EITI in Africa

disclosing data | strengthening governance | fighting corruption

EITI Extractive Industries Transparency Initiative

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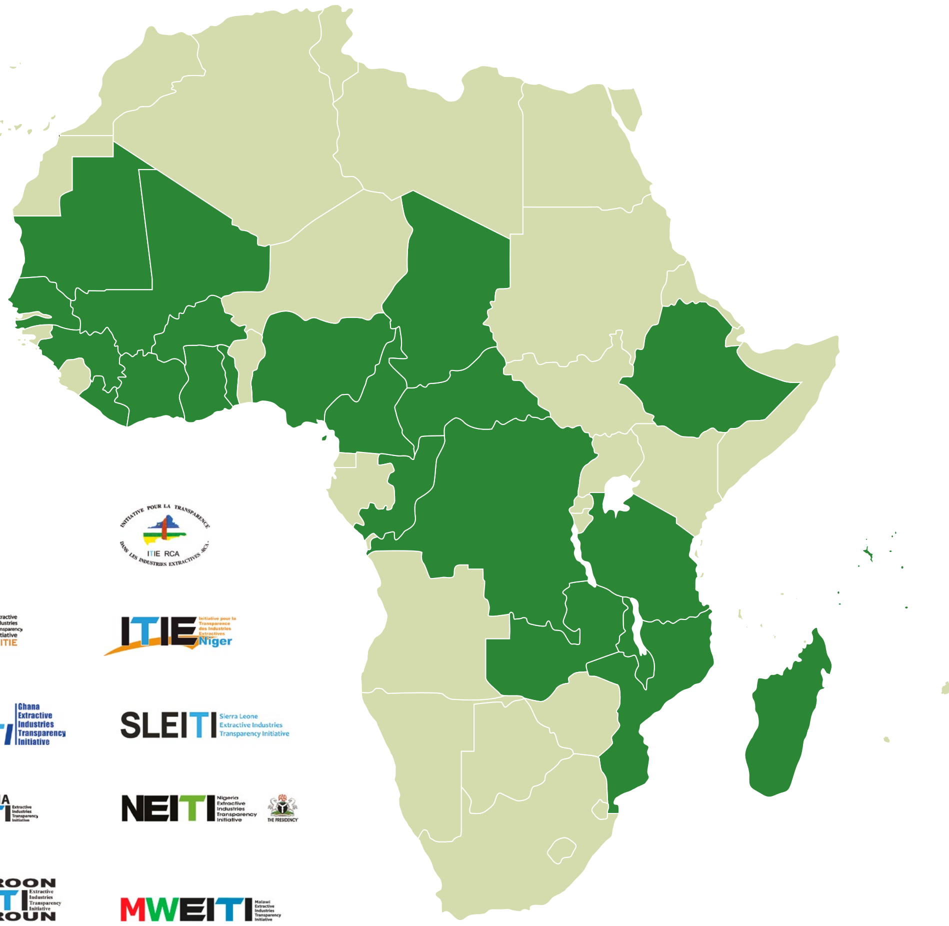
Africa's 24 EITI implementing countries



Message from
THE CHAIR

THERE IS A COMMON narrative about the extractives sector in Africa over the past decade. It is often said that the continent didn't make hay whilst the sun shined. It is said that the commodity boom came and went and many of the underlying problems remained. Having engaged with stakeholders in the region over the past few years, I am left with an upbeat feeling. What would have seemed like wishful thinking a few years ago have become reality.

Revenue data is being published and disaggregated in every country, by company and sometimes even by project. Contract transparency has become an expectation, not an aspiration. Licenses are granted in many cases on a significantly open basis. Most state-owned companies are taking steps towards opening their books and international traders are responding by becoming increasingly transparent about their payments to governments.

And finally, most of us had not even heard of beneficial ownership 10 years ago, let alone imagined that it would become a major international area of public debate. We are closer than ever before to being able to track international flows and debate in an informed manner whether government and companies are getting a fair deal. Pockets of civil society space have been protected and some brave campaigners have occupied them. The EITI deserves credit for this.

There is still much to do – not least on state ownership and licenses. We need to move away from EITI Reports and do more to integrate EITI reporting into national systems. Transparency should be an integral and routine feature of government and company systems. On beneficial ownership transparency, there has been a lot learned through data collection as part of the EITI reporting process. More can be done on setting the legal framework for what information in mining or petroleum registers or, even better, in national company registers as in Ghana or Zambia.

Our systems and processes tend to focus more on negatives than on impact. And, as EITI Validation is clearly showing us, the picture across the continent is patchy. But let's make no mistake: the general direction of progress in some of the most challenging contexts and on some of the most challenging issues is positive, as the examples in this publication demonstrate. More openness and public scrutiny is empowering reformers across the continent in their work to ensure that the wealth from extractive resources are benefiting all the nation's citizens, as they should.

— Fredrik Reinfeldt, EITI chair
Dakar, Senegal
31 October 2018

How the EITI works

The global standard for the good governance of oil, gas and mineral resources

The EITI Standard requires the disclosure of information along the extractive industry value chain, from how extraction rights are awarded, to how revenues make their way through the government, and how they benefit the public.

24 out of **51** EITI implementing countries are in Africa.

THE IMPLEMENTATION of the Standard takes place at the country level. The EITI's international management, composed of the Secretariat and the Board, supports and encourages meaningful implementation in each member country. The international EITI Board is mandated to uphold the EITI Standard. It does so by monitoring and assessing the progress of countries in meeting the Standard's requirements. All implementing countries are held to this same global standard. Every country that joins the EITI as a member is assessed against the EITI Standard through a process called Validation.

EITI has been empowering citizens with critical information they can use to hold the government and other players in the extractives industries to account and make recommendations that drive reforms in these strategic sectors of our national life.

— HE Muhammadu Buhari, President of Nigeria

VALIDATION

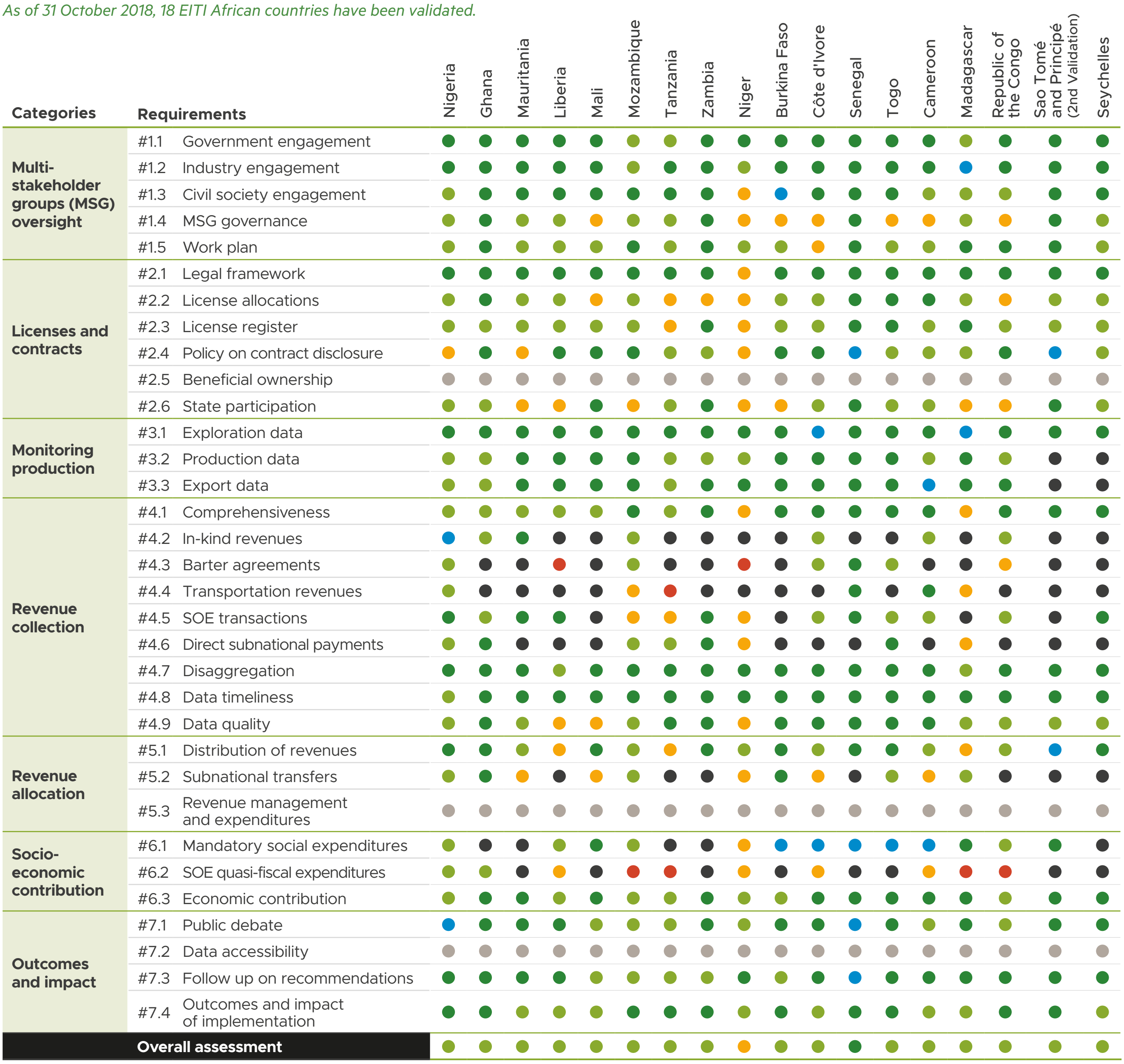
Validation is an essential feature of the EITI process. It serves to assess performance, promote dialogue and learning at the country level, and safeguards the integrity of the EITI by holding implementing countries to the same global standard.

