

Islamic Republic of Mauritania

Honour - Fraternity - Justice



Minutes of a meeting of the Subcommittee for Preparation of the EITI-NC responses to the International Secretariat

Date: 10 August 2020	Time: 12.00	Place: EITI-NC	Minute-taker: Ba Aliou Coulibaly
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Participants:

Present	Represented	Absent
<ul style="list-style-type: none">▪ Mohamed Lemine Ould Ahmedou, Chair of EITI-NC▪ Ba Aliou Coulibaly, Civil society representative on the EITI-NC▪ Mouamar Rachid SALEH, Director of Project and Environment Monitoring, General Directorate of Hydrocarbons (DGH)▪ Ba Ibrahima Madine, Director of the Mining Cadastre, Directorate of Geology and Mines (DGM)▪ Cheikh el Wely Sidi Mohamed, AT GIZ/EITI-NC		

Agenda

Formulation of responses to shortcomings related to Requirement 2.5 (Beneficial ownership).

Further to reading the entire assessment report for the 3rd validation of Mauritania provided by the International Secretariat, the Subcommittee was pleased to note that Requirement 2.5 was the only requirement with shortcomings remaining.

Following its first meeting, the Subcommittee established a small team led by Mr **Ba Aliou Coulibaly**, representative of the civil-society group on the MSG, to coordinate the various responses and finalise the document. The team members were Mr **Ba Ibrahim Madine**, Director of the Cadastre, and Mr **Mouamar Rachid Saleh**, Director of Project and Environment Monitoring, at the General Directorate of Hydrocarbons (DGH).

To this end, we hereby submit for your consideration the responses to the shortcomings noted:

I. Technical Evaluation

1. Beneficial ownership data-collection form

The circular sent by the General Directorate of Mines to the mining operators in February 2020 on the subject of beneficial ownership as applicable to the 2017 EITI Report and published on the Ministry of Oil, Energy and Mines (MPME) website was not accompanied by a form specifying the information to be provided. However, two new circulars with reporting forms attached, firstly in pdf and later in Excel format prepared for this purpose, were sent to operators, the pdf on 16 July 2020 and the Excel on 21 July 2020, as per the following link:

<http://www.petrole.gov.mr/spip.php?article13>

Regarding the General Directorate of Hydrocarbons, a circular letter was sent on 19 February 2020 to the oil operators to respond to declarations on beneficial ownership and legal owners as applicable to the 2017 EITI report. This letter was published on the MPME and EITI-NC websites, but it did not have a form attached. On 3 June 2020, a reminder letter was sent to the oil operators with the declaration form in pdf format:

<http://www.cnitie.mr/itie-fr/images//textes/Lettre-Circulaires-n412-du-03-juin-2020-DGH.pdf>

On 13 August 2020, a third circular, this time containing the reporting template in Excel format, was sent to the oil companies. See the following links:

http://www.petrole.gov.mr/IMG/pdf/lettre_dgh_no528_du_13_aout_2020_dgrop_declarati_on_des_beneficiaires_effectifs_et_des_proprietaires_legaux.pdf

<http://www.petrole.gov.mr/spip.php?article692>

It should also be noted that as part of preparation for the 2017 EITI Report, which includes within its scope of reconciliation all oil operators active in Mauritania (with no materiality threshold applied), the Independent Administrator sent the reporting template including information on the nationality, country of residence and identification of politically-exposed persons, the level of holding and details on the exercise of participation or control to the aforementioned operators. The data collected are reported in Annex 6 of the Report. Additional data collected further to various reminders are presented in the status report published on the EITI-Mauritania website.

<http://www.cnitie.mr/itie-fr/images/Situation-de-la-PJBE-des-entreprises-du-primtre.pdf>

2. Clarification on the scope of involvement of companies from which information was requested in relation to the identities of beneficial owners

All mining-sector operators in possession of exploration and operating licenses, without exception, were asked for information on this matter in the same correspondence of February and July 2020.

For companies submitting new license applications, the Department has not yet taken any specific measures to identify beneficial owners, for the simple reason that the documentation and information required for license applications are already laid down by decree (Decree 2008-159 on mining titles and quarries).

