

1st draft EITI beneficial ownership roadmap - Suriname

The EITI Standard 2016 (<https://eiti.org/node/4922>) describes in Requirement 2 (clause 2.5) the obligation of EITI implementing countries with respect to the Beneficial Ownership information reporting. With the admission of Suriname as an EITI candidate country on 24 May 2017, Suriname was required to publish a beneficial ownership roadmap by 30 September 2017, with the aim of full disclosure of beneficial ownership information by January 1, 2020.

Due to delays in the meeting schedule of the MSG, the roadmap was only approved on 13th October 2017

Objectives of beneficial ownership disclosure

Our objective is for beneficial ownership disclosure to help address the following policy priorities in Suriname:

- Promoting good governance and accountability in the extractive sector; help lower the risk of financial misconduct.
- Deterring corruption in the allocation of rights in the extractive sector;
- Preventing evasion of Suriname's tax rules; contribute to improve investment climate.
- Promoting citizens getting the full economic benefit of the nation's natural resources, especially in communities where extraction is taking place.

Disclosure of beneficial ownership is also recognized as a needed complementarity to other policies aimed at enhancing transparency, accountability, and fighting corruption, such as the disclosure of government revenues received from the extractive industry and disclosure of companies' payments to government. Steps in this direction are being made in Suriname, such as the publication of mining sector revenues on the website of the Ministry of finance, and the ongoing preparations to issue a first SEITI report in 2018. While these goals and tasks are indispensable in the SEITI process, it doesn't stop there, and the element of beneficial ownership disclosure is equally important.

As described in the SEITI Work Plan (April 2017), there is little explicit and formalized policy regarding beneficial ownership. The Multi-annual Development Plan 2017-2021 was approved by Parliament in August 2017. In the draft Plan, which has already been approved by the Council of Ministers, the Government clearly states its commitment to joining EITI and embedding the EITI process in a legal framework that will also establish a broad Minerals Institute (page 77 & 78). Other policy goals for the extractive sector are not directly related to beneficial ownership, except for the goal of the formalization of the ASM-sector.

Other formal policy documents make little mention of specific policy priorities regarding beneficial ownership. However, there have been some recent key policy developments relevant to this area. In August 2017, the Parliament of Suriname adopted two key relevant pieces of legislation: the Anticorruption Law and the Law on Annual Reports. The Anticorruption Law requires (explicitly named categories of) public officials to report their incomes, assets (including stocks), and their ownership/participation in legal entities, such as corporations, NGO's, and others. These records are not public and can only be accessed by the public prosecutor's office to be used in criminal cases. However, the Law is useful as it provides a definition of Politically Exposed Persons. Options can also be explored for including the Beneficial Ownership declaration form as part of the standard reporting format for the Law. The Law on Annual Reports states that all companies (including para-statal companies) as well as organizations of public interest must publish audited annual financial reports that pass certain criteria.

Earlier in August, the Minister of Natural Resources launched a website of the Geological and Mining Services [GMD] (<https://geologymining-sr.maps.arcgis.com/home/index.html>) with an online database of licenses granted for mining. Although only the names of the companies (and not of the beneficial owners) are included, this is seen as an important step towards transparency.

Existing filing requirements

At present there is the Chamber of Commerce and Industry in Suriname entrusted with three main functions by law: implementation of economic legislation, provision of trade information and representation of the interests of regional trade and industry. The main item of legislation affecting the Chamber is the Commercial Register Act (Handelsregisterwet). This Act provides that all commercial organizations, with the exception of some small businesses, must register in the Commercial Register. The particulars to be recorded are the name, address, place of establishment; business activities, legal form (private or public company) and management (members of the management board, authorized representatives). A copy of registration per company can be acquired at the office by anyone for a small fee of SRD25.

There is also the Management Institute for Land registration and administration [GLIS] (<https://miglissr/>) set up by law in 2009. This Institute registers the legal status and legal owners of all lands. This information can be made available upon request. The legal owners however do not have to be the one operating and or investing in the development of the land.

The Tax office also has information about ownership of companies (insofar as it is reported correctly and/or completely to them), but is bound to confidentiality by various laws and regulations. They can only disclose financial information if the company signs a confidentiality waiver.

The SEITI Beneficial Ownership (BO) initiative will be linked to the objectives mentioned above, the Government's BO commitment made adopting anticorruption legislation and the actions of the Ministry of Natural resources towards a more efficient online database.

The following is a first concept of a Roadmap developed, using the EITI Guidance Note (<https://eiti.org/GN22>), adopted by the SEITI MSG at its Meeting of October 13, 2017, on the way forward to ensure that Suriname meets the Standard's requirements by the given dates.

