, production sharing mechanisms, dividends, and various bonuses. According to Land^[37], the government take in mining ranges from 25% to 65% while in the petroleum industry ranges from 25% to 70%.

Analyzing the Government take in relation to annual gross revenues, it appears that between the period 2013- 2023, in mining projects, according to the Figure 5:

- KMMML government take, or tax burden varies from 4.34% to 11.17%, and the average is 6.90%. The KMMML tax burden is under the Mozambique average of 36.1% and out of the recommended range that ensure progressivity (25% to 65%).

[34] CTA (2022): Reflexão sobre a Política Tributária e a sua Optimização para a competitividade do Setor Privado em Moçambique. <https://cta.org.mz/wp-content/uploads/pdf/Carga-tributaria-no-Sector-Empresarial-em-Mocambique.pdf>

[35] The Laffer effect, that takes its name from Arthur Laffer, the economist who presented it in discussions to support tax cuts by US President Ford (1974-1977), consists of the increase of the tax revenue caused by reductions of tax burdens. The Laffer Curve shows the inverted U-shaped relationship between tax rates and the amount of tax revenue collected by governments.

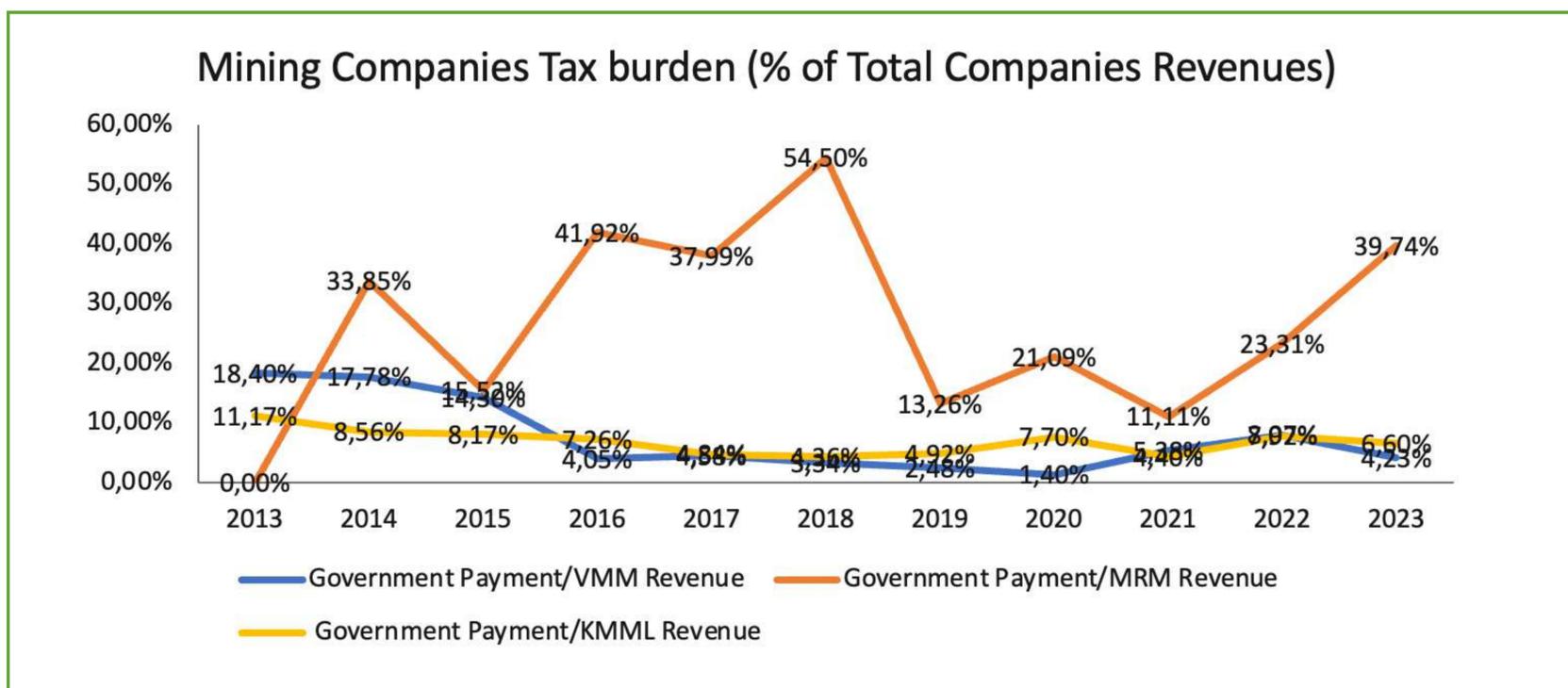
[36] The total amount of revenue a host government receives from production. This value may include taxes, royalties and government participation. https://glossary.slb.com/Terms/g/government_take.aspx

