

## **EITI Conference on Beneficial Ownership Transparency**

### **Opening up ownership – sharing practice, building systems**

In April last year, the Panama Papers scandal broke, with 11.5 million leaked documents, implicating high-level individuals with links to the extractive sector. The challenge became one of turning outrage into change. The Panama Papers point the finger at the use of anonymous shell companies to hide or launder money and conceal potential conflicts of interest. For citizens of resource-rich countries, the risk of losing out on extractive revenues is particularly acute.

The EITI last year agreed to adopt new rules on disclosing beneficial ownership for all extractive companies operating in its 52 member countries. By 2020, companies that apply for, or hold a participating interest in an exploration or production oil, gas or mining license or contract in an EITI country must report the name, nationality, and country of residence of the beneficial owner, as well as identifying any politically-exposed persons (PEPs). This means that countries that produce oil, gas and minerals will know who the owners of the companies that develop their natural resources are, regardless of how many layers there are between these companies and their ultimate beneficial owners.

By 1 January this year, the EITI implementing countries published roadmaps showing the steps that they plan to take to achieve beneficial ownership transparency by 2020. This includes building an institutional and legal framework, putting in place reporting processes and registers hosting the beneficial ownership data. It includes capacity building for government officials enforcing the reporting requirements. It also includes showing how companies can easily disclose their owners and help civil society to use the ownership information.

Implementing countries will need substantial advice and political support in turning these commitments into reality. The EITI international, in partnership with the Government of Indonesia and partners, is planning to hold an international beneficial ownership conference in Indonesia on 23-24 October 2017. The objective of this conference is to bring together government representatives working on beneficial ownership reform to showcase best practices so far, discuss challenges, provide peer learning and exchange of experiences.

### **Draft conference format and programme**

The conference will mostly be run as a series of smaller parallel workshops, with a practical focus on specific topics. Each workshop would be facilitated by 2-3 people with expertise in the topic, presenting case studies and kicking off discussions. In addition, there would be a high-level opening and closing plenary. The conference is likely to be followed up by regional workshops with government and EITI representatives to measure progress in implementing the roadmaps and commitments made in Jakarta.

Please see below the outline of the conference programme. Speakers, session moderators and workshop contributors are yet to be confirmed.

## Monday 23 October - Day 1

<b>09:00-10:30</b>	<b>Pre-conference/ breakfast meetings</b>	Informal pre-conference thematic meetings specific issues, such as tax evasion, licensing, company registers, to encourage networking between government representatives from similar agencies, or to focus on different regions.
<b>10:30-12:00</b>	<b>OPENING PLENARY “Ending company anonymity - The key to fighting corruption” with remarks by Honorable President Joko Widodo, Indonesia and Fredrik Reinfeldt, EITI Chair and former Prime Minister of Sweden</b>	<p>The extractive industry has been a sector particularly prone to corruption, due to the often-large revenues at stake and risks involved in the allocation of rights to explore for, produce and sell extractive resources. Complex company structures can mask the identity and interests of the owners of a company, which is problematic if these owners are politically exposed persons (PEPs). Through the EITI, resource rich countries are taking the lead on publishing beneficial ownership data. Significantly, over half have committed to establishing public beneficial ownership registers.</p> <p><i>The panel will discuss the progress that has been made on beneficial ownership and the importance of having data published in open registers. They will discuss how national and regional efforts are setting the expectations for a global beneficial ownership transparency standard touching on how beneficial ownership is at the core of anti-corruption efforts.</i></p>
<b>12:00-13:00</b>	<b>Lunch</b>	
	<b>PARALLEL WORKSHOPS – DAY 1</b>	<p>Why is beneficial ownership disclosure important, and how can it be used by government agencies to address key challenges related to extractive sector governance and national priorities?</p> <p><i>This day will focus on using beneficial ownership information to achieve national priorities for the extractive sector and to improve natural resource governance.</i></p>
<b>13:00-15:00</b>	<b>Workshop 1: Hidden ownership and illicit financial flows</b>	<p>Oil, gas and mining companies are often structured in long supply chains across various jurisdictions, sometimes located off-shore. Such complex ownership structures can often facilitate illicit financial flows out of resource-rich countries, and it has been estimated that developing countries lose USD 1 trillion each year as a result of corrupt or illegal deals, many of which involve anonymous companies. In some cases, the tax authorities might not have sufficient, reliable information to be able to easily identify risks of tax evasion and enforce tax liabilities.</p> <p><i>This session will focus on how beneficial ownership reporting can help improve tax collection and prevent illicit financial flows from countries with significant extractive resources. It could look at different forms of practices including transfer pricing, capital gains tax liability, and how to share beneficial ownership information across jurisdictions.</i></p>
	<b>Workshop 2: Knowing who is awarded oil, gas and mining licenses</b>	<p>Licensing authorities need reliable beneficial ownership information for their due diligence checks in licensing, to avoid that licenses or contracts are awarded to companies that are unqualified and to prevent potential for conflicts of interest in licensing.</p> <p><i>This session will look into practical examples to highlight what information is available and what is needed for licensing authorities to be able to check who owns companies that are allocate rights to exploit national resources in their country. It could also consider issues such as</i></p>

