

Resource Governance Index

2019 Interim Evaluation Report for Guinea (mining)

SUMMARY

This report presents the results and recommendations of an evaluation of mining governance in Guinea in 2017 and 2018, according to the methodology of the Resource Governance Index (RGI). (See Figure 1.)

In comparison to the 2017 edition of the RGI, Guinea gains 12 points with its overall score at 56 out of 100, allowing the country to move to a higher performance band. Many important improvements have taken place in the value realization component, where the rules and practices assessed are mostly under the responsibility of the Ministry of Mines and Geology. The score of this component is situated in the highest performance band due to a significant improvement in each of its subcomponents, especially licensing and governance of the state-owned enterprise SOGUIPAMI, and disaggregated sector data disclosures.

The revenue management component also evolves notably with a score of 52, in comparison to 27 in 2017. The Ministries of Budget, Mines and Geology and Regional Administration can accelerate this positive trend by implementing subnational transfers as part of the National fund for local development (Fonds national de développement local, FNDL) which will benefit all municipalities in Guinea. Concerning the third component, enabling environment, the score decreases slightly.

The 2017 RGI edition revealed a significant gap between the average scores for laws (77) and practices (45) in Guinea. During the evaluation period of this interim report, this gap reduces by 17 points as a result of improved practices.

Figure 1. RGI composite and component scores, Guinea's interim evaluation



INTRODUCTION

The Resource Governance Index (RGI) evaluates how resource rich countries govern their oil, gas and mining sectors, in particular from the perspective of transparency and accountability.¹ The RGI consists of three components: value realization, revenue management and enabling environment, which in turn consist of 14 subcomponents, 51 indicators and 133 questions. In the 2017 edition of the RGI, Guinea received a (revised) score of 44 out of 100.² The 2017 edition assessed the 2015-16 period and covered 81 countries.

In 2019, on an exceptional basis, NRGi has conducted an interim evaluation for Guinea (see Table 1) in order to take stock of reforms implemented by the government of Guinea during 2017-18 and to develop recommendations in a context of rapid growth of the country's mining sector. Between 2016 and 2017, revenues from the extractive sector grew by 46 percent and their contribution to the national budget grew from 25 percent to 32 percent, which places Guinea firmly in the category of resource-rich countries according to the International Monetary Fund's (IMF) classification.³

Table 1. Guinea's RGI score trends between the 2017 edition and 2019 interim evaluation

	2017 score (revised)	2019 score	Trend
RGI COMPOSITE SCORE	44	56	12
VALUE REALIZATION	67	83	16
Licensing	69	77	8
Taxation	64	75	11
Local impact	78	100	22
State-owned enterprises	59	78	19
REVENUE MANAGEMENT	37	52	25
National budgeting	30	80	50
Subnational resource revenue sharing	23	23	0
Sovereign wealth funds	.	.	.
ENABLING ENVIRONMENT	37	35	-2
Voice and accountability	45	46	1
Government efficiency	21	23	2
Regulatory quality	37	33	-4
Rule of law	18	16	-2
Control of corruption	29	28	-1
Stability and absence of violence	57	44	-13
Open data	50	53	3
RULES	77	84	7
PRACTICES	45	69	24
GAP (PRACTICES LESS LAWS)	-32	-15	17

PERFORMANCE BANDS

Good	Scores over 75
Satisfactory	Scores 60-74
Weak	Scores 45-59
Poor	Scores 30-44
Failing	Scores under 30

1 See NRGi. 2017. Resource Governance Index. www.resourcegovernanceindex.org/

2 NRGi. 2017. Resource Governance Index country profile: Guinea mining (revised) api.resourcegovernanceindex.org/system/documents/documents/000/000/187/original/Resource_Governance_Index_updated_Guinea_mining_profile_%28English%29.pdf?1520938021

3 Government of Guinea. 2010. *EITI report for 2017*. www.itie-guinee.org/wp-content/uploads/2019/05/Rapport-ITIE-Guin%C3%A9-2017-version-sign%C3%A9.pdf

The present evaluation has been conducted only for Guinea. As a consequence, the results cannot be compared with other countries included in the 2017 edition. The data collection in Guinea was carried out by the NRG team from October 2018 until the end of the year. The data was then submitted to a detailed review by an independent peer reviewer who submitted their feedback in February 2019, after which final verifications were conducted in March, leading to this publication. The resource assessed in Guinea is bauxite and the state-owned enterprise (SOE) is SOGUIPAMI.