During Validation, a country's progress is compared against 33 requirements in the EITI Standard through a review of available data and through interviews with local company managers, government officials, and civil society members. An independent, external party, called a Validator, is brought in to examine and confirm the results of this process. At the end of the Validation process, the EITI Board awards the validated country one of four designations: 'no progress', 'inadequate progress', 'meaningful progress', or, if all elements of the Standard have been met, the highest level of 'satisfactory progress'. The Validator also produces a final Validation report, which documents the findings of the Validation process and, if necessary, includes recommendations for corrective actions which can help countries improve disclosures and governance.

There are over **200 people** serving on multi-stakeholders groups (MSG) overseeing EITI implementation in **24** EITI Africa countries.

EITI Validation progress in Africa

As of 31 October 2018, 18 EITI African countries have been validated.



* Meaningful progress with improvements

- **Beyond.** The country has gone beyond the requirements.
- **Satisfactory progress.** All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
- **Meaningful progress**. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
- **Inadequate progress**. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
- **No progress**. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
- This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
- The MSG has demonstrated that this requirement is not applicable in the country.

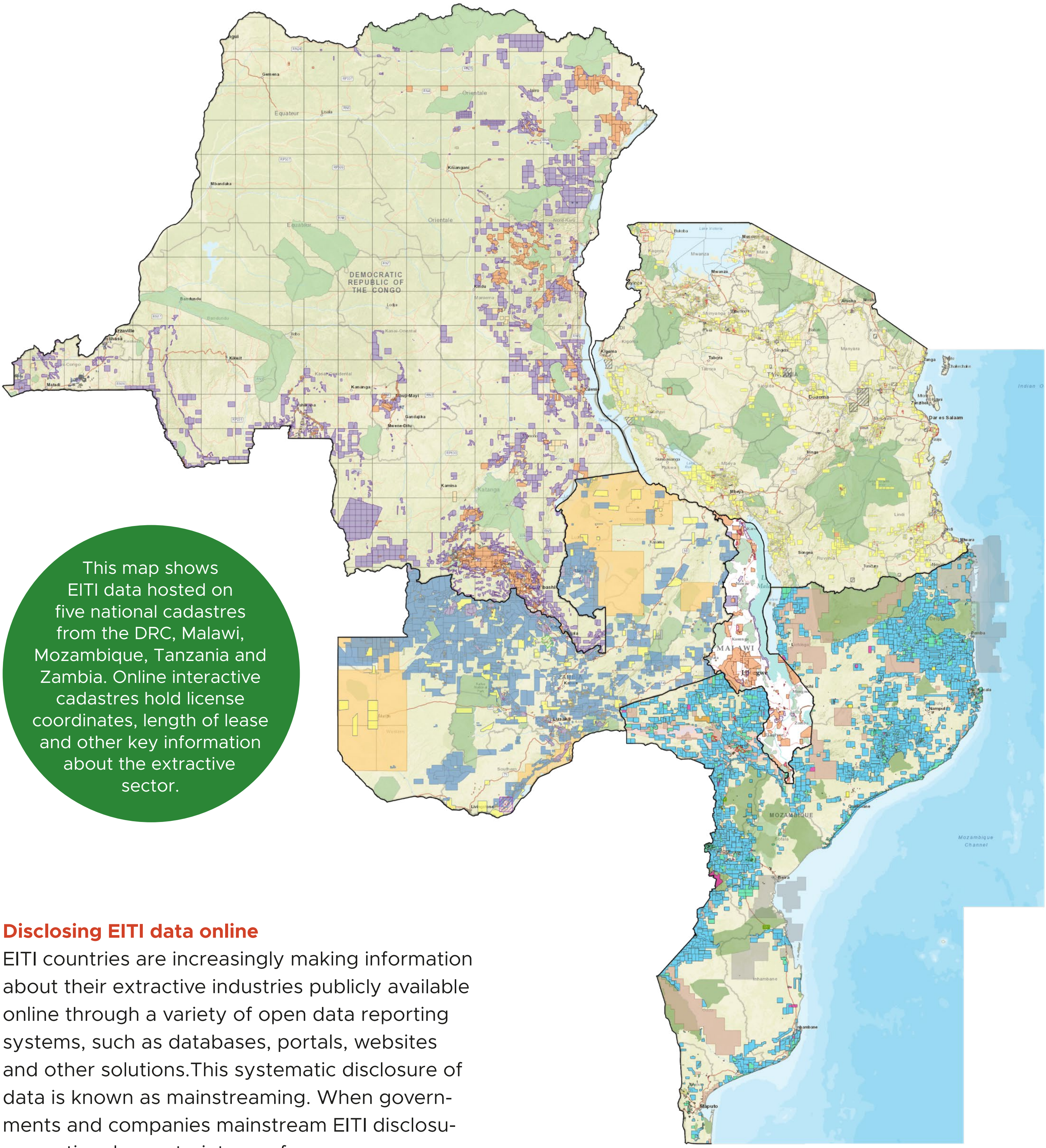
The EITI process

1. A national multi-stakeholder group, with representatives from government, companies and civil society, decides how the EITI process in their country should work.
2. Key information and data about the governance of the sector is disclosed, along with recommendations for improving sector governance.
3. This information is widely disseminated to inform public debate and to allow recommendations to be followed up.

Country case study

In 2018 **Senegal** became the first country in Africa to make satisfactory progress in meeting the EITI Standard. This achievement was the culmination of five years of intense work and swift progress since Senegal first began implementing the EITI in 2013. In the areas of contract transparency and social expenditures, the country has gone beyond the EITI requirements. Citizen engagement has also been a highlight of EITI Senegal's efforts, as reporting has clearly informed public debate and made regular disclosure of extractive sector information more accessible to its citizens, not least through the Senegal EITI website.

Since 1999, over **USD 700 billion** in revenues have been disclosed in African EITI Reports.



This map shows EITI data hosted on five national cadastres from the DRC, Malawi, Mozambique, Tanzania and Zambia. Online interactive cadastres hold license coordinates, length of lease and other key information about the extractive sector.

Disclosing EITI data online

EITI countries are increasingly making information about their extractive industries publicly available online through a variety of open data reporting systems, such as databases, portals, websites and other solutions.This systematic disclosure of data is known as mainstreaming. When governments and companies mainstream EITI disclosures, national secretariats can focus more on analysing the data, addressing gaps and informing debate on reforms.

Liberia and **Sierra Leone** are using a centralised register of mining licenses which lists the largest mining companies in the country and links these companies to their licenses and relevant payments.

Guinea has an online contract portal with 71 published contracts and Soguipami, the state-owned enterprise, is publishing audited financial statements on their website.

FIND OUT MORE: contratsminiersguinee.org

Africa's extractive industries

An under-explored oil, gas and mining continent

Africa's extractive resources remain underdeveloped despite 30% of all global mineral reserves being located in Africa. The continent's proven oil reserves constitute 8% of the world's stock and natural gas amounts to 7%. Minerals account for an average of 70% of total African exports and about 28% of gross domestic product. The contribution of extractives to public finance is significant, with some African countries' public revenue almost entirely dependent on them.

EXPLORATION ACTIVITIES have been hampered in the past by a lack of infrastructure, political instability, conflict, corruption and conflicting regulations. A lingering perception of the region being a high-risk investment environment, combined with the effects of the post-2010 commodity price drop, has restricted access to financing for exploration and extraction activities throughout the continent.

Growth in discovery activities over the past two decades increased proven oil reserves in Africa by 68%, from 75 billion barrels to 126 billion barrels, while in the same period proven natural gas reserves grew by 35%, from 10 thousand cubic metres to 14 thousand cubic metres.

Africa is estimated to hold at least 30% of the world's mineral resources according to the World Bank, a figure that will likely grow with increased exploration. Africa's reserves are also of a greater quality than the global average, with minerals which are more easily accessible and of a higher grade than elsewhere.

