

# Assessment Report

Feasibility study on implementing an Extractive Industries Open Data Portal (EIDP) – SENEGAL

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## LIST OF ACRONYMS

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BO	Beneficial Ownership
CS	Civil Society
CSO	Civil Society Organizations
DG	Development Gateway
DP	Development Partner
DDPM	Direction of Mining Promotion and Prospection Unit
DCSOM	Direction of Mining Regulations and Surveillance Department
EI	Extractives Industries
EIDP	Extractive Industry Data Portal
GDP	Gross Domestic Product
IT	Information Technology
OSIWA	Open Society Initiative for West Africa
MMG	Ministry of Mines and Geology
PSE	Plan Senegal Emergent
SDG	Sustainable Development Goals
SEITI	Senegal National EITI Committee

## EXECUTIVE SUMMARY

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Senegal's extractive sector is divided into two sub-sectors, **Mining** and **Oil and Gas**. The country has infrequently been considered among mineral rich countries; with 151.55 million USD earned from the Extractives Industry (EI) in 2016. Senegal is behind both Mali, which totals 404.31 million USD from EI; and Guinea, which has earned 293.75 million USD from the mining sector alone.<sup>1</sup> While the contribution of mining activities in the national budget has increased, the impact of extractive resources on the annual GDP remains limited. The national strategy policy, **Plan Sénégal Emergent (PSE)**, positions the EI sector as a potential economic growth driver with a total of seven mining projects, including artisanal mining.

The Ministry of Mines and Geology and the Ministry of Oil and Energies are the two entities granting authorizations and permits; research and exploitation licenses are granted by the President through a Presidential decree. The Senegal EITI National Committee and Civil Society Organizations (CSOs) monitor extractive activities checking for the effective publication of mining contracts, the terms and conditions of licenses awarding processes, the revenues perceived by the Government through taxes and royalties and the amount retributed to local communities.

Senegal joined the International Extractives Transparency Initiative in 2013. In 2016, Senegal reformed its 2003 Mining Code to fit EITI requirements – including disclosure of companies' financial information and stronger measures for environmental protection. The reform also introduces revised taxes and royalties for private companies, several funds (equalization, support to the mining sector, support for local development, etc.) as well as a formal sharing mechanism of extractive revenues for local communities. However, private corporations that obtained their licenses prior to November 2016 remain governed by the 2003 or even the 1988 mining code. They still benefit from tax exemptions, low royalty rates and are not required to disclose any information pertaining to their contracts or activities. Therefore, legal, fiscal, and administrative obligations are not harmonized across companies whose corporate social responsibility efforts while commendable, are not always driven by community needs.

Senegal's new oil code was adopted in January 2019 to replace the 1998 Code drafted to attract investment in hydrocarbon research. The new legal framework includes articles to account for EITI requirements, the allocation of all and gas revenues as well as dispositions to encourage Senegalese companies to engage in oil and gas activities. The new code also includes articles on environmental protection measures. As far licence granting process, two procedures are included in the 2019 code: tendering process and direct consultation. Following Bill 01/2019 on the Oil Code, Bill 02/2019 on local content in the Oil and Gas sector was adopted by the National Assembly on 24 January 2019.

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<sup>1</sup> <https://eiti.org/senegal>

Since the announcement of a high potential for oil and gas in Senegal's sedimentary basin, there has been growing popular interest in extractive resources, particularly with regards to revenues allocation to communities. Senegalese citizens want a more transparent management process of EI financial flows as well as national policies defined to advance their interests.

The Government of Senegal has made tangible efforts to confirm its commitment to introduce good governance practices in mineral resource management, including the establishment of the National Registry for Disclosure of Beneficial Ownership (BO) Information by January 2020. However, Civil Society Organizations (CSOs) believe that transparency measures are relatively well articulated in the texts but present certain limits in their application. As such, they have expressed the need for disaggregated, comprehensive and reliable information on financial flows and the impact of EI activities on the environment and the economy, to enforce effective accountability mechanisms.

The annual EITI reports contain contextual data and recommendations, but are mostly exhaustive on companies financial flows. In addition, the information contained in the annual reports is difficult to understand and to explain to stakeholders who are not familiar with the EITI standard and appears insufficient to launch a national debate on other EI aspects including environmental protection and gender, two themes that have been included in the norm in June 2019. Following its own 2014 recommendation, to "**to implement an integrated system capable of delivering, in real time, sectoral statistics on extractive industries**"<sup>2</sup>, the EITI National Committee officially launched Revenue Development Foundation's technical study report prepared to implement an integrated system for online data collection and real-time monitoring of EI revenue streams.

Most public datasets provide aggregated data in the form of reports. However, other data sources have been identified but the information they contain is either reserved for internal use or used to respond to official requests. Several national and international NGOs are gradually implementing digital solutions for the various EI-related aspects, mainly contracts transparency, environmental and equity issues.

The implementation of an EI Open Data Portal in Senegal is recommended as it responds to actors expressed needs to have access to disaggregated data in order to trigger a productive national debate based on evidence. Development Gateway's study revealed various data sources that contain useful information for citizens and actors involved in the monitoring of extractive activities including:

- **Environmental impact assessment reports:** the risks associated with extractive activity and their corresponding corrective measures;
- **Environmental monitoring plans:** actions to be taken by companies during and after exploitation to protect the environment;

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<sup>2</sup> Senegal 2014 EITI report - Recommendations. "*la mise en place d'un système intégré permettant de délivrer à première demande des statistiques sectorielles sur les industries extractives*"

- **Companies activity reports:** production data (local sales, exports and stocks), taxes and royalties payments, administrative and human resources data
- **EITI reports:** financial flows of the companies selected in the conciliation scope as well as quantitative and qualitative data:
  - **Quantitative data:** production figures, human resources statistics (number of national employees versus number of international employees)
  - **Qualitative data:** administrative information, types of permits and/or licenses, history of previous audits, name and contact details of auditors.
- **The PETROSEN database** - the most comprehensive and up-to-date oil and gas database as companies share their data, including technical and seismic information.

Key information can be extracted from these different sources and presented in a simple format that would facilitate its understanding and use. For example, **gender data** - official statistics on women to promote their inclusion in the sector; **environmental data** - a simple presentation of the risks associated with the activity and their mitigations, a crucial information for local elected representatives and communities who will be empowered to actively participate in the monitoring of mining operations; **excerpts from the mining Code on the rights and obligations of mining companies** in accordance with their phase of activity (research or exploitation) - this aspect is the source of unrealistic expectations that lead to conflicts between companies and the communities; information on the **impact of mining activity in the social sectors**, including health and education on the most vulnerable populations.

Accessible data, disaggregated by theme and simple to understand, can only strengthen civil society's advocacy. CS actors are often criticized for focusing on whistle-blowing without offering corrective solutions. This judgement is not linked to CSOs capacities but rather to the informal nature of their activities that are not based on clear and measurable objectives. Comprehensive and disaggregated data can therefore be used to define their agenda and the formalization of their activities will have the added benefit to make them eligible for long-term financing opportunities in their respective areas of intervention, especially when new actors - private sector, non-profit organizations, influencers - with similar mandates, are gaining ground.

The Senegal EIDP should therefore complement the platform being implemented for the ITIE National Committee on revenues streams. It will go beyond the financial EI aspects and include:

1. **Visual tools:** to translate the most complex aspects into visualizations and allow citizens, communities and local elected officials to easily understand the stakes;
2. **A geographic information system:** for the impact of EI on the environment and the social sectors;

3. ***A multimedia module*** consisting of short videos in local languages to manage communities expectations while involving them in the monitoring of operations, collecting their feedback and raising good practices awareness in terms of transparency.

The items above are high level propositions and potential opportunities. An effective EIDP implementation will require a **technical assessment** – to analyze the existing systems, understand their limits and the need to harmonize ongoing efforts, before including additional high added value functionalities, consistent with the needs of stakeholders, to promote evidence-based decision-making and make institutions more accountable.

The EIDP tool should also be accompanied by training materials, ***a sustainability plan focused on open-source software and local capacity building***, as well as an operation manual that sets clear roles and responsibilities for each stakeholder in terms of data collection, use, and publication. By aligning data supply with actual actor needs, stakeholders will increasingly use reliable, high-quality EI data to inform their planning and strategy decisions.



# 1. PURPOSE, METHODOLOGY & FIELD STUDY INFORMATION

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## 1.1. Purpose

The global EITI Principles include improving EI data disclosure, as EITI recognizes how important public understanding of government revenues and expenditures is in sparking public debate, informing decision-making for sustainable development, and holding the government accountable. Effective resource management will optimize the EI sector's potential for positive social and economic impacts and outcomes. Functionally, the EITI Requirements are the underlying framework of the EITI Principles. Requirements include the disclosure of exploration and production, revenue collection and allocations, and social and economic spending information. EITI understands that extractives data should be **available, accessible, and understandable** – and encourages citizen participation. Central to participation is trust between citizens and the government, built through creation and implementation of accountability and verification mechanisms. In 2017, EITI began encouraging systematic disclosure of disaggregated information – an approach currently being implemented in countries including Sierra Leone<sup>3</sup> and Mauritania,<sup>4</sup> both of which have moved toward a regular dissemination process that could be facilitated through EIDP implementation.

