

ANNUAL EITI PROGRESS REPORT 2015

Contents

- Information on the reporting country3
- Introduction 4
- Foreword 6
- 1. General assessment of the year’s performance7
- 2. Assessment of performance against targets and activities set out in the Work Plan18
- 3. Assessment of performance against EITI requirements.....19
- 4. Overview of the multi-stakeholder group’s responses to the recommendations on reconciliation and validation 21
- 5. Any specific strengths or weaknesses identified in the EITI process 21
- 6. Total costs of implementation..... 23
- 7. Any additional comments 23
- 8. Has this activity report been discussed beyond the MSG? 23
- 9. Details of membership of the MSG during the period 24

- Annex 1 Work Plan Progress 2015
- Annex 2 Progress 2015 EITI Requirement 1.4.a Review of innovative approaches

Information on the reporting country

	Federal Republic of Germany
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Introduction

The international “Extractive Industries Transparency Initiative” – EITI – was founded in 2003. Today it is a global initiative for financial transparency and accountability in the extractive sector. EITI is globally supported by a growing number of governments and numerous companies and NGOs.

At the G8 Summit held in June 2013 in Lough Erne, Northern Ireland, the German government announced that it would test EITI in a pilot region, with a view to Germany possibly joining the initiative. In the context of the preparations for the pilot project, the German Federal Government decided to fully implement the EITI at the level of other states already implementing it.

On the 2nd of July 2014, the Federal Cabinet formally decided to launch the Candidature of Germany to join the EITI. The public announcement of this decision, coupled with the appointment of a special representative and the declaration of intent to use a multi-stakeholder group (MSG) for the process took place on the same day. Uwe Beckmeyer, the Parliamentary State Secretary at the Federal Ministry of Economic Affairs and Energy (BMWi) was appointed Special Representative of the Federal Government for the implementation of EITI in Germany (D-EITI).

In November 2014, an inaugural event in preparation for the German EITI Candidature took place in Berlin. This was the D-EITI Transparency Summit Conference, the aim of which was to inform interested stakeholders and the general public about the process and to promote commitment to it within the framework of the MSG. The inaugural meeting of the German MSG took place on March 10, 2015 on the premises of the BMWi. The three stakeholder groups, government, business and civil society, each appointed five representatives (plus five alternates) to the MSG in independent processes.

In its meeting of 10.06.2015, the D-EITI MSG adopted the following goals for the implementation of the EITI in Germany:

We, the Multi-Stakeholder Group, commit to the principles set forth in the EITI Standard 2013 by setting ourselves the following objectives with respect to EITI implementation in Germany in which we undertake to:

1. Produce timely reports that are understandable and accessible to the general public and based on a transparent, open and innovative EITI process in Germany.
2. Process contextual information concerning the German extractive sector, with a view to promoting a broad debate on resource policy that includes aspects of sustainability (economic, environmental, and social).
3. Engage in understandable, commensurate and increasingly comprehensive reporting to the general public in compliance with the EITI Standard and in harmony with the EU Accounting and Transparency Directives. Concomitantly, additional value shall be generated.
4. Contribute to the further development of the EITI Standard and its implementation and acceptance as a de-facto global standard, to support the global striving for transparency and accountability as well as the fight against corruption in the extractive sector.

5. Share experience from the multi-stakeholder process, in particular with respect to participatory democracy, citizen engagement and knowledge transfer, and also with regard to EITI implementation in a federal state.
6. Substantially enhance Germany's credibility as regards its political and financial support for EITI.
7. Ensure ongoing implementation of the D-EITI with the intended multi-stakeholder model while building capacity for broad-scale public debate.

The D-EITI MSG created a common, goals-based Work Plan during the ongoing preparatory process for Germany's Candidature. This Work Plan, part of the German Candidature Application, was submitted to the International Secretariat of the EITI on December 22, 2015. Germany's Candidature was approved by the EITI Board on 23.02.2016.

Foreword

I am delighted to be able to present to you today the first German Progress Report on the Implementation of the Extractive Industries Transparency Initiative (EITI) in Germany (D-EITI). The report provides an overview of the activities of the multi-stakeholder group (MSG) of the D-EITI and the D-EITI Secretariat for 2015.

With the founding of the MSG at the beginning of the year and the development and ultimate submission of the candidacy application in late December, 2015 was a year which was devoted to the preparation of the German EITI candidacy for the D-EITI – and this preparatory work was brought to a successful conclusion with the adoption of the candidacy by the EITI Board on 23 February 2016. This success was mainly founded on the constructive and goal-oriented dialogue process that characterised the meetings of the MSG from the outset. The dialogue process also formed the basis for the adoption of the common goals, the Work Plan and the candidacy application, so I am confident that the pending tasks and challenges involved in the preparation of the relevant reports will also be discussed and managed successfully.

With regard to this review, it is important to note that the implementation of the EITI in Germany is not simply regarded as a mere formality by those who are involved. The commonly-agreed goals, the self-set tasks in the Work Plan and the results to date all illustrate the aspiration to create real added value with the D-EITI – value for the extractive industry in Germany and for the international implementation and further development of the EITI. As Chairman of the MSG, I welcome this goal and I will work to ensure that its implementation continues to be successful.

