

ETHIOPIA EXTRACTIVE INDUSTRIES TRANSPARENCY

INITIATIVE (EITI)

BENEFICIAL OWNERSHIP DISCLOSURE

ROAD MAP

DECEMBER, 2016

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DRAFT ETHIOPIAN EITI BENEFICIAL OWNERSHIP ROADMAP

1. Introduction

Ethiopia is known to have an ancient history of mining and a wide range of mineral resources including gold, platinum, nickel and other base metals, rare metal such as tantalum, gemstone such as opal, beryl, Amethyst, peridot and others, soda ash, potash and industrial minerals, colorful dimension stones, and huge deposits of silica sand, cement and ceramic raw materials, and a number of hot spring and mineral water potential areas.

Other than these huge potential for energy minerals including coal and oil shale deposits, and geothermal fields, Ethiopia also has significant potential for oil and gas in Mesozoic-Paleozoic sedimentary basins. Although the country has such a huge mineral potential, the sector is at low level of development and consequently its contribution to GDP is not significant. One of the main reasons for this was the restrictive policy of the past regime on the participation of private investors in the mining sector.

Since 1991, the Government of Ethiopia has instituted policies designed to improve the political, social and economic sector of the country. One of the most important parts of the new economic policy is that it permits the full participation of the private investment in the mining sector. The Government has enacted a very competitive legal and fiscal regime and also made progressive amendments that attracted international mining companies to participate in the development of Ethiopia's mineral resources.

It is known that mineral resources are non-renewable nation's natural resources, and therefore the Government is committed to efficiently collect the revenue generated from the mining extractive industries, supports anti-corruption and good governance agendas to establish citizens' trust in public institutions and extractive companies.

The Citizens would be able to hold Government accountable in the use of revenues collected from the extractive companies through transparent system which will bring a conducive investment climate and attract more international investment.

Accordingly, the Government of Ethiopia has recognized the contribution of implementing Extractive Industries Transparency Initiative (EITI) in the country and decided to join and implement principles and rules of the EITI and also committed to work with stakeholders (Government Agencies, Mining Companies and Civil Society Organizations) for the development of Extractive industry and to bring sustainable development.

The Ministry of Mines, Petroleum and Natural Gas is one of the Federal Ministries which is given the responsibility for the proper development of the mining sector. The role of the Ministry is mainly to generate the basic geosciences data of the country, to promote the mineral and petroleum potentials of the country, to negotiate and issue licenses to the private investors and ensure that they conduct mineral and petroleum operations in accordance with their concession agreements.

The Ministry of Mines, Petroleum and Natural Gas is the Government organ that is responsible for the implementation of EITI in Ethiopia. The Minister of the Ministry is the leader and chairman of the EEITI National Steering Committee (NSC) assisted by the state minister of the Ministry. The National Steering Committee has 17 members represented from the three multi-stakeholder groups; the government, the civil society and Extractive companies. The NSC is the governing body of the Extractive Industries transparency initiative in Ethiopia. The EITI Implementation Secretariat (IS) is established and hosted in the Ministry of Mines, Petroleum and Natural Gas. The secretariat is responsible for the day to day activity of EEITI and will assist and support the NSC. As of the global rule, EITI is a country owned process in which implementing countries device their own mechanism, but not contradictory to the global system to keep EITI brand and better implementation. The whole process goes under the National EITI forum, quarter meeting of the National Steering committee and in a daily based activity that could be handled by the implementation secretariat.

The Ministry of Mines, Petroleum and Natural Gas, launched Ethiopian EITI (EEITI) in July 2009. The launching conference for the implementation of EITI in Ethiopia was held on 28 and 29 July 2009 in Adama town, Ethiopia, involving more than 100 participants from CSOs, Extractive industries and Government Entities.

On 19 March 2014, Ethiopia was admitted as an EITI Candidate country and must prepare its first EITI report within two years from becoming candidate. Validation will start within three years from the date of becoming a candidate.

2. Background

Transparency and Accountability has been at the core of development agenda giving rise to initiatives such as the Extractive Industries Transparency Initiative. The EITI has for instance served to enhance transparency and accountability in extractives through its aggregated and reconciliatory reports on extractive sector payments and receipts and since the adoption of the 2013 Standards, the publication of information along the entire extractive value chain. A missing link to information provided on the sector however is information on the true owners (natural persons) of extractive companies who are often said to hide behind complex chain of corporate structures. Such opacity as described by the EITI can contribute to corruption, money laundering and tax evasion. Beneficial ownership disclosure has also in recent times been a top agenda of the G8 and G20 which following its November 2015 meeting in Turkey has placed persistent calls on countries to demonstrate their commitment to implement proposals to increase transparency of beneficial ownership information.

