



Mopani Copper Project Summary of the investigation of the Inspectorate General Fraud Investigation (IG/IN)

On 25 February 2005, the EIB signed a loan with Mopani Copper Mines Plc (Mopani), a subsidiary of Glencore plc, for USD 50 million to partially fund the renovation and modernization of the Mufulira copper smelter in Zambia. The purpose of the EIB loan was to reduce the emissions of sulphur dioxide at the industrial plant dating from the 1930s.

At the end of 2008, an audit was commissioned by the Zambian Revenues Authority (the ZRA) on the Mining Industry in Zambia. This audit was conducted by Grant Thornton and Econ Poyry and took place from December 2008 to the end of 2009 and covered the tax years 2006/2007 and 2007/2008. On 9 February 2011, a draft version of the pilot audit report (the Leaked Draft Report), highlighting alleged irregularities concerning Mopani's operational costs, revenues, transfer pricing, employee expenses and overheads, was leaked to the press. When becoming aware of the allegations in the Leaked Draft Report, IG/IN decided, in line with the then applicable Anti-Fraud Policy, to open an investigation.

The first EIB fact-finding mission to the Mopani premises in Kitwe was carried out in March 2011. EIB Representatives met with Mopani management and the ZRA. Mopani confirmed that the audit took place, but said neither the ZRA nor Grant Thornton shared the conclusions of the Draft Report with Mopani before they were leaked to the press. EIB also asked the ZRA for a copy of the Leaked Draft Report but ZRA refused.

IG/IN proposed to have an independent review conducted by EIB with the assistance of consultants (EIB Review Team). The review was to focus on the issues raised by the Leaked Draft Report. Mopani accepted the proposal.

An on-the-spot review by the EIB Review Team was initially foreseen to begin at the end of June 2011. However, on 17 June 2011, shortly before the review was due to start, Mopani advised the EIB Review Team that the ZRA had already planned a tax inspection to be conducted in the same period. IG/IN had therefore to postpone its review to the beginning of August 2011. A few days before the second agreed start date, Mopani tried to postpone again the review on the basis that the ZRA's inspection was to continue into August. The EIB decided to proceed with its review without further delay, which was conducted between 1st and 17th August 2011.

Documents which had been requested by the EIB team more than two months in advance of the review were not made available and access to essential information during the review was not provided, despite repeated requests. As a result, the number of issues investigated by the EIB Review Team had to be limited and IG/IN was forced to break-off the mission almost two days earlier than planned.

The work of the EIB Review Team was non-conclusive due to the difficulties faced in the investigation of the case. As not all of the necessary information could be obtained, it was not possible to comprehensively prove or disprove the allegations raised in the Leaked Draft Report regarding Mopani's costs, revenues, transfer pricing, employee expenses and overheads.

On the basis of the difficulties encountered, IG/IN concluded its investigation in November 2011 and the EIB started discussions with Mopani's parent company, Glencore, which resulted in the latter deciding to voluntarily prepay the loan in 2012, thus closing its contractual relationship with the EIB.

Additional information not part of the investigation report:

In line with its policies, the Bank was in regular contact with the Zambian competent authorities on its investigation and offered to provide them the appropriate information that they would require on this matter. Glencore informed the Bank that the ZRA had completed an audit and that all outstanding issues were satisfactorily resolved. The Bank has not been able to obtain further details on this matter from the ZRA, Mopani Copper Mines Plc, or parent company Glencore.

The EIB was informed by the European Anti-Fraud Office (OLAF) of its decision to close the investigation into this matter with no action, due to the fact that no EU budget funds were involved. The EIB has also taken note of the conclusions of the OECD National Contact Point of Switzerland regarding the specific instance launched on these allegations.

Glencore and Mopani have strongly disputed the conclusions of the Leaked Draft Report on numerous occasions including to a UK Government Select Committee in 2012, stating that the Leaked Draft Report was fundamentally and factually flawed, was based only on a desktop review, failed to take into account that only half of the copper produced is own-sourced, and was never been publicly updated or finalized.

Glencore and Mopani also stated that the EIB Review Team was not able to obtain all the documents it requested from Mopani, as Mopani's staff prioritized the ZRA's audit which was ongoing at the same time. They also indicated that the ZRA's audit ultimately took 9 months to complete due to the high volume of transactions and documents to be audited.

Given that the EIB no longer has any contractual relation with MCM/Glencore, and that these matters concern MCM/Glencore's relations with the Zambian authorities, the Bank has not taken any further view on this and considers this case as closed.