Against the background of all that has already been achieved, I would like to thank all the members and deputy members of the MSG for their personal commitment and all the participating organisations and institutions for their support of the process. On behalf of the entire D-EITI, I would also like to express my deepest gratitude to the International Secretariat and to our international partners for their advice, their excellent cooperation and for the mutual exchange of information.

In this spirit, I hope that 2016 will also bring the success of 2015 for all the participants in the EITI and the D-EITI.

Yours sincerely,

Dr. Wolfgang Scheremet

Chairman of the D-EITI MSG

Federal Ministry for Economic Affairs and Energy (BMWi)

1. General assessment of the year's performance

No Work Plan adopted by the MSG was available for 2015; this was only adopted on 11.09.2015 at the 4th meeting of the MSG. The basis for the implementation of the D-EITI activities up to the adoption of the Work Plan was the D-EITI schedule adopted at the 1st MSG meeting.

This schedule included a list of all the milestones necessary for the submission of the Candidature Application and the preparatory stages. A deadline for the scheduled implementation was fixed for each milestone and preparation stage. The objective behind the schedule was to specify a mutually-agreed timeframe for the work of the MSG and the support provided by the D-EITI Secretariat. The long-term planning and scheduling of the activities and MSG meetings ensured a reasonable timeframe for preparation and coordination with the relevant stakeholders. The aim of the schedule and the setting of the milestones was to prepare a successful Candidature Application for the mutually-agreed deadline of 30.11.2015.

Section I of this chapter describes the preparation of the Candidature as the main activity, based on the Requirements. Section II briefly outlines the activities in the field of the international exchange of information. Links with the goals of the Work Plan are omitted for the reasons mentioned above.

- **Preparing for the Candidature**

D-EITI activities in 2015 focused on the preparation and submission of the Candidature. The preparation of the Candidature requires that the steps for joining be completed in accordance with the EITI Standard (EITI Standard 2013, Requirements 1.1 - 1.4.).

The following steps were already completed in 2014 (cf. Candidature Application of the D-EITI):

- The government is required to issue an unequivocal public statement of its intention to implement the EITI.
- The government is required to appoint a senior individual to lead the implementation of the EITI.

The activities to implement steps 1.3 and 1.4 are described below.

Requirement 1.3. The government is required work with civil society and companies, and to establish a multi-stakeholder group (MSG) to monitor the implementation of the EITI.

Setting up the MSG

In July 2014, immediately following the public statement issued by the German government, the BMWi organised Round Tables for German civil society and German industry, in order to inform them about the D-EITI process and to call on them to participate in the MSG. The Transparency Summit, the inaugural event for all interested stakeholders, was also arranged for November 2014 in Berlin. Most of the process of informing and inviting stakeholders from business and civil society had already taken place in 2014 and was consequently completed at the beginning of 2015. The process is described in greater detail in the Candidature Application.

Both stakeholder groups subsequently mandated their MSG representatives. As part of an independent process, industry and civil society appointed coordinators, who act as contact persons for actors interested in the D-EITI process. The details of the coordinators are available on the website of the D-EITI Secretariat. An invitation to become involved in the process and information on how to contact the MSG can still be found on the D-EITI Secretariat website.

Appointment of members and composition of the MSG

The constituent meeting of the German MSG was held on 10 March 2015 on the premises of the German Federal Ministry for Economic Affairs and Energy (BMWi). In independent processes, each of the three stakeholder groups appointed five representatives (and five alternates) to the MSG.

In addition to this, State Secretary Beckmeyer officially appointed the members of the MSG by a letter of appointment. A press release issued by the BMWi announced the establishment of the German MSG.

The following members were appointed:

Government representatives

MSG Member	Acting Representative
Dr. Wolfgang Scheremet, Head of the Department BMWi	Dr. Sonja Eisenberg, Consultant BMWi
Dr. Rüdiger von Kleist, Head of Unit Federal Ministry of Finance (BMF)	Dr. Christian Schleithoff, Head of Unit Federal Ministry of Finance (BMF)
Friedrich Wilhelm Wagner, Head of Department Arnsberg District Government Federal-State Committee on Mining	Dr. Klaus Freytag, President Brandenburg State Agency for Mining, Geology & Raw Materials

Norbert Conrad	Thomas Bode
Lower Saxony Ministry of Economics, Labour and Transport	Thuringian Ministry of Environment, Energy and Nature Conservation
Torsten Falk	Petra Jost
Hessian Ministry of Finance	Lower Saxony Ministry of Finance

The government stakeholder group of the MSG was constituted in the above-mentioned Federation-Lander Working Group on D-EITI. The five MSG members and their alternates were selected by unanimous decision. Since most revenue from the extractive sector in Germany is generated in the *Lander* and municipalities, *Lander* ministries and authorities responsible for fiscal and mining matters were accorded the three of five seats on the government side. The government side is thus represented by high-ranking government representatives (BMWi and BMF) and by the *Lander*.