SUMMARY OF INDEX RESULTS FOR GUINEA'S 2019 INTERIM EVALUATION

The following sections analyze the results of Guinea's 2019 interim evaluation for each of the three index components.

Value realization

Licensing was already a strong area for Guinea in the 2017 assessment due to the establishment of the new cadaster procedure in 2016. In the following years, the score for licensing increased by eight points after the Center for promotion of mineral development (Centre de promotion et de développement minier, CPDM) launched an online mining cadaster in 2017. We understand that during 2017 and 2018 Guinea has allocated mining licenses using only the *first come first served* procedure, for which, according to the questions included in the RGI on prequalification of candidates and disclosure of awarded rights, the rules and practices are clear. We encourage CPDM to add the names of the people or companies that own shares in the licenses and the names of license applicants whose requests have been denied to the online cadaster or another publicly accessible platform, preferably online. Otherwise, Guinea is a pioneering country when it comes to contract disclosure, being already compliant with the new Extractive Industries Transparency Initiative (EITI) standard set to enter in force in 2021 requiring contract disclosure.

However, there are still two elements that drive down the licensing score: as provided for in the EITI Standard, the country is committed to disclosing the beneficial owners of extractive companies, but the regulations have not yet been finalized and the 2020 deadline is approaching. Consequently, the disclosure of beneficial owners remains incomplete. Similarly, the disclosure of financial interests of senior officials, as provided for in the mining code, has not yet been implemented. The lack of information about financial interests is common in a number of countries, particularly in Africa, but some African countries are leading the way: Burkina Faso and Uganda disclose the interests of senior officials and Ghana and the Democratic Republic of the Congo already have laws that require the disclosure of beneficial ownership. Another example is Mexico, where officials within the National Commission of Hydrocarbons (CNH) sign declarations even when they do not have financial interests in the sector. These declarations are made public on the CNH website.⁴

With regard to taxation, Guinea's score has increased from 64 to 75, placing the country in the highest performance band. The bulletin of mining statistics published by the Ministry of Mines and Geology since the end of 2018, which contains data about mineral production and exports disaggregated by company, largely explains this change. To improve in this subcomponent, we encourage the Court of audits (Cour des Comptes) to more regularly make public their annual activity reports, including results and opinions of its auditors on the National tax administration (Direction Nationale des Impôts, DNI). Alternatively, we encourage the Ministry of Budget to make public its performance contract with the DNI.⁵ A dozen African countries publish the audit reports from their revenue authorities, including neighbouring Sierra Leone, and Tanzania.^{6,7}

4 See transparencia.cnh.gob.mx/media/2335/alfonso-reyes-pimentel.pdf

5 The Court of audits has published its annual report for 2016 but not for the years evaluated (2017 and 2018). See www.ccomptes.org/wp-content/uploads/2015/12/COUR-DES-COMPTES-RAPPORT-ANNUUEL-2016-PDF-vf.pdf

6 See www.auditservice.gov.sl/reports-2-annual-reports.html. However, Sierra Leone has not yet published its 2017 and 2018 reports.

7 See www.nao.go.tz. Publications from Tanzania are more regular.

Box 1: Towards “systematic disclosure” of mining data for integrated transparency

Rather than waiting for the EITI reports to ensure transparency, the EITI encourages member countries to publish the information required by the standard through integrated mechanisms in public administrations and enterprises. This process is called “systematic disclosure”.⁸ The RGI shows that in Guinea, transparency in the mining sector is less and less dependent on the publication of EITI reports. However, for the period of this evaluation, 2017-2018, for 11 questions concerning exports, payments by mining companies, revenue received from state-owned enterprises by the Treasury, and beneficial ownership, the 2016 EITI report is the primary or only source of information. An online portal with sector statistics with data in machine-readable format would help Guinea to implement the new EITI requirements and make progress on systematic disclosure and integrated transparency.⁹

