

From: ja@ja.org.mz
To: Complaints@eib.org
Subject: Complaints Form
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Attachments: [data65563.csv](#)

Form field	Value
Name	Justiça Ambiental
On behalf of	
Address	Rua Marconi 110, 1a Andar Maputo Moçambique
Telephone number	00258844427780
Email	ja@ja.org.mz
Fax number	
Subject	Mozal bypass operation
What are the details of your complaint?	<p>Justiça Ambiental (JA!) in partnership with Livaningo, Liga Moçambicana dos Direitos Humanos, Centro Terra Viva, Kulima and Centro de Integridade Pública have been working together in the issue regarding the proposed 6 months bypass of Mozal (annex with description of organizations available upon request). BHP Billiton operates the Mozal aluminum smelter located 17 kilometers from Maputo, in the outskirts of Matola city, in a densely populated area. Mozal was officially opened on 29 September 2000. BHP Billiton has a 47.1 per cent interest in the joint venture. The other partners are: Mitsubishi Corporation (25 per cent), Industrial Development Corporation of South Africa Ltd (24 per cent), and the Government of Mozambique (3.9 per cent). The European Investment Bank granted a loan to the Mozal project of at least 32.9 million US Dollars (possible outdated amount; source BHP Billiton website). The coalition found Mozal in breach of the EIB Statement of Environmental and Social Principles and Standards and therefore considers it appropriate to file the following complaint. Annex of other recipients of the complaint available. In a public meeting of 5 April 2010 representatives of Mozal announced that they had identified the need to proceed with the rehabilitation of the smoke and gas treatment centres budgeted at 10 million US Dollars, an investment urgently needed to ensure that the environmental emissions from Mozal comply with standards required by law. The relevant standards it aims to comply with by way of this rehabilitation are the domestic Regulamento sobre Padrões de Qualidade Ambiental e de Emissão de Efluentes (Decreto 2 Junho 2004 n. 18/2004), the 2005 World Health Organization Air Quality Guidelines and the 2007 International Finance Corporation Environmental Health and Safety Guidelines. During this rehabilitation Mozal would operate under bypass for 6 months starting in November 2010, which would mean that the exhaust fumes of the</p>

smelter would be released to the environment without passing through the filters. For this purpose Mozal required and obtained a special authorization issued by Ministry of Coordination of Environmental Action (MICOA), conditional on the presentation of an Environmental Management Plan (EMP), Contingency Plan and Mozal also was required to review their Social Responsibility Policy. Given the seriousness of the issue and the passive way it was dealt with, JA! wrote a letter, dated 08 April 2010, REF: 184/JA/2010, to MICOA (annex available) with copies to several institutions, requesting clarifications about: the whole process of acquiring this special license, if this had already been issued, if an environmental impact assessment had been elaborated, if the communities had been consulted and were aware of potential hazards that they would be exposed to, if other alternatives had been considered, what would be the real implications to the environment and to the public health and what mitigation measures would be planned, among other questions. In response to this and after great insistence, JA! received a letter from MICOA, dated 14 June of this year Note N. 26/SP/GM/MICOA/10 (annex available), which informed the following: - MICOA asked Mozal to develop an EMP for the mitigation of possible impacts of the proposed activities and that to date of submission of JA!'s letter, Mozal still did not have a permit from MICOA, this being dependent on the submission of the EMP; -In the process, 3 alternatives were considered, namely stopping the furnace, increasing the temperature of the anodes and special authorization for continuous Bypass, being the last one considered as the most feasible; -A study of dispersion and deposition of gases and smoke emitted by Mozal's Smoke Treatment Centers and Gas Treatment Centers was carried out using the TAPM model, to determine the areas potentially affected and assess their impacts during the 6 months mentioned. The results of this study indicated that, for being the most relevant from the standpoint of danger to public health and the environment, thus being regulated by Law, the following substances were found: Hydrogen fluoride (HF), Sulphur dioxide (SO₂), Nitrogen dioxide (NO₂) and Ozone (O₃); The areas potentially most affected by the gases HF, SO₂, NO₂ are limited to a maximum radius of around 40km from Mozal's precinct, and regarding O₃ and PM₁₀ (airborne particles with diameters smaller than 10 μm), locations beyond a radius of 100km from Mozal's precinct may be affected, and these can be within or outside the national territory; -The study and simulations have not been made public yet, however their conclusions were presented at the Council of Ministers; - The concentrations and the deposition rates of the polluting substances predicted in the used model are not significant, thus there appears to be no significant risk of acute or chronic exposure by communities and the environment to these substances during the Bypass. However, it is necessary to maintain a permanent surveillance on the potentially affected sites, being Mozal's responsibility the preparation of a Contingency Plan to address eventual problems and also the company should review its policy of social responsibility. Apart from the severity of the potential health risks of the released substances (annex available), the coalition insisted in its attempts to keep obtaining

