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Regional Workshop: Advancing Beneficial Ownership Transparency in Asia and the Pacific Region

Plenary: Legal and Regulatory Framework for Effective BO Disclosures
21 February 2022

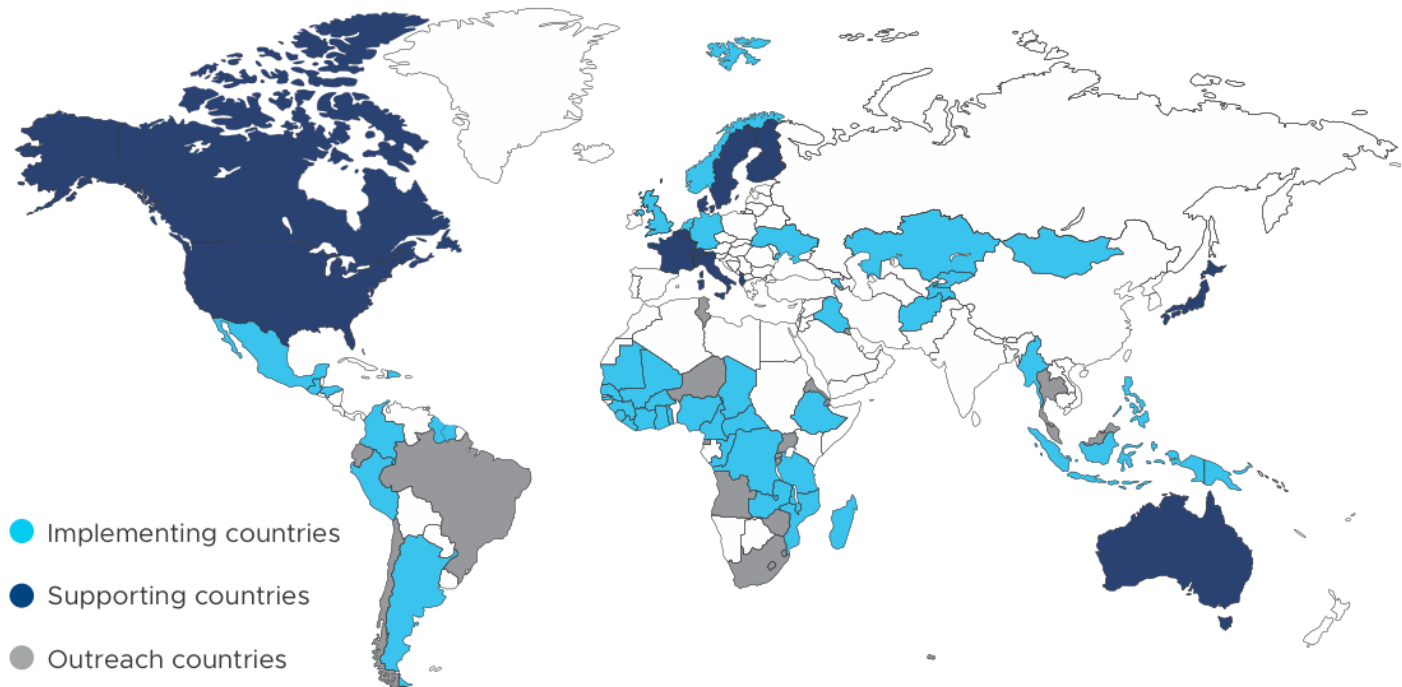
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The global standard for the good
governance of oil, gas and mineral
resources.

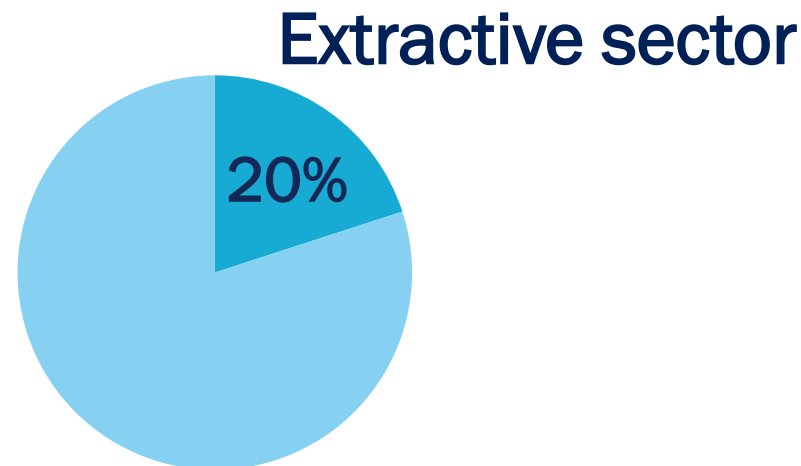
EITI: the global standard for the good governance of oil, gas and mineral resources

- Focus on the extractive sector (oil, gas and mining)
- 56 implementing countries
- 65+ supporting companies
- 15 supporting countries



