



Two years into the PWYP #DisclosetheDeal campaign

Sharing experiences and lessons

At the end of 2020, Publish What You Pay (PWYP) launched [#DiscloseTheDeal](#), a global campaign for contract transparency in the oil, gas and mining industries. Since then, **28 coalitions** have engaged in the campaign with various objectives to improve extractive contract disclosure at national level. Two years into its global campaign, PWYP organised a **collective learning workshop** drawing on the many achievements and advocacy efforts deployed to demand the publication of extractive contracts. The workshop took place during the EITI Global Conference in Dakar, Senegal, in June 2023.

The workshop aimed at **sharing successful strategies** developed by some coalitions to **help** others find solutions to similar challenges. The discussion featured speakers from **Ukraine, Mexico, Indonesia** and **Mali**. Experiences from **Mongolia** and **Tunisia** were also collected ahead of the workshop.

This briefing summarises the key takeaways from each intervention and attempts to draw some lessons. **Overall trends** are also presented on pages 11 and 12 of this document.

UKRAINE

What they achieved

On December 16, 2021, one of the most progressive oil, gas and mining transparency laws in the world was adopted by the Ukrainian Parliament, which included the obligation to publish all extractive contracts.

How they did it

- Civil society drafted the legislation they wanted and then pushed members of Parliament to adopt it.
 - Civil society was *proactive* in proposing a text, rather than *reactive* to an existing proposition. On the contrary, companies and other opponents to the text had to react. The coalition was able to do so by securing support from OSF and its local subsidiary - International Renaissance Foundation, which allowed them to hire a lawyer who drafted the entire legislation.
- The EITI was an important forum to obtain the support of other constituencies for this law. However, the low engagement of companies and constant *turnover* of governments and Ministers were challenging.
 - Civil society had to be creative to build trust and keep the companies engaged. For example, they supported the company constituency at the EITI MSG to obtain the simplification and digitization of their reporting obligations.
 - While the decision-makers representing the government were constantly changing, civil society had to be the "institutional memory" of the EITI process.
- Civil society also secured the support of the European Commission and other international partners of Ukraine to the transparency law, which turned out to be very valuable.

What they learned

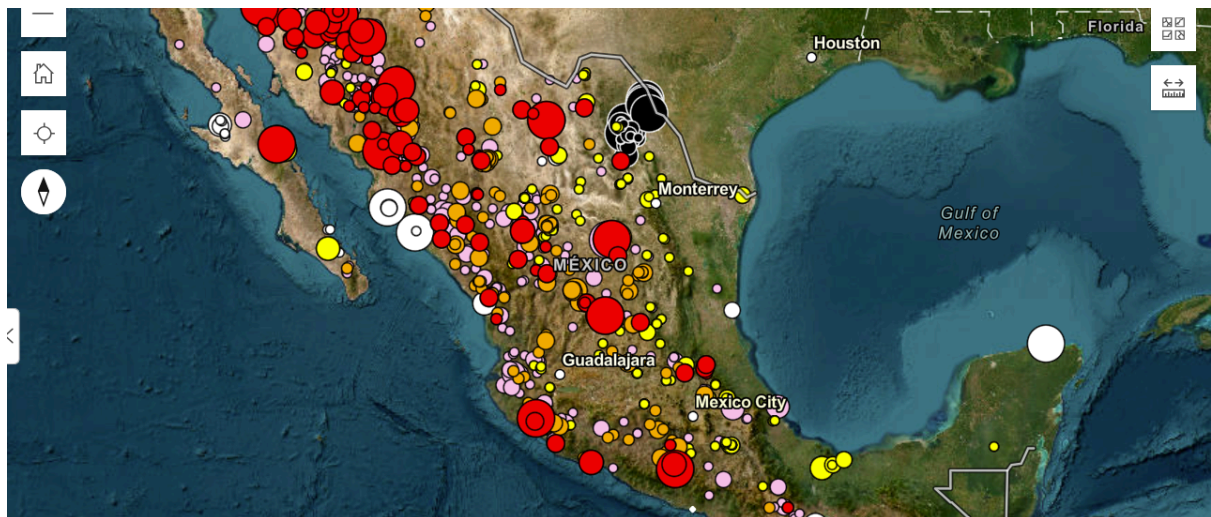
- *Trust building* with other actors and decision-makers is key and is no overnight process. In that perspective, being present and active in multistakeholder fora, such as the EITI is important. It took almost 10 years to build such a trust among EITI stakeholders.
 - In this perspective, it is very important to find elements in the EITI implementation which will not only support local communities but also make life easier for the companies.