[37] Bryan Land: Capturing a fair share of fiscal benefits in the extractive industry. https://unctad.org/system/files/official-document/diaeia20097_en.pdf#page=165

- VMM government take ranges from 1.48% to 18.40%, an average of 7.64%. The VMM tax burden is also under the average of 36.1% and out of range recommended range.
- MRM government take or tax burden varies from 11.11% to 41.92%, averages 27.17%. The MRM tax burden is below the Mozambique tax burden but in some years is above and is between the range of mining industry according to Land.

The difference between the MRM and KMML and VMM tax burden, can be explained by several factors: (i) The economic and financial structure of the projects – The high volume of investment required for the exploration of coal and heavy sands relative to Rubi, so far VMM has invested more than USD2 billion, KMML invested more than USD450 million up 3rd phase of the project. MRM made a lower investment compared to others, around USD134 million. Investment impacts the tax to the extent that it reduces the IRPC, since the company claims more amortization deductions and takes more time to get profits, in addition the royalty rate is flat and sometimes reduced, making it less progressive tax.

Graph 5: Tax Burden - Mining Industry



Source: Companies Financial Reports and ITIE Reports^[38]

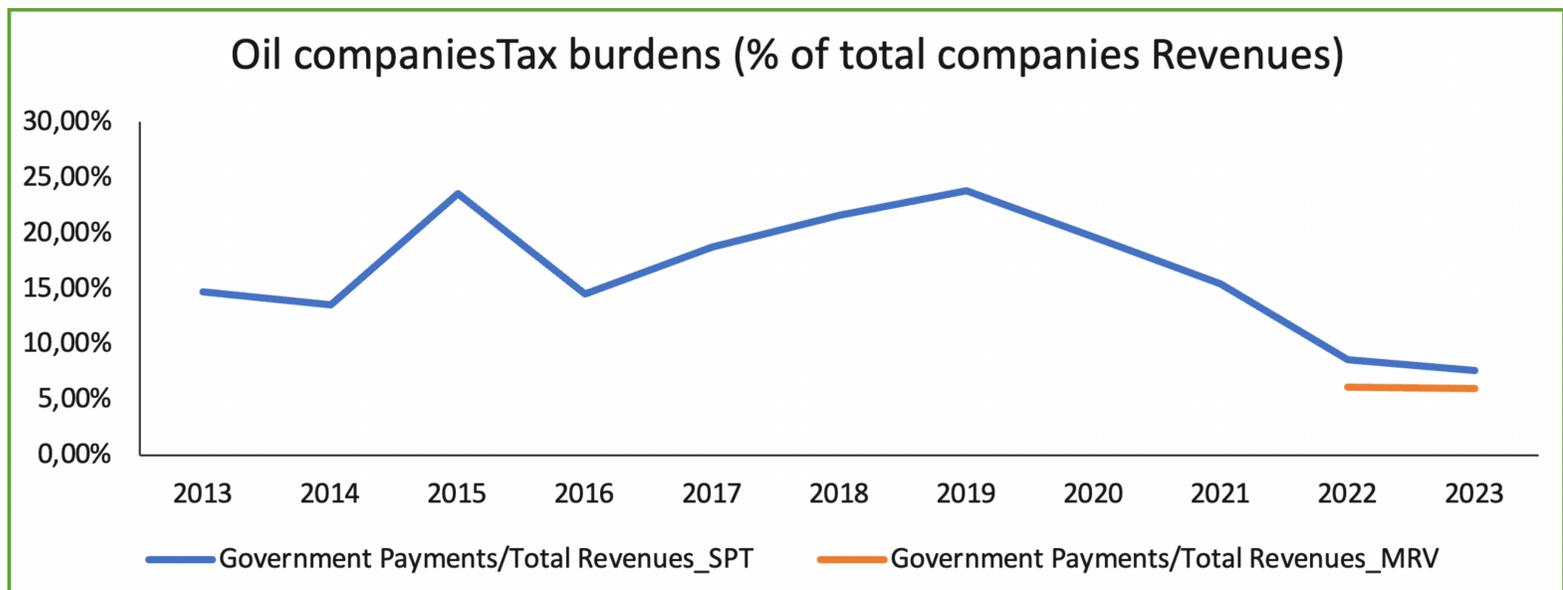
^[38] <https://databank.worldbank.org/source/world-development-indicators>