The EITI in its new 2016 Standard requires all implementing countries to disclose the owners of extractive resources in its report by 1st January 2020 and Ethiopia is to establish a roadmap for beneficial ownership disclosure by 1st January 2017. In view of these obligations that lie on the National Steering Committee (NSC) to meet the requirements of EITI in ensuring the country achieve its compliance status, the Ethiopian EITI is working to produce the beneficial ownership road map to enable the extractive companies disclose their real owners and thereby to fight corruption, tax evasion and money laundering.

3. Objectives BO Road Map

Resources such as oil, gas and minerals are public goods owned by none, but for the benefit of the public. BO disclosure plays a vital role in maximizing the benefit that the public get from these resources. Hence the objectives of this BO road map are:

- To foster transparency and accountability in the extractive sector;
- To deter corruption, prevent collusion between companies and Government;
- To reduce tax evasion by operating companies; and
- To promote the economic benefit gained from the nation's natural resources.
- To mainstream the principles of beneficial ownership transparency in the operations of extractive companies and relevant Government agencies in Ethiopia, and ensure enabling institutional environment for beneficial ownership disclosure.

4. Activities identified to be performed in facilitating the beneficial ownership disclosure of companies

4.1. Beneficial ownership Disclosure linkage with the National Priorities:

Establishing this relevance early on may contribute to build understanding of how openness about beneficial ownership can be beneficial to the country, build stakeholder support for this work, and ensure that the activities in the NSC's roadmap are linked to wider government priorities.

Major areas identified as a national Priorities include:

- Mainstreaming EEITI implementation process in the Government and private extractive sector governance that drives sustainable socio- economic development and good corporate governance.
- Enhance the capacity of the regulatory bodies found at the federal and regional level to review the legal frames and also to enhance the effective administration of the sector.

- Elimination of all forms of corruption through transparency and accountability in the extractive sector.
- Increase the amount of revenue generated from the extractive sector to support the national economic growth.

The Ethiopian EITI will then work by linking these major priority areas with the beneficial ownership work through creating close coordination with relevant Government institutions (MoMPNG, MoFEC, MoT, Federal Investment Commission, Ethics and anti corruption commission, ERCA, ...) and other non-Governmental organizations like CSOs, media,

4.2. Institutional Frame work for Beneficial ownership Disclosure:

Conducting broad consultation with Government institutions like, Ministry of Mines, Petroleum and Natural Gas (MoMPNG), Ministry of Trade (MoT), Federal Investment Commission, Ethics and Anti Corruption Commission, Ethiopian Revenue & Customs Authority, Ministry of Finance and Economic Cooperatives, and other relevant institutions and stakeholders will held to get valuable information on beneficial information.

Information regarding how these institutions deal with beneficial information will be gathered over time. This might also include reviewing and/or amending existing company filing requirements upon company registration to include beneficial ownership information, and considering adding filing requirements related to beneficial ownership disclosure in bidding processes and license registries for extractive projects.

There is a relevant proclamation (Proclamation No. 816/ 2013) which addresses disclosure and transparency issues

Action point: Review the above mentioned legislation to see if they address BO. If it is not addressed, EITI will approach Ministry of Mines which is the responsible Ministry for the laws and discuss the issue of BO.

Therefore, the Ethiopian EITI NSC will suggest the concerned body to cover the concept of beneficial ownership disclosure in any existing legislation.

4.3. Defining Beneficial Ownership:

The EITI Standard notes that “the multi-stakeholder group should agree an appropriate definition of the term “beneficial owner”. The definition should be aligned with the EITI Standard definition and take international norms and relevant national laws into account, and should include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons” (Requirement 2.5.f.i).

Therefore, in order to develop an appropriate definition of beneficial owners, the following activities are identified to be performed:

STEP1. MSG/NSC consultation meeting was held on the definition of BO

Having clear understanding of the international definition of BO, EEITI NSC assess some domestically existing expression of BO given by the relevant Government institutions like Ethics and Anti Corruption Commission, Trade Ministry and agreed to adopt the definition given in the EITI Requirement with very slight modification as stated below.

“A ‘beneficial owner’(s) is/are a natural person(s) who directly or indirectly – ultimately own(s), or control(s) the share or voting rights or deliver(s) or exercises a substantial economic control over, or has a substantial economic benefit or interest in, or receives substantial economic benefit from a Company.”