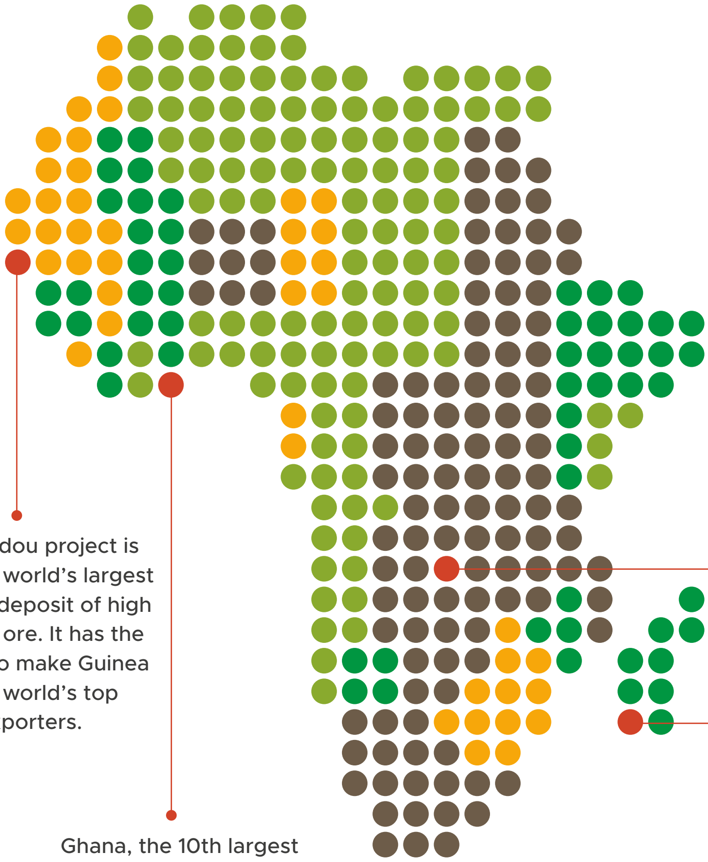
Everyone says Africa is rich in natural resources, but we actually don't know whether that is true or not. Exploration expenditure is less than USD 5 per square kilometre. This figure is more than USD 60 in Australia and Canada for example. We need to improve transparency, secure property rights and adopt new technologies to explore and develop natural resources to benefit African citizens.

— Bady Balde, EITI Africa Director

About 30% of **all global mineral reserves are found in Africa.**

— African Natural Resources Center (2016). *Catalyzing growth and development through effective natural resources management.* African Development Bank Group.

Reserves in Africa



Oil
Oil / Petroleum / Natural Gas / Petroleum Products /Crude Oil

Metals + Minerals
Iron / Ore / Phosphates / Aluminium / Uranium / Copper

Precious Metals + Minerals
Gold / Diamonds / Platinum

Land
Agriculture / Regional & Urban Planning / Nature Reserves

The Simandou project is one of the world's largest untapped deposit of high grade iron ore. It has the potential to make Guinea one of the world's top iron ore exporters.

Ghana, the 10th largest producer of gold in the world, has a growing offshore oil sector with exploration activities increasing.

The Democratic Republic of Congo has the world's largest reserves of cobalt, estimated to be about 3.5 million metric tons.

The Ambatovy mine in Madagascar is one of the world's largest nickel mines with a production capacity of 60,000 tonnes (132.2 million pounds) of nickel and 5,600 tonnes (12.3 million pounds) of cobalt per year.

Source: African Natural Resources Center (2016). *Catalyzing growth and development through effective natural resources management.* African Development Bank Group.

FDI inflows to Africa are forecast to increase by about 20% in 2018 to $50 billion, according to the United Nations Conference on Trade and Development.

— UNCTAD (2018). *Foreign direct investment to Africa fell by 21% in 2017, United Nations report* press release

While Africa's resource-rich countries have grown faster economically than others in the region, the level of poverty reduction has been less than in African countries without major resource wealth, according to the World Bank. It is clear that the revenues from the extractive industries in Africa have not benefited the majority of the people.

For more than a decade, the EITI has worked with governments throughout the continent to shine a light on the extractives through effective reporting requirements. Reported data has been discussed and analysed by EITI multi-stakeholder groups, which have set paths forward for responsibly developing and managing national resource extraction.

Country case study

The Democratic Republic of Congo

At the height of the commodity boom in 2007, when **the Democratic Republic of Congo (DRC)** began implementing the EITI, decades of conflict, political instability, corruption, looting and mineral smuggling had decimated the mining sector, which used to be DRC's engine of growth, and left the government with large liabilities for its state-owned enterprises. Despite the country's vast natural resources, two thirds of the population were living below the poverty line of less than one dollar per day in 2012, according to the World Bank.

In this context, the government of the DRC committed to implementing the EITI to attract foreign direct investment to revive the mining sector, and to ensure that revenues are well managed for the benefit of all citizens. Apart from a slight decrease in 2009 due to low commodity prices, EITI Reports from 2007 to 2015 have shown a steady increase in government revenues. Revenues collected in the mining sector surpassed that of the oil and gas sector in 2010, when 63% of the USD 875 million came from mining companies. In 2015, the extractive sector generated USD 1.7 billion, 82% of which came from the mining sector.

The DRC currently exports 67% of the world's supply of cobalt, a critical component in modern technology such as lithium-ion batteries that power smartphones and electric cars. Low global supply and high demand caused the price of this rare earth mineral to more than double in 2017. With 70% of the world reserves, the DRC is expected to play a major role in the supply of cobalt and in the global energy transition to a low-carbon world economy.

FORESTRY

Not all resources require exploration: in several African countries the EITI reporting framework has been extended to include the forestry sector. Illicit logging deprives local citizens of both environmental and financial benefits.

In **Liberia**, forestry is worth over 15% of government revenues. Liberia's EITI disclosures, including public access to contracts, enabled civil society monitoring that led to the exposure of corruption around the issuing of logging permits in community-claimed forests.

In the **Republic of the Congo**, forestry has grown to become worth 10 times as much as mining, although oil and gas remain the biggest portion of government revenues.

In **Malawi**, forestry is the largest industry covered by EITI reporting, represented almost 50% of the country's extractive industry revenues.

Requirement 3.1 in the EITI Standard: Implementing countries should disclose an overview of the extractive industries, including any significant exploration activities.

Katanga copper mine.
Photo: Glencore PLC

Domestic resource mobilisation

Strengthening tax collection

Domestic resource mobilisation is about increasing the flow of taxes and other income into government treasuries. Implementing the EITI Standard is increasing access to information on revenues from the extractives sector in several African countries and gives citizens insight into the revenues being paid.

IN THE EXTRACTIVE SECTOR, revenue flows come in several forms, such as taxes, royalties, production shares and bonuses related to exploration and production activities. Assessing current and potential domestic resource mobilisation from the extractive sector requires a clear understanding of the volume of revenue generated and of relevant tax policies, tax rules and associated regulations.

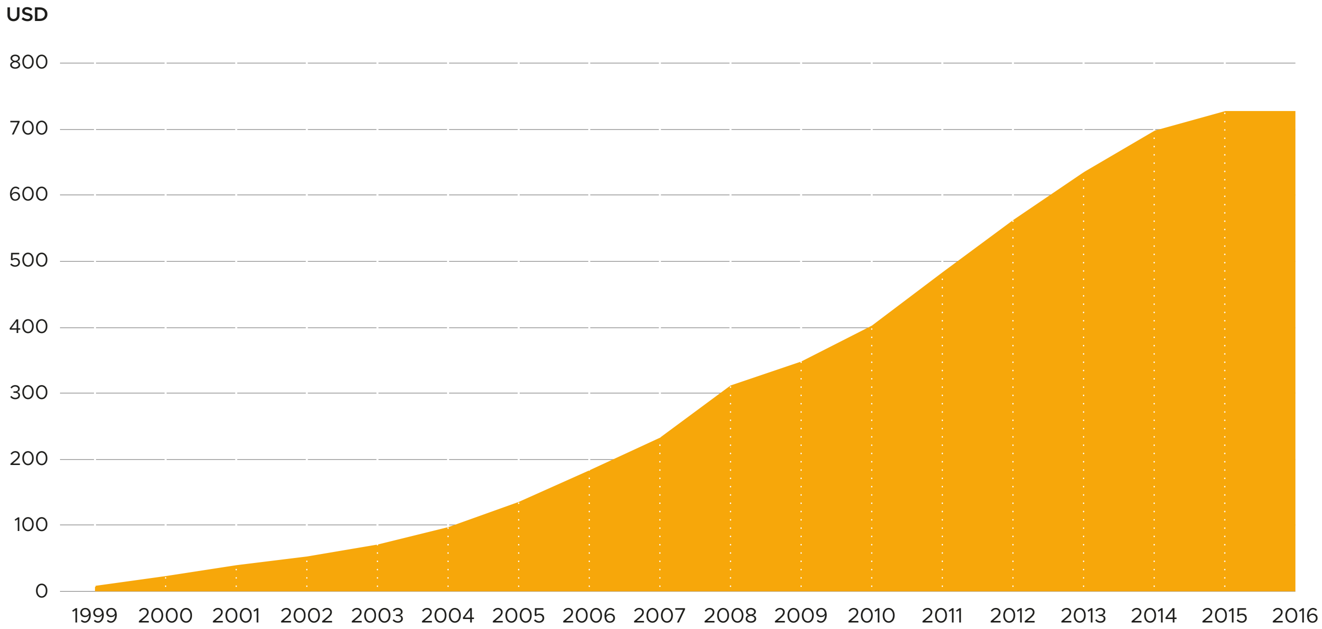
The EITI contributes to domestic resource mobilisation by publishing data that can help government and civil society assess whether the amount of taxes paid are correct. EITI data also assists in improving tax administration, identifying practices that undermine taxation and fostering dialogue about fiscal policies and reforms. Making tax information public allows for greater scrutiny, providing interested parties and concerned citizens with more opportunities to understand and monitor fiscal policies, planned reforms and tax administration.