Since the beginning of production in 2007, KMMML, from the 2017 financial year onwards, has shown profits, with USD18.54 million, and in 2018 USD 56.01 million and in the 2023 USD131.0 million profit, however despite this financial and economic performance, payments to the Government only increased from the around 4.84% in 2017 to maximum of 7.92% in 2022. Although, the costs are no longer playing significant role on taxation but rather the behavioral risks derived from tax incentives, since investors seek to reduce their taxable income by selling KMMML mineral production at a below-market rate (KMMML Mineral product price is equal to operation cost plus a mark-up) to its related party KMMPL, which is subject to 1% turnover tax rate in the IFZ, another issue has to do with excessive interest rate and capital costs deductions.

However, VMM since the beginning of production, has not yet shown profits and therefore has a tax contribution level of around 4.23% currently, which includes in practice just the royalty rate of 3%, WHT IRPS first category and WHT for amounts below USD1.0 million. The fact that Vulcan is exempted from WHT in non-resident services above 1 million reduce even more revenue collected by the Government, and VMM sales coal to related parties, triggering behavioral risks related to abusive transfer pricing that shift profits from Mozambique to low tax jurisdictions such as United Arab Emirates and India, also engage in inflating management charges and costs of machinery bought from related parties, excessive interest, and capital cost deductions.

However, MRM since the beginning of production, the has shown much higher government take above 32% and dropped in 2019 due to Covid-19 but again is ascending and reached 39.78% in 2023. One point is that MRM's contribution is relatively high but unstable compared to others, once the precious stones are sold in auctions that are more volatile and unpredictable since depends on the qualities of stones. So, the higher tax burden can be explained by the relatively lower investment and high revenues (auction sales) but on the other side absence the of tax incentives that prevents taxation of the income including higher royalty. The behavioral risks related to this project are the inflation of management charges and fiscal stabilization, the stabilization clause is cutting off government's ability to correct mistakes and unexpectedly large revenue losses, once prevents more progressive regime that would incorporate the IRRM.

Graph 6: Tax Burden - Petroleum Industry



Source: Companies Financial Reports and ITIE Reports

Analyzing the Government take in relation to annual gross revenues, it appears that between the period 2013- 2023, in petroleum projects, according to the Figure 6:

- SPT government take or tax burden from 2013 to 2023 ranges from 7.62% to 23.84% , and the average is 16.52%. The company tax burden is under the Mozambique average of 36.1% and out of the recommended range that ensures progressivity (25% to 70%).
- MRV (Coral South) government take between 2022 and 2023 ranges from 6.0% to 6.14%, an average of 6.07%. This project tax burden is also under the average of 36.1% and out of range recommended range.

According to CIP^[39], the SPT has shown lower tax burden for 3 reasons: (i) the increase in capital costs, an additional USD400 million to increase the processing capacity (ii) high operation costs, on average of 50% of the revenue and (iii) the sale and purchase occurs in related companies, that allows the transfer pricing practices. The CIP study confirms the behavior risks related to tax incentives, related to profit-based incentives and cost-based, the excessive interest rate and deductions, inflated capital cost and transfer pricing.