The local impact score has increased and is now 100. It has been possible to verify public access to environmental and social impact assessments (ESIA), which include Environmental and Social Management Plans (ESMP) at the Guinean Bureau for Environmental Studies and Evaluations (Bureau Guinéen d’Etudes et Evaluations Environnementales, BGEEE), unlike during the 2017 assessment. One recommendation is to publish ESIA and ESMP online, for example on the mining contracts site: contratsminiersguinee.org, or on the BGEEE, as in Zambia.¹⁰ Although the environmental code in force in Guinea when this evaluation was carried out does establish some penalties for non-compliance with requirements relating to mining sites, completion of the update to the environmental code and the general guide for completing ESIA could strengthen the legal framework on ESIA and ESMP. In order to strengthen the RGI methodology on governance in relation to social and environmental impacts of extractive activities, NNGI has collected additional information on local impacts. Our observations are summarized in Box 2 but they have not been taken into account in the calculation of Guinea’s 2019 RGI score.

Box 2: Additional data on local impact

Guinea’s mining code contains strong provisions (Art 124 and 142) with regard to the protection of landowners and land-users when the development of a project interferes with people’s livelihoods. For example, there are provisions on compensation for people affected by disturbance of their use of land, as well as on the resettlement of displaced persons. However, these rules must be supplemented with regulations which are still being drafted.

The ongoing review of the environmental code and the general guide on ESIA is a good opportunity to align national practices and standards with international ones. The latter recommend free, prior and informed consent, full compensation for relocation costs, support for the restoration of livelihoods, the right to appeal decisions relating to compensation, the monitoring of negative impacts, specifically those suffered by women, and respect for indigenous rights, for which Guinea voted in favour by adopting the UN Convention of 2007, but it has not yet integrated this into the national legislation.

In addition, making resettlement action plans, reports of inspections carried out by the environmental and mining authorities, as well as penalties arising as a result against non-compliant companies available to the public would facilitate the monitoring of social and environmental impacts by communities and civil society, and would be a good way to anticipate conflicts and build greater trust between stakeholders.

The most notable development in this evaluation concerns the governance of the state-owned enterprise SOGUIPAMI. The score grows from 59 to 78, thus placing it in the highest performance band in terms of governance and transparency. This improvement is explained in part by the inclusion, during the evaluation period, of SOGUIPAMI in the EITI report, allowing the disclosure of revenues collected by the Treasury from investment management operations conducted by the company on behalf of the State. In addition, the 2017 audited annual report of SOGUIPAMI is published on their website, and is more detailed than previous reports in particular with

8 eiti.org/fr/divulgation-systematique

9 Examples of portals include Colombia with the Sistema de Información de Petróleo y Gas Colombiano (SIPG): www.upme.gov.co/generadorconsultas/Consulta_Series.aspx?idModulo=3&tipoSerie=138; and in India at data.gov.in: data.gov.in/resources/production-petroleum-products-2010-11-2016-17

10 In Zambia, EIES are published by the Environmental Management Agency, the equivalent of the BGEEE: www.zema.org.zm/index.php/publications/eia-reports

regard to the sale of part of the bauxite produced by Compagnie des bauxites de Guinée (CBG), and in particular with regard to the volume and dates of each sale. That being said, while SOGUIPAMI's interests in mining projects and revenues from these interests have been published in this report in detail, the costs incurred by the company in connection with these interests were published in an aggregated manner. Good practice would be to publish this information project by project.

In the future, as SOGUIPAMI's commercialization activities may increase and expand beyond CBG, the drafting and publication of specific rules governing the sale of mining products (price setting, choice of partners and buyers), beyond the initial agreement with its partner DADCO, will be advisable. The EITI Standard provides a reference in terms of which types of rules and which data to disclose.¹¹ For this purpose, we understand that SOGUIPAMI is already working to structure its trading activities with the support of the African Development Bank. In addition, as the promotional activities of SOGUIPAMI on licenses belonging to the State have multiplied during the evaluation period, it would be appropriate to further clarify the process of selecting a technical partner for a project company obtaining an operating permit, under Article 19 of the mining code.¹² Another procedure to develop in the long term, in connection with the expansion of SOGUIPAMI's business activities, relates to the rules for income transfer from SOGUIPAMI to the public Treasury, but we understand that this is not necessary at this stage, since the Treasury currently collects revenue directly from the state-owned enterprise.

