

Beneficial ownership transparency

Milestones on the road to 2020
Highlights from EITI countries

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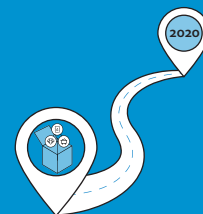
Introduction

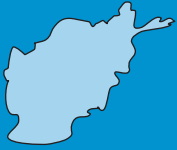
In April last year, the Panama Papers scandal broke, with 11.5 million leaked documents, implicating high-level individuals with links to the extractive sector. The challenge became one of turning outrage into change. The Panama Papers point the finger at the use of anonymous shell companies to hide or launder money and conceal potential conflicts of interest. For citizens of resource-rich countries, the risk of losing out on extractive revenues is particularly acute.

The EITI last year agreed to adopt new rules on disclosing beneficial ownership (BO) for all extractive companies operating in its 52 member countries. By 2020, companies that apply for, or hold a participating interest in an exploration or production of an oil, gas or mining license or contract in an EITI country must report the name, nationality, and country of residence of the beneficial owner, as well as identifying any politically-exposed persons (PEPs). This means that countries that produce oil, gas and minerals will know, through the EITI, who the owners of the companies that develop their natural resources are, regardless of how many layers there are between these companies and their ultimate beneficial owners.

More than 50 EITI countries have published their plans for how to disclose the real owners of companies in their extractive sector by January 2020. This includes building an institutional and legal framework, putting in place reporting processes and creating registers to host the BO data. Implementing countries will need substantial advice and political support in turning these commitments into reality. This brief highlights progress made so far by a selection of EITI countries in “opening up ownership”.

The content for this publication was drafted by national secretariats for the EITI Chair Awards for Progress on Beneficial Ownership





Afghanistan

Using beneficial ownership disclosure to tackle corruption

Afghanistan EITI (AEITI) has acted as a tool to create awareness on ways to curb corruption in the country and has also enabled the citizens of Afghanistan to understand their rights and resources regarding access to information. A key priority for Afghanistan's Multi-Stakeholder Group (MSG) is to prepare for the disclosure of beneficial ownership (BO). Workshops and training programmes were held for MSG members to raise their awareness and build their understanding of the requirement.

A GIZ-funded expert on BO was assigned to assist in the development of a BO disclosure roadmap. The roadmap was developed in close consultation with the Ministry of Trade and Commerce. Inputs received from other government agencies, such as the Ministry of Transport and Civil Aviation (MoTCA) and the National Procurement Authority, were also included. During the consultations, close contact was established with the Central Business Registry Authority, which had been assigned to implement BO disclosure in the country. Additional work, such as a country-specific definition of BO, is still required to make the roadmap implementable.

The civil society members of the MSG have also presented information and stimulated debate on BO in the national media and government circles.

In addition, an Access to Information Act was signed into law by HE Ashraf Ghani, the President of Afghanistan. This Act enables and gives everyone the right to access information.

Albania

Hidden ownership fuels suspicion



At the 2016 EITI Global Conference in Lima, the Albanian Minister of Energy made a public statement on the Albanian government's commitment to beneficial ownership (BO) transparency. Increased transparency in BO will benefit the people and government of Albania, and increase the level and scope of foreign direct investment in the country.

Legislative action regarding BO disclosure has been undertaken in the country. Law No. 9917 from 2008 "On prevention of money laundering and financing of terrorism" contains provisions about disclosures of BO for financial transactions. Additionally, in early 2017, EITI Albania drafted the EITI Law, which contains additional provisions for BO disclosure. The draft law has not yet been adopted.

15 EITI Reports, BO reporting forms were distributed to companies throughout Albania. Out of 134 reporting companies, 31 provided ownership information. Some of the non-reporting companies commented that they were unable or not authorized to provide this information.

In 2016, EITI Albania conducted a survey concerning the extractive companies operating in the country. This survey included two questions about BO: "Do you know who the real owners are?" and "Do you think that these companies have hidden owners behind them?" The results showed that citizens perceived politicians to be behind these companies. The topic has also been discussed in meetings organised by EITI Albania with local government and extractive companies.