^[39] <https://cipmoz.org/wp-content/uploads/2018/08/Texto-Sasol-FINAL-.pdf>

Another point is the reduction in royalty rate and IRPC tax rate affecting the tax burden. While Coral South, in this stage pays 2% royalty and 15% of production sharing, therefore, the fact that the royalty rate is very low affects the project's tax burden, and tax incentives granted may create behavior risks such as high grading, excessive interest rate and capital cost deductions and inflated management charges.

After the tax reforms (See annex 1 and 2) for Mining and Petroleum projects approved under the petroleum or mining laws, benefits only from exemptions of import of K class Equipment and machines, for 5 years from the start of the exploration, after complying with some conditions. This procedure is in line with international standard since the general tax benefits are not applicable for the extractive sector.

4.4. Tax Justice perspective

Therefore, tax incentives in the extractive industry, in general violates the principles of fiscal justice, the principles of equality and contributory capacity, because despite the mining industry generates large volumes of revenue, the tax burden is very low, while other sectors with less turnover have higher tax burden. In tax justice, we have two aspects: (i) Horizontal justice –is the principle that taxpayers with equal income should pay equal tax - for example in terms of income or family size, pay the same amount of tax. (ii) Vertical justice – realised when people who are facing different economic conditions are treated differently in the sense that their tax responsibilities are differentiated, ensuring those who are in a better economic situation pay proportionately more (Contributory capacity-progressivity) – equity principle.

Tax benefits in Mozambique Extractive Industry put into question the horizontal justice principles, once the exemptions, reductions, tax allowances granted to mining and oil companies create different treatment for taxpayers with the equal income pay different taxes, since tax incentives reduces the tax burden. Therefore, MRM without tax incentives has much higher tax burden an average of 27.17% while VMM and KMMPL have much lower tax burden, 7.64% and 6.90%, respectively.

On the other side, also violates the vertical justice principles – the contributory capacity, as projects that generate greater revenues pay proportionally less taxes. VMM's revenue grew at average rate of 48.85%, but the tax burden grew only 20.09%, and KMML gross revenues had an average variation of 27.31% and tax revenues 22.96%. However, MRM's revenues increased 43.35% in average and the tax burden 56.77%. Thus, the tax regime of VMM and KMML are quite regressive because the companies pay less taxes proportionally to the income, while the MRM is progressive, since pays proportionately more taxes when the income increases.

SPT's revenue over the period under analysis grew by an average of 14.70%, while its tax burden shows 12.44% increase, it is possible to observe that the SPT tax regime is regressive, violating both horizontal and vertical justice. MRV Coral South is in the production phase for 2 years now and still premature to make considerations about the proportionality of the tax burden, as the start of production caused a structure breakdown in the revenues and type of taxes paid. Only MRM without tax incentives has progressive tax regime, therefore the tax benefits create distortions in the tax system, violates the tax justice and prevents the government from raising taxes to fund public services.

4.5. Global Minimum Tax

According to OECD, the Global Minimum Tax (GMT)^[40] represents a major step forward in international cooperation on the taxation of MNEs. It will ensure that MNEs with revenues above EUR 750 million are subject to a 15% effective tax rate (ETR) wherever they operate. The GMT, introduced by the Global Anti-Base Erosion (GloBE) Rules, is a key part of Pillar Two of the two-pillar solution. Agreed by over 135 member jurisdictions of the OECD/G20 Inclusive Framework on Base BEPS (Inclusive Framework on BEPS) in October 2021. The two-pillar solution is a historical agreement that aims to address the tax challenges arising from the globalization and digitalization of the economy. Since then, the implementation of the GMT has progressed with around 55 jurisdictions already taking steps toward implementation and with the rules coming into effect in 2024.

^[40] <https://www.oecd.org/tax/beps/summary-economic-impact-assessment-global-minimum-tax-january-2024.pdf>

Mozambique did not sign the Two-Pillar Agreement to implement the GMT. The GloBE rules once introduced in domestic law are designed to work together with those of other jurisdictions to create a coordinated and comprehensive system of minimum taxation that ensures MNE Groups pay a minimum level of tax on their income in respect of every jurisdiction where they operate.