The primary aim of the Senegal data needs assessment, supported by the **Open Society Initiative for West Africa (OSIWA)** and conducted in partnership with the **Senegal EITI Committee**, was to complete a comprehensive evaluation of the current EI data landscape. The assessment included i) **review of existing legal and institutional frameworks** to determine Senegal's readiness to open up EI data; ii) **review of existing systems and data sources** used to collect, analyze, and share extractives data; iii) **review of the interactions between EI sector actors** and each group's enthusiasm for enhancing the use of open data on mineral resources; iv) **review of data use**, including the extent to which data is currently used to inform policy changes and improve transparency; and iv) **mapping of relevant actors' data needs** and **review of human and technical capacities** to implement and sustain an EIDP.

Through the assessment, the DG research team gained a comprehensive overview of current EI data availability, identified data use challenges, and determined opportunities for optimizing data use could lead to sector governance improvements and the strengthening of citizens' demand for accountability.

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<sup>3</sup> <https://eiti.org/blog/mainstreaming-transparency-in-sierra-leone>

<sup>4</sup> <https://eiti.org/blog/tracking-extractives-revenues-in-mauritania>

## 1.2. Methodology

The methodology included i) desk research; and ii) key informant interviews (including government actors, CSOs, DPs, and private corporations) to build understanding of each group's interactions, challenges, needs, and expectations. A full list of organizations and individuals interviewed is available in **Annex 1**. The interview guide was used as a basis of discussion, but interviewees were able to provide additional information as needed.

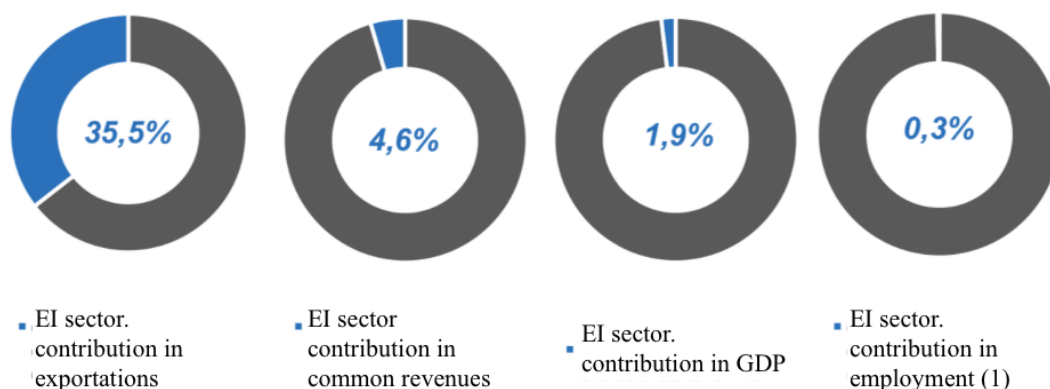
## 2. OVERVIEW OF THE GENERAL COUNTRY CONTEXT

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Senegal's extractive sector is divided into two sub-sectors, **Mining** and **Oil and Gas**, each one the responsibility of a Ministry – respectively, the Ministry of Mines and Geology (MMG) and the Ministry of Oil and Energies. Each Ministry processes demands and takes mandatory steps towards getting the first level of approval mining or all and gas authorizations and permits; research and exploitation licenses are granted by the President through a Presidential decree.

The government seems committed to implementing good governance in extractive resource management. The International EITI board officially recognized Senegal as the first African country to make significant progress in applying the EITI standard.

The national strategy policy, **Plan Sénégal Emergent (PSE)**, positions the EI sector as a potential driver of economic growth with seven **mining projects** including artisanal mining, a significant source of revenue if challenges related to its informality, nonadherence to environmental and health requirements, low border controls, and anarchic occupation of the mining areas were resolved



*Figure 1: Contribution of EI in the Senegalese Economy (2015 – 2017) – Source: EITI*  
***While the contribution of mining activities in the national budget has increased, the impact of extractive resources on annual GDP remains limited – a figure that some stakeholders link to the prevailing fiscal advantages for companies that acquired their mining titles prior to 2016.***

In 2016, Senegal reformed its 2003 mining code to fit EITI requirements, provide stronger environmental protection measures, include revised taxes and royalties for private companies, and introduce a formal sharing mechanism of extractive revenues for local communities. However, private corporations that obtained their licenses prior to November 2016 are still governed by the 2003 – or even the 1988 – mining code. They benefit from tax exemptions and low royalty rates and are not required to disclose the same level of activity or contract information. As such, legal, fiscal, and administrative obligations are poorly harmonized across companies.

Senegal's new oil and gas code was adopted in January 2019 to replace the 1998 one, drafted to attract investments in oil and gas research. The new legal framework fits EITI requirements, introduces an **official oil and gas revenue sharing mechanism**, and encourages Senegalese companies to engage in oil and gas activities. The reformed code also presents reinforced environmental protection measures and specifies oil and gas open blocks allocation measures.

While Senegal has made some tangible efforts to make the process of tracking extractive financial flows more transparent, civil society and non-state actors would like these efforts to materialize in practice. They put forward several arguments to support their point of view, including the fact that negotiations, prior to the granting of a research or an exploitation license, are made directly between companies and the Government; it is therefore difficult for them to confirm for example, that the amounts set as taxes, royalties and corporate social responsibility (CSR) correspond to the effective financial capacity of the companies. In

addition, most contract amendments are not published which prevents them from monitoring companies operations and confirm their compliance with the dispositions of the mining code and their contractual commitments, particularly those related to environmental protection and risk management.

Since the announcement of a high potential for hydrocarbons in Senegal's sedimentary basin, there has been a growing popular interest in extractive resources, particularly in allocating their revenues to communities. Senegalese citizens want a more transparent process for managing financial flows related to Extractive Industries (EI) as well as national policies defined to advance their interests. Following Bill 01/2019 on the oil code, Bill 02/2019 on local content in the hydrocarbon sector was adopted by the National Assembly on January 24, 2019.

The lack of publicly available extractive sector information often leads to misinterpretation and unrealistic community expectations. In addition, CSOs argue that the information contained in EITI reports does not entirely serve the purpose of information sharing with local communities or elected representatives especially when the local populations do not understand the legal framework, mistake private companies obligations and inevitably move the debate towards youth employment, local development.

### 3. OVERVIEW OF THE POLICY CONTEXT

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#### 3.1. Open Data Policies

In July 2018, Senegal joined the Open Government Partnership (OGP), an initiative that aims to secure concrete commitments from governments to promote open government, empower citizens, fight corruption, and harness new technologies to strengthen governance. However, Senegal still does not have an official **Access to Information Law (ATI)**<sup>5</sup> despite some CSOs suggestions to use the existing template for the ATI law for Africa,<sup>6</sup> released by the African Union in 2012, and modify it to the Senegalese context.

CSOs and Parliamentarians view the absence of an ATI law as a significant hindrance to the implementation of accountability mechanisms as they believe an ATI law would further drive their efforts to enforce the rights of citizens to be informed.

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<sup>5</sup> <https://www.lequotidien.sn/une-loi-au-senegal-pour-garantir-lacces-a-linformation/>

<sup>6</sup> <http://www.achpr.org/fr/instruments/access-information/>

## 3.2. Beneficial Ownership (BO)

By January 1, 2020, all EITI member countries will be required to divulge companies beneficial owners through a public registry.<sup>7</sup> BO information should include the identities and nationalities of companies owners, shareholders, their respective shares, and details about how each exert ownership or control. The requirement also applies to companies seeking research licenses or exploitation permits.

With the new requirement in mind, the EITI International Secretariat held a conference on Opening Up Ownership in Africa from October 31st to November 2nd 2018 in Dakar during which it advised that "We can't talk about best *practices*, we need to talk about best *fit*." The Secretariat reinforced that Beneficial Ownership (BO) is directly linked to each national country context and is not uniform. Its implementation will be a learning process, a step-by-step approach starting with defining the laws and regulations in each country.

### 3.2.1. Senegal on Beneficial Ownership

The President of Senegal's opening remarks at the conference reiterated the government's commitment to more transparent management of extractive resources. BO appears essential to mobilize resources, make Senegal more attractive to investors by reducing fraud, corruption, and conflicts of interest situations.

The President shared insights on Senegal's ongoing effort to meet the beneficial ownership requirement date of 2020. The Ministry of Justice will be responsible for overseeing BO implementation through the *Official Register*. A full list of companies is already available online,<sup>8</sup> containing information collected by clerks, reviewed and validated by chief clerks. Upon validation, the chief clerk affixes her electronic signature and the information is published. The existing register will be extended to include items to respond to BO's requirements.