Armenia

Making progress on drafting a beneficial ownership roadmap

The Government of Armenia, with the assistance of the European Bank for Reconstruction and Development, is in the process of developing its beneficial ownership (BO) roadmap, which should be published by 1 January 2018. Armenian legislation already provides a definition of BO in the law “On Combating Money Laundering and Terrorism Financing”. Moreover, Armenian legislation also defines concepts that are related to BO, such as “related party transactions”, “politically exposed persons”, “registered or nominal owner” and “significant participation”.

The debate on BO disclosure is still in its infancy in Armenia. Discussions related to BO disclosure have been held among multi-stakeholder group members and officials from other relevant state bodies, such as the Central Bank and Commission on Ethics of High-Ranking Officials. Additionally, in June 2017 a two-day workshop addressed the EITI requirements on BO disclosure and highlighted best international practices.

The government recognizes that BO disclosure will lead to more responsible mining, enhanced transparency in government procedures and greater responsibility for state officials. It is hoped that BO disclosure may become an effective component of the anti-corruption policy of Armenia.



Burkina Faso

Beneficial ownership disclosure frontrunner

Burkina Faso voluntarily signed up for the pilot phase of the implementation of the new EITI requirement on beneficial ownership (BO), which will come into effect on 1 January 2020.

The pilot study was planned to take into account the country differences and diversity in existing national legislation, whilst the International Board was considering whether to make the identification of beneficial owners a requirement of the EITI Standard.

The study revealed an absence of legislation on the issue, and subsequently provided suggestions for the creation of legislation which would allow for the identification of the beneficial owners of mining companies in Burkina Faso.

The International EITI Board required the publication of a BO roadmap before 1 January 2017. The Burkina Faso roadmap, which was drafted and published by the MSG, provides a scoreboard towards the achievement of the publication of beneficial owners by 1 January 2020. Other activities in the roadmap include the elaboration

of a guide on BO and the adoption of a transparency law, which would integrate BO provisions.

The various EITI Reports by Burkina Faso have published the legal ownership of companies. However, in the forthcoming 2016 EITI Report, it is planned that the reporting template will collect data, as outlined in the roadmap, as agreed by stakeholders at a meeting in Kombissiri in September 2017. The data will inform citizens of the identity of beneficial owners of companies in 2018.



Colombia

Considering multiple options for disclosure

The Government of Colombia committed to implementing a national registry of beneficial ownership (BO) information in the Anti-Corruption Summit in London in May 2016. A bill was drafted to implement the registry. It was envisioned that BO data will be collected by the different company regulators and information shared with other authorities upon request. The bill was expected to be passed through Congress as part of the peace accord implementation package for the last legislative period (October 2017-March 2018). However, the bill was not introduced and is awaiting election in the next legislative period in March 2018.

EITI stakeholders have agreed on the importance of having BO information as an important tool to combat corruption, money laundering, financing terrorist and illegal forces and tax evasion. The country is committed to a number of related activities and programmes such as Financial Action Task Force (FATF), OECD guidelines and the EITI.

Having relied on the national legislation, EITI-Colombia will now revisit their BO strategy to align it better with the EITI requirement. The MSG is expected to discuss issues like correct use of BO data, compliance with confidentiality limitations, security concerns and access to information. It is important for EITI Colombia to advance in this discussion, without alienating the private sector and increasing the burden of disclosing data.



Dominican Republic

preventing financial crimes with ownership disclosure

Following its commitment to participate in the Financial Action Task Force on Money Laundering (FATF), the Dominican Republic introduced a law against money laundering and financing terrorism on 1 July 2017. The law establishes a definition of beneficial ownership and the obligation of all legal persons or entities such as trusts, investment fund or similar to register and provide the State with BO information. The beneficial owners are natural persons who exercise final control or are the ultimate owners of a legal entity or body without legal personality. In the same way, the natural persons who benefit from a transaction, although this one does not appear like the owner. Corporations are responsible to implement these standards. The number of obligated subjects is not limiting and may be extended by resolution of the National Anti-Money Laundering Committee.

The Directorate General of Internal Taxes, is the entity in charge of keeping BO records. BO disclosure is required when incorporating a company or when filing the Annual Affidavit. The law does not exempt any sector from revealing BO information, including the mining sector. In addition, in the draft of the Mining Law, it has been considered to introduce the concept of beneficial ownership to promote transparency in the sector.