A good place to start: BOT in the extractive sector

- Significant amount of investments and revenues involved
- Public interest case: natural resources belong to citizens
- Corruption is prevalent in the extractive sector
 - ~20% of FCPA enforcement actions
 - ~20% of actions in OECD Report on Foreign Bribery
 - USD Trillions in illicit financial flows from developing world
- Can serve as a springboard for broader BOT reforms



EITI's requirement on beneficial ownership

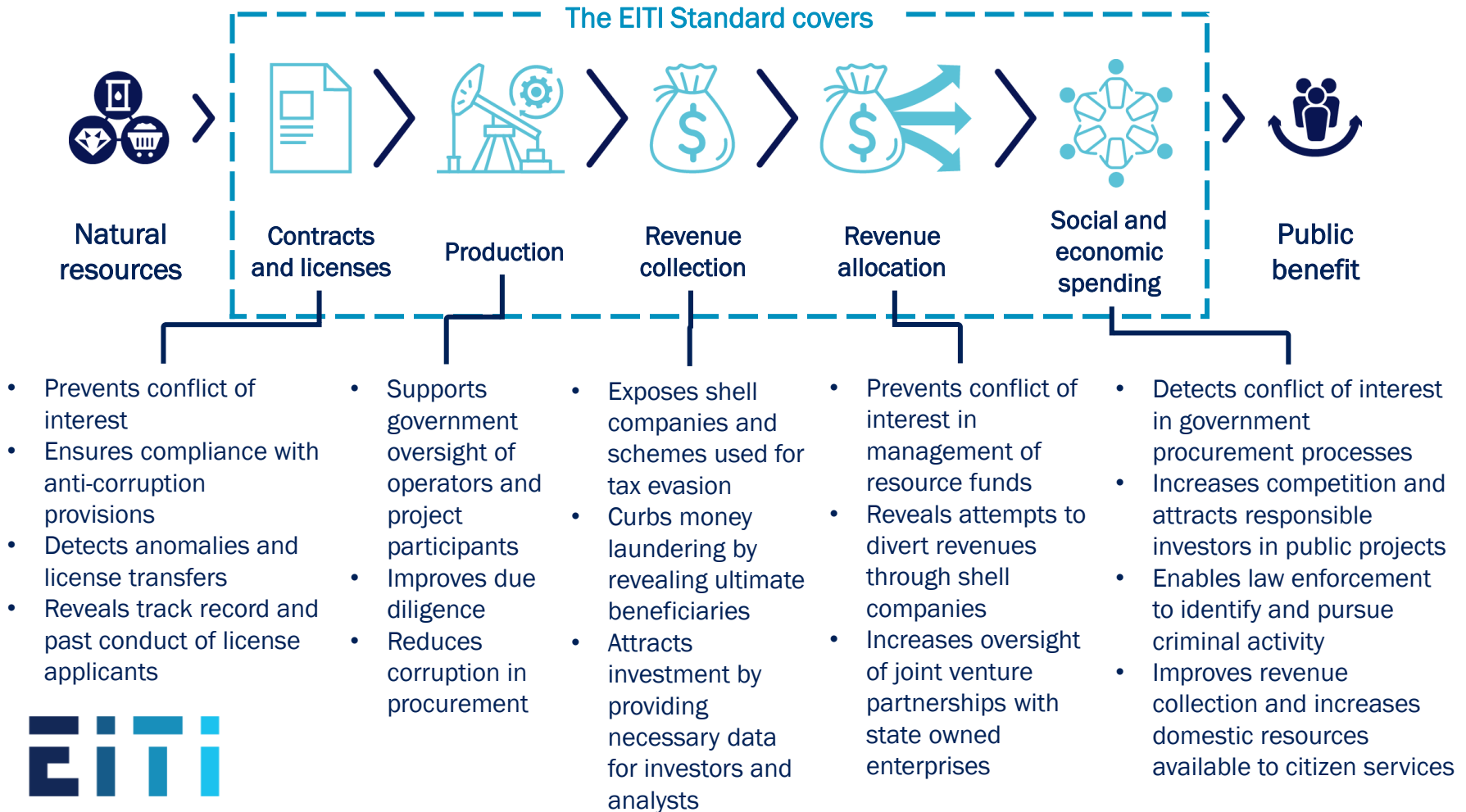
All EITI countries have to **ensure that companies that apply for or hold a participating interest in an oil, gas or mining license or contract in their country disclose their beneficial owners (BO)**



EITI 2019 Standard, Requirement 2.5

- The **requirement covers 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.
- Information should include the **identity of the beneficial owner, including the name, nationality and country of residence**, and whether the owner is **politically exposed**. Could also include date of birth, national identity number, residential address, etc.
- Implementing countries are **recommended** to maintain a **public register of beneficial owners**. The information must at least be published in EITI reports.