Other laws and regulations will accompany the implementation of beneficial ownership to ensure that the register precisely defines the perimeters of BO, includes individual protections measures and is included in regional laws and regulations (ECOWAS, WAEMU, etc.).

EI actors and stakeholders are largely in favor of beneficial ownership. Private companies perceive it as a mean to make countries more attractive to foreign investments, while building more trust in their partner countries. CSOs would like to extend the requirements to all individuals holding shares in the company (threshold to be defined by country), are board members, or receive regular dividends, as well as subcontractors and subsidiaries working with and for the corporation.

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<sup>7</sup> <https://eiti.org/document/standard#r2-5>

<sup>8</sup> <http://seninfogreffe.com/Home/searchDenomination;>

Development Partners (DP) confirmed their willingness to support beneficial ownership initiatives at the national level. They highly recommended the implementation of IT tools, and exhorted countries to clearly articulate their needs (technical, financial, and capacities). DPs also advised on a better coordination to avoid duplication of efforts and ensure each aspect of beneficial ownership is receiving the support it deserves.

### 3.3. Gender in the Senegal EI Sector

**Gender in EI** is in the strategy of many development partners and included in the EITI standard since June 2019. The term however raises a recurring question: is the gender debate limited to increasing the number of women who work in extractive companies, sit on the executive board, hold mining titles, or does it also include the impact of extractive activities on women?

In Senegal, the mining code and the 2017-2013 Sectoral Policy Letter respectively references *"salary equity between male and female employees of mining companies and the participation of women in the development of the mining sector."* However, activists argue that Government and DP involvement in gender related topics and activities is still very low, sometimes nonexistent. **Women in Mining Senegal (WIM)**, an NGO focusing on addressing gender issues in the EI sector, and promoting women's leadership and entrepreneurship in extractives, shared that they are keen to conduct more gender related activities at the community level, are limited in terms of financial support. WIM's contribution to the Senegalese mining code has however strengthened the ban on harmful chemicals such as cyanide and mercury and on child labor in artisanal mines.

Women's participation in EI activities remains low, as it is the case in other technical careers both perceived and presented to women as being tailored to men – thus discouraging young girls from embracing purely technical paths. To change this perception, activists suggested that awareness building should begin in primary school and should be extended to parents, who have a strong influence on girls' education in West Africa. Stories and anecdotes shared during our interviews led us to believe that socio-cultural context is the main factor contributing to this piece of the gender discussion.

At the local level, a number of initiatives exist that aim to spark women's interest in mining careers and improve their living conditions in mining areas. These initiatives are spun off of existing mining activities, and include improving the chains of supply and encouraging local subcontractors to participate in the empowerment of women and the socio-economic development of their localities. For example, Women in Mining Senegal (WIMS)'s **"Girls For Mining"** project aims to bring together the best young schoolgirls from all regions of Senegal, in partnership with the Academy Inspectorate, to introduce them to the world of mining, quarrying, and related sectors. Through Girls for Mining, fourteen young girls will be introduced to the basics of geology, mining, and industrial production, and will

participate in an educational week-long program to encourage them to embrace technical careers. The project is also an opportunity for WIMS to encourage women's contribution to the socio-economic development of their own localities by getting them involved in micro-enterprise projects derived in EI, but spinning off into other sectors such as agriculture, industry, etc.

Several studies have looked at gender issues in the extractive industries and violence against women in mining regions. The Publish What You Pay (PCQVP) coalition published the findings<sup>9</sup> of its pilot project in 6 African countries (Burkina Faso, Ghana, Guinea, Nigeria, Senegal and Togo) in 2018 to try to understand the factors that prevent women from participating in EITI, to define the extent to which the standard could be used to reduce discrimination and what data should be published to mitigate the impact of EIs on women. In March 2017, OXFAM released its Presentation on Gender Justice in Extractive Industries<sup>10</sup>. In 2016, the NGO WACAM published a report<sup>11</sup> on the social and economic effects of mining activities on women.

All these studies confirm that, in addition to making IE careers more attractive to women, the problem of the impact of mining activities on women and children persists. Women work in extreme conditions and are exposed to physical hazards; they are often victims of violence, harassment, rape, and often engage in prostitution, resulting in a proliferation of sexually transmitted diseases.

The data collected through the efforts cited above should not be limited to one-off, and published only in the form of reports. Real-time, disaggregated and comprehensive data on the different dimensions of gender will enable activists to define priorities and an adequate action plan that could be supported by partners on the one hand and, on the other hand, would lead to decision-makers to put in place policies that strengthen the right and protection of women in mining and oil fields.

### 3.4. Recommendations

The following recommendations focus on the political context and support respect for the rights of citizens to be informed and respect for the rights and interests of women living in areas impacted by extractive activities.

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<sup>9</sup> <https://www.pwyp.org/wp-content/uploads/2019/05/Ensemble-Faisons-avancer-les-droits-des-femmes.pdf>

<sup>10</sup>

[https://www.oxfamamerica.org/static/media/files/Exposé\\_de\\_position\\_sur\\_la\\_justice\\_de\\_genre\\_et\\_les\\_industries\\_extractives.pdf](https://www.oxfamamerica.org/static/media/files/Exposé_de_position_sur_la_justice_de_genre_et_les_industries_extractives.pdf)

<sup>11</sup> <https://www.newmontgoldcorp.com/wp-content/uploads/2019/04/Review-of-the-WACAM-Report-Assessing-the-Social-and-Economic-Effects-of-Mining-on-Women-Affected-by-NGGL.pdf>



***Present the project Access of Information law*** – the projected ATI law should be presented to stakeholders to reach consensus on its contents and to determine its efficiency in improving transparency and good governance through the availability of relevant information. Most actors view the lack of ATI laws as a major obstacle to demanding more disaggregated information and more transparency from the government.

***Include policies and strategies that promote women's inclusion in the EI sector and secure their interests***– Senegal, with respect to its commitment to the United Nations (UN) Convention on the Elimination of All Forms of Discrimination against Women (signed in 1985), should think about strategies to achieve greater equality between men and women in the extractive sector and reduce their vulnerability in the field. Some recommendations could include the introduction of women quotas in the mining code, more support towards CSOs with activities related to women's inclusion in the sector, special scholarships programs for mining related careers, etc. Other fields, such as law, marketing, ICT, and investment banking, offer options that are related to EI. Bringing the conversation of extractives into circles of professional working women in these related fields could help streamline the process. The ***Women's Investment Club (WIC)***<sup>12</sup> *could be a good starting point to get women interested in EI and its related fields.*

The Government could also include women employment quotas in national laws and regulations by professional category according to the company's operating phase (research or exploitation). The publication of a corporate code of conduct, dealing with sanctions in response to the different types of harassment and discrimination that women may experience in the workplace, could be made mandatory to be granted a license.

Development Partners (DPs) should further support CSOs engaged in women-related activities through awareness campaigns for communities on health, waste management, special scholarship programs for quarries in the mining sector, etc.

Finally, at the community level, a women's quota should be set to allow them to participate in community budget meetings for their needs to be taken into account in local development plans, especially if they are a potential source of revenues.

***Link EI to the PSE and SDGs to build a governance agenda on EI data*** – transparency on EI financial data is certainly beneficial, but it is insufficient to truly create good governance across the wider sector. EI sector transparency should be extended to meet the non-financial needs of civil society actors and the Parliament. Some initiatives exist that are related to environmental governance for sustainable development;<sup>13</sup> however, a wider governance

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<sup>12</sup> <http://wicsenegal.com>

<sup>13</sup> <http://www.undp.org/content/undp/en/home/ourwork/sustainable-development/natural-capital-and-the-environment/extractive-industries-/environmental-governance-for-sustainable-natural-resource-manage/>



program would establish a framework of dialogue with the government and the different actors to increase quality governance.

## 4. EI STAKEHOLDERS IDENTIFICATION

After the analysis of the national context, the following section identifies the actors of the IE sector as well as their interactions. The figure below represents the synthesis of relationships between stakeholders and their challenges.