These rules require in-scope Groups to calculate their income (Net Globe Income), and the taxes on that income, on a jurisdictional basis. Where this calculation results in an effective tax rate (ETR) that is below 15%, the rules require the MNE Group to pay a top-up tax that will bring the total amount of tax on the MNE Group's excess profits in that low-tax jurisdiction up to the 15% rate, following the formula:

Top-Up Tax %	= Minimum rate (15%) – ETR
Excess Profit	= Net GloBE Income – Substance-Based Income Exclusion* * Exclusion of a fixed return on assets and payroll expenses in each jurisdiction
Additional Current Top-Up Tax	= Any incremental top-up tax resulting from the recalculation of the ETR and top-up tax for the prior financial year

The implementation of GloBE rules in Mozambique would allow to rise the MNEs ETR to 15%. For KMLL would collect additional tax of 8.1%, VMM 7.36%, and for MRM would not be applicable, since the average ETR is 27.17%. For petroleum MNEs, Mozambique would collect in average 8.86% for MRV. Therefore, would mobilize significant additional tax in Extractive Industry, and eliminate the behavioral risks caused by the tax incentives such as: (i) transfer pricing, (ii) excessive interest deductions, (iii) inflated management charges and (iv) high grading.

5. Conclusions and Recommendations

The study objective is to assess the fairness and progressiveness of Mozambique tax incentives regime applied to extractive industry and to what extent it counters tax abuses from multinationals and preserves the country's tax rights.

In general Mozambique use profit-based and cost-based tax incentive, with other features such as Stabilization clauses, Importation exemptions, granted under Tax Benefits Code and Income Tax Law. Usually, tax incentives are temporary between 5 to 15 years, some are permanent in case Rapid Growth Zones (RGZs). The eligibility criteria depend on the location of the activity, targeting specific geographic areas, Maputo city or other cities, IFZ, SEZs or RPZs, but also tax incentives are granted by type of activity Agriculture, fishing, industry, and others. The governance is not complex, because the law and regulations are clear and few, but there no transparency in granting process as well as monitoring and evaluation process. Once there are multiple entities granting and administering investment tax incentives from central to provincial level.

The research analyzed 3 mining and 3 petroleum MNEs, and the main conclusions are:

- In general, the volume of tax revenue losses derived from tax benefits (tax expense) in Mozambique has increased consistently over time. In the period between 2013 - 2022, was recorded cumulative tax expenditure of around 218,811.45 million MT and an average share of 7.9% to GDP.
- The VAT exemptions on the imports of goods and services, especially Class K goods averaged 50%, while IRPC on services provided by non-resident entities withholdings, it has averaged 28%, in third place comes the customs duties with an average contribution of 19.05%. ICE and IRPS have an average share of around 2.88% and 0.01%.
- From 2014 to 2022 the tax benefits would have been enough to cover around 40% of the government credit to fund budget deficit, Therefore, would have contributed to reduce the Government debt in 40% and the level of domestic public debt.

- In extractive Industry the tax incentives are granted under Mining and Petroleum laws and contracts signed between the MNEs and Government, that have fiscal stability clause. Since 2014, the specific petroleum and Mining Tax Laws only grant exemption for import of K class equipment and machinery. The reform is aligned with international standards and is considerate a good practice.
- The observed mining and petroleum MNEs from 2013 to 2023, were granted roughly 31.2 billion MT in tax benefits, sharing 14.4% of the total. on the other hand, they paid around 1.5 billion MT in capacity building and training and social projects contributions, roughly 4.84% of the total tax benefits granted. The MNEs have generated more than 17.000 direct jobs and 12.000 indirect jobs, most of them in-mining activities. The estimative made by the researchers shows that more than 147 billion MT might have been spent in local content and economic linkages with Mozambican owned or registered companies, sharing roughly 0.003% of the total MNEs turnover.
- Between 2013 and 2023, the KMML tax burden ranged 4.34% to 11.17% and averaged of 6.90%, and VMM varied from 1.48% to 18.40% with an average of 7.64%, both companies have averaged tax burden below the Mozambique average of 36.1% and out of recommended range. Clockwise the MRM vary from 11.11% to 41.29% and an average 27.17% which is below the Mozambique tax burden but still higher than the others and is in recommended range. This situation shows that projects with tax incentives pay much less taxes compared non-tax incentives projects in mining. The KMML situation is caused by behavioral risks derived from tax incentives, since investors seek to reduce their taxable income by selling KMML mineral production at a below-market rate ZFI KMPL. VMM reduces tax burden through abusive transfer pricing mechanisms. While MRM the inflation of management charges and stabilization clause is cutting off government's ability to become the tax regime more progressive by incorporating the IRRM.

