

ZEITI responses on the draft Validation (Monday 04.09.2017 - 09:29 CEST)

Dear Ines

Greetings from the ZEITI Secretariat.

I have below here documented the responses we received in view of the draft Validation report. I must note that the ZEC seemed more inclined to look ahead in terms of addressing the recommendations that were suggested in the draft Validation report. The process of dealing with the recommendations will begin by adjusting the TORs of the 2016 ZEITI report. This will ensure that recommendations related to the EITI report can be addressed as soon as possible. Find below the responses from the ZCCM-IH and the Mining Cadastre for onward submission to the Validator as follows:

ZCCM-IH RESPONSES

a) An explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs),

- e.g., the rules and practices governing transfers of funds between the SOE(s) and the state, **We are a publicly listed Company in which Government through the IDC is majority shareholder. We do not transfer any funds to IDC or Government or any shareholder except through dividend payments. Dividend payment are governed by our Dividend Policy which is available on our website (in summary form).**

- retained earnings, **this information is readily available in our financial reports which are publicly available and accessible/downloadable from our website.**

- reinvestment and third-party financing. **All our Investments plans are made available through market announcements and the details of the performance/financing plans are disclosed through our financial statements which are available on our website.**

-For the purpose of EITI reporting, a SOE is a wholly or majority government owned company that is engaged in extractive activities on behalf of the government. Based on this, the multi-stakeholder group is encouraged to discuss and document its definition of SOEs taking into account national laws and government structures. **Our shareholding structure of the Company is publicly available.**

b) Disclosures from the government and SOE(s) of their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. **This information is publicly available and accessible on our website.**

- This information should include details regarding:

- *the terms attached to their equity stake, **Shareholders agreements are only for shareholder partners and are a preserve of the shareholders who are party to such.***
- *including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest. **Project related activities are reported in our financial statements as and when these occur.***
- *Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues. **Our shareholder structure over the years can be checked by comparing different years as reported in our financial statements available on our website.***
- *Where the government and SOE(s) have provided loans or loan guarantees to mining, oil and gas companies operating within the country, details on these transactions should be disclosed. **Project related activities are reported in our financial statements as and when these occur.***

RESPONCES FROM THE MINING CADASTRE

1. **License process:** The report refers to the MMDA 2008 in the section describing licenses (please see below – the description is the same as what was published in 2014). Could you please confirm whether the description is accurate and reflects any changes to the licensing systems resulting from the 2015 Act?

ANS: It must be noted that a number of licenses are still in the old 2008 jurisdiction and are still in transition to the 2015 Act, what is be done is that we have developed a transition process where an existing mining right holder submits a request either through an application form or a letter, the this process is meant to also ensure that holders are up to date with regard to statutory obligations such as area charges and submission of quarterly /annual reports.

Where can further information on the license process be found?

ANS: Further information in the licensing process can be obtained from the Ministry of Mines Website at <http://www.mmmd.gov.zm>.

Petroleum licensing (p. 29): “The fundamental law governing upstream activities is the Petroleum (exploration and production) Act of 2008. The key regulators include the Minister for Mines, the Petroleum Committee, the Petroleum Technical Committee and the Hydrocarbon Unit / Geological Survey Department. The main regulator is the Minister of Mines and Mineral Development, who is also the issuing authority of all petroleum rights under the Act. Despite wielding considerable power, the Minister of Mines and Mineral Development cannot act without coordinated input from other regulators. For instance, the Minister may not approve the grant or renewal of petroleum rights without first referring the matter to the Technical Committee for scrutiny. Similarly, the Technical Committee is

tasked with making recommendations to the Petroleum Committee. Without the approval of the Petroleum Committee, the Minister may not act.” Is this correct and up to date?

ANS; Yes this is correct and up to date. Under section (13) Subsect (1) of the Petroleum (exploration and Production) Act of 2008. The Minister can only grant based on the approval by the the Petroleum committee.

Section 13 (1) The Minister shall ,with the approval of the Committee,grant a petroleum exploration licence to the applicant where the application meets the requirements of this Act.

Mineral rights (p. 46-47): “ There is a strict requirement that a person shall not prospect for minerals or carry on mining operations or mineral processing operations without the authority of a mining right or mineral processing licence granted under the Mines Act (2008). The Director of Mines Development Department (MDD) is responsible for granting mineral rights The act set up two cadastre offices – one at the central level (to process applications for mining rights) and one at the provincial level (to forward applications to the central office).”

Related to this, the report states that “Normally prospecting licences for mineral resources are granted by the Geological Survey Department (p. 47)”. From our discussion we understood that in accordance with the 2015 Act, all the licenses including prospecting are now handled by the cadastre and not GSD, is that correct?

ANS: That’s correct, under the Mines and Minerals Development Act of 2015, all Mining Rights are now being handled by the Mining Cadastre Department not GSD.

2. Petroleum bidding rounds: The report says “The oil and gas potential is too high because the exploration programme was not conclusive, therefore, the Ministry of Mines through the Geological Survey Department recently conducted exploration work for petroleum covering the whole country into petroleum blocks. In 2011, 2013 and 2016 the government through the Ministry of Mines and Minerals Development granted petroleum exploration licences to various companies through bidding process.” We had understood that there was only bidding in 2013, has any information on these bidding rounds been made available?

ANS: Yes information has been a made available on the parliament website at http://www.parliament.gov.zm/sites/default/files/images/publication_docs/Ministerial%20Statement-Mines-July.pdf press,

2. Petroleum agreements: Are the terms for petroleum licenses and agreements set out in the Petroleum Act 2008 or in individual agreements?

ANS: The conditions of grant of a petroleum and production licences are set out in the petroleum act and the general regulations. Please refer to section 17(1) of Petroleum (Exploration and Production) Act of 2008

If there are provisions for such agreements, does the government have a policy for making petroleum agreements publically available?

ANS.No

I hope this will help clarify some of the issues in the draft Validation report before finalisation.

Kind regards

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