Ghana

Poised to deliver on commitments

Beneficial ownership disclosure played a prominent role in Ghana's last election, and HE Vice President Alhaji Mahmudu Bawumia reaffirmed the government's commitment at a beneficial conference in Accra in February 2017.

Following national consultations organised by Ghana EITI (GHEITI) in April 2016, a consensus emerged that the scope of beneficial ownership (BO) disclosure should be expanded beyond extractives to apply to all companies registered in Ghana. The Companies' Act of 1963 has been identified as the most appropriate legal instrument to establish an ownership register, and GHEITI has provided input to an amendment passed in August 2016 that paves the way for implementation of a BO disclosure regime in Ghana. The law now mandates the Registrar-General to collect the information as well as maintain the register

Ghana's progress towards the establishment of a BO regime has of course not been without challenges. There have been major disagreements on the definition of Politically Exposed Persons, and whether or not family members who may not necessarily approve of

the PEPs' political role should be compelled to disclose their business interest. Other disagreements relate to whether or not the BO register should be publicly accessible or whether accessibility should be limited to only basic information as required by the Financial Action Task Force (FATF). These disagreements have not been entirely resolved. Discussions are currently ongoing among key stakeholders to take advantage of the new Companies' Bill to address pending issues. Meanwhile, the Registrar General Department (RGD) is being supported to come up with an implementation plan for the amended Act, including: (i) undertaking a comprehensive needs assessment which includes putting in place an IT infrastructure (ii) developing a prototype BO register (iii) designing new forms to include collection of BO information among others. The needs assessment has been done and the report is being reviewed by RGD. GHEITI is facilitating and coordinating all these issues and discussions, with support from the Natural Resource Governance Institute (NRGI) and Strengthening Action Against Corruption (STAAC).



Indonesia

Making beneficial ownership transparency a national priority

The Indonesian government has given serious attention to beneficial ownership (BO) transparency since the Panama Papers' leaks, as they involved a number of Indonesian citizens. After the release of the Panama Papers, the Indonesian government launched several initiatives related to BO disclosure. It also declared its commitment to BO openness at the anti-corruption summit forum held in London in May 2016. Indonesia has joined several global initiatives that require BO information disclosure, it participates in the FATF (Financial Action Task Force on Money Laundering) and it implements the BO G-20 Principles. In December 2016, Indonesia published its EITI BO roadmap.

Since achieving BO transparency is a complex task, involving many institutions, the implementation of the EITI BO roadmap is part of a wider national effort in Indonesia towards BO disclosure and will therefore cover all business sectors in the country. Several discussions have taken place to determine the various steps in implementing BO transparency, including the establishment of a legal basis and various institutional reforms. The Indonesian government has also prepared a Presidential Decree to serve as the legal basis for BO

disclosure reform. Several BO studies have been carried out to help determine the various steps necessary to achieve BO transparency. All these efforts are expected to reduce the loss of potential state revenues, decrease money laundering practices, disclose hidden monopolies and improve governance.



Kyrgyz Republic

Consultative legal reform on beneficial ownership

The creation of a legal basis for beneficial ownership (BO) disclosure in the Kyrgyz Republic is underway. An amendment to a draft law, entitled “On Subsoil”, which provides for the introduction of BO disclosure in the Kyrgyz Republic, was recently passed, and a final reading of the draft law during the general session of the parliament is expected by the end of the year.

Following a request in September 2017 by the State Committee for Industry, Energy and Subsoil Use, the European Bank for Reconstruction and Development supported work on the preparation of by-laws to the above-mentioned draft law.

Assistance in the preparation of amendments to the Law “On Subsoil” was also provided by representatives of the parliamentary Committee for Energy and Subsoil Use, Deputy K. Ryspaev, the State Committee, various civil society organizations, representatives of the business community and members of the Supervisory Board for implementation of the EITI in the Kyrgyz Republic.

With the support of the UK’s Department for International Development, three training sessions on the theme of BO transparency were held in Bishkek for members of the Supervisory Board, civil organizations and journalists. A communication strategy for the dissemination of information on BO was also designed. It is expected that implementation of this strategy will promote additional debate on BO disclosure.

In addition, at the request of business representatives, the law firm Kalikova & Associates carried out a risk analysis of the implementation of BO disclosure in the Kyrgyz Republic. The analysis identifies the main risks, as well as various strategies, to address and overcome them. At a meeting held to present the study, the parties agreed that there are no insurmountable risks regarding the implementation of BO disclosure in the Kyrgyz Republic.