Regarding the threshold level, considering being flexible any time based on the further study that would be put in place through time, EEITI NSC agree to have a threshold of 18 % and above.

STEP2. EEITI organizes a broad consultation by end of 2016 to discuss BO definition to agree on the definition to be adopted and also to discuss on the level of details to be disclosed.

4.4 Reporting Obligations for Politically Exposed Persons:

The EITI Standard states “the definition [of a beneficial owner] should specify reporting obligations for politically exposed persons” (Requirement 2.5.f.ii). The model beneficial

ownership declaration form developed by the EITI includes fields for disclosing whether any of the beneficial owners are politically exposed persons (PEPs), including information about the public office position and role, or other reason for PEP designation, and the dates of holding office.

Definition of Politically Exposed Person and Expected thresholds to be Disclosed

Politically exposed person' means a natural person who is or who has been entrusted with prominent public functions and includes the following:

- (a) Heads of the Federal and Regional States, Ministers and Deputy Ministers;
- (b) Members of parliament or of similar legislative bodies;
- (c) Members of the Central Committee, Polit Bureaus or equivalent positions of political parties;
- (d) Members of supreme courts, and judicial bodies;
- (e) Auditors & members of the boards of central banks;
- (f) Ambassadors and high-ranking officers in the armed forces;
- (g) Members of the administrative, management or supervisory bodies of State-owned enterprises public Universities;
- (h) Directors, deputy directors and members of the board or equivalent function of SOEs and Organizations;
- (i) Regional State Presidents, Vice Presidents, Bureau heads, Zone Administrators, Zone Bureau heads, Woreda Administrators, City Mayors and Bureau heads;

The fact that in Ethiopia there is an obligation for public officials and other public employees to disclose their property is taken as an opportunity on working to disclose the beneficial ownership of PEPs. The Federal Ethics and Anti Corruption Commission Proclamation No. 433/2005, declares that in cooperation with relevant bodies, to register or cause the registration of the assets and financial interests of public officials and other public employees compellable to do so as specified by law.

Therefore, EEITI NSC/MSG suggests that for PEPs to have **beneficial Ownership threshold of 5%** and above should be disclosed.

Regarding PEPs the following activities are identified to be performed:

- Having considered existing domestic and international definitions, we will pursue the consultation noted above based on an initial proposed politically-exposed persons definition and agree on the definition to be adopted.
- Conducting experience sharing with the Federal Ethics and Anti Corruption Commission on how they have communicated on Beneficial Ownership disclosure of public officials and employees.
- Requesting companies to disclose the names of Board members as this could help shed light on cases where proxies are used to conceal that e.g. PEP is a beneficial owner.

4.5 The Level of Details to be Disclosed:

The EITI Standard states that the beneficial ownership disclosures “...should include the identity (ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted” (Requirement 2.5.c). It further states that the “Information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country of residence, as well as identifying any politically exposed persons. It is also necessary that the national identity number, date of birth, residential or service address, and means of contact are disclosed” (Requirement 2.5.d).

EEITI has consulted MOMPNG about BO. There is some information available such as Name, License number, Nationality, Contact address and etc.

To decide on the level of details to be disclosed we will conduct consultation with Government, Civil Society and Companies with regards to:

- Whether to accept or modify the EITI template; and
- Agree if modification is required and what are the new items to be included.

The level of additional detail of the beneficial ownership disclosures including opportunities and challenges with disclosing recommended information such as date of birth and means of contact will be managed.

4.6 Data Collection Procedures:

Requirement 2.5.c states “As of 1 January 2020, it is required that implementing countries request, and companies disclose, beneficial ownership information **for inclusion in the EITI report**” (emphasis added). Requirement 2.5.a also states “It is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity (ies) that bid for, operate or invest in extractive assets, including the identity (ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted. Where possible, beneficial ownership information should be incorporated in existing filings by companies to corporate regulators, stock exchanges or agencies regulating extractive industry licensing. Where this information is already publicly available, the EITI Report should include guidance on how to access this information”.

Therefore to implement this, the following activities need to be performed:

- Identifying the companies that will be required to participate in beneficial ownership reporting.
- EEITI will start with at least 5 largest companies and disclose information in the upcoming EITI report.
- Identifying the most efficient and sustainable data collection approach.
- EEITI to consult MOMPNG, Investment Commission, Ethics and Anti Corruption Commission and Ministry of Trade to include BO information in their existing system.