Business representatives

MSG Member	Acting Representative
Matthias Wachter, Head of Department	Dr. Katja Frey, Head of Unit
BDI e.V. (Federation of German Industries)	DIHK (Association of German Chambers of Industry and Commerce e.V.)
Britta Sadoun, Senior Head of Unit, Sustainability Management	Hans-Jürgen Müller, Head of main municipal offices
K + S Aktiengesellschaft (public limited company)	K + S Aktiengesellschaft (public limited company)
Dr. Martin Wedig, CEO	Kay Stelter
Vereinigung Rohstoffe und Bergbau e.V. (VRB) (German Commodities and Mining Federation)	Deutscher Braunkohlen-Industrie-Verein e.V. (DEBRIV) (Federal German Association of Lignite Producing Companies)
Michael Basten, CEO	Christian Haeser, CEO
Bundesverband Baustoffe - Steine und Erden e.V. (BBS) (German Building Materials Association)	Bundesverband Mineralische Rohstoffe e.V. (MIRO) (German Association of the Minerals Industry))

Dr. Marc Peter Muff, Director Wintershall Holding GmbH	Ludger Radermacher, Deputy Head of the Berlin representation Wintershall Holding GmbH
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For the industry side, the BDI and the DIHK organised the consultation process with the private sector. The BDI is the umbrella organisation of German industries and represents 36 member associations, with a combined membership of over 100,000 private businesses. The DIHK is also an umbrella organisation, and represents 80 German chambers of commerce and industry, which together have more than 3.6 million member companies of every size, from every branch of industry and every region. German industry is now represented in the MSG by umbrella associations and sector associations of the German extractive sector, and directly by extractive companies.

Civil society representatives

MSG Member	Acting Representative
Prof. Dr. Edda Müller, Chairwoman	Dr. Tobias Hecht, Consultant
Transparency International Deutschland e.V. (TI)	Transparency International Deutschland e.V. (TI)
Dr. Ralf Bartels, Head of Department Industriegewerkschaft Bergbau, Chemie, Energie (Mining, Chemical and Energy Industrial Trade Union (IG BCE))	Michael Linnartz, Director IG BCE Liaison Office Berlin
Jürgen Maier, Managing Director Forum Umwelt und Entwicklung (Forum on Environment and Development)	Cathrin Klenck, Consultant Forum Umwelt und Entwicklung
Daniel Dietrich, Chairman Open Knowledge Foundation Deutschland e.V.	Kristina Klein, Managing Director Open Knowledge Foundation Deutschland e.V.
Damian Ludewig, Managing Director Forum Ökologisch-Soziale Marktwirtschaft e.V. (FÖS, Green Budget Germany)	Swantje Küchler, Head of Energy Policy Forum Ökologisch-Soziale Marktwirtschaft e.V. (FÖS, Green Budget Germany)

On the civil society side, organisations and networks active in the fields of transparency, accountability, open government and open data, the environment, development, as well as labour and social affairs are members of the MSG. Some important criteria when selecting members were to ensure that civil society interests were as well represented as possible, and that representatives were able to provide competent technical and sector-specific support in the fields relevant for the EITI.

The following personnel changes took place in the MSG during 2015:

- Walter Palmetshofer (Open Knowledge Foundation Deutschland e.V.) succeeded Kristina Klein as a deputy civil society member.
- Sylvia Schwab (Transparency International Germany e.V.) succeeded Dr. Tobias Hecht as a deputy civil society member.

Financing of civil society in the MSG

With the goal of ensuring the active, equal and well-informed participation of civil society organisations in the D-EITI process, the civil society organisations involved in the MSG receive support from the D-EITI Secretariat, totalling EUR 140,000 in grants for 2015 to help them develop the capacities required. The scope and the background of the financing, the continuation of which is also planned for the year 2016, are made transparent on the website of the D-EITI.

Please refer to Chapter 5 for the background of the support.

Organising the MSG

At its first meeting, the MSG adopted the Terms of Reference of the D-EITI Secretariat and the MSG Rules of Procedure.

The Federal Government established the D-EITI National Secretariat, based in Berlin, in order to ensure the effective implementation of EITI in Germany. The D-EITI Secretariat is conceived of as an impartial service provider to the multi-stakeholder group (MSG), the governance body for the EITI in Germany. It is equally dedicated to all three stakeholder groups which make up the MSG, in correspondence with the principle of equal participation on which the multi-stakeholder character of EITI is based. The Secretariat will report directly to Uwe Beckmeyer, Parliamentary State Secretary at the German Federal Ministry for Economic Affairs and Energy (BMW) and special representative for the implementation of EITI in Germany (EITI Champion). The Secretariat will be hosted by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, which has a wealth of relevant experience based on almost 10 years of supporting EITI processes in dozens of countries worldwide. The Secretariat has the following principal tasks:

- The Secretariat will be responsible for the D-EITI's day-to-day business, and is intended to ensure that the work of the MSG and its task forces proceeds smoothly.
- The Secretariat will provide organisational support to the MSG, in order to ensure that decisions are implemented on schedule.