- In petroleum industry, the SPT tax burden from 2013 to 2023 varied from 7.62% to 23.84%, and the average was 16.52%. While MRV between 2022 and 2023 the Tax burden averages 6.07%. Both tax burdens are also under the average of 36.1% and out of range recommended range. Both projects have much lower government take and pay less taxes. SPT low tax performance is due to the excessive interest rate deductions, inflated capital cost and abusive transfer pricing selling to related parties in tax preferential countries.
- Tax benefits in Mozambique violates the horizontal justice principles, once the exemptions, reductions, tax allowances granted to mining and petroleum companies create different treatment for taxpayers with the equal income, making the pay different taxes, since tax incentives reduces the tax burden. Therefore, MRM without tax benefits has much higher average tax burden 27.17%, while VMM and KMMPL have much lower tax burden, 7.64% and 6.90%, respectively.
- On the other side, also violates the vertical justice principles, as projects that generate much more revenues pay proportionally less taxes. During 2013 to 2023, VMM's revenue grew at an average rate of 48.85%, the tax burden grew only 20.09%, and for KMMPL gross revenues had an average variation of 27.31% and tax revenues 22.96%. However, MRM's revenues increased 43.35% in average and the tax burden 56.77%. Thus, the tax regime of VMM and KMMPL are quite regressive because the companies pay less taxes proportionally to the income, while the MRM is progressive, since pays proportionately more taxes when the income increases.

SPT's revenue over the period under analysis grew by an average of 14.70%, while its tax burden shows 12.44% increase, it is possible to observe that the SPT tax regime is regressive, violating both horizontal and vertical justice. MRV Coral South in the production phase for 2 years now and still premature to make considerations about the proportionality of the tax burden, as the start of production caused a structure breakdown in the revenues and type of taxes paid. TEPMA 1 did not start the production yet.

- Mozambique did not adhere to GMT, whose implementation would allow to tax raise significant taxes on the Extractive Industry MNEs operating Mozambique with ETR below 15%, through eliminating behaviors caused by tax incentives. For KMMML would collect additional tax of 8.1%, VMM 7.36%, and for MRM would not be applicable, since the average ETR is 27.17%. For petroleum MNEs, Mozambique would collect on average 8.86% for MRV. Therefore, would mobilize significant additional tax in Extractive Industry.

Summing up, the tax reforms implemented did not ensure the progressivity, tax justice or investment attractiveness, because the tax reforms do not apply to projects approved before 2006, due the fiscal stability clause. The option is the renegotiate the contracts, but those contracts have anti-renegotiations clauses that prevents the renegotiations of the contracts, therefore the policy makers to minimize the risk behaviors cause by the tax incentives that prevents the Government to raise significant tax revenue, and become the tax system fairer, should consider:

- 1. Increasing the import duty exemptions control for mining and petroleum imports** and issue a “mining and petroleum list” that identifies goods intended for mining that are subject to duty concessions, versus goods for general use (e.g., photocopiers used incidentally by mining companies), even consider levying a partial import duty (e.g., half the standard rate).
- 2. Avoiding tax incentives that create parallel domestic fiscal regimes**, which may lead to abusive transfer pricing. Tax incentives that apply to one segment of the mining or petroleum value chain—for example, processing—and exclude others may create opportunities for profit shifting.
- 3. Reviewing annually (or on a regular basis).** There should be opportunities for review as well as “sunset” clauses (e.g., a limit to how long a tax credit can be carried forward) to reduce the potential costs of badly designed programs and illicit financial flows.

4. Furthermore, steps would be taken by the Government to improve the tax collection in extractive industry such as: Fixed Percentage for Management Fees; Ensure that transactions between related parties that are both assessable within the mining country are subject to transfer pricing rules, limiting excessive interest deductions; consider legislating the cost-plus method for management fees.