4.7 Data Assurance Methodology:

The EITI Standard states “The multi-stakeholder group should agree an approach for participating companies assuring the accuracy of the beneficial ownership information they provide. This could include requiring companies to attest the beneficial ownership declaration form through sign off by a member of the senior management team or senior legal counsel, or submit supporting documentation” (Requirement 2.5.e). It is important for the credibility of the EITI’s work on beneficial ownership that there is some mechanism for assuring the accuracy of the information disclosed otherwise it will not be possible to have confidence that the beneficial owners that have been disclosed are the true beneficial owners and not a substitute, nominee or proxy.

In order to implement this:

- The multi-stakeholder group will discuss and agree on prior to data collection regarding an appropriate mechanism/ format for companies to assure the data in the beneficial ownership declarations;
- A senior company official is required to sign to confirm that the information submitted is correct;
- Disclosing the name and position of the person providing the attestation;
- Certain beneficial ownership declarations could also be crosschecked against the information provided in local corporate filings or information filed under disclosure requirements for government officials, where available.

4.8 Data Timeliness:

According to EITI Requirement 4.8 related to data timeliness, EITI report must disclose data no older than the second to last complete accounting period, e.g. an EITI Report published in calendar/financial year 2016 must be based on data no later than calendar/financial year 2014. Beneficial ownership disclosure is part of that data. This requirement does not differentiate between timeliness of financial data and timeliness of other disclosed data including data on beneficial ownership.

To ensure data timeliness the EEITI will:

- ✓ Consult stakeholders and agree on when beneficial ownership data should be collected;
- ✓ Decide whether beneficial ownership data should be collected at the time of data collection for EEITI reports or on the 30th June (at the end of Ethiopian fiscal year) each year.
- ✓ Decide whether companies should be obliged to continuously disclose any changes in beneficial owners.

4.9 Data Accessibility:

EITI Requirement 7.2 on data accessibility states that “the multi-stakeholder group is encouraged to make EITI Reports machine readable, and to code or tag EITI Reports and data files so that the information can be compared with other publicly available data by adopting Board-approved

EITI data standards”. The Standard also requires the multi-stakeholder group to “make the EITI Report available in an open data format (xlsx or csv) online and publicize its availability” (Requirement 7.1.c)”.

To ensure data accessibility:

- Beneficial ownership data will be made publically accessible on cadastre, online portal, open data format (xlsx or csv) online; and on EEITI website;
- Beneficial ownership data files will be coded or tagged so that the information can be compared with other publicly available data; and
- Beneficial ownership data will be translated to the local Ethiopian language.

4.10 Capacity Building Issues:

Requirement 1.5.c.i of the EITI Standard requires the multi-stakeholder group to “Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation.”

EEITI will pursue capacity building on the following issues:

- Understanding of the distinction between legal and beneficial ownership.
- Technical capacity building for relevant government agencies on law enforcement related to beneficial ownership, establishment and maintenance of a beneficial ownership register, verification mechanisms, and communication with companies.
- Capacity building for companies – especially high level executives – to ensure familiarity with beneficial ownership reporting, guidance on identifying, collecting and disclosing initial beneficial ownership information, as well as procedures and systems for updating and submitting data to government authorities. Also, broader capacity building on corporate transparency.
- Capacity building for civil society could focus on public monitoring of beneficial ownership data and changes over time, how to use beneficial ownership information in advocacy and campaigns (and coordination of objectives/advocacy efforts), on networking and coordination (within the civil society network and with other constituencies), negotiation skills.

- Promoting nationwide awareness creation programs.
- Experience sharing with relevant agencies within the country like Federal Ethics and Anti Corruption Commission and also from other countries.

4.11 Technical and Financial Assistance:

Requirement 1.5.d of the EITI Standard requires the multi-stakeholder group to “Identify domestic and external sources of funding and technical assistance where appropriate in order to ensure timely implementation of the agreed work plan.”

To ensure the implementation of this requirement, the following activities are identified to be implemented:

- Identifying source of funding for the implementation of the roadmap
- Identifying cost estimates for the activities and indicate how these will be funded.
- Identifying the activities which will need technical assistance.
- Maintaining close contact and coordination with organizations who can provide technical and other assistance (EITI International Secretariat, WB, UNDP, etc.) as support from technical assistance providers will also be of a great importance.

4.12 Deadlines and Responsibilities for Roadmap Activities:

The EITI Standard states that “The MSG will determine all milestones and deadlines in the roadmap, and the MSG will evaluate implementation of the roadmap as part of the MSG’s annual activity report” (Requirement 2.5.b.ii).