Furthermore, SOGUIPAMI may consider establishing a Board of Directors that is independent from the government, which is an emerging good practice including in African countries such as Ghana, with the Ghana National Petroleum Corporation (GNPC). In addition, we understand that SOGUIPAMI has developed a code of conduct which, after it is adopted, should be available online. Lastly, the oversight of SOGUIPAMI by the Presidency of the Republic that was decided at the end of April 2019 must not inhibit the state-owned enterprise in its development of practices and high standards of governance, which will secure its position among the best-governed state-owned enterprises in the field in Africa.

Beyond SOGUIPAMI, which is the state-owned enterprise that is taken into account in this evaluation in Guinea, it is important, as underlined in February 2019 in the Decision of Guinea's EITI Validation, that the government and other stakeholders in the sector work to strengthen the practices and standards of governance and transparency within the National Agency for the Development of Mining Infrastructure (Agence nationale d'aménagement des infrastructures minières, ANAIM). ANAIM's activities extend beyond the mining sector and its revenues are ten times higher compared to SOGUIPAMI. In this context, the inclusion of the ANAIM in the EITI Report, since the 2016 edition, seems promising.

Revenue management

Developments on transparency and fiscal control contribute to the score of 80 out of 100 for national budgeting, while the last indicator under that subcomponent, online data portal, remains unchanged. The budgetary process has taken a more transparent direction as a result of the good disclosure practices by the Ministries of Budget, and Economy and Finance. The 2018 Finance Act and the report on the execution of the 2017 budget contain information about past and projected revenue from the extractive sector.¹³

Research has also shown that Guinea is a signatory to the Macroeconomic Stability and Convergence Pact of the Economic Community of West African States (ECOWAS), which establishes convergence criteria to prepare member countries for a monetary union from 2020.¹⁴ Two of these criteria are considered as budgetary rules since they are the numerical multi-year rules to control public debt, expenditure, revenue, and the budget deficit or

11 See eiti.org/fr/document/exigences-norme-itie-2016

12 This point has not been taken into account in the evaluation. It is reported here as a lesson in good practice to explore, to anticipate governance risks related to the expansion of the company's promotional activities.

13 See Report on the execution of the budget end of June 2018 on the website of the Ministry of Budget www.mbudget.gov.gn/wp-content/uploads/2018/10/Rapport-d'exécution-budgétaire-fin-juin-2018.pdf and the 2018 Finance Act on the website of the Ministry of the Economy and Finance www.mef.gov.gn/decret-d-2017-343-prg-sgg-portant-promulgation-de-la-loi-l-2017-059-an-du-12-decembre-2017/

14 ECOWAS. 2015. Additional Act A/SA.01/12/15 amending Additional Act A/SA./4/06/12 on the Macroeconomic Stability and Convergence Pact of ECOWAS Member States.

balance. The progress of member countries towards convergence is monitored by ECOWAS as well as a National Coordination Commission. According to statistics published by the Ministry of Economy and Finance, Guinea has made satisfactory progress with regard to five of the six criteria, including the two concerning fiscal rules.¹⁵

Recent experiences in several countries have demonstrated that fiscal rules are useful for countries with an expanding mining sector such as Guinea's, to anticipate future periods of trend reversal.¹⁶ However, research indicates that the majority of African countries do not comply with their fiscal rules, in particular regional rules where control seems less effective, which leads to a recommendation to monitor rules at the national level. To enable public awareness about macroeconomic discipline and the progress Guinea has made, we recommend publishing the legal framework of the rules and the progress reports on the website of the Ministry of the Economy and Finance or of the Ministry of Budget.