5. Carefully consider the BEPS risks of incentives that lower the rate of tax on outbound payments to foreign entities. Lowering or exempting withholding taxes on outbound payments may motivate investors to artificially increase the volume and price of related party debt, as well as service fees, to erode the tax base of the mining country and shift profits offshore, related to Illicit Financial Inflows.

6. Finally, investing in stronger government expertise and seek capacity building opportunities. Governments should continue to build their capacity with respect to mining tax policy and administration. Particular attention should be paid to developing commercial and financial modelling skills to aid the decision-making process.

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ANNEXES

Annex 1: Summary of Mining Fiscal Regime Changes

Year	Law	Surface Tax	Royalty	Rent Resource Tax (IRRM)	Fiscal Stability	Exemptions	Tax Benefits
2007	Law 11/2007, de 27 de Julho	Due annually and is levied on the area subject to a reconnaissance, prospecting and research license, mining concession or mining certificate, measured in square kilometers or hectares, and in the case of mineral water, it is levied on the mining title;	10% for diamonds, 10% for precious metals (gold, silver and platinum) and precious stones, 6% semi-precious stones, 5% basic minerals and 3% for coal and other mining products	does not exist	Entities that carry out mining operations that have signed contracts, still in force, during the validity of the legislation now repealed, will continue to comply with tax obligations under these contracts, unless they expressly request the application of the provisions of this Law, in maximum period of 90 days, counting from the date of its entry into force	Mining production for: (a) housing and other own facilities; (b) for artisanal ceramic production; and (c) investigation, among others.	According to CBF or bilateral negotiations with the Government
2014	Law 28/2014, de 23 de Setembro	Due annually and levied on the area of mining activity, and in the case of mineral water, levied on the mining title; However, ISS taxpayers are natural or legal persons, whether or not they hold a mining title, who carry out mining activities in national territory.	8% for Diamonds, 6% for Precious Metals (gold, silver and platinum) and Precious Stones, semi-precious stones and heavy sands, 3% Basic Minerals, for Coal and other mining products, 1.5% for Sand and Stone	A tax that is levied on the net cash flow under a title (Concession or Mining Certificate), from the moment this flow gives rise to an internal rate of return (IRR), before IRPC, equal to or greater than 18 %;	Entities that develop mining operations that have signed contracts, still in force, during the validity of the legislation now repealed, will continue to comply with tax obligations under these contracts, unless they expressly request the application of the provisions of this law, within the maximum period of time. 60 days, counting from the date of its entry into force. stability can be negotiated for a period of 10 years, counting from the start of mining exploration, upon payment of an additional 2% at the IPM rate, starting from the 10th year of production	Mining production for: (a) housing and other own facilities; (b) for artisanal ceramic production; and (c) scientific research; (d) self-consumption; (e) mineral sampling.	Exempt for 5 years from the beginning of mining exploration: (a) customs duties due on the import of equipment for prospecting and mining research operations, classified in class K of the Customs Tariff, and (b) customs duties due on the import of goods listed of Annex II to the law, equivalent to class K goods of the Customs Tariff.
2017	Law 14/2017, de 28 de Dezembro	Same	same	same	Stability can be attributed in relation to tax incidence, rates and benefits, from the granting of the title up to 10 years from the start of commercial production, becoming effective through the investment of USD5,000,000 (five million USD). Fiscal stability can be extended by paying an additional 2% to the IPM, starting from the 11th year of Production		Exempt for 5 years from the beginning of mining exploration: (a) customs duties due on the import of equipment for prospecting and mining research operations, classified in class K of the Customs Tariff, and (b) customs duties due on the import of goods listed of Annex II to the law, equivalent to class K goods of the Customs Tariff.