A lack of transparency, poor governance and mismanagement of monetary flows could fuel corruption, lead to the decline of state institutions, and result in a missed development opportunity. EITI, which has recently expanded its mandate from revenue-focused information to more contextual information, is a critical tool to counter such risks, and should be promoted and streamlined.

— Faure, Mylène; Rakotomalala, Olivia; Pelon, Remi (2015). *Economic contributions from industrial mining in Madagascar: research summary* (English). Washington, D.C.: World Bank Group.

In sub-Saharan Africa, tax revenues corresponded to **less than a fifth** of GDP. The average in OECD countries is just over a third of GDP.

Total government revenues disclosed in African EITI countries (billions USD), accumulated



While revenues from the mining sector in the DRC are gradually increasing, this is only the first step in mobilising domestic resources. Just as important as increases in overall revenue are increases in the proportion of revenue going to the State Treasury. When EITI implementation began in the DRC, less than half of the extractive sector income went to the State Treasury. Now the Treasury receives more than two-thirds. Treasury funds are on-budget, making it easier for government agencies to oversee and plan expenditures.

While the improvement in revenue management is a welcome step, there are still major concerns over revenue collection in general. Export figures suggest that some companies in the DRC might be understating their exports. As a result, these companies could be paying an implicit export tax rate of 10%, which is far lower than the set rate. Additional work is needed to ensure that domestic resource mobilisation in the DRC maintains a positive trajectory.

In the past, data collection in **Mauritania** was a time-consuming and labour-intensive process that relied on physical documentation. Mauritania EITI has now introduced fiscal identification numbers for companies and applied the IMF-EITI Global Financial Statistics classification for extractives revenue flows. This innovation has assisted the government in identifying specific companies and revenue flows and assisted with tax collection efforts.

In **Mozambique**, EITI reporting has helped improve inter-agency collaboration, facilitating more efficient tax collection. The Tax Authority relies on accurate license coordinate data from the Ministry of Energy and Mineral Resources to calculate the surface rent tax. Due to data inconsistencies, as revealed through EITI reporting, the government is now implementing reforms to improve data sharing between relevant agencies.

Nigeria has faced significant challenges in managing revenue from the oil and gas sector. Nigeria EITI (NEITI) has been effective in improving transparency and accountability in this area. NEITI Reports inform Nigerian citizens on the revenue flows in the sector, and how both monetary and in-kind revenues are collected and distributed by the relevant Federal agencies. NEITI Reports have disclosed total earnings of nearly USD 600 billion from the oil and gas sector from 1999 to 2015, and USD 17 billion in the solid minerals

EITI helped to open up the oil, gas and mining sector. In the past, these sectors were a black hole. Very few people knew what was happening in these sectors. EITI changed that significantly. We have been able to track down a lot of 'lost' oil money and get it back.

— Zainab Ahmed, Minister of Finance (acting) for Nigeria and EITI Board member.

sector from 2007 to 2015. Over USD 3 billion has already been recovered thanks to NEITI reporting, while an additional USD 20 billion in recoverable revenue has been disclosed in NEITI Reports.

The impact of EITI implementation in Nigeria can be seen in the expanded availability of credible and critical data and an increase in public demand for reforms. NEITI Reports have improved domestic resource mobilisation, strengthened public debate and increased awareness of policy options in the extractive sector.

In **Sierra Leone**, mobilising revenues from the extractive sector often requires collaboration between different regulatory and resource-collecting agencies. The EITI process identified the absence of inter-agency coordination as a major challenge for revenue collection. As a result, the government established an Extractive Industries Revenue Taskforce to help follow up on the opportunities identified for making revenue-collection more efficient. EITI reporting has also provided valuable recommendations for how to ensure that revenue collection from minerals is improved. These recommendations include ensuring that fiscal terms for all mining and petroleum contracts are consistent, and to adequately monitor license transfers for potential capital gains tax.

Reliable data on how much oil, gas and mining companies produce is important to accurately calculate taxes and royalties that are based on production. In **Zambia**, EITI reporting identified major discrepancies in production figures held by different government agencies. This made it difficult to determine how much royalty the government should receive from minerals production. In response to this, the government has worked to improve collection and verification of minerals production data. The key government agencies now collect and monitor production figures from companies on a project-level basis. Zambia EITI is working with the Ministry of Mines and the revenue authority on how to disclose this information regularly and use it to analyse the collection of royalties from mining projects.

NEITI 2009-2011 audits uncovered USD 9.8 billion owed to the Nigerian government by the oil companies.


Kroondal chrome mine.
Photo: Glencore PLC


GRANATINA

Photo: Shell

Local revenue transparency

Bringing the benefits of extractive revenue to local communities

In many EITI implementing countries in Africa, local communities receive extractive revenues either as transfers from the central government or as direct payments from companies operating in their locality. These payments are small in comparison to the national-level revenues, but are vital contributions for communities directly affected by extractive activities. EITI helps shed light on whether the right amounts are transferred and whether local governments receive these funds when they should.

EITI REPORTING HAS UNCOVERED numerous instances of national governments failing to accurately distribute subnational transfers. In **Madagascar, Senegal** and the **Republic of the Congo**, for example, local EITI Reports found that government decrees allocating small portions of revenues to local communities were not being implemented in practice. In these cases, the EITI is working with the government and local communities to ensure that revenues due to local communities are promptly transferred to the beneficiaries. The results of EITI work in this field can be seen in two case studies from Madagascar, which demonstrate both the challenges and the opportunities offered by subnational payments and transfers.

Mayors in Madagascar use EITI Reports to demand their share of revenues for local communities

Since 2011, mayors of mining-affected communities in Madagascar have been using EITI reporting to ensure that revenues owed to their local communities are effectively paid. Madagascar's second EITI Report showed that revenues collected on behalf of local communities at the central level were not being transferred to their respective beneficiaries. The report shed light on the primary factors preventing local communities from receiving their revenues, including outstanding arrears. Mayors of communities affected by mining activities used the data in the EITI Report to lodge a complaint with the Ministry of Decentralisation. This action sparked a larger debate on local transfers within Madagascar, and a subsequent investigation showed that there remained three to four years of unpaid revenues for local municipalities. The report also showed that, in some cases, money transfers were made to local officials' personal accounts, since many municipalities did not have bank accounts. Subsequent EITI reporting has gone a step further by now including links to participative budgeting at the local level, along with listing the precise amount of outstanding revenues that need to be transferred to local communities.

Ambatovy mine and the withheld ristournes

Madagascar EITI Reports have identified gaps of over USD 12 million in the disbursements of subnational taxes (called *ristournes*) to communities affected by mining activities at the Ambatovy mine. The Ambatovy mine is the largest foreign investment project in the country and one of the largest mining operations in sub-Saharan Africa. The project is extensive. The company built a pipeline connecting the mine to the plant site where cobalt and nickel are refined, established a site for tailings and expanded the Port of Toamasina to handle the increase in exported goods.

Given the scale of Ambatovy's activities, it was unclear which communities should benefit from local payments, or how large these payments would be. Reluctant to release the revenues to the wrong party, Ambatovy held the funds, which eventually accumulated to USD 12 million worth of *ristournes* by 2017.

Madagascar EITI's MSG provided a dialogue platform to address and clarify concerns surrounding the disbursement of these funds. In 2015, the government and Ambatovy set up a multi-stakeholder committee, in which the EITI Madagascar took part, to devise a solution. The government issued two decrees in December 2017 and April 2018 clarifying the status and recipients of the *ristournes*. EITI reporting is now focusing on monitoring the transfer of these revenues to the 20 identified communities. Moving forward, one of the EITI Madagascar's key priorities is to further improve its reporting on the disbursement of subnational transfers, of which Ambatovy's *ristournes* are a major part.