- The Secretariat will assist the MSG in maintaining a dialogue with stakeholder groups, as well as the general public.

The MSG defined the following goals for itself in its Rules of Procedure:

“to ensure that the EITI Standard is fully implemented in Germany in an innovative and efficient manner in accordance with the EITI Principles, thereby making a positive contribution to the EITI’s development and rollout while strengthening transparency and dialogue in the German raw materials sector. Through respectful and constructive cooperation based on trust and equality within the Multi-Stakeholder Group (MSG), we are aiming for success in the joint governance of the D-EITI and wish to establish this form of cooperation as a model of good practice.”

The tasks of the MSG are summarised in the Rules of Procedure as follows:

- The MSG shall be responsible for the governance of the D-EITI with the initial aim of enabling Germany to meet its objective of gaining candidature, followed by compliance with EITI. The MSG shall be responsible for decision-making on the direction, implementation, monitoring, evaluation and development of the D-EITI process and shall ensure that the D-EITI contributes to an informed public debate about the extractive sector in Germany.
- The MSG shall be jointly responsible for ensuring that the views and interests of the various constituencies are taken into account in the direction and implementation of the D-EITI.
- The MSG members shall be representative of the three constituencies, comprising government, extractive industry companies and civil society, and must consult regularly with these constituencies in a manner which is clear and comprehensible and achieves transparent results. In order to perform this task, the MSG members shall report and provide full and reliable information to their respective constituency.
- Specifically, and with reference to the EITI Standard of 11 July 2013, the MSG’s responsibilities shall be to:
 - prepare the application for EITI candidature
 - define the scope, depth and format of EITI reporting in Germany and involve the agencies responsible for implementation
 - support the development and approval of the Terms of Reference for an independent Administrator
 - approve the D-EITI reports and produce the MSG’s Annual Activity Reports
 - oversee the D-EITI reporting process and support validation
 - develop, apply, undertake annual reviews of and update a fully costed national Work Plan
 - develop and apply a communications strategy.
- The MSG shall report to the German Government as and when appropriate and neces-

sary.

Meetings of the MSG

MSG meetings are held on the premises of the BMWi in Berlin. Despite the option specified in the Rules of Procedure that video conference methods may be used to attend meetings, MSG members and deputy members were personally present at all 2015 meetings.

11 of the 30 MSG members and alternates were not resident in Berlin and therefore had to travel to the MSG meetings. The scheduling of meetings was done in such a way that those who had to travel to the city could also attend. Travel expenses for meetings are reimbursed by the D-EITI Secretariat, which also reimburses invited experts, professionals and guests for their travel expenses and all other relevant costs.

The MSG members and deputy members each received three proposed meeting dates from the chair after the inaugural meeting in 2015. A date was set on which most of the MSG members and deputy members were available. The issue of securing a quorum for decisions was also addressed at the same time.

The agenda, the meeting documentation and the documents which still have to be voted upon are sent by the Secretariat. On the D-EITI Secretariat's website, an internal area was set up in which all external and internal documents of the recent MSG process were made available for MSG members and deputy members at all times.

The Secretariat also intended to make further information available on the website for the MSG.

Protocols and results of all meetings will be publicly available on the website of the D-EITI Secretariat.

More details on

- the internal voting mechanisms of the stakeholder groups
- the dissemination of the results of the D-EITI process via the MSG
- the technical and financial support of individual stakeholder groups

can be found in the Candidature Application of the D-EITI.

Requirement 1.4. The multi-stakeholder group is required to maintain a current Work Plan, fully costed and aligned with the reporting and validation deadlines specified by the EITI Board.

Adoption of the D-EITI goals

At its first meeting in March 2015, the MSG took a consensual decision that the individual stakeholder groups should draw up their comments on the objectives and scope of the D-EITI, as

the first step in the elaboration of the workplan. These comments were then to be discussed at the following MSG meetings. To facilitate the work of the MSG, the D-EITI Secretariat had a comprehensive scoping study conducted by PricewaterhouseCoopers (PwC). This study was to lay out recommendations for the scope of the D-EITI, and provide a foundation on which the MSG could draw up its workplan. Once the individual stakeholder groups had independently produced their own comments and submitted these to the MSG, the MSG set up a working group to draw up recommendations regarding the objectives and scope of the D-EITI. At two meetings in May and June 2015, the working group worked out a list of possible objectives for the D-EITI based on the comments submitted by the different stakeholder groups.

The objectives were closely aligned with the EITI Principles (EITI Standard 2013). In particular Principles 4 (public understanding of government revenues and expenditure could help public debate), 5 and 9 (encouraging high standards of transparency and accountability), and 12 (the multi-stakeholder approach) were directly taken into account when drafting the objectives. The objectives were also closely aligned to the national priorities of the German government in the natural resource sector.

At a second meeting on 10 June 2015, the MSG discussed and adopted the following seven objectives of the D-EITI (English) based on the recommendations of the working group; they were immediately published on the website of the D-EITI Secretariat. All stakeholders' publications adopting the goals are permanently linked to the website of the Secretariat, as are basically all articles pertaining to the D-EITI.