With regard to subnational transfers, the RGI takes into consideration in all its evaluations transfers from the central State to federated States or local authorities. In Guinea, this means levies provided for in Article 165 of the mining code to finance the National Fund for Local Development (Fonds national de développement local, FNDL). In 2016, according to data from the EITI Report, these transfers would have represented 61% of total mining revenue levied by local authorities if these had been implemented. In 2018, the signature of the decree for the application of Article 165 of the mining code and the establishment of a budget with special allocation for the FNDL in the 2019 Finance Act represented progress towards the implementation of subnational transfers. We encourage the government to finalize and publish the FNDL procedural manual in order to enforce the mechanism for the benefit of local authorities, and to audit transactions in due course.

Guinea's mining code provides for two other mechanisms for mobilization of extractive resources at the subnational level: the Local and Economic Development Fund (Fonds de développement économique et local, FODEL) and surface tax (redevance superficière) We have used the questions from the RGI to evaluate the level of transparency and governance of these two mechanisms, without including them in the calculation of the score (See Box 3).

Box 3: Transparency and governance of mineral revenue management at the local level

The rules and formulas for calculating the amounts to be paid by companies to local authorities according to FODEL and for the surface tax appear clear. In the past, the contributions to local development paid to FODEL has been implemented by mining companies on a contractual basis, and payments are disclosed in EITI reports.

In the future, and especially since the contributions will become more significant from 2019 in terms of the number of companies and the value of payments, it would be good practice for the government to disclose these contributions annually, as provided for in the FODEL regulations (see Article 5 of the 2018 FODEL Decree), without waiting for the EITI reports and auditing the flows annually. The same recommendation applies to the collection of the surface tax.

The Ministry of Mines and Geology should also publish all legal texts relating to subnational payments online, such as Ministerial Decision 0021/MATD/CAB/DNDL/SGG/2013 on the distribution and management of the surface tax and the FODEL Procedural Manual.

15 Ministry of Economy and Finance. 2018. Indicateurs Economiques et Financiers. <http://www.mef.gov.gn/wp-content/uploads/2018/12/ppaux-indicateurs-Dec-2018.pdf>. Also the most recent convergence report covering 2017 and first half of 2018 show this progress, but it is not available online and was published in 2019, outside the evaluation period of this research. ECOWAS Report on Macroeconomic Convergence for Q1 2018.

16 David Mihalyi, NRGi, 2018. How did fiscal rules hold up in the commodity price crash? resourcegovernance.org/analysis-tools/publications/how-did-fiscal-rules-hold-commodity-price-crash

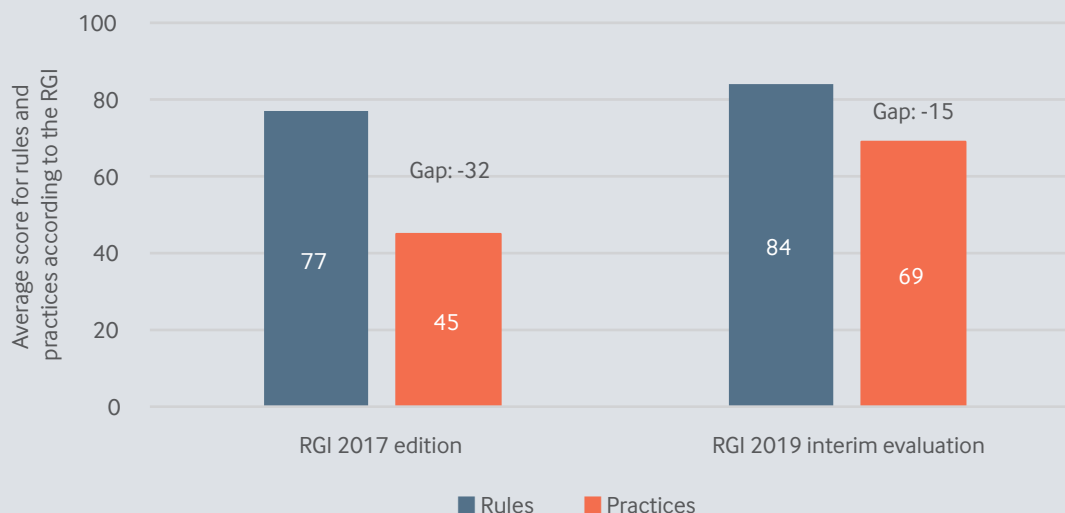
The sovereign wealth funds subcomponent remains inapplicable since such an institution does not yet exist in Guinea.