Eight EITI African countries publish payments paid directly by companies to subnational government, eleven publish extractives related payments from central government to subnational government, and fourteen publish social payments from companies to communities.

Company social payments

Tracking corporate social responsibility and payments to communities

In addition to taxes levied by central, regional and local governments, extractive companies often make contributions to regional or local governments, communities, non-governmental organisations or other third parties in the areas where they operate.

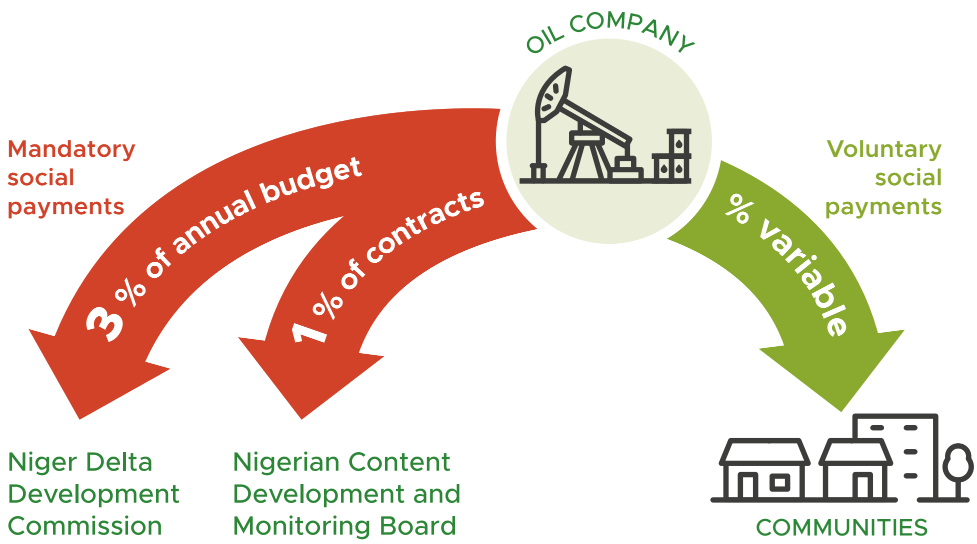
SOCIAL EXPENDITURES can take multiple forms. They may involve cash payments such as donations, grants or other types of cash transfers, the transfer of assets such as the construction of roads or schools, or the provision of services like training and health care. In some cases, these social expenditures are based on legal or contractual obligations. In other cases, companies make voluntary social contributions.

Social payments – in-kind or cash – are a form of contribution from companies to a region or community and should be reflected as such. Often, communities do not know what companies contribute – or are obliged to pay by nature of their contracts. This can generate mistrust towards the companies and the government. It is thus important to publish the expectations and the actual amounts paid, or in-kind donations given to provide a more complete picture for all stakeholders involved.

Tracking social payments in Nigeria

Companies are required to give 3% of their annual budget to the Niger Delta Development Commission and 1% of contracts in the upstream sector to the Nigerian Content Development Monitoring Board.

There is no mandated amount companies must provide to local communities. Instead these social payments vary from place to place, as established in local agreements.



Country case studies – company social payments

São Tomé and Príncipe

The 2015 EITI Report from **São Tomé and Príncipe** highlighted how extractive companies made social payments throughout the country. Oranto Petroleum STP, for example, spent USD 400,000 in 2015 to build three kindergartens and four social houses for the elderly in regions where they operated. In the same year, Sinoangol made a social payment of USD 625,000, which was used to acquire six fire engines. This detailed reporting allows stakeholders to understand the depth and spread of social payments in each region, to evaluate if payments match agreements made between companies and the government, and to assess the benefits social payments bring to local communities.

Nigeria

In **Nigeria**, social expenditures are classified as either Mandatory or Non-Mandatory Disclosures. Mandatory social expenditures are legally-mandated payments which go to one of two specific agencies. The Niger Delta Development Commission receives 3% of the annual budget of any oil producing or gas processing company operating in the Niger Delta area, while the Nigerian Content Development Monitoring Board receives 1% of every contract in the upstream sector of the Nigerian oil and gas industry, which is deducted. In 2015 more than USD 523 million was paid out by the extractive sector in mandatory social expenditures.

Non-mandatory social expenditures are typically community development programmes, which are based on Memorandums of Understanding (MoU). These MoUs are agreements between extractive companies and the communities where they operate. While companies usually must engage in some manner by paying local social expenditures in order to have their annual plans approved by the government, the exact amount and nature of these projects are not enshrined in any law or regulation, thereby allowing some flexibility in the way each company engages with the community in which it operates.

In 2015, extractive companies in Nigeria spent USD 40 million on various local projects.

Contract transparency

Establishing open contracting as the norm

The EITI began encouraging contract transparency in 2013. Since then, more than 800 contracts have been published in over 30 implementing countries, while 16 EITI supporting companies have come out in favor of contract transparency. More than half of EITI implementing countries in Africa have begun disclosing contracts.

14 EITI countries in Africa have published at least one contract.

CONTRACTS ESTABLISH the legal and financial relationship between extractive companies and the host government. The open and accessible publication of contracts is critical for effective monitoring of the extractive sector. Contract publication has multiple other benefits: it encourages foreign direct investment, curbs misinformation, facilitates financial modelling and improves coordination between different government agencies. EITI countries are at the forefront of contract transparency, and national secretariats are often the forum for discussions on how to reform systems to systematically publish contracts.

According to research undertaken by NRGI in 2017, contract disclosure is becoming the norm among EITI member countries. In Africa, 14 implementing countries — over half of all EITI members states on the continent — have disclosed at least some of these agreements, and several more were taking concrete steps to join their ranks. An Oxfam survey of contract disclosure policy among leading extractives companies from 2018 showed that out of the 29 EITI supporting companies in their sample, 16 endorsed contract transparency in some form.

A brief history of contract transparency in Malawi

Contract transparency is encouraged by the EITI Standard. This is how Malawi published all their oil, gas and mining contracts.

FEB 2007
Contract for Kayelekera uranium mine signed

SEP 2011
The first petroleum exploration license issued in Malawi

FEB 2013
EITI standard adopted with contract transparency encouragement

MAY 2014
Three Production Sharing Agreements (PSAs) for oil exploration and product signed

From a company perspective, contract transparency helps build trust between companies and governments ... and citizens as it shows that the company has nothing to hide and that it is willing to be held to account for the commitments that it has made.

— Tom Butler, CEO of International Council of Mining and Metals (ICMM).

Country case studies – contract transparency

Africa is a leader on contract transparency with eight governments endorsing contract disclosure, including **Republic of the Congo** (oil and gas), **Chad** (oil and gas), **Ghana** (oil and gas), **Guinea** (mining), **DRC** (oil, gas and mining), **Liberia** (oil, gas, mining and forestry), **Malawi** (oil and gas) and **Senegal** (oil, gas and mining). Some countries are also proactively publishing contracts, despite no stated policy from the government, such as **Mali** (mining).

Civil society organisations from multi-stakeholder groups in Cameroon, Ghana and Malawi have put contract transparency on the MSGs' agenda as part of their advocacy for full contract disclosure. Civil society pressure in Cameroon contributed to the publication of the model petroleum sharing contract on the website of Société Nationale des Hydrocarbures, a state-owned company, and helped pass a new law in July 2018, mandating contract transparency.

In Ghana, civil society efforts culminated in the publication of all contracts through a portal established by the Petroleum Commission. Civil society groups in Madagascar have also proposed contract transparency provisions as part of ongoing revisions to the Petroleum and Mining Code.

Where government policy is clear, national EITI processes bring together government agencies and civil society organisations to make contracts public. EITI national secretariats in Chad, the DRC, the Republic of the Congo and Liberia have published more than 100 contracts. National secretariats also work to verify whether the published contracts are complete and readily accessible to the public.

FIND OUT MORE: **resourcecontracts.org**

MAR 2015
Malawi MSG decides to include contract transparency as a requirement in their first work plan

OCT 2015
Malawi joins EITI

DEC 2015
Principal Secretary delivers speech in support of contract transparency

APR 2016
Civil society meets with Department of Mines to request release of all contracts

JUL 2016
Uranium contract published

JAN 2017
Analysis of production sharing agreements is published by Oxfam Malawi

MAY 2017
All production sharing agreements published

JUL 2018
All extractive contracts in Malawi publicly available

In Africa, **10 EITI countries** – Chad DRC, Guinea, Liberia, Malawi, Mali, São Tomé and Príncipe, Senegal, Sierra Leone and Togo – have published **all their extractives contracts online.**

In Tanzania, survey results were used by TEITI to push for contract disclosure. The (former) Ministry of Energy and Minerals contacted extractive companies that had entered into mineral development or production sharing agreements with the government. The Ministry informed them of its plans to publish the agreements on its website and requested comments on the disclosure. Two companies responded, noting the need to protect proprietary information and to undertake a public awareness-raising campaign prior to disclosing the agreements. TEITI is working with the government and companies to identify the best practices when publishing additional contracts in the future.