Resolutions on the scope of D-EITI reporting

At its meetings on 10 June, 9 September and 9 November 2015, the MSG discussed and adopted the following aspects of the scope of German EITI reporting. Material resources to be covered by the reconciliation report and the contextual information of the D-EITI report are as follows: oil, natural gas, potash and salts, quarrying (stone and earth), lignite. Germany's coal mining, which is to be phased out by 2018, is a special case. It is subsidised by the government, which means that it does not generate payments to the state. This will be explained in the contextual information for the D-EITI report. As things stand, the MSG assumes that so-called industrial minerals and metals will essentially be covered by the reporting of the extractive industries sectors laid out above. Should it emerge in the course of reporting in line with the EU Accounting Directive and the German Law to Implement the Accounting Directive (BilRUG) (see below), that, contrary to expectations, companies operating in these two sectors do in fact fall within the scope of the D-EITI, the MSG shall discuss the option of including relevant companies as of the second D-EITI report. The federal structure of the Federal Republic of Germany will be a crucial factor in D-EITI reporting. It is reflected in particular in the division of responsibilities in terms of setting and collecting taxes and royalties.

Material revenue streams that will be covered by D-EITI reporting are corporation tax (Körperschaftsteuer), and the extractive-industries-specific mining royalties (Forderabgaben) and acreage fees (Feldesabgaben). In Germany, corporation tax is collected by the tax office (Finanzamt) in the federal state in which the head office of the company is situated. The mining

authorities of the individual federal states are responsible for collecting mining royalties and acreage fees. Other important payments are made to the state within the framework of trade tax (Gewerbsteuer), which is levied at the municipal level. At its meeting on 9 September 2015, the MSG decided to have an expert report drawn up to identify the challenges entailed in including trade tax in reporting. A final decision regarding the way taxes are to be included in the scope of reporting is to be taken after thorough consideration of the report and the work of a relevant MSG working group. How to deal with consumption taxes, i.e. electricity and energy taxes, which are paid by companies in every sector in Germany and not only by the extractive sector to the Federal Customs Administration, is to be noted in the MSG workplan as a matter needing further discussion. This also regards the presentation of subsidies and tax reliefs, and the way of addressing trade tax.

The MSG agreed on a materiality threshold for the payments to be disclosed of EUR 100,000. To bring reporting into line with EU requirements, the provisions of the EU Accounting Directive (implemented in Germany through the Bilanzrichtlinien-Umsetzungsgesetz - BilRUG) are to be used to identify which companies will be required to report. According to these provisions, companies that meet two of the following three criteria over a period of two years will be required to report: 1. balance sheet total of at least EUR 20 million, 2. net turnover of at least EUR 40 million, 3. average number of employees during the financial year of at least 250. In addition, all publicly traded companies, especially stock exchange listed companies, will be included. The aim of this measure is, following the logic of the directive, to minimise the workload on small and medium-sized companies imposed by the duty to report. However, the MSG assumes that a rate of coverage of the sectors relevant for D-EITI will be guaranteed, irrespective of the criteria laid out above. On the basis of the materiality threshold proposed and the criteria laid out above for companies including subsidiaries, the scoping study commissioned by the D-EITI Secretariat concludes that the following coverage rates will at least be achieved for the individual sectors: oil (95.76%), natural gas (99.38%), potash (100%), lignite (99.1%), coal (100%). Private industry currently assumes a rate of coverage of 95% for the salts sector. Intensive written research undertaken by the MSG indicates that only in the quarrying (stone and earth) sector will reporting on material payments cover a significantly lower percentage of the total extraction volume. Because of the fragmented nature of this sector, with many smaller businesses (1,550 companies operating around 3,100 quarries), the MSG assumes that a large percentage of the payments here will fall below the EITI materiality threshold.

The MSG agreed to take fiscal year 2016 as the basis for reporting. The aim is firstly to use data that is as recent as possible, while also making use of the disclosure obligation of the companies in line with the EU Accounting Directive (and the pertinent German legislation BilRUG). In this way, an attempt can be made to launch parallel reporting under and BilRUG und the EITI, which could also be of interest to other EITI implementing countries. Extractive companies are to report on a voluntary basis about payments made to state agencies within the Federal Republic of Germany. The payments are to be broken down by type of payment and projects for each state agency, in line with the reporting requirements of BilRUG. Parallel to this, the state agencies (i.e. as explained above, the tax offices of the individual federal states, the mining

authorities of the individual federal state, and if appropriate the Federal Customs Administration and the municipalities) are to report on revenues, broken down by company.

The data for the first D-EITI report is to be compiled by the independent administrator no later than 30 June 2017. Companies that are not publicly traded, and which will thus only be required to report under the provisions of BilRUG as of 31 December 2017, are to be convinced within the framework of D-EITI reporting to provide the pertinent data earlier on a voluntary basis. Pertinent reporting forms are to be designed by the independent administrator in cooperation with the D-EITI Secretariat for the MSG. The contextual information for the first report, with extensive information on Germany's extractive sector, is to be produced for the most part in the course of 2016.