- This type of advocacy takes *time*: this legislation took 4 years to be adopted.
- Ideally, civil society should be active *from the very start* of the elaboration of the law, if possible, co-drafting the law or submitting a text that can be adopted as is. This forces potential opponents to be *reactive* and suggest changes to what you have already put on the table.
 - If it is not possible to have an entire piece of legislation adopted at once, then you must “eat the elephant by pieces”! Work on the adoption of key measures step by step.
- Check out the coalition’s brochures on their [Recommendations for new EITI members regarding disclosure of contracts](#) and [How civil society can lead to change](#) for more details on the lessons they learned along the way.

MEXICO

What they achieved

CartoCritica built an [online map](#) that integrates information publicly available about mines in Mexico at the project level.



- It is the first *project-level* map and database in Mexico, where the existing government databases contain information at the concession or licence level. But in reality, several concessions can be part of a single project. The result is that despite being technically available online, the information doesn’t allow to monitor mining projects and answer simple questions such as: Where are the

mines? Who is operating them? Are they active? The data was also scattered around various databases and under varying company and project names.

- This map has already allowed more informed and data-driven discussions with environmental policymakers and was a reference to promote recent reforms to the mining, water, environmental and waste laws.

How they did it

- Despite civil society being active in and obtaining commitments through various multistakeholder initiatives, including the EITI and Open Government Partnership (OGP), actual progress was very disappointing. In addition, both avenues closed when Mexico was suspended from the EITI in 2022 and civil society withdrew from the OGP.¹
 - So CartoCritica decided to *create their own opportunity and advocacy space* by showing that what they had been asking for so long was *doable* and necessary.
- CartoCritica's strategy was to undermine the arguments put forward by the government and companies: "we don't have the information", "it can't be published for national security reasons", "these are secret commercial information", "we don't have the resources", etc.
 - Despite a tight budget, the team cleaned and analysed more than 100,000 records from 11 governmental sources (as well as academic sources and its own data) and manually located 857 operating mines. For the 249 metallic mines, the map also includes environmental requirements data such as whether or not there is an available impact assessment, the company requested a permit to use water, declared pollution events etc.
 - Some of the work was facilitated by an algorithm to help identify the mining sites, even though it was not 100% reliable.
- The map now supports CartoCritica's advocacy, in particular to highlight areas of concern such as environmentally sensitive regions or communities impacted by mining activities. It is easier to know where to look and which projects should draw particular attention.
 - For example, they flagged that the company Grupo México has not declared a single water pollution incident in 17 years, while it spilled 40 million litres of copper sulphate into rivers in 2014, contaminating local water and causing diseases. In fact, 55% of the metallic mines in the country have not declared any pollution in 17 years, which is not credible.
 - It can also be used to question why there are so many mines operating and using water in places where the aquifer is already overexploited.

What they learned

¹ Both setbacks were linked to lack of progress in the governance of the sector and attacks against civil society in the country.

- *You always need a plan B, and a plan C!* You need to recognize when a space has closed or is a dead-end, find creative ways to keep pushing your demands.
 - In this campaign, CartoCritica's initial plan was to promote a single portal for open files for extractive industries and power generation projects. They changed their approach because the EITI and the OGP options were not leading to any progress and thought that their resources were better used working on the data themselves.
- Advocacy is stronger when based on concrete data, that's why we need it in the public domain!

INDONESIA

What they do

PWYP Indonesia asks for the disclosure of information related to mining contracts and licences documents through Freedom of Information (FOI) Requests.

- PWYP Indonesia targets mining documents and information associated with licences, particularly information that is relevant for communities living nearby these sites (for example, permit validity periods, area boundaries, environmental and social obligations, company profiles and owners, etc.)
- The Public Information Law says that this type of information should be available for citizens. However, there are disputes over the interpretation of this provision, which is why civil society uses FOI requests and has to argue cases before different bodies, including sometimes in the judicial system.
- In 2022, two lawsuits were won by the citizens or organisation (supported by PWYP Indonesia) who had submitted a request to access mining contracts through the FOI. It means that the State recognized that the licences and information requested should be disclosed.