In Malawi, civil society organisations have been crucial in encouraging contract transparency in the oil and gas sector. When the government declared in 2015 that all oil, gas, and mining contracts were available online, Malawi EITI was quick to establish that this claim was only partially true and only covered the mining sector. Due to the efforts of the Malawi EITI civil society representatives, the production sharing agreements for the country's nascent oil industry were eventually made public as well. These agreements are now available on the Resource Contracts website, and are fully accessible to all.

FIND OUT MORE: eiti.org/contracts-licenses

Iron ore and haulage.
Photo: Anglo-American PLC

Licensing

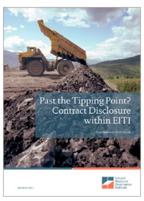
Open digital solutions for an area of high corruption risk

Licensing remains a high-risk area for corruption. A lack of transparency and predictability in allocating licenses increases the risk when investing in the continent, which in turn increases the capital costs for extractive projects. Fair and open licensing procedures are necessary for Africa's extractive sector to reach its full potential.

17 African EITI countries have an **online mining cadastre** and 12 countries have an **online oil registry.**

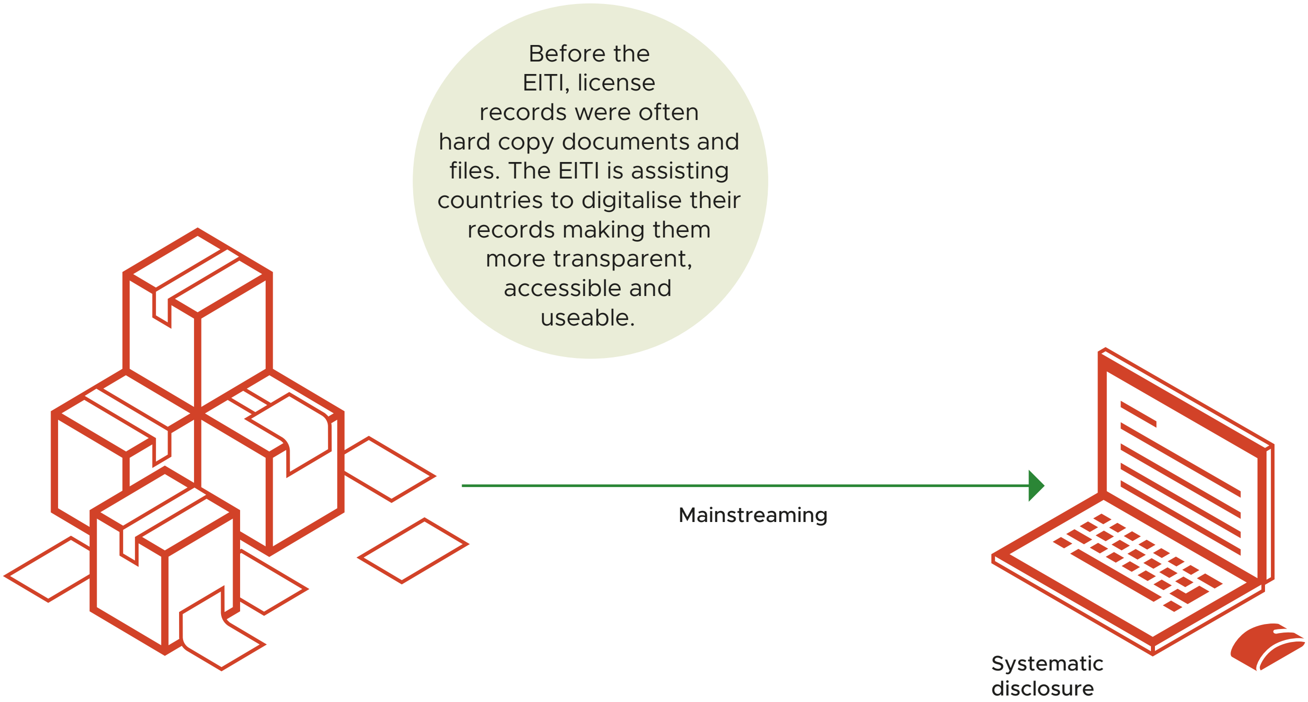
THE MAJORITY OF resource-rich countries have established systems for allocating licenses to explore and exploit oil, gas and minerals. Often, these bidding and license allocation procedures are defined in publicly-available legislation and regulations that set out how and on what terms companies are granted rights. Sometimes, however, these procedures are ad hoc, are being revised, or are simply not clearly articulated. EITI reporting has shown that licensing is a high-risk area for corruption, so making these processes transparent is key to mitigating corruption and enabling citizens to access essential information about how the country's natural resources are being developed.

EITI reporting seeks to highlight both positive and negative developments in license allocation practices and to provide guidance on how to achieve transparency in this critical area.



Disclosing the contracts and licenses that detail terms of resource exploitation has become the norm among EITI implementing countries.

— Hubert, Don; Pitman, Rob (2017). *Past the Tipping Point? Contract Disclosure within EITI.* Natural Resource Governance Institute.



Country case studies – licensing

Ghana

The discovery in **Ghana** of the significant Jubilee oil field in 2007 was a game changer for the country and has kick-started new rounds of exploration and discovery. The oil and gas sector has, until recently, been governed by the 1984 Petroleum law. While the law allowed for competitive rounds of bidding, the Minister was also granted discretionary powers to directly negotiate with companies. GHEITI highlighted that the latter practice could lead to licenses being awarded to inefficient operators and that the details of discretionary negotiations could be kept private. The EITI Report therefore recommended that the Ministry of Petroleum introduce licensing rounds with bidding processes, and then publish information about the selection process for awarded contracts on the Ministry website. These recommendations were taken up in the 2016 Energy and Petroleum Bill, which requires that tendering or direct negotiation processes be gazetted and announced in the media.

Burkina Faso

In **Burkina Faso**, EITI reporting identified an agreement between the government and a mining company that was not in accordance with the laws and regulations governing the sector. The report also revealed that a signature bonus of USD 10 million was paid as part of the agreement, which contravened the country's laws.

Liberia

Liberia has used the EITI process to scrutinise the procedure for awarding contracts. They have undertaken two "post-award process audits", which revealed that procedures were not consistently followed. The first audit in 2013 looked at 68 contract awards and concluded that 62 of these had been awarded through processes that were not compliant with laws and regulations. The second audit, published in December 2016, showed that insufficient information was available to determine whether due process had been followed for 127 of 160 contracts awarded in the period January 2012 to June 2015.