Adoption of the Work Plan

Based on the D-EITI objectives, the D-EITI Secretariat drew up the first draft workplan in mid-2015. According to this, the MSG will discuss relevant correlations between Germany's energy transition and the extractive sector. The MSG also agreed to further discuss the points recommended in the EITI Standard, such as the voluntary commitments regarding the publication of contracts and licenses, as well as economic ownership in the course of the process. The workplan was discussed and adjusted in August by a working group established for this purpose by the MSG. The working group included one member from each of the stakeholder groups. The new draft was presented to the MSG at its meeting on 9 September 2015. In the following weeks, intensive consultations took place between the individual MSG members and the D-EITI Secretariat. Thanks to the individual items of feedback the workplan was modified and extended. The MSG decided to adopt the current version of the workplan at its meeting on 9 November 2015. At the same meeting, the EITI Candidature Application was also adopted. The workplan and the Candidature Application are freely accessible on the website of the D-EITI Secretariat.

The Work Plan includes a total of 126 activities for which a goal, anticipated results, responsible persons, a budget (where applicable) and an implementation deadline were specified. All these activities contribute to the attainment of either one or several of the D-EITI goals.

- **International exchange of information**

In addition to the creation of the MSG and the preparation of the candidature, the international exchange of information was also an important D-EITI activity.

The D-EITI can thus benefit from the experiences of other countries during their EITI implementation processes; and the D-EITI has also committed to contributing to the further development of the EITI Standard through Goals 4, 5, and 6, to report on the German experiences gained during the implementation and to use the implementation of the EITI in Germany to increase credibility in the support for the EITI.

The international activities are coordinated and partially implemented by the Secretariat and stakeholder groups are regularly invited to participate in relevant activities. This invitation

includes the offer that for major international events e.g. meetings of the EITI Board, the travel expenses of one representative from each stakeholder group will be reimbursed by the D-EITI Secretariat.

Against this background, the following activities were implemented in 2015:

- Jean Berchmans Niragira, the Secretary of the Burundian Ministry of Energy and Mines and his adviser Jean Bosco Nduwimana visited the CONNEX conference at the BMZ in Berlin from the 9th to the 10th of March, 2015. Included in this trip was a meeting with the members of the D-EITI Secretariat, at which experiences were exchanged about the implementation of EITI at working level in both countries. The D-EITI Secretariat informed the Burundian delegation about the status of the EITI implementation in Germany.
- The D-EITI Secretariat took part in the closing conference of the COBALT project “Contributing to Building of Awareness, Learning and Transfer of Knowledge on Sustainable Use of Raw Materials” in Brussels, Belgium, from the 23rd to the 24th of March 2015, where it presented its D-EITI process experience in the successful organisation of multi-stakeholder processes in the extractive sector.
- Together with Walter Palmetshofer, a representative of the D-EITI civil society stakeholder group, the D-EITI Secretariat attended the workshop “Ukrainian and Eurasian CSO in the EITI: Common challenges - joint approaches” from the 27th to the 29th of April 2015 in Kyiv, Ukraine. The aim of the workshop was to promote the exchange of experiences and “best practices” in the EITI implementation. To this end, the D-EITI Secretariat established contact with the EITI Secretariat of Ukraine and representatives of Central Asian civil society and informed them about the current status of the D-EITI implementation.
- Three representatives of the MSG stakeholder groups and a representative of the Secretariat took part in a meeting of the UK EITI MSG on 14.07.2015 to exchange experiences and to determine “best practices”.
- An exchange of information took place with the International Secretariat on substantive issues regarding the D-EITI Candidature (including hydropower in the EITI).
- Two representatives of the Dutch EITI process and Jonas Moberg, Head of the EITI International Secretariat were invited to attend the 3rd meeting of the MSG on 09.09.2015.
- The D-EITI Secretariat and Walter Palmetshofer, the coordinator of the civil society attended the 30th executive meeting of the EITI in Bern on the 21st and 22nd of October, 2015. Experiences were exchanged with representatives of other OECD partner countries (including the UK and USA).
- In addition to this, Transparency Deutschland organized the expert discussion “One size fits all? What EITI can do in Germany?” that took place in Berlin on 7th December 2015 and covered national particularities and priorities for the implementation of EITI. After a keynote given by the former president and founder of EITI Prof. Dr Peter Eigen, Prof. Dr. Edda Müller, Gro Skaaren-Fystro of Transparency International Norway and Anila Hajnaj, member of the MSG in Albania presented their experiences.
- The D-EITI Secretariat and Cathrin Klenck (Forum on Environment and Development),

deputy member of the civil society MSG attended the 31st executive meeting of the EITI in Kiev on the 9th and 10th of December, 2015.