How they do it

- PWYP Indonesia uses a *multiple approach* to promote contract transparency: through (1) the EITI, (2) FOI requests and (3) the OGP.
- At the EITI, the progress is very slow, but PWYP Indonesia pushes for a step-by-step strategy:

- o In 2018, at the request of the MSG (and the coalition), the Government conducted a study to assess the consequences of the publication of specific documents. Since then, PWYP Indonesia has challenged the result of this test and organised workshops for the MSG to discuss, article by article, why contracts and licences could not be published.
- The FOI Act approach is complementary: the victories obtained through FOI requests reinforce the coalition's advocacy at the EITI because they confirm that the law already provides for the disclosure of these documents.
- In addition, the FOI act is an important tool because it has a clear mechanism for everyone to make a request, including communities (which is not the case with the EITI). However, the challenge is that plaintiffs may need support to argue the case if it goes to dispute, especially when facing companies and their resources.
 - o PWYP Indonesia supports the plaintiffs by providing expert witnesses, developing offline and online solidarity campaigns and organising workshops about contract and licence documents.
- In parallel, the coalition and its partners succeeded in including contract transparency in the latest OGP action plan.

What they learned

- It is a *very long process* that requires a lot of patience. Even though documents are not always published even when disputes are won, it is slowly changing. For example, the Government developed platforms to give access to some data ([Minerba One Data Indonesia](#) or [ESDM Geoportal](#)) in response to the demand for transparency.
- It is necessary to explain face-to-face to decision-makers what information is needed and why. There is a lot of *turn-over* among government representatives at the MSG, which means there is a constant need to go back to explaining.
- Alliances with organisations who have different lines of expertise is important. For example, the coalition works with organisations that are specialised in FOI requests.

MALI

What they achieved

In 2022, about 130 extractive contracts were published, covering a large share of projects in production.



PWYP Mali now tries to capitalise on this achievement. For example, the coalition is publicly calling on the government to go through with its promises to publish the audit reports of gold mines commissioned early 2023.

How they did it

- PWYP Mali developed a *long-term* advocacy towards the government, including through the EITI.
 - Advocacy started in 2015, when the coalition published a report showing that the State was losing out in the existing contracts. However, the coalition was attacked and depicted as going against the interests of the State. The coalition decided to focus on *convincing* the decision-makers that contract transparency could lead to *better contracts*, *increase the benefits for communities* and *reduce the risk of conflicts with companies*.
- The coalition had to be extremely proactive towards several government departments to explain that publishing contracts would benefit the State.
 - The coalition also worked with members of Parliament, which was particularly important when the mining code was revised in 2019. After civil society pointed out key measures were missing (including contract transparency) from the first version, the Parliament rejected it. The code was then revised to include the obligation to publish extractive contracts.

Even though it was not immediately implemented, it was an important victory.

- In order to build a large support base for their demand and help various stakeholders identify the *common benefits* they could draw from contract transparency, the coalition put in contact different actors such as the association of tax experts, the media, communities, other CSOs, etc.
- PWYP Mali also chose to focus on some specific contracts, in particular a mine that the government was planning on reopening despite civil society's concerns about its local impacts. The coalition demonstrated that the publication of the contract could help *ease the social tensions* around that project, which was a powerful point for the government.
- Progressively, the coalition succeeded in convincing decision-makers and the idea of making extractive contracts public was politically accepted. In December 2021, the EITI MSG committed to have all extractive contracts published (there were only 13 available at the time).

What they learned

- Obtaining the actual disclosure of extractive contracts is a *very long process*, in which the coalition had to lead the way since the beginning.
- *The EITI can be leveraged* to reinforce such demands:
 - The inclusion of contract transparency in the 2019 Standard reinforced the coalition's advocacy by confirming that it was a reasonable ask, and not something the Malian civil society was using to weaken the government.
 - To some extent, the perspective of the 2022 EITI Validation helped secure results, even though the advocacy had started way before.#
- The support of *partners* is important: The coalition's own partners made it possible to work in the long run and build alliances with other actors. Some of Mali's financial and technical partners played a role. For example, the World Bank occasionally supported the logistics of getting contracts online.
- Finally, the coalition felt that the transitional government in place since 2020 received their message more positively, as they prioritised the mining sector and the defence of Mali's interests.

MONGOLIA

What they do

The coalition works to obtain the implementation of existing legal transparency obligations and the adoption of a law that would gather and reinforce all these requirements.

- Between 2019 and 2021, more than 900 mining sector agreements (including water and land use agreements, agreements with local governments) were published on a governmental [database](#), which was the result of joint efforts by OSF (member of PWYP Mongolia), the EITI and the ministry of mining.
- In May 2021, a law on the transparency of public information was enacted, stipulating that all agreements with local governments are public. The objective is now to pass a strong law to safeguard and improve the existing provisions on participation of local governments and consultation with local communities when licences are issued. In October 2022, the Prime Minister of Mongolia pledged to pass the law.