FIND OUT MORE: eiti.org/contracts-licenses

Beneficial ownership

Revealing who controls extractive companies operating in Africa

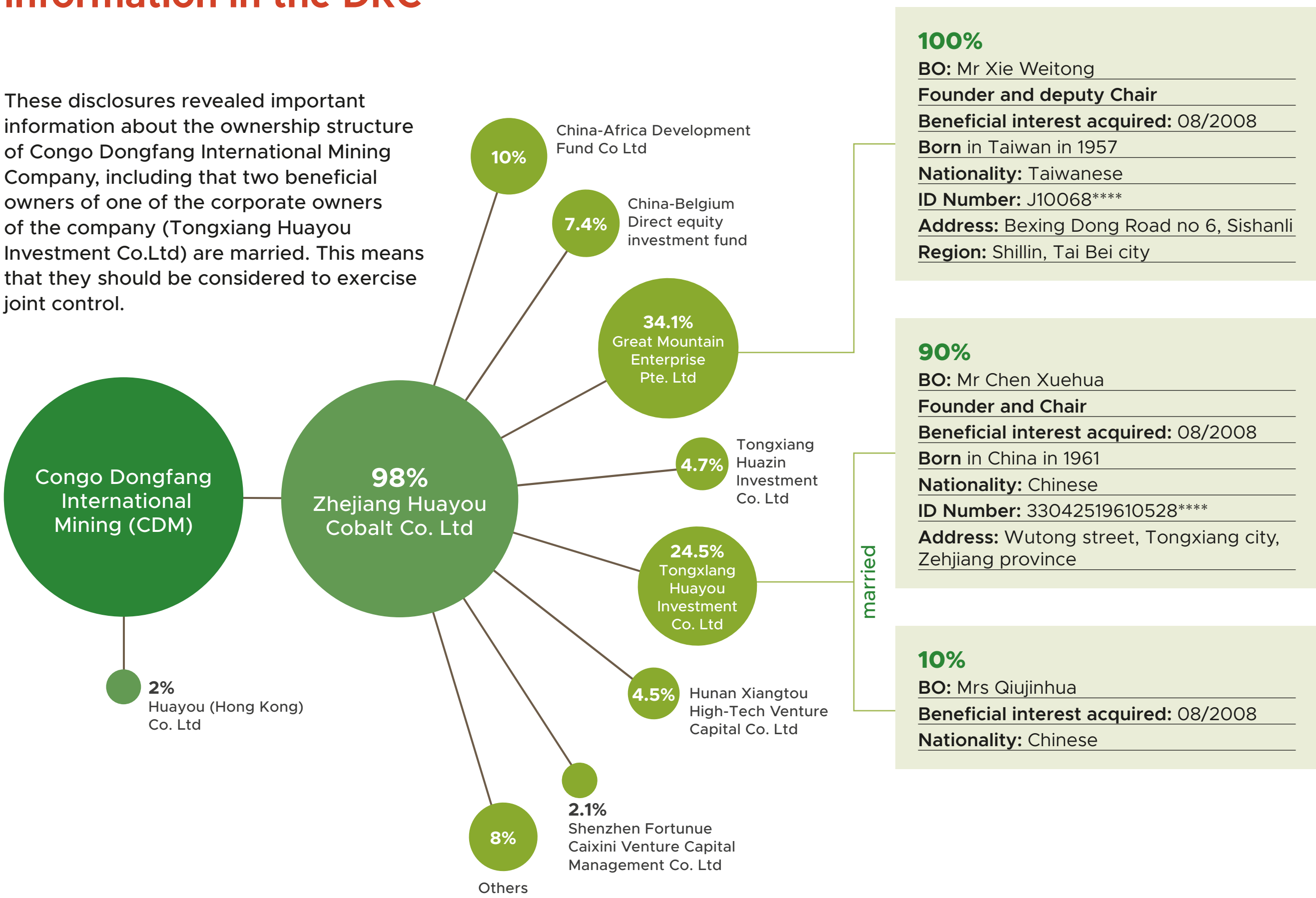
The identity of the real owners, also known as the 'beneficial owners', who ultimately own or control the companies that have obtained rights to extract oil, gas and minerals is often unknown, hidden by a chain of unaccountable corporate entities. This problem often feeds corruption, money laundering and tax evasion, as revealed by the Panama Papers in 2016. EITI has made beneficial ownership transparency a cornerstone of its work in Africa.

All African EITI countries have published their plans to achieve **beneficial ownership** by 2020.

SIGNIFICANT STRIDES in tackling hidden ownership in the extractives sector have been made by many African countries. Through their membership of the EITI, 24 African countries have committed to disclose the beneficial owners of all companies that apply for or participate in an oil, gas or mining activities. They have also committed to disclose the names of any Politically Exposed Persons (PEPs) with controlling interests in the sector. Each national MSG has developed detailed plans explaining why their country should take action on beneficial ownership, and outlining the roadmap to achieve beneficial ownership transparency by January 2020.

Mapping beneficial ownership information in the DRC

These disclosures revealed important information about the ownership structure of Congo Dongfang International Mining Company, including that two beneficial owners of one of the corporate owners of the company (Tongxiang Huayou Investment Co.Ltd) are married. This means that they should be considered to exercise joint control.



EITI beneficial ownership transparency requires that:

- 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.
- Companies should publicly disclose the identity of the beneficial owner, including the name, nationality and country of residence. Companies are also encouraged to publish additional details, such as the beneficial owner's date of birth, national identity number, residential address, etc.
- Public officials are required to be transparent about their ownership in oil, gas and mining companies.

For us in the developing world and especially in Africa, breaking the wall of secret corporate ownership is an existential matter. It is for us literally a matter of life and death.

— Yemi Osinbajo, Vice President of Nigeria

Country case studies – beneficial ownership transparency

Several EITI countries in Africa have demonstrated strong political commitment towards beneficial ownership transparency. Eleven countries – **Cameroon**, **Chad**, **Côte d'Ivoire**, **the DRC**, **Ghana**, **Guinea**, **Mali**, **Mauritania**, **Nigeria**, **São Tomé and Príncipe** and **Togo** – have committed to make beneficial ownership data available through public ownership registers. Ghana and Zambia have reformed their company laws to cover all registered companies.

The **DRC** has been pioneering beneficial ownership transparency in Africa since 2014 by publishing ownership of oil, gas and mining companies annually in their EITI Reports. At least 30 companies have voluntarily disclosed their real owners. DRC EITI is working on a draft decree with the aim of requiring the disclosure of beneficial owners of oil, gas and mining companies.

In **Ghana**, the Companies Act was amended in August 2016 to mandate the Registrar General to establish a public ownership register. Ghana's Exploration and Production Regulations also include provisions that require beneficial ownership disclosure as part of the process for allocating licenses. Ghana EITI is working with the Petroleum Commission and the Registrar General to help develop the templates for collecting beneficial ownership information from companies in the extractive sector and beyond.

Following calls by civil society and the piloting of beneficial ownership reporting through the EITI, **Zambia** amended its Companies Act in November 2017 to include a provision on beneficial ownership disclosure. Zambia EITI was involved in raising awareness around beneficial ownership transparency during the drafting of the law and regulations, and aims to work with key industries and government agencies to ensure disclosure of ownership in the mining sector.

Sierra Leone has made a dedicated effort to ensure that the government knows who it is doing business with in the mining sector. The National Minerals Agency (NMA), the issuer of mining licenses, has been using beneficial ownership information to undertake integrity due diligence checks on the applicants. In doing so, the NMA hopes to ensure that reputable companies are awarded mining contracts and licenses to help transform Sierra Leone's mineral wealth. Sierra Leone EITI established a multi-agency beneficial ownership working committee. This committee has worked on priority areas, including the establishment of a comprehensive definition of beneficial ownership and politically exposed persons.

22 African EITI countries have collected ownership information on oil, gas and mining companies through EITI reporting.

FIND OUT MORE: eiti.org/beneficial-ownership

Photo: BP

SOE transparency and commodity trading

Central actors in the global supply of oil, gas and minerals

In many countries, **state-owned enterprises (SOEs)** play a major role in the management, regulation and operation of the oil, gas and mining sectors. According to the IMF, about 80% of global petroleum reserves are controlled by SOEs. Out of the 20 largest oil companies in the world, 15 are state-owned. In addition to managing extractive operations, a number of SOEs are also involved in collecting in-kind payments or **commodity trades** provided by companies in exchange for extraction rights. The EITI provides its implementing countries with guidance and standards for monitoring SOEs and commodity trading.

This map shows the 17 African countries with state-owned companies participating in EITI reporting.

In several countries, — particularly in Francophone Africa — EITI Reports provide the most valuable public information available about what NOCs are doing with public resources. (...) Recent EITI Report make it possible for citizens in these countries to begin to understand NOCs' impact on the oil sector and the economy more broadly. This access to new information is extremely valuable as a mechanism for accountability.

— Patrick Heller, Advisor, NRGI

SOEs

Financial transactions involving SOEs have become more transparent in recent years. There are still significant concerns about opaque corporate structures, overlapping mandates of SOEs and the corruption risks arising from such situations. This has been a particular challenge in Africa, where SOEs often play significant regulatory and commercial roles in the extractive industries. 28 SOEs in Africa disclose information as part of the EITI reporting process, and 14 participate in EITI multi-stakeholder groups. Furthermore, SOEs such as Ghana National Petroleum Corporation, Nigeria National Petroleum Corporation, Société des Hydrocarbures du Tchad from Chad, Société Nationale des Hydrocarbures from Cameroon have taken the lead on improving their disclosures through the EITI.

28 SOEs in **17 African countries** participate in EITI reporting.

Country case study – state-owned enterprises

In the **DRC**, SOEs are major actors in the extractive sector. DRC EITI reporting identified nine SOEs that have significant roles in managing state participation in the extractive industries, including representing the state in several joint ventures. Some SOEs also have a fiscal mandate to collect revenues on behalf of the state. EITI reporting has been the primary public source of information on these transfers. In 2015, these SOEs collected respectively USD 261 million in government revenue, representing 17% of the total revenues from the extractive sector.

Until recently, the exact nature of the relationship between SOEs and the DRC government remained unclear, making it difficult to track transfers and revenue flows. To address this challenge the EITI conducted an in-depth review of the rules and practices governing the financial relationship between SOEs and the government in 2018. The review highlighted multiple issues in SOE management in the DRC, including a lack of auditing, reporting and adequate transfer of funds to the treasury. In 2014 and 2015, these SOEs collected respectively USD 280 million and USD 261 million, representing 16% and 17% of the total extractive revenues for their respective years.

Commodity trading

In many resource-rich countries, companies pay the government for extraction rights not through cash transfers but through in-kind payments, which involve the physical transfer of oil, gas and minerals. These transactions are most often conducted between private companies and state-owned enterprises and are commonly known as 'first trades'. It is important that all first trades are transparent, in order to provide stakeholders with a full picture of government revenues from the sale of oil, gas and minerals.