Liberia

Beneficial ownership disclosure pioneer

Liberia EITI (LEITI) piloted beneficial ownership disclosure in 2015, covering the oil, mining, agriculture and forestry sectors. The pilot initiative attracted lots of interest, and on 14 December 2015, various stakeholders came together for the successful completion and launch of Liberia's beneficial ownership (BO) pilot and the first ever BO report for Liberia.

On 1 January 2017, Liberia published its BO roadmap that will lead to the establishment of a BO registry by 2019. Integrating LEITI's BO roadmap into the national action plan for the Open Government Partnership has been a challenge. The national budget deficit has made funding the implementation a further challenge.

BO disclosure remains a new concept in Liberia. However, interest in BO disclosure was recently heightened by the Global Witness' report (*Holding the Line, 2017*), which was built on LEITI's pilot BO Report. Civil society organisations, operating under the banner of the Concession Working Group, have responded by promoting the dissemination of the BO report and further advocating for the development of the BO

registry. While the current BO registry is skewed towards the extractive sectors, the government has committed to expanding it to a national BO registry under the Open Government Partnership (OGP) initiative, ultimately covering all sectors of the Liberian economy. This registry will help to curtail corruption and identify conflicts of interest, instances of tax avoidance and money laundering, and illicit activities such as drug trafficking and terrorist financing. The government's deadline to produce this national BO registry is 2019.



Malawi

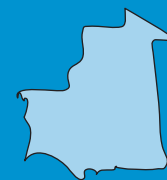
Beneficial ownership disclosure and open data

The Government of Malawi has implemented activities as outlined in the EITI beneficial ownership (BO) roadmap, including: i) collecting and collating lessons and best practices related to BO disclosure from other countries; ii) conducting BO Disclosure Committee and stakeholder meetings to propose definitions of BO and Politically Exposed Persons, as well as the level of details to be disclosed and how to approach disclosure; iii) conducting a BO multi-stakeholder conference to disseminate lessons learnt and best practices to secure buy-in and consensus on definitions.

A mining cadastre system with an open data format has recently been launched by the Department of Mines, and plans are underway to strengthen the Forestry Cadastre System. These efforts provide some opportunities to mainstream BO disclosure into the government systems.

The main benefits of BO disclosure include deterring corruption in license allocation, curbing transfer pricing and money laundering, preventing taxation system abuse and promoting good governance.

Some of the main challenges include a lack of appreciation among some companies of the importance of disclosing their real owners, as well as a lack of capacity and funding to support the planned activities.



Mauritania

Setting up a beneficial ownership transparency regime

Alongside other EITI-related actions, such as its open data policy and raw materials trade transparency, Mauritania has signalled its intention to adopt and implement the EITI guidance on beneficial ownership (BO), as part of its efforts to make extractive industry governance more transparent and to tackle conflicts of interest.

The EITI MSG has adopted a roadmap for implementation of the BO requirements between now and 2020. The MSG includes a technical sub-committee for monitoring BO implementation as well as an inter-ministerial committee for monitoring the Independent Administrator's recommendations.

In addition to the BO disclosure roadmap and establishment of the above subcommittees, the EITI MSG in Mauritania held a workshop on BO. The MSG also continues to hold regular discussions between sub-committee members (comprising senior executives from the mining and oil registers) who are responsible for monitoring implementation of the MSG's BO policy, and is also currently preparing to recruit a consultant to oversee the production of a BO scoping note.

Future goals include the full implementation of the BO roadmap and the application of the EITI guidance on BO from January 2020.



Mongolia

Interagency collaboration crucial for promoting beneficial ownership

The Government of Mongolia has taken several steps to support beneficial ownership (BO) disclosure in the country's extractive industries. Resolution No. 222, which concerns public access to production sharing agreements, was amended in September 2017, following a recommendation from the Mongolia EITI (MEITI) Working Group in 2016. This new amendment requires ministers from the Mining and Heavy Industries, Justice, and Internal Ministries to create, before the end of 2017, the legal conditions for BO disclosure of mineral license holders and petroleum contractors, as well as their respective operators.

