

Guidance note on license allocations

Summary

Guidance

Examples

1. Summary

The majority of resource rich countries have established systems for allocating licenses to explore and exploit oil, gas and minerals. In most countries these bidding and license allocation procedures are defined in publicly available legislation and regulations that set out how and on what conditions companies are granted rights. In other countries, these procedures are ad hoc, are being revised, or are simply not clearly articulated. Disclosing information about license allocation systems enables citizens to access essential information about how the country's natural resources are being developed. It is also a first step towards ensuring that licenses are not obtained through inefficient or corrupt practices or acquired by politically connected individuals. Where disclosure reveals deficiencies in the licensing system, stakeholders can use this information to press for reforms to ensure more transparent and efficient licensing systems, which in turn will tend to enhance the investment climate and the potential for developing the extractives industries.

The EITI requires that implementing countries disclose information about license awards and transfers associated with the companies covered in the EITI Report (Requirement 3.10). This information should include a description of the process for awarding licenses, the criteria used, and deviations from the legal framework and policies on license allocations (Requirement 3.10a). Countries may also include additional information on the licensing process, such as commentary on the

efficiency and effectiveness of these systems (Requirement 3.10d). In some implementing countries information about license allocations is readily available from government websites. In other countries there is little information about how and on what grounds companies have been awarded licenses. This note provides guidance to multi-stakeholder groups on how to address these issues as part of the EITI implementation process. It should be read alongside the guidance note on [license registers](#).

REQUIREMENT 3.10

3.10 Allocation of licenses

- a. Implementing countries are required to disclose information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report, including: a description of the process for transferring or awarding the license; the technical and financial criteria used; information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; and any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards.
- b. Where licenses are awarded through a bidding process during the accounting period covered by the EITI Report, the government is required to disclose the list of applicants and the bid criteria.
- c. Where the requisite information set out in 3.10(a) and 3.10(b) above is already publicly available, it is sufficient to include a reference or link in the EITI Report.
- d. The multi-stakeholder group may wish to include additional information on the allocation of licenses in the EITI Report, including commentary on the efficiency and effectiveness of these systems.

2. Guidance

The EITI International Secretariat recommends the following step-by-step approach to MSGs for addressing this requirement:

- 1. In order to ensure that the EITI Report includes a description of the process for transferring or awarding licenses (Requirement 3.10(a)), the multi-stakeholder group is advised to gain an understanding of how**

licenses are allocated, for example by investigating the following:

- Do laws and regulations specify the procedures for license applications and the process by which licenses will be issued and approved?
- What licensing practices does the government commonly follow? Bidding rounds, auctions, direct negotiations or awards on a 'first come first serve' basis? Note: the processes may be different for mining and oil and gas and these may need to be noted separately.
- Which institution(s) has authority to grant oil, gas and mineral licenses?
- Are decisions to award licenses made based on established, consistent and clearly understood criteria/parameters and are these publicly announced for each license? This may include technical and financial qualifications needed to hold an oil, gas or mineral right, legal criteria, criteria for health, safety and environment, work programs etc.
- Are there any reforms underway to the current licensing system?
- Do the licensing procedures ensure follow-on title as between exploration and development rights in the event of a discovery being made?

2. In accordance with Requirement 3.10(a), information related to the award of licenses or transfer of licenses to/from the companies covered in the EITI Report should be disclosed. The multi-stakeholder group is advised to investigate whether such awards or transfers have taken place, and include a summary of these processes in the EITI Report. The summary should include (Requirement 3.10(a)):

- A description about the process by which the license(s) was awarded or transferred. Where this information is publicly available, it is sufficient to include a link or reference to where this information can be accessed.
- Details about the technical and financial criteria used for awarding or transferring the license(s). Where this information is publicly available, it is sufficient to include a link or reference to where this information can be accessed.

- Information about the recipient(s) of the license(s). This could for example be done by including a reference or link to a publicly accessible register or cadastre system that contains this information. Where such registers/cadastrals do not contain the necessary information, multi-stakeholder groups should ensure that the information is made publicly accessible, for example by providing the details in attachment to the EITI Report or making it available on the national EITI website. As per Requirement 3.9 (b), information about the recipient(s) should include:

- the license holder(s), including consortia members where applicable;
- the coordinates of the license area;
- the duration of the license (date of application, date of award and duration of the license); and
- in the case of production licenses, the type of commodity being produced.
- An assessment of whether the process for awarding or transferring the license(s) followed the procedures set out in applicable legislation and regulations. Any substantive deviations should be noted. This might include cases where the license(s) was awarded using a different licensing practice than the one commonly followed, deviations from standard criteria, including contract terms, etc.

3. The multi-stakeholder group should, in accordance with Requirement 3.1(b), investigate whether any licenses have been awarded through a bidding process during the accounting period covered by the EITI Report. Where such bidding processes have taken place, the EITI Report should include or provide a link to:

- the list of applicants; and
- details about the bid criteria.