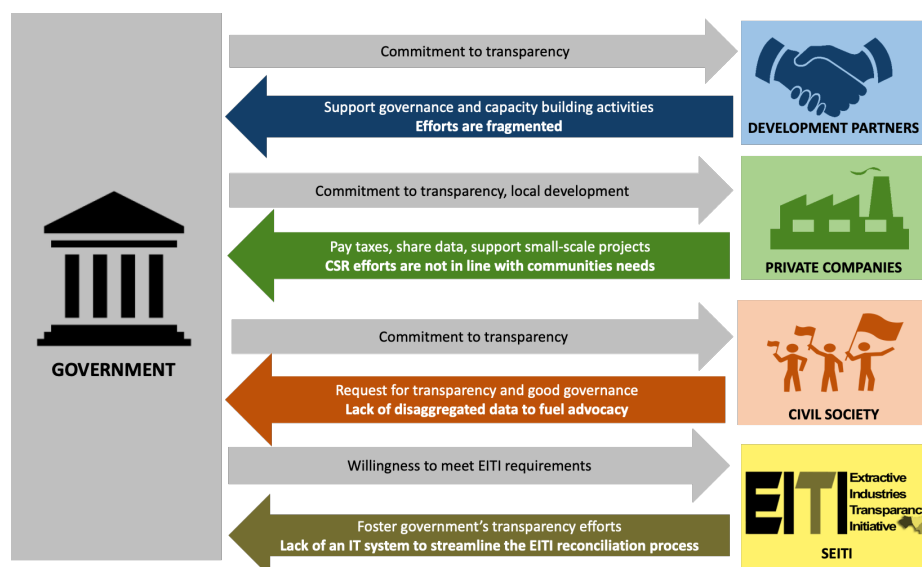


Figure 2 – Stakeholder Relations in Senegal

The Government is working to meet the requirements of the EITI and is trying to include good governance practices in the management of extractive resources. The EITI National Committee ensures compliance with the requirements of the standard: its findings and recommendations are available in the annual reconciliation reports, published after the Court of Auditors and an Independent Administrator validation. However, Civil Society Organizations (CSOs) and Parliamentary Group Network have reservations and note certain shortcomings against the Government and the private corporations.

### 4.1. The Government

The Ministry of Mines and Geology (MMG) and the Ministry of Oil and Energies are respectively involved in the license granting process for the mining sector and the oil and gas sector.

For the mining sector, the Prospecting Department (DPPM) processes applications, and grants the first level of approval; the Ministry of Finance and Planning sets the amount of common taxes; authorizations and permits are issued by ministerial decree and, research and exploitation licenses by presidential decree.

This process is contested by CSOs and Parliamentarians who argue that negotiations take place between the ministry and the mining company - it is therefore difficult to confirm that the social amounts agreed upon, correspond to the actual financial capacity of each company. They also deplore the fact that reports on environmental impacts, a prerequisite for any exploration and research license applications, are submitted very late or not at all leaving the communities unaware of their rights or of companies' environmental obligations.

In the oil and gas sector, demands are managed by the Oil and Gas Ministry but, two other institutions are significantly involved in the system:

**PETROSEN** - a national research and exploitation company authorized to participate, through an Association Agreement (or Joint Standard Operating Agreement), with oil operations on behalf of the State. The company also collects annual surface rent from businesses and participates in the monitoring of oil and gas activities;

**COS-PETROGAZ**, a relatively new structure created in 2016, which depends on the Presidency and has a mandate to promote oil exploitation for the benefit of the people. Several ministries, government agencies and private companies and the Senegal National EITI Committee are members but not Civil Society.

Non-state actors do not seem convinced of the added value of COS-PETROGAZ in the sector especially when it appears that the Committee only met once since its establishment. PETROSEN appears to have much more experience in the sector, by seniority, although it is often seen as a judge and a party of all his attributions.

## 4.2. Senegal EITI National Committee (SEITI)

SEITI performs posterior monitoring of extractive activities with regards to the publication of mining contracts, the terms and conditions of licenses awarding processes, the revenues perceived by the Government through taxes and royalties, and country adherence to EITI's requirements. The National Committee is also responsible for the reconciliation of financial data of companies and works with the Court of Auditors and International Independent Directors to draw up the EITI annual reconciliation reports.

A handful of actors questioned SEITI's impartiality because of its direct link to the Presidency – a potential misunderstanding of the EITI standard that clearly states that ***the Government must be fully, actively, and effectively engaged in the EI process***. Interviewees also commented on SEITI's functionality: some active members' mandates expired long before they were replaced, and the multistakeholder group focuses mainly on EITI requirements,

leaving little space to consider other aspects (ex. mining's impact on social sectors, improving the working conditions of women, etc.) Indeed, some CSOs have had to propose in the past to take into account the problem of gender as well as that of the environmental impact. These proposals, which fell outside the framework of the EITI requirements, remained unfulfilled.

### 4.3. Civil Society

PCQVP Senegal,<sup>14</sup> a coalition of 18 NGOs and associations, is the most active civil society group in the EI sector. PCQVP is a member of the SEITI multi-stakeholder group, and aside from its posterior monitoring activities, it also organizes fora and other gatherings to disseminate information to communities, build local authorities' capacities, and raise local awareness of the potential impact of extractives. The coalition also supports affected populations in micro project initiatives supported by various development partners.

Other NGOs, including OXFAM, Rosa Luxemburg, Enda Leads, AGIS and WIM, are involved in the sector. OXFAM, the IRD (Research Institute for Development) and the IPAR (Agricultural and Rural Prospective Initiative) have conducted extensive research on the socio-economic impact of mining activities, despite the lack of sufficiently reliable data and necessary to engage in a national debate and identify strategies and policies that can address the challenges identified in their work.

However, despite their sustained efforts, the Senegalese civil society is the subject of several criticisms. Some sector actors believe that CSOs attach too much importance to denunciation without offering corrective solutions. Others argue that the traditional civil society seems to be out of breath and losing ground to new actors with similar mandates such as think tanks, non-profit organizations, the private sector and young influencers who use social networks as their primary communication channels.

The issue with CS does not seem to be related to local capacities as organizations recruit profiles that can lead effective advocacy. The challenge seems to be primarily organizational: most CSOs operate according to an associative model; the majority of their members are volunteers, which prevents them from fully engaging in the activities. CSOs do not have a clear agenda or program, which results in unstructured activities, that are not guided by clear or measurable objectives. Finally, several CSOs follow DP's programs to the detriment of their own, leading them to have activities in several sectors and sometimes without any real link with their original mandate.

CSOs counter argue that they are often conditioned by partners who opt for short-term support rather than medium/long-term approaches; they are therefore forced to diversify their activities in order to survive, which sometimes undermines their credibility.

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<sup>14</sup> <http://www.publishwhatyoupay.org/members/senegal/>

#### 4.4. Network of Parliamentarians for Good Governance of Mineral Resources (RGM)

RGM is essential to the extractives sector, and has been recognized by EITI as such. The network's main objective is to defend the interests of those impacted by mining activities. It advocates for transparency in extractive resource management, aiming to improve governance and avoid falling into the "extractive resources curse"<sup>15</sup>.

RGM conducts workshops, facilitates community fora, and conducts field visits to understand affected populations' needs and challenges, gathering evidence to be used to advocate for them and hold the government more accountable. This proximity with local populations also often leads them to resolve conflicts between populations and private companies

RGM is one of the main actors pressuring the Government to stick to its commitment and disburse extractive allocations to local communities. In 2017, they succeeded in getting an official decree signed that totals the community's retribution from 2010 to 2015. However, to date, the disbursements are still not in effect – which RGM seems to link to the Government's challenges in finalizing the appropriate allocation key: should impacted communities get more funds than others or should funds be equally distributed to all communities?

#### 4.5. The Private Sector

Private companies form a relatively closed group, protecting its interests. Some are members of the **Mining Chamber of Senegal (MCOS)**,<sup>16</sup> a structure created to foster the dynamism of the mining sector and defend the common interests of its members but which does not seem to have much impact in the sector yet.

Most companies are open to disclosing information about their production and their local development initiatives, mainly international companies listed in stock exchanges, which are obliged to publish this information. Mining companies operating under the 2013 legislation submit their quarterly and annual activity reports to the (Mining Operations Control and Monitoring Department of the Ministry of Mines and Geology- DCSOM) also meet the requests of the EITI NC.

At the community level, private companies participate in local development initiatives by funding social programs or infrastructure works. They also pay an annual amount, in the form of institutional support to their parent ministry, to finance capacity building, training and to

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<sup>15</sup> <https://www.business-humanrights.org/fr/s%C3%A9n%C3%A9gal-35>

<sup>16</sup> <http://cmdseneegal.com/en/>

encourage the participation of State agents in international conferences and workshops. The EITI 2017 report indicates that the amount of institutional support paid is of the order of 711 million FCFA from the oil companies and 383 million FCFA for the mining companies.

Non-state actors mentioned however that private companies do not disclose their annual turnover, which prevents them from confirming that the amounts paid for taxes and royalties are in accordance with the percentages defined in the mining code. Other remarks were made about the environmental impact reports, carried out by the companies: they are disclosed very late, sometimes after the start of operations: the communities ignore the risks linked to the operations as well as the company's rights and obligations. Finally, projects and programs at the local level do not necessarily stem from local development plans and do not always correspond to community needs.

## 4.6. Development Partners

DPs support all actors (Government, CSOs, the private sector, etc.) through conducting capacity building activities, with the aim to increase transparency and good governance in extractive resource management. For example, Canada supported the creation of the Mining Chamber and the SEITI communication plan; the World Bank granted the Senegalese government a loan to build capacity in negotiating upcoming oil and gas contracts; and OSIWA supports CSOs in improving national level advocacy efforts to hold institutions more accountable.