The MEITI MSG, which has approved Mongolia's roadmap for 2020 regarding BO disclosure, has worked closely with the government and been tasked to help carry through several government anti-corruption initiatives. These include the national work plan for 2016-2018, the National 2017-2023 Program to Combat Corruption, which contains a provision for BO disclosure to be implemented by MEITI, and the State Policy on the Mineral Resources Sector 2014-2025, which commits the country to using EITI guidance and internationally recognized practices to promote responsible mining.

However, BO disclosure has encountered resistance from some companies, who remain skeptical of the benefits of BO disclosure and have requested additional information on the practice from the MEITI before agreeing to disclose this information.

MEITI has attempted to publish BO information in its annual EITI reports since 2014, and has created an online tool displaying the results for more than 200 companies. In addition, the MEITI Secretariat and Multi-Stakeholder Group (MSG) have organized six consultations for business, civil society groups and the government, through which all parties have agreed on the necessity of BO disclosure. This includes addressing off-shore accounts held by Mongolian citizens, a practice which has been banned under Mongolian law.

While the MEITI MSG was able to finalize definitions of BO, politically exposed persons, and other relevant terms and details, it has yet to be determined which government agency will be in charge of BO disclosure, and how data will be collected, published and verified. Additionally, at the moment BO disclosures only cover the extractive and media sectors. The debate over applying BO disclosures to other sectors, such as banking, is ongoing.



Nigeria

Taking a two-track approach

In 2013, Nigeria piloted beneficial ownership (BO) reporting. Nigeria Extractive Industries Transparency Initiative (NEITI) has since featured some form of BO reporting in three audit cycles (2012, 2013, and 2014) and has incorporated lessons learnt to deepen BO reporting in the ongoing 2015 report. In May 2016, as part of the build-up to the London Anti-Corruption Summit, NEITI published a well-received policy brief.

At the summit, President Muhammadu Buhari committed Nigeria to establish a publicly accessible register of all companies operating in Nigeria. This is reflected in Nigeria's first Open Government Partnership (OGP) Action Plan. There is a strong political support for BO disclosure since it aligns with the Administration's agenda in terms of anti-corruption, economic growth and national security.

The major challenge with BO reporting in Nigeria is lack of legislation mandating disclosure of the real owners, as opposed to just legal owners. Both the OGP process and NEITI's BO roadmap have highlighted how to overcome this hurdle and eventually have in place publicly accessible BO register(s).

A two-track approach is being implemented. Track one, under the EITI process, is to get the regulatory agencies in the extractive sector (the Department of Petroleum Resources and the Nigerian Mining Cadastre Office) to issue policies and regulations mandating BO disclosure for registers that will be hosted by them.

As a law will still be needed, the second track is to develop legislation mandating disclosure of the beneficial owners of all companies operating in Nigeria to be domiciled in a publicly accessible register, managed by the Corporate Affairs Commission (CAC). The possibility of an Executive Order for BO disclosure is being explored as an interim measure. NEITI is part of both processes, and the eventual goal is to fold the extractive sector register into the central public register.



Philippines

Beneficial ownership transparency progressing despite roadblocks

In the Philippines, beneficial ownership (BO) identification and reporting is a concept recognized in securities and anti-money laundering rules. These rules apply to all industries which fall under government regulation. With regards to domestic extractive industries, the Philippines EITI (PH-EITI) is at the forefront of BO disclosure efforts. The annual PH-EITI Roadshow has featured BO disclosure as an emerging transparency initiative, and has helped to raise public awareness and encourage public debate on the subject, especially at the local level.

Privacy laws, along with the current state of data management in government, remain major roadblocks to disclosure. Nonetheless, the PH-EITI Multi-Stakeholder Group (MSG) has published a clear, rational, and systematic roadmap for fulfilling the EITI requirements on BO disclosure in 2020. To date, PH-EITI is on track, having engaged a technical consultant to conduct a scoping study and subsequently holding a technical working group meeting where MSG members – with strong representation from each constituency – discussed the initial draft of the study with the consultant. The MSG has also sought available technical

assistance from the EITI International Secretariat, and is striving to ensure that appreciable progress is being made, beginning with reaching a consensus on the definitions of BO, politically exposed person (PEP), and materiality for inclusion in the 4th PH-EITI Report by the end of the year.