4. The multi-stakeholder group may wish to include additional information on the allocation of licenses in the EITI Report (Requirement 3.10(d)). Multi-stakeholder group may for example wish to look at and include:

Commentary on the efficiency and effectiveness of these systems. This might include

- the duration of the licensing process, including deviations from the deadlines set in the legal framework or guidelines;
- the percentage of rejected license applications during the accounting year covered in the EITI Report;
- the percentage of empty tenders or annulled auctions during the accounting year covered in the EITI Report;
- the percentage of occupied land/blocks as a percentage of the total land/blocs open for extractive industry activity; and
- the percentage of disputes regarding applications or tender bid procedures during the accounting year covered in the EITI Report and how these were resolved.
- Information about number of revoked/cancelled licenses during the accounting year covered in the EITI Report, including reasons for the cancellations.
- Information about changes in ownership of license holders during the accounting year covered in the EITI Report.
- The general availability of licensing information and ease of access to this information, reliability of and confidence in data obtained.

Examples

Liberia - post-award audit of licenses

In **Liberia**, LEITI has conducted a full post-award audit of the processes for awarding concessions, contracts, licenses, permits and other rights to exploit natural resources in the period July 2009 to December 2011. The purpose of the audit was to ascertain whether the licensing processes were in compliance with applicable Liberian Laws at the time of award. The audit is available from [here](#) (PDF).

Mongolia - change in license holders

Mongolia's EITI Report includes an overview of changes in licenses held by companies covered in the EITI Report.

Mongolia 5th EITI Reconciliation Report 2010

Appendix K—Survey on exploration and exploitation licenses

#	Company name	Number of exploitation licenses				Number of exploration licenses				Comment
		Beginning bal of 2010	Purchased	Deducted	Ending bal of 2010	Beginning bal of 2010	Purchased	Deducted	Ending bal of 2010	
1	Agit Khangai LLC	1			1	1			1	
2	Agm Mining LLC	1			1	2			2	
3	Adamas Mining LLC	1		1	0	16		8	8	1 was returned partially and others were expired and cancelled
4	Adamas Mounty LLC				0	15		10	5	expired and cancelled
5	Adil Och LLC	1			1	1		1	0	cancelled
6	Adunuchaiun LLC	1			1				0	
7	Asia Gold Mongolia LLC				0	12		8	4	1 was returned partially and others were expired
8	Ivanhoe Mines Mongolia Inc LLC A	3			3	3		3	0	expired and cancelled

Source: Mongolia 2010 EITI Report, available from

<http://eiti.org/report/mongolia/2010>

Norway - license registry

In Norway, information about licensing procedures is published at the website of the Norwegian Petroleum Directorate.

Relevant links:

- ♦ [Invitation to apply for petroleum production license \(pdf\)](#)
- ♦ [Ministry of Petroleum and Energy](#)

Guidelines:

- ♦ [Guidelines for applying to the 22nd licensing round \(pdf\)](#)
- ♦ [Guidelines for reporting company information \(pdf\)](#)
- ♦ [Guidelines for application letter \(pdf\)](#)

Forms that must be filled out:

- ♦ [Application letter table \(MS Excel\)](#)
- ♦ [Form 1 \(MS Excel\)](#)
- ♦ [Form 2 \(MS Excel\)](#)
- ♦ [Form 3 \(MS Excel\)](#)
- ♦ [Form 4 \(MS Excel\)](#) *Updatet 23.10.2012*
- ♦ [Form 5 \(MS Excel\)](#)
- ♦ [Form 6 \(MS Excel\)](#)
- ♦ [Form 7 \(MS Excel\)](#)
- ♦ [Form 8 \(MS Excel\)](#)

Other application information:

- ♦ [Form 4 attachment \(MS Excel\)](#)
- ♦ [Map of announced blocks 22. Licensing Round \(pdf\)](#)
- ♦ [Block coordinates for announced blocks](#)

Source: Norwegian Petroleum Directorate,
<http://www.npd.no/en/Topics/Production-licences/Theme-articles/Licensing...>

Trinidad and Tobago: Information on licensing procedures

In Trinidad & Tobago, the Ministry of Energy and Energy Affairs publishes detailed information about licensing procedures on its website.

The screenshot shows the website of the Ministry of Energy and Energy Affairs of Trinidad and Tobago. The header includes the ministry's logo and tagline 'POWER. PROSPERITY. PROGRESS', along with a search bar and navigation links for RESOURCES, INVESTORS, SERVICES, PROJECTS, DATA, and PUBLICATIONS. The 'INVESTORS' section is highlighted, featuring a sidebar with links to BID ROUNDS, LEGISLATION, POLICIES, CURRENT FISCAL MEASURES, COMPANIES, and CORPORATIONS. The main content area features a large banner for the '2013 NOW OPEN ONSHORE BID ROUND' with the text 'THREE (3) BLOCKS 64,000 HECTARES IN TRINIDAD'S SOUTHERN BASIN. OPEN FOR BIDDING MAY- OCTOBER 2013'. Below the banner, there is an introduction to the Trinidad and Tobago Deep Water Competitive Bid Round 2013, detailing the country's location, the 100th anniversary of the oil and gas sector, and the specifics of the bidding process, including the acreage offered and the data room for interested participants.

Source: Ministry of Energy and Energy Affairs,
<http://www.energy.gov.tt/investors.php?mid=208>

Further reading



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