However, partner support is often ad hoc or for short term opportunities. In addition, their actions are still relatively fragmented and often support the participation of government officials and civil society actors to international conferences or capacity-building sessions. Some partners are starting to think about other models of long-term assistance, especially to finance programs on other cross-cutting themes such as gender and the environment.

## 4.7. Recommendations

***Publish contract amendments*** – contracts that set the rights and obligations of holders of mining and oil rights must be made public in accordance with applicable codes and the EITI standard. The process should be applied to all amendments to the original contract especially if these take into account new fiscal, environmental and social provisions. Understanding the contractual rights and obligations of companies will prevent people from having unrealistic and unfounded expectations.

***Change CSOs' operating modes*** – CSOs should move from specific funding opportunities to a long-term strategic plan model, which would include a high-level overview of objectives, activities, and resources to achieve specific goals.

CSO coalitions include several areas of expertise: legal, fiscal, environmental, social, etc. Civil society can call on experts on specific topics but can also organize thematic committees according to the available expertise. In doing so, each committee will be able to analyze its theme in depth, collect beneficiaries real needs, and provide the Government and DPs with useful information useful to define their strategies and develop their action plans.

***Include local communities needs and priorities in CSR activities*** – CSR activities should align with local communities' priorities and needs, which are typically defined in each community Local Development Plan or any local development strategies. Elected representatives and the Ministère de la Décentralisation, should force companies compliance to their development goals and favor sustainable CSR activities that are able to continue generating revenue even after mining activities are terminated.

***Establish a sectoral working group for DPs, to enhance coordination on transparency in the mining sector*** – Development Partners supporting transparency in EI (Canada, OSIWA, The Ford Foundation, The World Bank, AfDB, etc.) should create a working group, led by rotating chairs during a 1-2-year mandate, to coordinate their efforts and reduce fragmentation. The working group could be open to CSOs and could begin touching on effectively measuring the impact of mining activities on other sectors such as health, education, environment, gender, etc. This approach could help DPs define priority interventions (legal-, technical-, and capacity building-focused), speak with one voice to the government, join interventions to be more impactful, and hold more weight and capacity to influence decisions at country and regional levels, among other needs.

## 5. THE MINING SECTOR

### 5.1. Institutional Arrangement for the Mining Sector

ROLES ACTORS	POLICY	PLANNING	REGULATION	M&E	OVERSEEING	CONTRACTING	PRODUCTION PROCESSING DEVELOPMENT TRANSPORT	TAX/REVENUE COLLECTION	TRANSPARENCY
MIM	✓	✓	✓	✓	✓	✓			
MEFP					✓	✓		✓	
MESD		✓		✓		✓			✓
AUDIT COURT	✓	✓		✓				✓	

Figure 3 – Institutional Arrangement for the Mining Sector

The Ministry of Mines and Geology, the Prime Minister and the Office of the President manage the process for granting mining licenses and authorizations. The Ministry of Mines and Geology is authorized to issue permits and licenses for artisanal mining and quarrying. The research and exploitation licenses are granted by presidential decree and, are the subject to a contract that includes the rights and obligations of the company in accordance with the mining code. The signed contract must be published in the Official Journal and on the EITI Senegal website.

The Ministry of Finance and Budget (MEFP) and the Ministry of Environment and Sustainable Development (MEDD) are also involved in the process. The MEFP sets the common law taxes for each company. The MEDD validates the impact studies and is involved in the monitoring of the mining operations with respect to the respect of the environmental clauses of the contract.

#### 5.1.1. Ministry of Mines and Geology (MMG)

The Ministry of Mines and Geology is responsible for implementing and monitoring the government's mining policy. The ministry is represented in the 14 regions of Senegal, in order to be close to the populations and to facilitate activities to be carried out in the field, including monitoring of mining operations. MMG has a physical presence in each of Senegal's 14 regions, for proximity with communities and stronger facilitation of field activities including the monitoring of mining operations.

Within the ministry:

- **Direction of Mining Promotion and Prospection (DPPM)** – is in charge of promoting mining activities. It is the entry door for prospective companies seeking a permit, and for existing corporations seeking to renew their permits or licenses or to move from the exploration to the exploitation phase.

- **Direction of Mining Regulations and Surveillance Department (DCSOM)** – is in charge of the monitoring and surveillance of mining operations and is also responsible for collecting production data from mining companies.

### 5.1.2 Ministry of Economy, Finances and Planning (MEFP)

The MEFP systematically participates in the preparation of all mining contracts, to ensure a certain administrative and fiscal uniformity. The MEFP is responsible for setting common law fees such as VAT and customs duties. Fees and taxes are negotiated and specified in the contracts that accompany the licenses. If these amounts are changed, for whatever reason, the revised tax provisions will be the subject of an amendment to the original contract

### 5.1.3. Ministry of Environment and Sustainable Development (MEDD)

The Division of Environmental Impact Studies<sup>17</sup> (DEIE), which sits within MEDD, is mandated to validate environmental impact studies. A Technical Committee<sup>18</sup> supports the DEIE in validating impact study reports and provides recommendations on whether the project should be accepted or rejected. They also (i) hold public hearings to inform subnational authorities of plans, (ii) disseminate upcoming mining activity information to communities, including on the risks these activities might pose, and (iii) collaborate with DCSOM in activity monitoring and surveillance.

### 5.1.4. Audit Court (Cour des Comptes)

In the EI sector, the objective of the Audit Court is to verify the completeness and credibility of payments declared by the government and contained in its accounts. The Court also compares the payment amounts in the declarations of private companies with the corresponding amounts in the accountant's records.

The Court does not have any punitive power for EITI-related activities. Its reviews are advisory, and it is limited to alerting SEITI and advising corporations to take corrective measures if discrepancies are found as the EITI annual report is being prepared.

## 5.2. Legal Framework of the Mining Sector

The Mining Code constitutes the legal framework for the mining sector. It provides for the various types of mining titles, granting conditions, rights conferred, and characteristics of each type of mining title and quarry. The code also defines the obligations of private companies towards the government and the communities.

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<sup>17</sup> <http://www.denv.gouv.sn/index.php/divisions/division-des-etudes-d-impact-environnemental-deie>

<sup>18</sup> <http://www.io.gouv.sn/spip.php?article1732>



In addition to the mining code, the Government published its *Mining Sector Development Policy Letter* (Lettre de Politique Sectorielle de Développement du Secteur des Mines; 2017-2023) aimed to "increase the development of the mineral potential of the country responsibly and sustainably, for the benefit of taking into account governance values, namely equity, efficiency, effectiveness, integrity, openness, and transparency."

### 5.2.1. The Mining Code

The 2016 edition of the mining code was modified to foster transparency, balance the management of mineral resources, and mutually promote the beneficial partnership between the government, companies, and local communities. Adjustments to the mining code include:

- Obligation to respect, protect, and implement human rights in areas affected by mining operations (Chapter IV; Art. 94)
- Reorganization of the data confidentiality provisions to comply with the transparency requirements of the EITI standard (Art. 95)
- Support funds, as follows:
  - **Mining Sector Support Fund:** 20% of government revenue from mining operations will be allocated to investments, promotion activities, and training sessions for the government agents. However, the decree outlining the modalities of funding, operation, and sharing of this fund has not yet been published.
  - **Local Development Support Fund:** Companies will contribute 0.5% of their annual turnover, excluding taxes, to contribute to this fund.
- Distribution of mining revenues, as follows:
  - **Support and Equalization Fund for local communities:** 20% of government revenues from mining operations will contribute to this fund.
- Strengthening of the monitoring mechanisms of mining activity (Art. 110 & 111)
- Sanctioning of various infractions, including illegal mining activity or storage, health and safety violations, non-payment of taxes, inaccurate delivery information, and transport or sale of mineral substances. (Art. 118)
- Obligation to rehabilitate sites from the research phase for projects that have not led to exploitation (Art. 103)

However, the lack of clarity of certain dispositions of the legal framework reveals some limitations:

- **Article 83** of the code specifies that "geological, mining, industrial, commercial and intellectual property documents and information collected from mine owners *may be disclosed to the public only with the written permission of the holders* or in the

event of the withdrawal or expiry of the mining title except data on environment degradation, health and human security."

- **Article 85** dealing with "the free choice of partners, suppliers and subcontractors" seems to refer to local content but in vague terms. Mining companies and their subcontractors must use Senegalese products and services to the extent that "these products and services are available on competitive terms of price, quality, warranty and delivery time". The selection criteria remain subjective and do not constitute a solid basis for promoting local products and services;
- **Chapter V** deals with the protection of the environment. While the conditions to be fulfilled for environmental impact studies are explicit, those related to the restoration of sites remain laconic.