The MSG is united in both its recognition of the value of BO disclosure in uncovering the hidden – and often unscrupulous – interests and powers that impinge on how the country's natural resources are governed, and in its confidence in BO disclosure's potential to increase the overall accountability and compliance of extractive entities with all relevant laws and standards.



Papua New Guinea

Applying beneficial ownership to landowners

The implementation of Papua New Guinea's (PNG) roadmap for beneficial ownership (BO) disclosure began in July 2017. The MSG has commissioned a review of the current legal and regulatory framework to identify issues that may hinder progress. The focus of the adjustments to legislation regarding BO disclosure is on the extractive industry. The terms 'Beneficial Ownership Disclosure' and 'Politically Exposed Person' have also been included and defined in the country's Anti-Money Laundering Act of 2015.

PNG EITI will begin its Roadshow in 2018. The main aim of this Roadshow is to showcase the EITI and its benefits whilst also creating public awareness regarding BO disclosure. During this time, public debate will be crucial to ensure local understanding of the meaning and importance of BO disclosure, so that BO disclosure efforts will be appropriate and effective in the local business and regulatory environment. An essential fact that differentiates PNG from other EITI countries is that PNG law acknowledges that the people are tied to the land, and therefore specifies the term 'landowners'. When implementing the EITI and BO disclosure within the local context, particularly for landowner groups,

validating landowner information and their respective groups will be crucial for the accuracy of the BO information.

Although the implementation of BO transparency reforms is moving forward, there are several challenges. The first challenge is the potential de-prioritising of BO disclosure due to other ongoing government reforms. Another challenge will be data collection.

Once BO disclosure is fully implemented, it will demonstrate the national commitment to transparency and help achieve national goals set out in Vision 2050 and the PNG Development Strategy 2010-2030. It will also contribute to more efficient revenue collection for the government, improve sovereign and corporate ratings, and promote accountability for local and foreign investors and business, thereby enabling better management of corporate risk.



Sierra Leone

From commitments to action

There is often confusion and suspicion when companies close and their operations are taken over by other companies. Many think that such actions are taken for tax evasion purposes and to conceal other forms of corrupt practices. At his meeting with EITI Chair Fredrik Reinfeldt, H.E. the President Ernest Bai Koroma publicly pledged to fully implement the BO requirement. Subsequently the government has committed to a national BO register across all sectors. The greatest anticipated benefits are increased revenues, reduced opportunities for illegal financial flows, and increased trust.

Sierra Leone EITI (SLEITI) constituted a multi-agency BO working committee. This committee has supported the MSG in developing and implementing the BO roadmap.

Priority areas for the committee included reviewing the BO and politically exposed persons definitions and aligning the BO provisions with the Corporate Governance Code and the Sierra Leone Minerals Policy.

A legal review report concluded that Sierra Leone lacked the appropriate legislative and institutional infrastructure to collect BO data. Following that report, the Corporate Affairs Commission (CAC) is looking to overhaul the Companies Act and Corporate Governance Code, including to incorporate BO declarations. The CAC will set up and manage a BO register covering companies in all sectors. It has already amended its Companies Registration form to include BO. SLEITI is exploring the possibility of sourcing pro bono legal support on behalf of the CAC. In addition, the revised Sierra Leone Mineral's Policy now encourages BO declaration.

For the 2015-2016 SLEITI reporting cycle, companies were given training on BO declarations and encouraged to voluntarily declare their beneficial owners. The National Minerals Agency will check the BO data provided by the mining companies.



Solomon Islands

National Mineral Policy commits to beneficial ownership disclosure

The Government of Solomon Islands (SI) launched the National Mineral Policy 2017-2021 in June 2017. The policy formalises beneficial ownership (BO) disclosure as a requirement for companies involved in the country's mining sector. The policy applies to both existing and new mining companies.

The government will publish the BO information on an annual basis. This is the first time that the Solomon Islands has specifically addressed BO in its policy, which came about due to continuous discussion in both the public sphere and government offices, due to the potential for corruption stemming from non-disclosure of BO.

The implementation of the policy is undertaken in partnership with the SI EITI office. Although implementation has begun, significant reforms as well as a review of existing legislation and regulations, are required in order to prepare for a full roll-out of the policy.

The government's inclusion of BO provisions in the National Mineral Policy is an achievement for SI EITI, as the MSG has been advocating for it since 2012. The government and SI EITI want a level playing field for all investors in the mining sector, and continue to strive for the eradication of corruption at all levels of government.