The international exchange of experiences was also supported by the following publications:

- A comprehensive study on the implementation of the EITI in G7, EU and OECD countries was commissioned in 2015 and finalised at the end of the year. The study was based on interviews with representatives of the national EITI processes in G7, EU and OECD countries (et alia). In addition to providing added value for the work of the MSG and the D-EITI implementation, the reprocessed information is also made available to EITI partner countries and the International Secretariat in order to strengthen the role of Germany in the EITI.
- 800 copies of the 36-page brochure covering the inaugural opening event of the EITI were printed after translation into English.
- The previous D-EITI Candidature process was compiled and published in an English-language fact sheet.

The publications were sent to the international contacts of the D-EITI Secretariat and distributed for the above events.

A complete English-language version of the EITI Secretariat's website has also been available since the end of May 2015. This provides a constantly-updated overview of the status of the implementation, all publications and English publications about the EITI and the contacts of the stakeholder groups and the Secretariat.

2. Assessment of performance against targets and activities set out in the Work Plan

The D-EITI schedule adopted by the MSG at its first meeting formed the basis for the activities of 2015. The schedule specified 30.11.2015 as the target date for submission of the candidature. The schedule also included a list of the activities that were essential if the necessary milestones for the preparation of the candidature were to be achieved. These milestones were

- introduction of a multi-stakeholder group (MSG)
- MSG meetings
- resolution on the scope of the D-EITI

- resolution on the Work Plan
- resolution on the Candidature Application

All milestones were achieved successfully. The Candidature Application was submitted by the Federal Government to the International Secretariat on 22.12.2015.

The Candidature Application was accepted by the EITI Board on 23.02.2016 without restriction – and the milestones/goals for 2015 agreed by the MSG had thus been successfully achieved.

The activities in the D-EITI Work Plan approved by the MSG on 09.11.2015 (including those which had already been completed and those which had been started) were also incorporated, reflecting the status of the implementation on 09.11.2015. With its approval of the Work Plan, the MSG accordingly confirmed the specified progress.

Annex 1 of this report contains an extract of the Work Plan of all the activities completed in 2015, started in 2015 and those with deadlines in 2015.

3. Assessment of performance against EITI requirements

As described in Chapter 1, the 2015 activities were related to Requirements 1.3 and 1.4, which were necessary for the preparation and submission of the German Candidature. These were successfully implemented as described.

Broad agreements were reached on the scope of the D-EITI pertaining to the creation of the Work Plan and the preparation of the candidature application, thus making important progress with regard to the implementation of Requirements 3 and 4. These have been summarised in Chapter 1 of this report in the **Resolutions on the scope** paragraph. These agreements also created the basic requirements for the preparation of the reporting procedure.

The MSG has set itself the goal of adopting an innovative EITI process, and is endeavouring, with the D-EITI, to contribute to the further development of the EITI Standard. This is why innovative approaches to extending implementation of the EITI are to be examined. Pertinent aspects for the first report have already been laid out in the workplan. In the course of reporting, the following topics are to be discussed with respect to the scope of

the D-EITI:

- reserves of the mining industry to cover environmental costs at a later date
- compensatory payments pursuant to intervention provisions of the Federal Nature Conservation Act
- water as a source of energy, from the point of view of consumption and from an environmental stance, and deep geothermal energy.

A detailed overview of the progress and activities of the Work Plan regarding innovative approaches can be found in **Annex 2, Progress 2015, EITI Requirement 1.4.a: Review of innovative approaches.**

On 09.09.2015, a draft of the Independent Administrator's description of performance was sent to the MSG, as part of the preparation for the implementation of Requirement 5.1 "Appointment of the Independent Administrator."

2015 also saw initial progress in the implementation of EITI Requirement 6:

- A constantly-updated, bilingual (DE/ENG) website was set up, providing information on the status of the D-EITI implementation
- The Open Knowledge Foundation Deutschland, a civil society organisation in the MSG represented by one MSG member and one deputy member, began to draw up an Open Data Concept for the EITI.
- The creation of a comprehensive communications strategy for the D-EITI was also initiated.

In the case of the following optional topics of the Standard

- Requirement 3.8. Income distribution and expenditure (89/90)
- Requirement 3.11. Beneficial ownership (80/81)
- Requirement 3:12 Contracts (82/83)

no progress has been achieved and no resolutions passed by the MSG. However, the processing of the topics by the MSG was agreed in the Work Plan (more information on this can be found in the 2015 Work Plan. The numbers of the individual activities are in brackets in the above list).

4. Overview of the multi-stakeholder group's responses to the recommendations on reconciliation and validation

NOT APPLICABLE

5. Any specific strengths or weaknesses identified in the EITI process

Due to the lack of a reference point, no relative statement could be made concerning an increase in the impact of the EITI or the expansion of reporting during the first year of EITI preparation and implementation.

However, several challenges for the EITI implementation in Germany were identified and addressed during the preparation of the candidature.

Implementation of the EITI in a federal country

As a federal land, Germany faces a challenge to coordinate the governmental implementation of the EITI – also in the 16 independent states. In the legislation, administration and jurisdiction fields, the federal government only possesses its own competences if these are expressly assigned to it in the Constitution, or the interpretation of the Constitution provides for unwritten Federal competences. In practice, this “cooperative federalism” often means that the central government passes laws and the individual states carry them out.