Other observations concern the non-application of certain articles:

- The companies are obliged to provide the monitoring government agents any document useful for their surveillance work. However, these monitoring activities often face challenges due to the lack of technical, material, logistical and financial resources needed to perform objective and quality control (ex. lack of transportation means, inadequate offices, etc.)
- The decree on the sharing modalities the Equalization and Local Government Support Fund has not yet been published. An inter ministerial decree (Ministries of Mines and Geology, the Economy of Planning and Cooperation, Finance and Budget, and Local Governance) was signed, fixing the total amount to be paid to local authorities to 7.640 billion FCFA, representing revenues between 2010 and 2015<sup>19</sup>. However, the amounts allocated to local authorities have not yet been received.

### 5.2.2. License Granting Process

For the purpose of this report, this section will focus on the process of **obtaining a mining permit**.

To obtain a mining permit when a company is interested in pursuing mining activities in Senegal, its entry point is the DMMP. The company first sends a formal Letter of Intent to DMMP, stating the zone and substance the company will be extracting. DMMP then performs a feasibility check to confirm the zone and the substance availability and sends back a favorable answer before asking for supporting documents.

After the first round of approval and positive recommendations, taxes and royalties are defined, and the request is transferred to the MEFP, then to the Prime Minister and the

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<sup>19</sup> [Arrêté interministériel n°22469 du 20 Juin 2017 portant répartition de la dotation du Fonds de Péréquation et d'Appui aux Collectivités Locales tirée à partir des ressources annuelles provenant des opérations minières au titre des années 2010, 2011, 2012, 2013, 2014 et 2015](#)

President's Office for final approval and signature. The exploration license is attributed by decree.

If the exploration leads to the discovery of mineral resources, the company must submit a request to obtain a full exploration license, renegotiate its contract terms, and redefine its taxes and royalties appropriately. The ensuing license is also granted by Presidential decree. It should be noted that **Article 19** of the mining code stipulates, "any discovery of an economically exploitable deposit by the holder of a mining exploration permit gives an exclusive right in the event of a request before the expiry of this permit to the granting of a mining exploitation permit on the perimeter of the said discovery." This could be used by mining companies to avoid deeper scrutiny of their licenses requests.

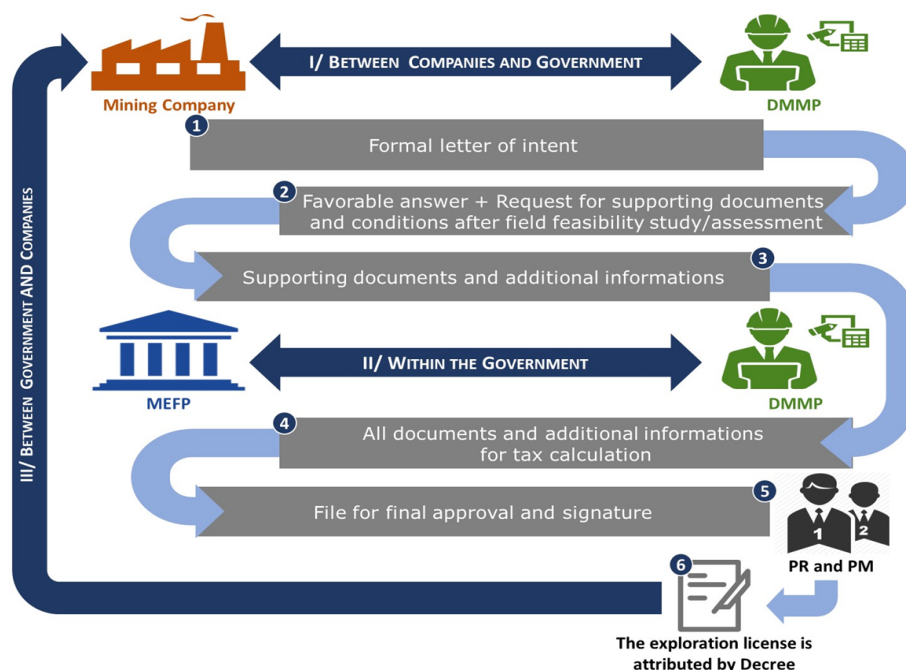


Figure 4 – License Granting Process

### 5.3. Recommendations

**Build local capacity of the MMG Prospection Division (PPM)** – As the prospection entity, one of DPPM's biggest challenges is a lack of statistics on mineral resources that could validate or counter information reported by private companies. Without exhaustive geological data, DPPM agents may not have the required capacity to negotiate with prospective companies to ensure that national interests are being met.

**Strengthen the surveillance of mining operations** – monitoring of mining activities, including the aspect related to the environmental impact, needs to be strengthened. Mining operations have an impact on the environment and on people living in the communities.

The government should invest in capacity building for local government agents and provide them with the logistics, including vehicles or other means of transportation, to carry out their monitoring activities. DPs can support in providing technical equipment used to conduct monitoring activities in the EI sector.

**Data related to the license granting process should be published** – data regarding the license granting process should be published to increase transparency and allow actors to have equal information.

**Define an equitable way of sharing resources, based on objective criteria** – Sharing of extractive resources is an ongoing challenge. To address this, we recommend that actors clearly define objective criteria that will underlie resource sharing. These criteria will rely on country context and objectives, and must be understandable, consensual, flexible, included in a law or regulation, and easily tracked/reconciled.

## 6. THE OIL AND GAS SECTOR

### 6.1. Institutional Arrangement for the Oil and Gas Sector<sup>20</sup>

The table below provides an overview of the institutional arrangement of the oil and gas sector.

ROLES	POLICY	PLANNING	REGULATION	M&E	OVERSEEING	CONTRACTING	PRODUCTION PROCESSING DEVELOPMENT TRANSPORT	TAX/REVENUE COLLECTION	TRANSPARENCY
ACTORS									
 PR and PM	✓								
 MPE	✓	✓	✓	✓	✓	✓			
 PETROSEN				✓	✓	✓	✓	✓	
 COS PETROGAZ	✓	✓		✓					✓
 MIE				✓					✓
 CSOs									✓
 PRIVATE						✓	✓		

Figure 5 – Institutional Arrangement of the Oil and Gas sector

<sup>20</sup> DG team only met with COS-PETROGAZ. PETROSEN and the Ministry of Oil and Gas were unavailable due to the reform of the Oil and Gas

### 6.1.1. Ministry of Oil and Energies<sup>21</sup> (MPE)

MPE's mandate is to prepare and implement the policies defined by the President in terms of energy production, distribution, and promotion of renewable energies.

**National Oil and Gas Committee** (Comité National des Hydrocarbures): A division of MPE with the mandate to regulate and monitor all oil and gas activities.

**Hydrocarbons Direction** (Direction des Hydrocarbures, (DH): The MPE department in charge of the elaboration, adoption, implementation, and follow-up of sectoral policies. DH does not have sufficient personnel and budget resources to effectively monitor oil and gas activities that are often delegated to PETROSEN.

### 6.1.2. PETROSEN

The Société des Pétroles du Sénégal (PETROSEN) is a public limited company with a majority public shareholding (99% owned by the Government, 1% owned by the National Collection Company). The company is under the supervision of the Technical Department of the MPE, and aims to implement Senegal's oil policy. Its responsibilities include:

- Representing the Government in shared commercial contracts<sup>22</sup>, and overseeing national interests;
- Through its subsidiaries or in an association, participating in all activities related to the production, processing, development, and transport of oil and gas, including export activities;
- Monitoring and overseeing oil operations;
- Collecting the annual surface rents from private companies. This source of funding is supplemented with Government subsidies, sales of own production shares, and sales of technical and seismic data.

### 6.1.3. COS-PETROGAZ<sup>23</sup>

The recent discovery of offshore oil and gas reserves led to the creation of this National Committee in 2016, to reinforce transparency in natural resource management. COS-PETROGAZ is responsible for assisting the President and the Government in "*the definition, supervision, monitoring and evaluation of oil and gas projects.*" It is chaired by the President and includes the Prime Minister, the Minister of Oil and Energy, the Minister of Industry and Mines, EITI national committee representatives, as well as representatives of other national

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<sup>21</sup> <http://www.energie.gouv.sne>

<sup>22</sup> Shared commercial contracts

<sup>23</sup> <http://itie.sn/exclusif-voici-le-decret-portant-creation-et-fixant-les-regles-dorganisation-et-de-fonctionnement-du-cos-petrogaz/>

agencies involved in the sector. The President has the right to invite any actor that he believes would further the committee's mission.

To date, COS-PETROGAZ is largely composed of Government agencies, the President's announcement that he is open to including both CS actors and the National Assembly in the group if they are willing to participate.<sup>24</sup> The question of the real added value of this committee, which since its creation has only met once, is raised in the EI environment.

#### 6.1.4. National Institute of Oil and Gas<sup>25</sup>

The Government of Senegal created, by decree, the National Institute of Oil and Gas<sup>26</sup> (Institut National du Pétrole et du Gaz – INPG), a training facility that builds government agents' capacity in the sector. The facility began accepting students in October 2018. INPG's mission is to develop national expertise and promote the employment of Senegalese men and women in the oil and gas sectors through specific training curricula and capacity building for government staff, researchers, technicians, and operators. The institute is supported by private companies including Total, BP, Kosmos Energy, Fortesa, Cairn, Baker Hughes, and others, which recruit students upon graduation.