		<i>necessary legal and administrative reforms, how to collect ownership information from license applicants, accessing information from other agencies or using existing databases/public register.</i>
	<b>Workshop 3: Knowing who you do business with - improving the investment climate with ownership transparency</b>	<p>Hidden ownership structures allow some companies to strike opaque deals or access lucrative projects because their owners are politically connected, leading to unequal rules for companies and investors. Improving extractive sector transparency has helped build trust, contributed to consistent reporting requirements and a more stable investment environment in EITI countries. Beneficial ownership transparency can provide further benefits for companies operating in the extractive sector and beyond, including reducing financial risks and creating a level playing field.</p> <p><i>This session will seek to explore how beneficial ownership disclosure can contribute to a stabilised investment environment and encourage better quality investment from reputable sources. This will be done by examining the practices of businesses making investment decisions and how governments can be responsive to their desire for ownership transparency.</i></p>
	<b>Workshop 4: Identifying corruption risks downstream and in the supply chain</b>	<p>The EITI has tended to focus on upstream activities such as the exploration and production phases of the oil and gas industry. Experiences in EITI countries have however shone a light on corruption risks in other areas related to extractive industry activities. Risks include the allocation of service contracts and sub-contracts, and the allocation of rights to buy and market the state's share of production of oil, gas or minerals.</p> <p><i>This session will draw from country examples to find common corruption challenges related to procurement and selection of sub-contractors, service providers and commodity traders, where beneficial ownership transparency can be part of the solution.</i></p>
<b>15:00-15:30</b>	<b>Break</b>	
<b>15:30-17:00</b>	<b>Workshop 5: Emerging beneficial ownership standards and commitments: FATF, OECD Global Forum, EU</b>	<p>Various global and regional efforts to improve collection, sharing and disclosure of beneficial ownership information across jurisdictions. These include Financial Action Task Force (FATF) and the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. The European Union is also making progress, with the 4th Anti-Money Laundering Directive which sets a common standard for beneficial registers in the EU and ongoing efforts to establish a central register.</p> <p><i>This session will take stock of global developments related to beneficial ownership transparency and explore opportunities for synergies and collaboration, as well as leveraging international commitments and declarations to further beneficial ownership discussions.</i></p>
	<b>Workshop 6: Politically exposed persons and asset declarations</b>	<p>The EITI requires that if a politically exposed person owns oil, gas and mining assets then this ownership must be transparent. Such disclosures could most usefully be linked to existing asset disclosure requirements for government officials.</p> <p><i>This session could help compare asset disclosure mechanisms in EITI member countries and identify opportunities for mainstreaming the EITI's</i></p>

		<i>requirements on politically exposed persons, drawing for example on the experience of countries like the Ukraine, which recently released its asset register.</i>
	<b>Workshop 7: Complex company structures and confidentiality concerns challenging beneficial ownership disclosure</b>	<p>Chains of ownership and various types of corporate structures can make disclosure of beneficial ownership of oil, gas and mining companies particularly challenging. Some countries also allow ownership to be held through bearer shares, which makes it even easier to hide the identity of a company's owner. Another challenge is how to disclose ownership of trusts.</p> <p><i>This session could seek to identify some of the key challenges related to certain company structures and practical approaches to address these. It could look at ownership reporting requirements for publicly listed companies and fully-owned subsidiaries in different stock exchanges, emerging international standards and highlight examples of how some countries have already addressed issues related to trusts and bearer shares.</i></p>
	<b>Workshop 8: Publicly listed companies and shareholding disclosure</b>	<p>Many of the extractives companies operating in resource-rich countries are publicly listed on stock exchanges. The EITI Standard requires that publicly listed companies are required to disclose the name of the stock exchange and include a link to the stock exchange filings where they are listed. However, for publicly listed companies, there may be several beneficiaries that constantly change and it may not be clear who ultimately controls or benefits from a company's activities. Stock exchanges may also have different disclosure requirements.</p> <p><i>This session will explore disclosure of shareholders and beneficial owners of publicly listed companies. It could look at ownership reporting requirements for publicly listed companies and fully-owned subsidiaries in different stock exchanges, emerging international standards and highlight examples from countries.</i></p>
<b>18:00-21:00</b>	<b>Reception/social programme</b>	To be confirmed.
<b>Tuesday 24 October - Day 2</b>		
<b>09:00-10:30</b>	<b>PLENARY 2: How to disclose beneficial ownership – different approaches in EITI countries</b>	Regional approaches to implementation of beneficial ownership disclosure, progress and challenges.
	<b>PARALLEL WORKSHOPS – DAY 2</b>	<i>This day will focus on establishing the necessary frameworks and tools for comprehensive and useful beneficial ownership disclosure.</i>
<b>11:00-13:00</b>	<b>Workshop 9: How to establish a legal and regulatory framework for beneficial ownership transparency</b>	The EITI pilot on beneficial ownership and initial feasibility work undertaken by EITI member countries show that hardly any EITI countries have an existing legal framework that is fit to deliver beneficial ownership transparency. Several member countries, including Cameroon, Colombia, Ghana, Indonesia, Kazakhstan, Kyrgyz Republic, Sierra Leone, Ukraine and the UK, have therefore initiated legal reviews and amendments to laws to enable beneficial ownership, and several more are planning to do so. Some countries are already reforming their