In this context – from the perspective of the EITI – it is particularly important that the enforcement of the tax laws (not including consumption tax) is essentially the responsibility of the countries which possess their own tax authorities to this end. Mining supervision and the enforcement of the Federal Mining Act are also the responsibility of the states in Germany and they have set up mining authorities at individual state level to this end.

With the commencement of EITI implementation preparations, extensive measures were taken to address this important issue. These measures can now be regarded as having been successful, since the federal states were persuaded to support the EITI implementation and to become involved with the MSG (see Chapter 1), and the candidature application was also adopted with the substantial participation of the federal states.

In Goal 5 and in the Work Plan, the MSG also set itself the task of sharing its experience in

implementing the EITI in a federal country:

“Share experience from the multi-stakeholder process, in particular with respect to participatory democracy, citizen engagement and knowledge transfer, and also with regard to EITI implementation in a federal state.”

The first result of this was that a working paper entitled [“Road to Candidature – EITI Implementation in a Federal Country”](#) was presented at the EITI Global Conference. The paper summarises the initial experience of coping with this challenge.

Financing of civil society

It emerged at the beginning of the process that the German civil society’s experience and knowledge of the EITI and the financial means needed for a professional contribution to the D-EITI were not sufficient and this constituted an obstacle to the participation of the civil society in the D-EITI process. It was therefore a major concern of the D-EITI Secretariat to dismantle this barrier within the meaning of EITI Requirement 1.3.c. With the relevant financial support, the organisations involved in the process could shape the work of the MSG in a targeted manner by means of appropriate professional expertise, networking projects within their interest group and public relations work for D-EITI communications. This would guarantee a comprehensive dissemination of the EITI throughout the civil society structures. The financing issue was discussed in frank and controversial talks with a view to a possible conflict of interest. To preserve the independence of the civil society, the participants agreed to grant project-related funding which neither involved content requirements nor permitted the financing of any MSG member. The real aim of the degressive funding is to set up a support structure within and among the participating NGOs, as well as a networking system with the civil society. This funding by the independent D-EITI Secretariat also avoids any direct operational and political dependence of the civil society groups on the government or on the companies. For the purposes of this report, the representatives of the civil society state that they are not able to contribute as members of the MSG to the D-EITI without sufficient financial support.

Legal and regulatory obstacles to the implementation of the D-EITI

Possible legal or regulatory obstacles to implementation of the EITI in Germany arise in direct relation to matters of data protection and privacy and fiscal secrecy. Data relating to acreage fees and mining royalties, for instance, is regarded as company and trade secrets in Germany. This means that this data may not be published or communicated to third parties without the authorisation of the party affected. Even the publication of licenses in the D-EITI report is directly affected by this legal provision. The German government has, however, already taken initial steps to find a way of dealing with this challenge. The state of Lower Saxony, for instance, provides a map server that is generally accessible, thus ensuring far-reaching publication of licenses and relevant information in this context. The data published is what is known as non-critical geological data. Information relating to individuals, and company and trade secrets, is not published. Fiscal secrecy (as laid out in Article 30 of the German Tax Code

(Abgabenordnung)) is another challenge to implementation of the EITI in Germany; tax-related data is protected under these provisions. The affected party can, however, decide to waive the entitlement to fiscal secrecy. A company is thus at liberty firstly to publish its own tax liability, and secondly to free the tax authorities from the obligation to retain fiscal secrecy to the required extent. Within the framework of D-EITI reporting, companies are to be convinced to voluntarily waive their legal rights and free the government agency in question from the obligation to retain fiscal secrecy with respect to the data to be published. A tax waiver is to be developed for the MSG by the independent administrator in cooperation with the D-EITI Secretariat.

6. Total costs of implementation

The D-EITI Work Plan provides a detailed overview of the costs of the D-EITI implementation. The total costs for the implemented measures and activities of the Work Plan in 2014/2015 amount to €870,000, including the costs for the establishment of the Secretariat and the financial support of the civil society.

7. Any additional comments

NOT APPLICABLE

8. Has this activity report been discussed beyond the MSG?

The progress report was first submitted to the MSG members for approval and subsequently adopted by the MSG. Key sections and contents of this report are taken from the D-EITI Candidature Application. This application was also repeatedly and intensively discussed and agreed with the stakeholder groups before the Candidature process took place, as was the Work Plan in which the progress achieved in 2015 was already documented.

9. Details of membership of the MSG during the period

During the course of 2015, the MSG held a total of four all-day meetings in March, June, September and November. The MSG was quorate at all the meetings, which were very well attended with an average of 13 MSG members from a total of 15, plus an average of 16 observers. The observers also included international guests such as e.g. Jonas Moberg, Head of the International EITI Secretariat, as well as representatives of the UK EITI and the Netherlands. The number of members required for a quorum was in attendance at each meeting, as per the MSG Rules of Procedure. All decisions were taken by consensus. The MSG of the D-EITI thus continued to shape the process decisively and independently, as required by the EITI standard.

All protocols of the MSG are publicly available on the website of the D-EITI Secretariat.

Approved by MSG: 19.10.2016