BOT: important across the natural resources value chain



Legal/policy considerations: lessons learned from EITI Implementation

- Legislative and regulatory reforms will help promote company reporting and public disclosure of BO data
- Countries are encouraged to aim for a **single, unified definition of “beneficial owner”**
 - *Thresholds: lower thresholds are recommended to identify beneficial owners (especially important in the context of the extractive sector)*
 - *PEPs should be declared and published in the BO register*
- Countries are encouraged to designate a primary agency in charge of collecting, maintaining and verifying BO data, and develop a single BO register
- Where possible, countries are encouraged to request BO data through existing filings to corporate regulators, stock exchanges and/or agencies regulating extractive industry licensing
 - *Reduce reporting burden*
- Verification: the more the better
 - *Company attestation to BO declaration*
 - *Cross-checking data against other national and international databases*
 - *Verification at key stages—issuance of licenses, renewals, etc.*
 - *Public access to BO data is critical*
 - Allows for verification by civil society and scrutiny by stakeholders

Towards a global norm on BOT: examples for governments and companies to consider

- Companies are key actors in establishing BOT as a global norm through their support of reforms and as both publishers and users of BO data.

Expectations for EITI supporting companies - *Expectation 6: Publicly declare and publish support for beneficial ownership transparency and publicly disclose beneficial owners in line with the EITI Standard....*



Feb 17, 2022  [company_expectations_Supporting_Company](#) 

The international EITI Board agreed today to clarify and strengthen the [Expectations for EITI supporting companies](#), which set out how over 60 companies [supporting](#) the EITI internationally will promote greater transparency and accountability in the oil, gas and mining sectors consistent with the EITI Standard.

Companies supporting the EITI will be expected to publicly declare their support for the disclosure of contracts, licenses and information on the beneficial owners of companies across all EITI implementing countries. They will commit to public disclosure of their beneficial owners and to contributing to public disclosure of contracts and licenses in EITI countries in a way that is consistent with government procedures.

EITI Supporting Companies



Companies recognise the importance of BOT

- Companies recognise the importance of publicly available company ownership information to enable a **cleaner, fairer operating and investment environment** and as a means to **tackle corruption and financial crime**. Beneficial ownership information, when effectively disclosed through public registers, **helps ensure a level playing field for all, can reduce risk and strengthen accountability**, and can also be used by investors and civil society - thereby strengthening a company's **licence to operate**.

Statement by companies

BENEFICIAL OWNERSHIP TRANSPARENCY FORUM
7 SEPTEMBER 2021
LONDON, UK

Beneficial ownership transparency (BOT) - knowing who ultimately controls and benefits from a company - is a powerful solution to end the abuse of anonymous companies. As a practical reform measure, 110 countries including the EU, UK and US, have adopted laws to require beneficial ownership data from companies. Companies are key actors in establishing BOT as a global norm through their support of these reforms and as both publishers and users of beneficial ownership data.

Companies in the extractive industries are leading on BOT. Through the Extractive Industries Transparency Initiative (EITI) we have agreed voluntary beneficial ownership disclosures in line with the Expectations for EITI supporting companies¹ and we support countries' BOT reforms in accord with the EITI Standard.²

Companies commit to BOT

1. Promote global adoption of beneficial ownership transparency and reforms.

- ...
- Encourage other companies, including joint venture partners, contractors and suppliers, to publicly disclose their beneficial owners.
 - Bottom line: while leading international extractive companies have committed to BOT, the same will be expected of their joint venture partners, contractors and suppliers, and BOT will be expanded to other sectors.



Companies commit to BOT

2. Disclose beneficial ownership data and company ownership information.

- Publicly disclose the company's beneficial owners on an annual basis or more frequently....
- Publicly disclose on an annual basis the entities which the company wholly or partially owns, including subsidiaries and joint ventures.
- Where feasible, for any partially owned entities, also publicly disclose the other legal owners of the entities. Where not feasible, disclose the reasons why.
- ...
 - Bottom line: leading international extractive companies will be identifying their subsidiaries and joint ventures, as well as the other legal owners of those entities (this is key to uncovering various corruption schemes).



Companies commit to BOT

3. Identify and use beneficial ownership data in due diligence processes.

- Publish a statement on how beneficial ownership data is incorporated into the company's due diligence processes and anti-corruption policy....
- As part of the company's due diligences processes, take risk-based steps to identify the beneficial owners of joint venture partners, contractors and suppliers.
- Publicly commit to avoid partnering or contracting with companies assessed as high corruption risk that decline to identify their beneficial owners....
 - Bottom line: leading international extractive companies will NOT do business with other companies that do not disclose their beneficial owners.
 - The same goes for financial institutions (Know Your Customer (KYC))





Extractive Industries
Transparency Initiative

Thank you!

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OCCASION Regional Workshop on Advancing BOT in Asia and the Pacific Region

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