Accordingly, the activities in the road map are organized in the table below by specifying objectives, implementation schedule, responsible body and the budget required to execute. The MSG will also evaluate the implementation of the road map as part of the annual activity report.

BENEFICIAL OWNERSHIP ROADMAP ACTIVITIES TABLE

Roadmap recommendation	Objective	Activities	Responsible	Time frame	Financial Required
1. Consider links between BO and national reform priorities	<p>-To include & mainstream BO transparency in the national priorities.</p> <p>-To facilitate effective implementation of BO disclosure through ongoing national discussion & priorities</p> <p>-To ensure the tax transparency & decrease avoidance</p>	<ul style="list-style-type: none"> - Identify the national priorities related to BO & create an awareness to adopt in the system - Identify and set clear objective of BO to fit with the objectives of NSC work plan - Identify & Introduce BOD to government entities to Support national reforms priorities - Identify the challenges that affect BOD and design a system to tackle the problem together with relevant entities 	EEITI MSG & EEITI secretariat	Jan. to April, 2017	Government and Supporting Donors
2. Consider the institutional framework for BO disclosure	<p>To identify the responsible and accountable bodies to review the institutional framework for tax and licensing and registration</p> <p>-To suggest the concerned body to cover the concept of BO disclosure in any existing legislation & consider any reforms in the pipeline</p>	<p>- Identify and Organize a workshop for relevant Government and non-Government entities on BO disclosure.</p> <p>-Conduct broad consultation with concerned government institutions and other stakeholders to review the activities of the existing organizations with respect to BO, regulatory laws and regulations.</p> <p>- Assess & Review the existing relevant proclamations & institutional framework of the relevant disclosing agencies.</p>	EEITI and MoMPNG -Registration agencies -ERCA	April to July, 2017	

3. Beneficial ownership definition	<ul style="list-style-type: none"> -To define BO appropriately and to consider relevant national laws in to account. -To create common understanding amongst the stakeholders. 	-Conduct further discussion among wider stakeholders on BO definition, objectives and level of threshold to be disclosed by the Extractive industries and PEPs as well;	EEITI MSG	July 2017	
4. Reporting obligations for Politically Exposed Persons	<ul style="list-style-type: none"> - To create common understanding amongst the stakeholders -To use their experience in BO disclosure -To build the transparency and to prevent malpractice on resources 	<ul style="list-style-type: none"> -Conducting broad consultation with stakeholders to discuss and agree on the definition of PEPs - Conducting experience sharing with the Federal Ethics and Anti Corruption Commission on how they have communicated on Beneficial ownership disclosure of PEPs. 	-EEITI MSG and Anti-corruption office.	August 2017	
5. Level of detail to be disclosed	- To decide on the level of details to be disclosed	- Conduct consultation with Government, Civil Society and Companies with regards to EEITI template produced for collecting data on level of threshold to be disclosed	EEITI MSG	September, 2017	
6 Data collection	<ul style="list-style-type: none"> -To prioritize large and complex extractive companies. - To use a practical data collection mechanism & include BO information in their existing system 	<ul style="list-style-type: none"> -Identifying the companies that will be required to participate in beneficial ownership reporting. -Identify & apply the most efficient and sustainable data collection approach. 	EEITI MSG	September, 2017	

7.Assuring the accuracy of the data	- To enhance the credibility of BO data	- Discuss and agree on appropriate format for companies to assure the data in the beneficial ownership declaration	EEITI MSG	September, 2017	
8.Data timeliness	- To ensure data timeliness; -To make sure that the BO changes are included in the report	-Establish timeframes for data collection	EEITI MSG	August, 2017	
9.Data accessibility	To ease public access to BO data -To encourage public participation	-Make BO data publically accessible on cadastre, on line portal and EEITI website -Translate BO data in to local language (Amharic) & make it accessible to the public	EEITI MSG	Nov. to December, 2017	
10. Capacity needs and technical assistance.	- To ensure familiarity with beneficial ownership reporting - To create awareness on law enforcement -To enable them use BO information in advocacy and promote public participation	- Conduct capacity building for CSOs, mining companies and relevant government agencies on the status of BOD, spell out gaps comes out during activity handling through direct platform and experience sharing;	EEITI MSG and other supporting institutions	Nov. to December, 2017	
11. Technical and financial assistance	- To implement the work plan effectively	-Identify source of fund and estimate against each activities to implement the roadmap	EEITI MSG	Dec 2016	