Tajikistan

Bringing beneficial ownership transparency to the extractives

Beneficial ownership (BO) disclosure is already well integrated in the laws and regulations of Tajikistan. A 2013 government decree requires all companies submitting tenders for subsoil usage rights to include documentation regarding BO. A state law on business and entrepreneur registration was amended in 2016 to include provisions requiring BO and principal owner disclosure for all legal entities registered in offshore zones. 2016 also saw the drafting of a new law on subsoil use which includes provisions for sharing BO information and maintaining an open register of beneficial owners, in compliance with the EITI requirements. Such registries currently exist for the banking sector, and the government, aware of the role BO disclosure plays in combating corruption, money laundering, and terrorism, is keen to expand such information databases to other sectors. The draft law is currently being considered by the government.

BO disclosure has also been attempted in the country's second EITI report for 2015-2016. Other major achievements to date regarding BO disclosure include the establishment of the ownership threshold and level of control for defining beneficial owners, and

the creation of reporting forms for beneficiaries and politically exposed persons.

In 2017, several seminars and training events were held throughout Tajikistan regarding BO disclosure. The EITI National Council approved a roadmap which was subject to discussions and debate throughout the country. An inter-ministerial working group, consisting of a broad range of government officials and business and civil society representatives, was established in order to promote and monitor implementation of the roadmap recommendations and proposals.

At the moment, there are a number of definitions of "beneficial owner" in use throughout the various branches of Tajikistan's legal system. To address this issue, the working group is due to hold a meeting in order to agree upon a definition of "beneficial owner" for the country. Participants at this meeting will include representatives from major extractive companies, civil society organizations, the media, and various government agencies.



Timor-Leste

Identifying gaps in existing laws

The Government of Timor-Leste, through the Ministry of Petroleum and Mineral Resources, acknowledges the importance of beneficial ownership (BO) disclosure in the country's extractive industries. Following the release of the Panama Papers, Timor-Leste undertook a pre-feasibility study concerning the processes and requirements required to establish a definition of BO which is appropriate and applicable to the country's norms and conditions. Timor-Leste EITI (TL-EITI) MSG has prepared a roadmap which aims to achieve transparency and accountability as a means to minimize the abuse of power, corruption and/or conflicts of interest within the extractive industry.

Timor-Leste will attempt to disclose the beneficial owners in the extractive industries, as well as other sectors, once a definition of BO is established. In the meantime, the current legal framework for oil & gas activities within the Joint Petroleum Development Area (JPDA), includes specific criteria which allows the regulatory authority to assess the financial capability of a company either through its parent company or publicly available information. While this specific clause does not require companies to disclose BO information, it provides an

opportunity for the authorities to seek such information. This is an example of a minimum requirement in the existing legal system, which could potentially be expanded to meet the new requirement on BO.

As an indirect result of the existing legal regime for the JPDA, the authorities have been able to collect some information on the ownership of existing operators in the JPDA, as well as ownership information and investor links for publicly registered oil and gas companies, all of which have been reported in TL-EITI's recent reports.

Since Timor-Leste is still at the early stage of conducting its pre-feasibility study regarding implementation of BO disclosure requirements, and since TL-EITI's MSG has only completed its initial roadmap, no public debates on BO disclosure have taken place and it remains too early to identify challenges to BO disclosure implementation.

Upcoming important tasks for TL-EITI MSG include discussing the details of the roadmap for BO and establishing a timeframe for the roadmap's implementation.



United Kingdom

Public register accessed two billion times a year

In 2015, the United Kingdom (UK) legislated for a publicly accessible central registry of company beneficial ownership (BO) information, maintained by the registrar of companies (known as the Companies House). This registry is called the register of People with Significant Control (PSC register). The PSC register operates in addition to other disclosure requirements on UK companies, such as the registers of members and directors. Together, these registers provide publicly available information on the management, ownership and control arrangements of companies.

The UK's PSC register was the first public register of this scale and ambition in the world. The register covers some 3.9 million UK-registered companies, partnerships and other corporate bodies. By the end of the first year of operation, over 98% of these companies had met their obligations. The information is publicly accessible, free of charge, and currently being accessed over 2 billion times a year.