Box 4. Gap between law and practice

The gap between rules and practices, which is a major governance challenge that Guinea shares with several other countries in the region, has decreased from 32 to 15 points. This shows substantial progress in the application of extractive governance legislation. (See Figure 2.)¹⁷

With the implementation in 2019 of the rules for subnational payments and transfers, where the difference is still large, Guinea can consolidate its progress toward good governance in both rules and practices, an essential step to generate lasting positive results in the sector for the benefit of all Guineans.

Figure 2. Trend of the gap between rules and practices in Guinea according to the RGI



Enabling environment

The score of the last component, enabling environment, which is based on Worldwide Governance Indicators and a measure of open data, decreases from 37 to 35.^{18, 19} The short-term decrease between the 2017 and 2019 RGI reports is mainly a result of a decrease in the stability and absence of violence criterion. The scores of the other sub-components, such as voice and accountability and open data are improving.

To calculate the scores in this component, NNGI collects data from these external and public sources and converts them into scores between 0 and 100 for the 81 countries included in the RGI by using a “percentile rank” method.²⁰ In general, the Worldwide Governance Indicators are more relevant for analysis of long-term trends. By compiling the data for Guinea over the last ten years, there is an overall positive trend.

17 For more information on the difference between rules and practices in Africa, see report www.resourcegovernance.org/analysis-tools/publications/indice-de-gouvernance-des-ressources-naturelles-afrique-subsaharienne

18 World Bank, *Worldwide Governance Indicators* (2018), info.worldbank.org/governance/wgi/

19 Open Data Watch, *Open Data Inventory* (2017), odin.opendatawatch.com/

20 For a full description of the methodology, see the RGI methodological note. www.resourcegovernanceindex.org/about/methodology

RECOMMENDATIONS

In order to continue its promising trajectory in terms of resource governance, NRGi encourages the government of Guinea and other sector stakeholders to pursue the following reforms.

Value realization

- CPDM to add to the cadaster portal the names of the companies that own shares in mining titles and the names of the applicants whose requests have not been successful.
- Ministry of Mines and Geology and Guinea EITI to publish sector data and statistics, at regular intervals, and in machine-readable format.
- Ministry of Mines and Geology and to the Guinea EITI secretariat, to finalize and adopt the regulations on beneficial ownership.
- Government to disclose the financial interests of senior officials in mining permits, as well as the absence of financial interests.
- The court of audits of Guinea to publish annual activity reports, at regular intervals, containing the audit results of the National tax administration (DNI), or the Ministry of Budget to publish the performance contract with the DNI.
- Ministry of the Environment and the Guinean Bureau for Environmental Studies and Evaluations (BGEEE), to update the environmental code and the General Guide for ESIA realization, by making them consistent with mining legislation, and by aligning them with international social and environmental safeguarding standards; to explicitly make the publication of ESIA and ESMP mandatory; to publish ESIA and ESMP online, as well as on paper.
- SOGUIPAMI to publish its costs in joint operations, project by project, to update the procedure on the sale of mining products on behalf of the State, and to publish the code of conduct; to maintain its high standards of transparency and accountability, regardless of the guardianship.

Revenue management

- Ministries of Mines and Geology, of Budget, and of Territorial Administration and Decentralization, and Guinea EITI, to accelerate the implementation of the FNDL, to publish the amounts transferred to local entities and to ensure, when applicable, a regular audit of revenue flows.
- Ministry of the Economy and of Finance and the Ministry of Budget to publish the ECOWAS Acts that stipulate the macroeconomic convergence criteria and any national laws that adopt these rules, as well as related progress reports, on their websites.
- Ministry of Budget to consider formulating national numerical fiscal rules that set targets for management of mining revenues.
- Ministry of Mines and Geology to create an online portal with statistical data on mining activities, which can be downloaded in a machine-readable format.

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