information from Mozal and MICOA and enhanced its worries about the situation for several reasons: -It seems incomprehensible that Mozal would consider an investment of 10 million US Dollars to comply with legal standards if there is no need for it. The international and domestic maximum acceptable parameters of emission are created precisely because of the risk for public health and environment, hence the need and requirement for companies to place suitable filters. -At various occasions Mozal presented different contradictory reasons for the need for rehabilitation. The only common point between the versions is a structural problem that could cause the collapse of the treatment due to the corrosion of a 8mm thick steel sheet by 1mm. Mike Fraser, president of Mozal, made at a meeting reference to poor quality of steel used in treatment centers as causing contingencies. In another, the alleged cause was the expiration of the lifetime of the treatment centers. If the foreseeable lifetime was known to be about 10 years, the initial Environmental Impact Assessment in 2001 should have provided an adequate solution. Both situations reflect a gross negligence on the part of Mozal. Either they used inappropriate material or failed in their initial Environmental Impact Assessment. Without making clear what the exact reasons for rehabilitation are, MICOA is not competent to issue a special authorization, as the relevant legislation only delegates this competence for extraordinary emission due to unforeseeable circumstances (article 22 Decreto 18/2004). -In October 2004, in Richards Bay, South Africa, Hillside Aluminium another subsidiary of BHP Billiton, worked on bypass for 72 hours. Hillside released a health warning in the press, for "people with asthma and others with respiratory problems, or who have low tolerance for smoke and dust, to remain indoors" (source: <http://www.groundwork.org.za/Press%20Releases/05Oct04Hillside.asp>). This difference of criteria and behaviour of BHP Billiton in South Africa and Mozambique is highly questionable. -In August 2010 the South African organization Ground Work has conducted air sampling during three weeks the the area close to Mozal. The limited sampling showed already that, even during regular operational modus, the concentration of dust particles was extremely worisome from health perspectives and above both national and international limits. The consequential air quality during the bypass operation will be even be more unforeseeable. Please contact us for the results of this sampling. - MICOA has given the requested special authorization for the bypass operation, but to date both Mozal and MICOA have refused to provide a copy of this authorization. After insisting attempts of the coalition to get access to the two studies on which the alleged authorization is based on, we were allowed to view them in the MICOA library for reading purposes only. Mozal saw itself at no occasion required to present the documents when requested, annexes of request and response availalbe. The studies available at MICOA library are the EMP Version 1.0 dated 22 March produced by Mozal and an 'independent' study "Forecast of the Dispersion and deposition of pollutants to the environment expected during the rehabilitation of Smoke and Gases Treatment Centers" allegedly undertaken by researchers of the Eduardo Mondlane

University in Maputo (annex available). In order to make an in-depth analysis of the presented data JA! saw itself forced to transcribe sections of the EMP and the University study by hand. -Beside the obscurity of the documents, the studies itself are full of controversies and voids. The EMP does not contain the annex it refers to in its report and it does not sufficiently evaluate alternatives to a bypass operation (detailed comments available). As mentioned above, in the letter from MICOA of 14 June 2010, JA! was informed that Mozal still did not have a permit from MICOA, this being dependent on the submission of the EMP, whereas the EMP in the MICOA library is already dated 22 March 2010. The University study does not give any information on authors, date and methodology (detailed comments available). Moreover, one of its authors has informed us publicly, (on a television debate) that the study was undertaken with data provided by Mozal itself. The proclaimed independency of the study is thereby nullified. -Requests for annual reports regarding Mozal's environmental performance and initial environmental permit have been conditioned on signing a confidentiality statement or have been unduly delayed; therefore JA! at no point in the past has succeeded in obtaining any data on Mozal's emissions of smoke and gas. -Despite three public meetings (one for NGO's, another for the media and the third for all interested and affected parties), the public remains ill-informed about the exact risks of the bypass operation due to the lack of access to impartial information and transparency. During these meetings the only information given was in the form of a Power Point presentation, of which the coalition has unsuccessfully requested copies. In all of the public meetings there was no or barely any room for the answering of neither questions nor discussion. Furthermore, the meetings were held in English and translated extremely poorly, without sufficiently transferring the content of the presentation. These meetings only took place in July, after the Special Authorization had already been issued and the main purpose was to ensure civil society that no harm would come from the proposed bypass, but in fact there was no time or even good will to openly discuss all the questions and concerns presented to date by the civil society groups. -The communication with civil society, in particular with the coalition has been strikingly unsatisfactory, slow and inconsistent. An example of contradictory communication is the inferior impact (only 5-10 instead of 40-100 kilometres) of the substances given by Mozal in one of the public meetings that does not correspond with the data in the EMP. -The coalition has gathered 14809 signatures in a petition to offer to the Mozambican Parliament requesting the immediate cancellation of the Special Authorization until all options to the proposed bypass are fully analysed and discussed with civil society, this petition is still to be submitted. -Furthermore the coalition has submitted a legal case to the Administrative Court in Maputo, to request the immediate cancellation of the Administrative Act, the Special Authorization considering the obscure and secret environment in which it was issued. Both processes are still ongoing. Unfortunately we were not able to attach any documents in the complaint form. Please do not hesitate to contact us to receive these or for further

	<p>information. We would recommend addressing inquiries to JA! as the most appropriate member of the coalition to answer any question. Furthermore we would kindly request a confirmation that this communication was received by the right person.</p>
<p>What do you expect to achieve?</p>	<p>The actions the coalition's requests from Mozal are: -The conduction of an independent environmental audit based on scientific verifiable data and methodology and transparent considerations taking the requirements of Chapter V of the OECD Guidelines for Multinational Enterprises into account; -Access to all Mozal's annual reports regarding environmental performance and their initial environmental permit; -A detailed and comprehensive list of all other prior short-term bypass procedures undertaken by Mozal to date; -Argued evaluation of alternatives of a bypass operation during the rehabilitation process; - Public presentation of the environmental audit and effective consultation of civil society and affected population; The objective of bringing this claim is to bring the intolerable conduct of BHP Billiton's subsidiary to the attention of the EIB. The coalition is confident that the EIB will consider Mozal's action and inaction in fair and transparent manner and is optimistic that it will conclude Mozal to be in breach of its Statement of Environmental and Social Principles and Standards . The coalition hopes to that the EIB by putting pressure on Mozal, it will be encouraged to give considerations to the coalitions above mentioned requests and engage in rational conciliation with civil society and the affected population.</p>
<p>priorContact</p>	
<p>With whom?</p>	
<p>When</p>	
<p>Treat as confidential?</p>	No

URL : <http://www.eib.org/infocentre/complaints-form.htm>