EITI countries that collect their share of production or other revenue in-kind are required to disclose the volumes sold and revenues received from these sales. This means that an SOE, or other government agency in charge of marketing the state's oil, gas or minerals, must fully disclose the revenues it collects from the sale of these resources.

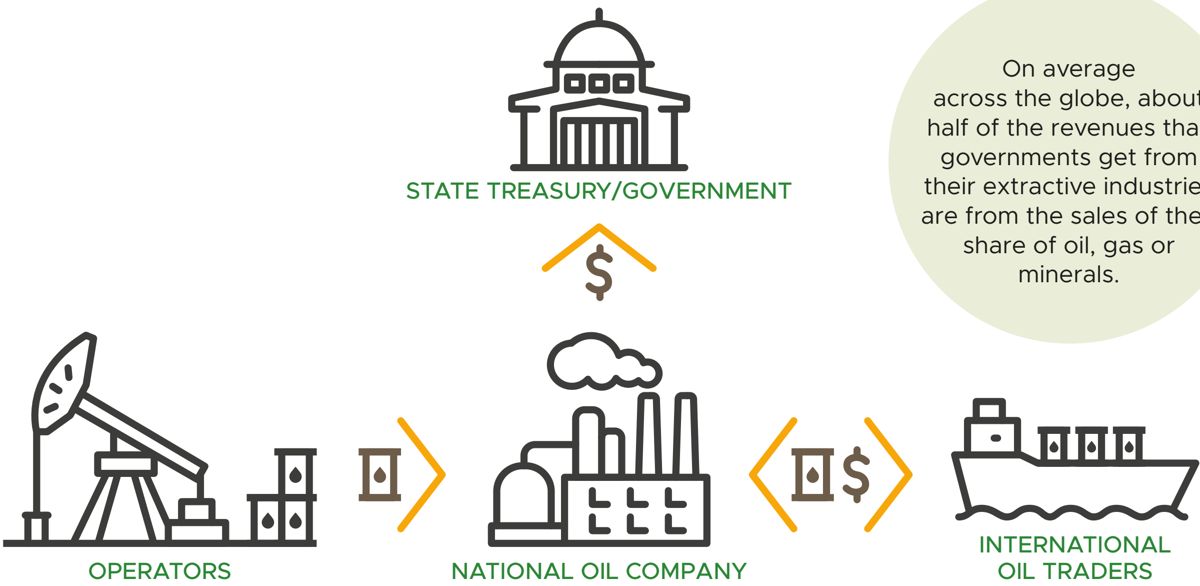
The EITI has served as a platform to encourage African governments and their SOEs to take the lead on the transparency agenda. A working group on commodity trading has been created to develop disclosure tools and learn from existing reporting mechanisms in order to improve transparency in oil sales. This group includes representatives from EITI countries, SOEs, major commodity trading companies that purchase oil from SOEs (such as Vitol, Trafigura and Mercuria, among others) and civil society organisations. The group has developed guidance materials as well as a template for oil sales reporting. This template has been adapted to several specific country contexts throughout Africa, including Chad, Côte d'Ivoire, Ghana, Mauritania and Nigeria.

National oil companies accounted for **75% of global oil production** and controlled **90% of proven oil reserves** as of 2010.

— IMF (2012). *Fiscal Regimes for Extractive Industries: Design and Implementation.*

Following the money

The role of state owned enterprises represented here by a national oil company, in the contracting, selling and refined of the state's share of oil, gas and minerals.



On average across the globe, about half of the revenues that governments get from their extractive industries are from the sales of their share of oil, gas or minerals.

Country case studies – commodity trading

Cameroon

Société Nationale des Hydrocarbures du Cameroun, the national oil company of Cameroon, has disclosed in EITI Reports details of how it sells oil on behalf of the government. This information is disaggregated cargo by cargo and includes the volumes sold, the price, the amount received, and the transfers made to the treasury, thereby bringing a high degree of transparency and accountability in the management of oil revenues.

Chad

Chad's national oil company has disclosed detailed information on the sale of its oil by Glencore. For each cargo departing from Kiribi, the EITI Report provides detailed information on the volumes sold, the prices, the amount of revenues, the amount deducted to repay government debts and the remaining amount transferred to the treasury.

Ghana

Ghana's SOE, the Ghana National Petroleum Corporation (GNPC) has used the reporting template developed by the EITI. GNPC has even gone a step further and reported on both the legal framework governing SOEs and the achieved oil sales across a three-year period. This level of transparency allows for improved monitoring of SOE activities to ensure the state receives a fair deal.

Nigeria

EITI Reports in Nigeria describe and track the execution of barter agreements, where the NOC Nigeria National Petroleum Corporation (NNPC) exchanges crude oil for refined fuel imports. Nigeria's EITI reporting has highlighted the significant losses incurred by NNPC from such deals. Though NNPC subsequently discontinued the barter arrangements in 2015, it has since entered into similar arrangements called direct sale–direct purchase agreements. Information on these sales included in current NEITI reporting.

Significant attention has been given to cash revenue flows between companies and governments in the past. Equally important is the transfer of **in-kind physical revenues** (oil barrels) between companies and governments. These are often collected by state-owned enterprises and governments.

FIND OUT MORE: eiti.org/soe and eiti.org/commodity-trading

Infrastructure deals

Shining a light on infrastructure deals and oil-backed loans in Africa

Oil, gas and mineral projects frequently require large-scale and long-term investments. In Africa, these extraction projects often occur far from existing infrastructure, requiring extensive upgrades to existing networks or the construction of new roads, rails and pipelines to carry the large quantities of oil, gas or minerals. The EITI has been helping to shine a light on these often complex deals.

EITI REPORTING discloses debt and resource-deal arrangements throughout Africa. In some cases, resource-rich countries with limited access to capital and credit enter into "package deals" where their infrastructure is developed in exchange for their natural resources. In these cases, "resources" may include exploration or production rights for oil, gas, and minerals, as well as other concessions such as access to land, energy and water resources.

While these barter agreements can serve as an opportunity for resource-rich countries to finance a great deal of infrastructure quickly, it also raises the risk of the misuse of funds and resources. In countries where the government has entered into barter agreements with oil, gas and mining companies, transparency is important to get a full picture of the total revenues, prevent corruption and strengthen governance.

The EITI requires the disclosure of the terms, commitments and expected delivery of resources. This allows government and civil society to monitor infrastructure agreements. Countries including Côte d'Ivoire, DRC, Nigeria, Togo and Republic of Congo have disclosed some information on barter agreements.

Natural Resource Governance Institute

Resource-rich countries are increasingly turning away from multilateral loans and are now looking to private lending sources – perhaps because this allows them to avoid scrutiny.

— Quaghe, Zira John; Gillies, Alexandra (2018). *Ensuring a Fair Deal for Nigerians with Oil-Backed Loans*. Natural Resource Governance Institute (NRGI)

Gold bar production in Ghana. Photo: World Bank.

Country case study – infrastructure

Democratic Republic of Congo

Gécamines is the largest state-owned mining company in the DRC, with a stake in some of the richest deposits of cobalt and copper in the world. Gécamines has signed several joint-venture agreements with Chinese companies, all of which are regulated by a complex 2007 arrangement known as Sicomines. The core of the Sicomines agreement provides mining rights in exchange for infrastructure projects throughout the country. The 2010 DRC EITI Report disclosed the first publicly-available information on the agreement, including shareholding, license holding, mechanisms of financing and reimbursements, down to the project level.

There were gaps in reporting on SOEs, however, including missing information on major revenue streams to the government. Since then, DRC EITI has provided detailed reporting on the infrastructure projects delivered to the state. Production of copper and cobalt began in 2016 and EITI reporting will cover the quantities and value of commodities exported to repay the loan for the infrastructure projects.

Country case study – oil-backed loans

Chad

EITI Reports show that Chad borrowed USD 600 million in 2013 from Glencore, using future oil production as collateral for the loan. In 2014, Chad borrowed an additional USD 1.45 billion from Glencore to be repaid from the government's share of oil. Data disclosed in Chad's EITI Report includes the annual allocation of crude oil to Glencore to repay the loan. The data showed that Chad was paying over 90% of its oil revenues to repay the loan in 2015.

The disclosed data was broken down by each of the seven instalments in 2015, showing the bill of lading number, the date of payment, the volumes of crude oil, the reference price and discount, and the monetary value of the crude oil allocation. The data further shows how the monetary value corresponds to what Chad owes Glencore in terms of repayment of capital and interests, as well as the government's share of transportation costs and cash-calls.

Following the publication of this information, the government has restructured the deal several times to make its debt payments more sustainable, most recently in the summer of 2018. Thanks to continued disclosures such as those found in Chad EITI's reporting, the government and civil society can monitor the progression of these loan repayments in the future.

Gold miner in Ghana.
Photo: World Bank

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All information here-in is from the EITI unless otherwise indicated, and is current as of 31 October 2018.