Their strategy

- The coalition conducted wide *consultations* about the content of two draft laws and obtained that two of its members be *part of the working group on drafting the transparency law*.
- The coalition also works with subnational EITI councils to monitor cooperation agreements between mines and local authorities and assess the impacts of mining. They produce monitoring reports and document gaps in terms of transparency, awareness and participation of local communities.
- Capacity building and experiences about *strategic litigation* cases were shared with coalition members, who found that, even when cases are lost, they are useful to identify what changes are needed.

What they learned

- While *turnover* among ministries' staff is high, it is necessary to constantly try to convince individual decision-makers as each can have different sensibilities. In addition, institutions may have *different approaches*: the ministry of mining was initially in charge of the law but didn't do much. Progress started when the ministry of justice took over and was keener to work with civil society.

- Engaging different actors like foreign diplomatic missions, international CSOs such as GIZ and Transparency International Headquarters turned out to be very useful in influencing the Prime minister.
- There is a need to increase work with communities and subnational EITI councils to help them *use the information* that is published. They plan to train them to monitor local agreements.

TUNISIA

What they do

PWYP Tunisia advocates for the revision of the Hydrocarbons law to include the publication of contracts. They also analyse available contracts to identify compliance issues and missing information.

They also advocate for the publication of other documents which would allow true oversight of the sector, in particular environmental and social impact studies, and the full minutes of the hydrocarbons advisory committee (to ensure transparency of the licensing process).

Their strategy

- A number of contracts have been published since 2016 but there is no legal obligation to do so. The coalition advocates the government that it be included in the Hydrocarbons law.
- They organise meetings with the media and civil society to provide them with the means to understand and oversee the implementation of contractual commitments. In 2019, the coalition published [a report](#) analysing what was available publicly, the comprehensiveness of publications as well as the compliance of permits and contracts with the law.
- The coalition argues that the transparency of payments is necessary to monitor projects and their impacts, and in that perspective, asks that the country completes the process of joining the EITI.

What they learned

- The main concern of the citizens is not transparency (most of them haven't heard about contract transparency), but how to benefit from natural resources revenues and limit undesirable effects.

- Ensuring the implementation of companies' obligations also requires the publication of financial data and on the extent to which obligations are respected.
- CSOs need to continue building their capacities and work in a neutral and professional manner. The challenge is how to make contract transparency a reform tool and a way to combat corruption.

WHAT TRENDS CAN WE OBSERVE?

1. It is a very long process. Advocating and obtaining the disclosure of extractive contracts and documents is a marathon that requires being able to sustain advocacy efforts for long periods of time, continuously engaging with the authorities and explaining why it is necessary and possible. The turnover of staff in the ministries (a common point to almost all countries) can make these efforts repetitive but the examples in Mali and Ukraine also show that the political situation can evolve and create the conditions where these efforts will pay off.
2. It seems necessary - and a strong argument- to constantly explain that the publication of documents is in the interest of the government and the country, and that it is not a threat. Whether it is to convince decision-makers or to gain the trust and support of other stakeholders (such as the companies), it is important to find arguments that speak to our interlocutors and their own interests.
3. There are many possible routes: through the EITI, the OGP, Freedom of Information laws, directly with ministries, involving the public opinion. It seems it pays off to use several approaches at the same time. It allows to use different arguments and to have back-up plans in case some attempts are not successful. In addition, it's important to recognize when one avenue has closed down, or whether it is necessary to create a new one.
4. Laws are necessary but are not the end of the road. Even in countries where contract disclosure is required by law, documents are not necessarily published. However, it doesn't mean that aiming for clear and strong laws is not a key (and probably necessary step). The implementation gap being a constant struggle in the governance of the extractive sector, the adoption of the law may not make documents automatically accessible. In addition, which and how documents are published is fundamental to allow the use of the information, which is the whole point of it.
5. #DisclosetheDeal may mean different things in different countries. While most information about a deal is included in the contract (including in its

annexes) in contract-based systems, it probably is scattered around several documents in a licensing system. This means that the *type* of documents that should be published for transparency and accountability purposes varies greatly from one country to another. In addition, different actors will look for different types of information: while some want to understand the tax deal and how value is shared between the company and the different levels of government, others look for the company's environmental or social obligations.