## 7.2. The Legal framework of the Oil and Gas Sector

Following Bill 01/2019 on the oil code, Bill 02/2019 on local content in the hydrocarbon sector was adopted at the National Assembly on 24 January 2019.

The new oil code replaces the 1988 edition, which was perceived as an incentive regulation for prospective oil companies. The new legal framework for oil and gas operations fits the EITI requirements, includes the Oil and Gas Revenue Distribution Act as well as environmental protection measures. It also officially encourages Senegalese citizens to engage in oil and gas activities.

It should be noted that civil society actors were not involved in the process of revising this code. After several unsuccessful attempts, however, they submitted recommendations developed on the basis of the 1998 code, including:

- The establishment of a tendering procedure for the allocation of all research and operating titles for unallocated blocks;
- The creation of a fund for local communities directly impacted by oil activities and a fund for future generations;

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<sup>24</sup> <http://www.aps.sn/actualites/economie/energie/article/le-cos-petrogaz-sera-ouvert-a-la-societe-civile-macky-sall>

<sup>25</sup> <https://www.inpg.sn>

<sup>26</sup> <https://www.inpg.sn/notre-mission/>

- Promoting the use of local goods and services and building local capacity.

In the new code, the Ministry of Oil and Energy is the institution responsible for the development of oil contracts. Contracts are reviewed by a Review Commission and the related negotiations are conducted by the Minister in charge of oil and Gas, who sets the rules and terms by decree.

- Unallocated blocks are allocated through a **tendering** procedure or through **direct consultation**. The modalities of implementation are set by decree (Art. 12 on the modalities of allocation of the blocks)
- Oil revenues will guarantee generational savings to promote public investments that could increase the country's economic growth (Art. 5 on resource ownership and oil revenue management) - the terms and the distributions will be defined by law;
- The local content provisions (Art. 58 on local content obligations) take into account:
  - Encourage **domestic companies to participate in oil operations**
  - Preference to be given to Senegalese companies capable of providing goods and services of equal quality and at competitive prices
  - Employing Senegalese personnel of equal qualifications - However, this dimension
  - Annual technician training transfer of technology programs with appropriate support measures;
- Other articles of the code deal with environmental protection measures, respect for human rights, hygiene and health.
- The code includes a stability clause for previous oil contracts (Art. 72), unless the additional costs relate to personal safety, environmental protection, control of oil or labor law operations.
- The old contracts retain their legal regime (Article 73 on the validity of previous oil contracts) and maintain the rights to renew the securities. However, with the agreement of the parties, oil contracts may be subject to the existing code.

### 7.2.1. Preliminary Analysis of the Petroleum Code

Articles dealing with the allocation of blocks lack precision, which could lead to misinterpretation:

- **The allocation of blocks by tender:** no details are given on the type of tender (open or restricted); would it follow the normal contracting procedure or a procedure specific to the oil and gas sector?
- **The allocation of blocks by direct consultation:** the code does not specify in which case direct consultation can be applied or preferred to the tendering process;
- Which entities will be involved in the Petroleum Contracts Review Committee?

In terms of local content, the vague and subjective nature of certain terms persists, including notions of equal quality and competitive pricing, a relatively light basis for promoting the development of Senegalese small and medium-sized enterprises. In addition, while the code refers to annual training programs, it does not specify if this will be obligatory to possess a license.

intergenerational savings will be used for public investment in growth-generating sectors but no details are given on the relevant sectors.

The oil code ends with stability clauses allowing companies to continue operating under the old legislation unless they want to be governed by the new code. By doing so, tax, social and administrative obligations will not be harmonized for all oil companies.

### 7.3. Recommendations

***Strengthen communication and make information on oil and gas accessible and understandable*** - Oil and gas discoveries have generated interest, as well as many preconceived ideas, among citizens. Oil is often seen as a sector with high economic revenue potential and expectations are growing. Oil and gas blocks will be allocated through a bidding process or direct consultation. However, the code does not specify in which cases each of the processes should be used.

The lack of clarity in the articles of the code dealing with the allocation of blocks can lead to unnecessary debates, unrealistic expectations and conflict.

***Highlight the importance of the monitoring and evaluation of exploitation activities*** – Currently, no clear guidance on the Government's monitoring and evaluation of oil and gas operations exists. The new code, or associated bylaws, should include a formal clause that defines what exactly monitoring activities consist of, and what their associated indicators/criteria are. Monitoring activities are reliable measures of environmental impact, human rights, etc. The monitoring and evaluation report will be public, allowing other stakeholders to verify the data and use it to complete their own research.

***Set up a timeline for regular review and update of the oil and gas code*** – In the future, additional resource discoveries and further economic change must be expected. Additionally, EITI requirements are constantly evolving (ex. beneficial ownership). As such, the Government should work with other stakeholders – including SEITI, civil society, private companies, etc. – to set timelines for regular code reviews and updates. This would enable the code to be consistently aligned with evolving social and economic contexts, on both global and national scales.



## 8. TECHNICAL DATA ASSESSMENT

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The technical evaluation focuses on the analysis of systems used for data collection where appropriate and, the review of all data sources, public or reserved for internal use.

At the time of this study, no computer system was used in Senegal to collect and share IE data. National EITI NC has recruited the services of an organization to install a system that will allow private companies to report online and other institutions to enter their respective information. . Data that meets EITI requirements would be published in real time.

Other IT initiatives are underway and focus on providing open data on the EI sector. The Senegalese NGO AGIS has developed a public portal on the transparency of contracts. This interactive site allows users to download current contracts and presents the contractual aspects related to social and environmental as well as the legal, financial and economic aspects of contracts. The site is powered by data from EITI NC reconciliation reports.

The study focused on existing data sources as well as the opportunity it would represent if they were made public.

### 8.1. Data Producers

The following data sources were identified during the evaluation in terms of the type of information they contain and which could be useful to the different actors:

***The environmental impact reports:*** the Direction of Prospecting and Promotion Mining (DPPM) of the MMG collects the data contained in these reports including characteristics, geological information, level of substance availability, etc. This technical data is kept confidential to avoid being used by competitors.

***Quarterly and annual activity reports of mining companies:*** the Mining Operations Monitoring Division (DCSOM) of the MMG collects the quarterly and annual activity reports of each mining company, as required by the mining code. These reports contain data on production (local sales, exports and stocks), on the status of payment of operating taxes and royalties (fixed rates, surface taxes and % of mining revenues) as well as resource data. companies.

***EITI annual reconciliation reports:*** These EITI reports are prepared for private companies included in the reconciliation scope of the relevant year. In addition to contextual data and recommendations, the EITI reports contain both quantitative and qualitative data:

- ***Quantitative data:*** production data, financial data, human resources data (number of national employees versus number of international employees);
- ***Qualitative data:*** administrative information of companies, types of permits and/or licenses active, history of previous audits, names and contact details of auditors. It should be noted that the employment figures contained in the EITI reports are not

statistics but rather estimates calculated from the personnel data provided by each enterprise in relation to the entire Senegalese active population in a given year.

**The PETROSEN database** - is considered the most comprehensive and up-to-date in that oil and gas companies are required to submit data related to their exploration or exploitation including seismic and technical data.

## 8.2. Data Availability and Disclosure

From the cited sources of data, only the EITI reconciliation reports are published as a global report and as a summary report, a lighter format that provides more digestible information.

The following observations were made on the availability and use of data from other sources.

**The prospection division (DDMP)** – Data on the Ministry of Mines and Geology’s website<sup>27</sup> is out of date and does not meet actor’s needs, preventing the site from being used as a primary source of mining information. In partnership with the Cheikh Anta Diop University of Dakar, the Ministry produced the Senegal Mineral Plan for 2017, to plan and improve negotiation processes for future contracts. The Mineral Plan is currently being finalized and remains unpublished; however, each map is available upon request for 30 euro.