However, it should be noted that in practice, upon registration, the Department refers to the information on beneficial owners contained in the document on the company's status that gives the identities and shares held by each shareholder.

In the oil sector too, all operators have been asked for information on this subject in the same correspondence mentioned above.

In the particular case of Mauritania, the companies that held exploration or production contracts in the period 2017 and 2018 are all listed on the stock exchange. With regards to the oil companies operating in Mauritania, consider that they are publicly traded and that information related to their beneficial owners is already available on their respective websites.

Even so, at a meeting held in February 2020, the Committee reminded oil-company representatives that even if the companies were listed, they were required to provide links to this information and to make them available on the EITI-NC website.

Links to the documentation filed by these companies to the stock markets have been collected and quoted in the situation report published on the EITI-Mauritania website (see link above).

Regarding companies only holding a percentage interest in extractive companies, data on the legal owners of companies in the sector show that the shareholders registered in Mauritania are either natural persons or the State. The only legal person identified is SNIM (National Industrial and Mining Company of Mauritania), which is a shareholder in EL Aouj Mining Company SA. This company was asked to report details of its legal ownership and beneficial owners as applicable to the 2017 EITI Report. Regarding other extractive companies whose shareholders (legal persons) are registered abroad, the data are collected through the extractive companies' beneficial owners or through links to documentation for listed companies.

3. Information on companies that have not provided the information required within the scope of reconciliation (MSP, SENISA, AGRINEQ-SA).

In relation to this matter, it should be noted that in 2017, certain companies, such as MSP and Agrineq-SA, which had just received their licenses, did not supply sufficient information

at that time on production and other payment data. Others, albeit holding licenses for longer, such as SENISA (license awarded in 2014) had not yet started production.

To overcome this shortcoming, the DGM undertook to write a reminder letter to all companies, listed or not, in a timely manner.

N.B. This letter was sent to operators and then published on the MPME website:

<http://www.petrole.gov.mr/spip.php?article13>

4. Information in the commercial register on legal beneficiaries and their holdings

Article 39 of the Commercial Code provides that: "All natural or legal persons, Mauritanian or foreign, carrying out business on the territory of Mauritania, are required to be registered on the Commercial Register."

The same obligation applies to "any branch or agency of a Mauritanian or foreign company, any commercial representation of Foreign States or Public Institutions, any Economic Interest Group (EIG) and, in general, to any private-law legal person carrying out economic activity.

In terms of overall organisation, the Mauritanian Commercial Code provides a Local Commercial Register (RCL) and a Central Commercial Register (RCC). The Code places the RCL under the responsibility of the President of the Commercial Tribunal and entrusts its management to the Office of the Commercial Tribunal. It further states that, "the central commercial register is maintained by the competent administrative services". Decree 2006-49 complements this provision by entrusting the body responsible for the protection of Industrial Property within the Ministry of Industry with responsibility for holding a Central Commercial Register.

The current commercial register system works, but achieves neither all its objectives nor its full potential. It has a significant number of weaknesses including:

- Lack of a centralised information system automatically assigning registration numbers and recording the company's history
- The registrars work manually, using paper records
- It is impossible to search for the availability of a trade or business name
- De facto absence of a Central Commercial Register, contrary to the provisions of Law 2000-05 and Decree 2006-049

Consequently, despite data on legal ownership being available in theory in the commercial register, they are not currently publicly available and their update is uncertain, due to the shortcomings identified above.

The Committee plans to approach stakeholders responsible for managing the Commercial Register to identify ongoing modernisation projects to enable the posting online of updated information on legal ownership and possible reforms with the goal of establishing a beneficial ownership register.

In this regard, the Committee also plans to send letters to key stakeholders in order to integrate Requirement 2.5 relating to beneficial ownership into ongoing reforms.

II. Assessment of effectiveness

Completion of forms for reporting companies' beneficial ownership

1. In the mining sector, the Cadastre Directorate had already committed during the IS visit to conduct routine disclosure of all beneficial ownership details of companies seeking or holding licenses. The Cadastre Directorate had commenced this work immediately after the visit, but it was interrupted as a consequence of the outbreak of the Covid-19 pandemic.