The register provides an easily accessible single source of information about the ultimate owners and controllers of UK companies. This information promotes good corporate behaviour and increases trust in UK companies. Law enforcement agencies and civil society use the register to support their investigations. Citizens and businesses both at home and abroad are able to access the register to identify who really owns and controls the companies they are doing business with. Greater transparency of company ownership and control makes it more difficult to conceal an individual's involvement in a company, and acts as a deterrent to crime.



Ukraine

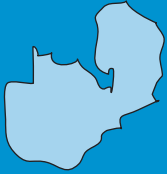
Establishing one of the first beneficial ownership registers in the world

Ukraine has made great legislative strides in beneficial ownership (BO) disclosure. The Ukrainian government has made fighting corruption one of its top priorities, and developed a State Anti-corruption Policy which has subsequently prompted several legislative and regulation acts aimed at ensuring transparency in the business and economic spheres. A legal obligation to identify the real beneficiaries of legal entities in the country has been adopted, and now serves as the basis for the mandatory inclusion of information on beneficial ownership in the Unified State Register of Legal Entities and Individual Entrepreneurs. Ukraine was the first country to establish such a register. This register, which is freely accessible online to all members of the public, includes data on the final beneficiaries of all legal entities in Ukraine from all sectors.

However, some issues with the register remain. First, companies only indicate nominal owners, not the real beneficial owners. A clear procedure on verification should therefore be established. Second, not all companies provide the legally required information, and the fine for non-compliance is too low (at around USD 300) to have any serious effect. This fine should be

increased. Third, similar registers do not exist in other countries, making it impossible to investigate BO in offshore jurisdictions. Finally, the search function is very sensitive, making the system sometimes difficult to use. This should be improved.

Despite these drawbacks, there have been major achievements in Ukraine regarding BO disclosure. Besides the register's use domestically, Ukraine has agreed to provide all the registry's information to the global register of beneficial owners, and has passed legislation stating that all state officials must submit electronic declarations indicating any ownership or shares in any business entity.



Zambia

Pushing for beneficial ownership transparency

Zambia EITI (ZEITI) is currently implementing its Beneficial Ownership (BO) disclosure roadmap. The roadmap documents key milestones that must be achieved for BO information to be disclosed by relevant institutions by 2020. In its preparation of the roadmap, the ZEITI identified various institutions that are relevant to the process. Notably, the ZEITI has been able to reach out to the Financial Intelligence Centre (FIC) and the Patents and Companies Registration Agency (PACRA).

The FIC is established by an Act of Parliament and focuses on fighting financial crimes. As part of its work, the FIC requires financial institutions to disclose beneficial owners who are party to suspicious transactions. This information, however, is only available to law enforcement agencies. The only publicly-available information on beneficial owners comes from a bulletin that simply summarises the outcomes of the cases under investigation. However, ZEITI engagement with the FIC has enabled the FIC to conduct joint public dissemination workshops, increasing the accessibility of such information to the Zambian public.

ZEITI has also formally engaged the PACRA to include a provision on BO disclosure in its current process of amending the Companies Bill. The Bill is currently going through the consultation process, and preliminary indications are that the requirement on BO disclosure has been included in the draft Bill. However, uncertainty remains over whether the BO information will be available to the public, and whether this information will be accessible for free in an open source format. Currently, PACRA charges an administrative fee to access its information.

What the EITI requires of its member countries

Requirement 2.5 of the EITI Standard (2016) specifies what countries will do to uncover beneficial owners:

- By 2020, all implementing countries have to ensure that **all oil, gas and mining companies that apply for, or hold a participating interest in an exploration or production oil, gas or mining license or contract** in their countries publish the names of their real owners.
- This should include the **identity of the owner**, i.e. the name, nationality and country of residence. Companies are also encouraged to publish further details such as the date of birth, national identity number, residential address etc.
- Any **politically exposed persons** holding ownership in oil, gas and mining projects must be publicly identified.
- The EITI recommends that beneficial ownership information is made available through **public registers**. At a minimum, the information must be published in the country's EITI Report.

Read more on www.eiti.org/beneficial-ownership

The EITI (Extractive Industries Transparency Initiative) is a global standard that improves transparency and accountable governance of oil, gas and mineral resources. The standard is implemented by governments, in collaboration with companies and civil society. Countries implementing the EITI disclose information on issues such as tax payments, licenses, contracts, production and national oil companies.

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