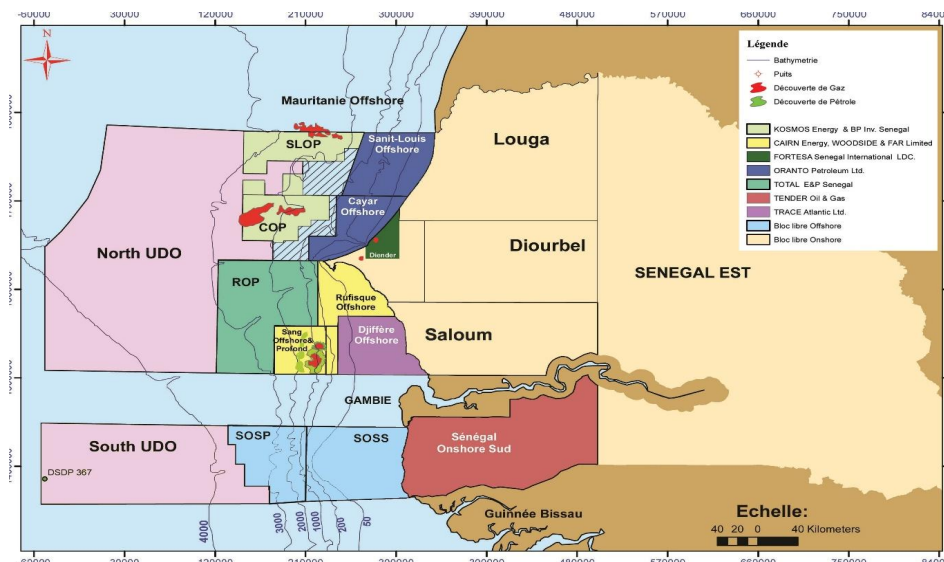
DMPP, however, appears to lack comprehensive mineral resource statistics to counter the arguments of potential private companies. Lack of information makes it difficult to negotiate.

**The monitoring division (DCSOM)** – DCSOM indicated that companies’ activity reports are not publicly available. For all data requests other than those originating from Government agencies, the requester has to submit an official letter specifying i) the type of data needed, and ii) the final use of that data. DCSOM reserves the right to reject any data demand.

**PETROSEN** – We understood that PETROSEN’s former website ([www.petrosen.sn](http://www.petrosen.sn)) is currently inaccessible. In addition, we have been told that PETROSEN does maintain a confidential database of statistics with technical information (seismic data), and other statistics are sold to companies by request. However, since we were unable to meet with PETROSEN, we could not assess the quality of data contained in this databank. The figure below gives a snapshot of 2018 oil and gas block allocations and was obtained through an SEITI official demand.

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<sup>27</sup> [http://www.dirmingeol.sn/pages\\_utiles/ressources\\_minieres.php](http://www.dirmingeol.sn/pages_utiles/ressources_minieres.php)



Source: PETROSEN<sup>28</sup>

Figure 6 – Map of Oil and Gas Licenses

### 8.3. Expressed Data Challenges

The study's main findings confirm that there is an appreciable volume of data being collected by various institutions with respect to their mandate and attributions. Upstream, the **Prospection Unit of the Ministry of Mines** is working on an upcoming online mining cadaster, that should display information with potential interest to prospective investors. Downstream, the **Surveillance Unit of the Ministry** collects private corporations activity reports that contain disaggregated data on production, exports, local development initiatives and human resources statistics.

The legal frameworks of the two sectors encourage the publication of information as required by the EI standard and advocate the publication of the income due and collected as well as the social achievements that must be made public (Article 56 of the Petroleum Code on the publication of petroleum revenues and Article 95 of the Mining Code on accession to principles and requirements of the EITI standard). In practice however, the study revealed some challenges with regards to the contracts (and their amendments) and the environment impact studies that are either published late or not at all. Other articles of the codes remain laconic on the type of information that should additionally be published

<sup>28</sup> Oil Blocks. (2018). Map of current oil blocks updated in 2018. Forwarded by the EITI National Committee on December 10, 2018 upon receipt from PETROSEN.

which contributes to the challenges that are faced by actors in favor of evidence-based decision making.

Apart from the EITI annual reconciliation reports, **there is no formal mechanism for sharing data between different stakeholders**. Disaggregated data, that could generate relevant analysis that could trigger reforms in the sector is *collected*, but is *not shared or used*. **While different actors expressed different data needs, they share a common one for disaggregated data:**

- The private sector would like to have access to:
  - Other corporations local development initiatives or CSR efforts to avoid duplication of efforts; they would also like to have access to
  - A list of Senegalese SME/SMI to promote local content and local subcontracting;
- Development Partners would like to have access to :
  - Gender statistics to better determine their actions towards addressing women inclusion in their strategies;
- Non-state actors, including civil society believe, have identified some data that would help them to trigger debates and involve the communities:
  - **Data contained in contract amendments** - including stabilized tax provisions that will triangulate revenue information, and amounts to pay back to communities;
  - **Companies annual turnover**: useful to verify of the amount of the local funds and the activities carried out within the framework of the CSR;
  - **Data from environmental impact studies and environmental monitoring plans** mainly information related to risks, corrective measures and site rehabilitation.
  - **Company data**: human resources, code of conduct, company subsidiaries, etc.
  - **Socio-economic data**: to estimate the environmental and social impact of extractive activities. the National Agency for Statistics and Demography (ANSD) published, in July 2018, a report on artisanal mining in which it indicates that children under 15 represent 0.5% of total assets (3% of girls vs. 0.3% of boys) and only 72.4% of gold miners have completed primary school (higher percentage among women). This type of data is relevant for addressing, for example, the problem of child labor, as well as the low level of education in these regions.
  - **Gender data**: useful for developing an action plan to address these issues and provide adequate responses that truly address the specific needs of women and children.

## 8.4. Extractive Sector Data Opportunities

Given the amount of EI data currently collected by the various stakeholders and the growing demand from CSOs and citizens for disaggregated data that will be placed at the center of their advocacy, **the creation in Senegal of a Portal data is a logical recommendation.**

The main objective of this portal will be to provide real, comprehensive, reliable and easy-to-understand data to: (i) support CSO activities through evidence that will fuel their advocacy; and (ii) involve communities in monitoring operations to demonstrate compliance with existing laws and regulations and compliance with contractual commitments. For example, statistics on employment and training of women in enterprises are insufficient for effective advocacy on equity issues and could be supplemented by other variables:

- **The government's commitment to gender** issues: a law or regulation on the inclusion of women in EI? sanctions against companies that do not comply?
- **Women's empowerment**: how many women with land, mining, savings accounts, who do income-generating activities?
- **The role of women in the community**: number of local development plans that take into account the needs of women; number of women involved in decision-making processes (e.g., mayor, technical or municipal councilor, etc.)
- **The Role of DP**: Projects and Initiatives for Women's Empowerment, Mining Areas Benefiting from Projects To Combat HIV/AIDS and Other Sexually Transmitted Diseases; .

In the context of Senegal, where a reporting system is being set up and several open data initiatives are looming, the implementation of the portal will have to be preceded by an in-depth review of existing systems and initiatives determine the quality of the data, understand the limitations and identify the needs of the players. This approach is recommended by the EITI through feasibility studies that will form the basis of the design of the portal that will be developed to bring significant added value in the provision of easy-to-understand and use data. Open data should not only be just available; it should also be accessible and understandable to systematize its use in the definition of national strategies and policies.

The portal must be accompanied by an operating manual; examples of data use could be translated into local languages to raise awareness, rationalize their expectations and involve them in the accountability process.

The sustainability of the portal will require strengthening of local data science capabilities and, a technical solution developed on **open-source software**, with no recurring annual costs. By tailoring the data offering to the needs of stakeholders, stakeholders will increasingly use reliable, high-quality IE data to inform their planning and strategy decisions.

## ANNEX 1: MEETING LIST

Name	Position	Organization
Abdoulaye Diop	Geological Engineer at DCSOM	Ministry of mines
Aminata Ly Faye	Corporate Affairs Manager	Sabodala Gold Operation
Aminata Niang	Associate Researcher	IPAR
Babacar Diop	Program manager	Canada Embassy
Cheikh Oumar Sy	Executive Director	OSIDEA/RGM
Cheikh Touré	Director	AGIS
Demba Seydi	Regional Coordinator, Francophone West Africa	PWYP
Doro Diagne	Secretary general	Chamber of mines
El Hadj Diallo		Fortesa
Elimane Kane	Governance program manager	OXFAM
Gnagna Lam	Analyst	Cos Petrogaz
Hawa Bâ	Senegal Country Officer	OSIWA
Nina	Operations Analyst	World Bank
Omar Cisse	Coordinator of Extractive Industries pole and sustainable development	Enda Lead
Papa Badara Paye	Deputy Permanent Secretary and Head of Data Management	EITI Senegal
Philippe Barry	President	Initiative RSE Senegal
Raymond Sagna		Ministry of mines
Sylla Sow		Article 19
Thialy Faye		Forum civil

## ANNEX 2: WORKSHOPS/CONFERENCES LIST

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CONFERENCE/WORKSHOP	THEME	DATES	LEAD
RESTITUTION WORKSHOP	LOCAL CONTENT STUDY	17 - 18 JULY	ENDA LEADS
CIVIL SOCIETY WORKSHOP	How to build capacity for CS actors to support their advocacy towards the government and their mandate to share effective information with communities	26 - 28 OCT.	PWYP/WORLD BANK
EITI AFRICA CONFERENCE	Harnessing BO in African countries	Oct. 31st - Nov. 2nd	OSIWA
SALON DES MINES	Geology and Mines, social and labor force development for emergence	Nov. 6th - Nov. 8th	Minister of Geology and Mines