In the hydrocarbons sector, and given the limited number of operators comprehensively covered in Mauritania's EITI reports, information on the systematic disclosure of beneficial ownership data will be published on the Ministry of Oil, Mines and Energy website and EITI-NC website.

Furthermore, guidelines and a procedure will be created by the Committee with the support of the Ministry to enable the systematic updating of data in the event of changes occurring between publication of EITI Reports.

2. The subsequent circular (http://www.petrole.gov.mr/IMG/pdf/note_circulaire.pdf) sent to the extractive companies not covered by reconciliation included an annex composed of a guide on completion of the beneficial ownership declaration. The guidelines include, among other things, definitions of "beneficial owners" and "politically-exposed persons" and (mandatory) instructions for the signing of the declaration by an authorised representative of the reporting company in accordance with the quality-assurance procedure agreed by the Committee.
3. The only companies to have received training on completion of the declaration form and the quality assurance of information are those that fall within the scope of EITI reconciliation. The restrictive selection of these companies by the EITI-NC is not based on factors related to the nature of the raw material they extract or the identity of the legal owner, but rather on the significance of the company's business (level of production and payment volume).

It is important to recall that in light of the low number of oil companies in Mauritania and the volume of their investments, the National Committee decided to include them all in the scope of the EITI reconciliation.

As for the mining companies, outside the materiality criterion, the Committee has not identified factors (raw material, politically-exposed shareholders, money laundering or tax evasion), suggesting that some companies may be considered to be at risk. The Committee is planning, however to as for a system to be set up, in consultation with the MPME, the MoF and the Central Bank, an oversight system for the identification of at-risk mining companies requiring special monitoring around the beneficial ownership declaration.

It should also be noted that some companies not falling within the scope of EITI reconciliation that have been asked by the DGM for beneficial ownership declarations have approached the Department for advice on completion of the form.

By way of reminder, the DGM also approached the companies in question in a reminder launched in July 2020 with the support of a simplified form in Excel and pdf format, available at: <http://www.petrole.gov.mr/spip.php?article13>.

4. It should be noted that of the 24 companies covered by the EITI Report, only three have not reported their beneficial ownership data, despite their being under no legal obligation to declare and disclose data.

Registrations of license applications at the Cadastre and the information sought from companies are made in accordance with current regulations, including Decree 2008-159 on Mining Titles and Quarries.

Based on these existing provisions, we cannot yet incorporate additional information not previously covered by Decree 2002-159 on Mining Titles and Quarries into the declaration form. However, in the prospective redesign of the legal and regulatory framework, the Department is planning to take account of this EITI requirement on the systematic disclosure of all data on the beneficial ownership of companies, among many others.

Concrete steps have been taken at the DGM (see letter and links) to compensate for the lack of beneficial ownership information in cadastres.

Regarding training, the EITI-NC has committed to continue outreach activities and to expand these to other extractive companies not covered by the scope of EITI reporting. Awareness activities will be scheduled from October, depending on developments in the pandemic situation. Online training will also be provided if necessary.

The EITI-NC technical team is currently setting up, in the Data Warehouse portal, a comprehensive system for the management of beneficial ownership in the extractive sector. This system will allow:

- a) Direct entry by operators of their beneficial ownership declarations.
- b) General online public access to beneficial ownership information.
- c) Operators to make available this information formalised in the EITI-NC in paper format.

In general, the Subcommittee is recommending to the DGM and DGH to intervene with the various operators in order not only to make this information available on their respective websites but, especially, accessible to the public.

At its next meeting, the Committee will also consider whether to launch a further legal study on best practice and the legal reforms required for the establishment of a legal framework and a public register for the collection and disclosure of beneficial ownership data from 2021. Meanwhile, the Committee will pursue its efforts, in consultation with the DGM and DGH, for the collection, update and publication of data on their respective websites and EITI-NC Data Warehouse portal.

Done in Nouakchott on 25 August 2020

The chair of the session

The secretary of the session

[Names and signatures]