Objective/Activities	Responsibility	Timeframe	Cost and funding
Objective 1: Ensure an enabling Institutional & Policy Environment for BO disclosure			
<p>Activity 1.1: Identify and consult with government agencies that are responsible or could be best suited to oversee, collate and maintain beneficial ownership information, including:</p> <p>a) the Tax Service, authorized to maintain the Register of individuals and legal entities,</p> <p>b) Ministries and departments (GMD, GLIS, Ministry of Trade & Industry, etc.) governing the issuance of extractive industry licenses, signing of investment and concession agreements, etc.</p>	<p>- SEITI Secr - MSG Subgroup</p>	<p>Q1, 2018</p>	<p>Operational costs of the MSG and Secretariat, covered by Gov't</p>
<p>Activity 1.2: Identify (legal, regulatory, practical) barriers that complicate the disclosure of various aspects of beneficial ownership and design proposals for amendments to legislation concerning beneficial ownership disclosure. Key in the legislation would be establishing the roles and responsibilities of various relevant state bodies for the supervision, clear definitions of politically exposed persons, collection and maintenance of information about individuals concerning state registration of legal entities and individuals, issuance of licenses in the mining industry, secrecy issues, joint-stock companies, investment agreements, concessions, combating corruption and the legalization (laundering) of proceeds from crime and financing of terrorism, the securities market, production-sharing agreements, etc.</p>	<p>- SEITI Secr - Legal advisor / consultant</p>	<p>Q1 & Q2, 2018</p>	<p>EGPS (see Work Plan Activity 2.1 and/or 4.1)</p>
<p>Activity 1.3: Prepare & submit policy proposals for Ministries to include in the 2019 Annual Work Plans (which Ministries should submit to Parliament in September 2018).</p>	<p>- SEITI Secr - MSG Subgroup</p>	<p>Q2 & Q3, 2018</p>	<p>Operational costs of the MSG and Secretariat, covered by Gov't</p>
Objective 2: Agree on an appropriate definition and ownership thresholds in order to operationalize reporting of beneficial ownership			
<p>Activity 2.1: Prepare & adopt a definition and thresholds of Beneficial Ownership, based on the EITI Standard, existing (national and international) definitions and the agreed-upon level of materiality (TBD in October 2017). Important issues to consider are:</p> <ul style="list-style-type: none"> • direct and indirect ownership; • clear indication of the mining companies, which should be covered by this definition; • reference to a specific person (individual), who factually owns the relevant company. 	<p>- SEITI Secr - MSG Subgroup</p>	<p>Q2, 2018</p>	<p>Operational costs of the MSG and Secretariat, covered by Gov't</p>
Objective 3: Agree on a workable definition of politically exposed persons (PEP's)			
<p>Activity 3.1: Agree on a workable definition of PEP's, based on a study of existing national definitions of PEP's and reporting requirements for their accounting, in the tax and civil sphere, in the sphere of public service, anticorruption legislation, etc.</p>	<p>- Seiti Secr - MSG Subgroup</p>	<p>Q2, 2018</p>	<p>Operational costs of the MSG and Secretariat, covered by Gov't</p>
Objective 4: Determine the level of disclosure details and ensure data reliability			
<p>Activity 4.1: Dialogue and joint decision-making process with government, civil society and companies to determine the level of detail of the beneficial ownership disclosures (nationality, country of residence, level of ownership, how ownership is exerted, date of birth, residential address, means of contact, etc.). Also take into account what information can be disclosed for the 1st Report (due in October 2018) and what information in the second report or</p>	<p>- Seiti Secr - MSG Subgroup</p>	<p>Q2, 2018</p>	<p>EGPS (see Work Plan Activity 2.1 and/or 4.1?), as well as operational costs of MSG &</p>

in existing registries.			Secretariat (covered by Gov't)
Activity 4.2 Identify and design an appropriate mechanism for companies to collect and register the data in the beneficial ownership declarations prior to data collection. (For example design a form for the declaration of beneficial ownership, or adaptation of the standard declaration form for beneficial ownership)	- Seiti Secr - MSG - Request TA from World Bank	Q3, 2018	
Objective 5: Determine how to reflect changes in ownership over time, once a baseline has been established (data timeliness)			
Activity 5.1: Determine what would be the most appropriate time for data collection of beneficial ownership information, taking into account the following practices: 1. once for companies: <ul style="list-style-type: none"> at the time of their registration in Suriname, at license signing, at the time of submission of regular annual reports, etc. 2. the company should also disclose the date when its owner acquired beneficial ownership 3. further disclosure should be made within the established time limit (for example 30 days) each time there is a change in the beneficial interest.	- Seiti Secr - MSG	Q3, 2018	Operational costs of the MSG and Secretariat, covered by Gov't
Objective 6: Collect data & make it accessible			
Activity 6.1: Select the types of companies that will be required to participate in beneficial ownership reporting, taking into account the following types of work by companies: <ul style="list-style-type: none"> licensed for exploration work, licensed for production, engaged in the transportation, processing and marketing of products of the extractive industry, sub-contractors of production companies, companies investing in oil, gas and mining companies, etc. 	- Seiti Secr - MSG	Q2, 2018	Operational costs of the MSG and Secretariat, covered by Gov't
Activity 6.2: Produce a list of extractives companies which must take part in reporting of beneficial ownership, based on the materiality threshold or other requirements which are of importance to the state.	- Independent Administrator?	Q3, 2018	EGPS (Work Plan Activity 2.5.4)
Activity 6.3: Study of existing lists of beneficiaries, registers and available information in order to identify PEPs and determine their participatory interest in mining companies.	- Independent Administrator?	Q3, 2018	EGPS (Work Plan Activity 2.5.4)
Activity 6.4: Consideration of and a decision regarding greater access to data on beneficial ownership through its publication in electronic format, with due account for restrictions imposed by law. The preference is to make use of the infrastructure of existing public registries, e.g. that of the GMD.	MSG	Q1, 2019	Operational costs of the MSG and Secretariat, covered by Gov't
Objective 7: Capacity building, and technical and financial assistance			
Activity 7.1: Identify capacity building and awareness needs.	MSG Request TA from World Bank?	Q2 - Q4, 2018	

Activity 7.2: Design & implement an awareness raising campaign & capacity building programme	Consultant	Q4, 2018 through Q4, 2019	
Activity 7.3: Identify funding for the implementation of the roadmap and further funding for implementation of the beneficial ownership requirements on an ongoing basis.	- Seiti Secr - MSG	2017 through 2019	