ANNEXES

Annex 2: Summary of Petroleum Fiscal Regime Changes

Year	Law	Royalties	Production Sharing Mechanisms	Fiscal Stability	Tax Benefits
2007	Law n. 12/2007, de 27 de Julho	Royalty rate - 10% for crude oil and 6% for natural gas	does not have	Entities that develop petroleum operations that have signed research and production contracts, still in force, during the validity of the legislation now revoked, will continue to comply with tax obligations under these contracts, unless they expressly request the application of the provisions of the this Law, within a maximum period of 90 days, counting from the date of its entry into force	According to CBF or bilateral negotiations with the Government
2014	Law n. 27/2014, de 23 de Setembro	Same	Production Sharing Mechanism that limits recoverable costs to 60% of available Oil (Crude Oil - IPP), and oil profit is shared between the state and concessionaires in the proportion defined by R-Factor	Entities that develop petroleum operations that have signed contracts, still in force, during the validity of the legislation now repealed, will continue to comply with tax obligations under these contracts, unless they expressly request the application of the provisions of this law, within the maximum period of time. 60 days, counting from the date of its entry into force. stability can be negotiated for a period of 10 years, counting from the beginning of oil exploration, upon payment of an additional 2% at the IPP rate, starting from the 10th year of production	exemption for 5 years from the beginning of mining exploration: (a) customs duties due on the import of equipment for prospecting and mining research operations, classified in class K of the Customs Tariff, and (b) customs duties due on the import of goods listed of Annex II to the law, equivalent to class K goods of the Customs Tariff.
2017	Law n.º 14/2017, de 28 de Dezembro	Same	Same	Stability can be attributed in relation to tax incidence, rates and benefits, from the granting of the title up to 10 years from the start of commercial production, becoming effective through the investment of USD 100,000,000 (one hundred million USD). Fiscal stability can be extended by paying an additional 2% to the IPP, starting from the 11th year of Productio	exemption for 5 years from the beginning of mining exploration: (a) customs duties due on the import of equipment for prospecting and mining research operations, classified in class K of the Customs Tariff, and (b) customs duties due on the import of goods listed of Annex II to the law, equivalent to class K goods of the Customs Tariff.

ANNEXES

Annex 3: General Tax Incentives in Mozambique

	Tax incentive							
	Foreign or National General Investment	Basic Infra-structure	Manufacturing and Assembly Industry	Agriculture and Fishing	Hotel and Tourism	Large Dimension Projects	Special Economic Zones	Industrial Zones / Freeports
Minimum Investment required	MZN 2,500,000 (1 USD = 68.0000 MZN)	MZN 2,500,000	Annual turnover over MZN 3,000,000 and add value to the product of more than 20%	MZN 2,500,000	MZN 2,500,000	MZN 12,500,000	MZN 2,500,000	MZN 2,500,000
Maximum benefit available	<ul style="list-style-type: none"> Accelerated depreciation (more than 50%) for eligible assets; Tax credit of 5%-10% of the investment; and Exemption for customs duties and VAT on K class equipment. 	<ul style="list-style-type: none"> CIT reduction: 80% on the first five years- 60% between sixth and tenth year- 25% between eleventh to fifteenth year. Exemption for customs duties and VAT on K class equipment. 	Exemption of customs duties of material necessary for the production or assembly, including raw material.	<ul style="list-style-type: none"> CIT reduction: 80% until 31 December 2015- 50% between 2016 to 2025. Exemption for customs duties and VAT on K class equipment. 	<ul style="list-style-type: none"> Accelerated depreciation (more than 50%) for eligible assets; Tax credit of 5%-10% of the investment; Exemption for customs duties and VAT on K class equipment plus other equipment necessary for the project 	<ul style="list-style-type: none"> Accelerated depreciation (more 50%) for eligible assets; Tax credit of 5%-10% of the investment done; Exemption for customs duties and VAT on all equipment necessary for the project. 	<ul style="list-style-type: none"> CIT reduction: exemption on the first five years- reduction of 50% between sixth and tenth years- reduction of 25% for the rest of the project life. Exemption for customs duties and VAT on equipment necessary for the project. 	<ul style="list-style-type: none"> CIT reduction: exemption on the first ten years- reduction of 50% between eleventh and fifteenth years- reduction of 25% for the rest of the project life. Exemption for customs duties and VAT on equipment necessary for the project including goods and materials.
Type of benefit	Tax deduction							
Training Benefit	Training costs up to 5%-10% of the taxable profit.	None	None	Training costs up to 5%-10% of the taxable profit.	None	None	None	None



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