		<p>legislations to mandate beneficial ownership disclosure by law, by reforming the company acts or sector-specific frameworks.</p> <p><i>This session would enable participants to explore different legal approaches to beneficial ownership transparency and identify good practice in terms of mandates, confidentiality issues, enforcement and so on. It will also allow participants from countries that have already made legal reforms related to beneficial ownership to discuss challenges relating to harmonising laws and regulations with beneficial ownership provisions.</i></p>
	<b>Workshop 10: How to build a beneficial ownership register?</b>	<p>More than 20 of the EITI's member countries have announced in their beneficial ownership transparency roadmaps that they aim to establish public beneficial ownership registers. There is no one way of doing this. EITI countries like Ghana, Nigeria, UK and Ukraine have or are exploring reforming company registers to disclose beneficial ownership. Countries like Kyrgyz Republic and Mongolia are planning to make beneficial ownership transparency an integral part of license registers. There are also global efforts like the <i>OpenOwnership Register</i> which will link information from beneficial ownership registers across jurisdictions.</p> <p><i>This session would enable participants to compare different approaches to disclosure of beneficial ownership information through registers in order to identify the best mechanism for their own disclosures.</i></p>
	<b>Workshop 11: How to make use of and analyse beneficial ownership data?</b>	<p>In anticipation of the beneficial ownership data that will be published systematically from 2020 and that is already made available to various government agencies, this session will look at data already released by individual jurisdictions and under the EITI to help participants analyse and use beneficial ownership data to identify red flags that might indicate malpractice.</p> <p><i>The session will highlight legitimate and illegitimate use of shell companies and will introduce existing online network mapping applications and other tools that can assist investigations.</i></p>
<b>13:00-14:00</b>	<b>Lunch</b>	
<b>14:00-15:30</b>	<b>'Country forum' on beneficial ownership disclosure</b>	<i>A session where country representatives can showcase progress and commitments on beneficial ownership transparency.</i>
	<b>Workshop 12: How to ensure reliable data and appropriate sanctions?</b>	<p>One of the key challenges with beneficial ownership transparency is to ensure adequate verification of the data, as well as efficient sanctions for non-reporting and/or reporting of incorrect information. Some different approaches are emerging and in countries like the UK and the Ukraine it is now possible to start to evaluate the reliability of the data and effectiveness of sanctions.</p> <p><i>This session would aim to discuss pros and cons and effectiveness of the different approaches in order to support countries designing the most effective regime.</i></p>
	<b>Workshop 13: How to reach out to companies and provide guidance on</b>	<p>Experience with the EITI beneficial ownership pilot showed that a major challenge with obtaining consistent quality beneficial ownership information was the lack of guidance to companies on how to define and identify their beneficial owners. While some pilot countries, like the DRC,</p>

	<b>beneficial ownership reporting?</b>	<p>achieved more than 50% compliance rate with their beneficial ownership disclosures, other pilot countries were less successful in obtaining beneficial ownership data from the companies.</p> <p><i>This session would aim at sharing lessons learnt, challenges and good practices in terms of outreach, awareness raising and guidance to companies in order to ensure effective implementation of beneficial ownership transparency.</i></p>
	<b>Workshop 14: How to open beneficial ownership data and apply standards for disclosure formats?</b>	<p>Beneficial ownership information should be useful and accessible to stakeholders within the government and beyond. To accommodate a sufficient degree of flexibility to various user needs, the information should be accessible in open formats enabling analysis and combination with other data sets. This implies a need for interoperability with external beneficial ownership databases and registries for ownership chains to be linked.</p> <p><i>This session could consider options for disclosing beneficial ownership information in open data formats, including the application of a beneficial ownership data standard. It could showcase the potential for analysis and visualisations of beneficial ownership data once published in open data formats, and allow participants to interact with different data sets.</i></p>
<b>15:30-17:00</b>	<b>CLOSING PLENARY Owning up: turning commitments into action</b>	<p>The closing session will seek to summarise key take-aways from the conference discussion with reporting back from the session moderators.</p> <p><i>Concluding remarks by the Indonesian government and the EITI International Secretariat.</i></p>