

Draft Agenda

Thursday 28 June 2018

- 09:00** **Implementation deep dive**
EITI impact and outlook in the Democratic Republic of Congo
EITI impact and outlook in Nigeria
- 10:45** **Break**
- 11:00** **40-1 Welcome by the Chair and adoption of the agenda**
Board Paper 40-1-A Draft agenda
Board Paper 40-1-B Board meeting participant list
- 11:10** **40-2 Report from the Secretariat**
Board Paper 40-2-A Implementation Progress Report
Board Paper 40-2-B Outreach Progress Report
- 12:10** **40-3 Report from the World Bank**
- 12:30** **Lunch**
- 13:30** **40-4 Report from the Implementation Committee**
Board Paper 40-4-A Clarification of Requirement 8.3.c.i
Board Paper 40-4-B Technical and financial needs for beneficial ownership transparency
Board Paper 40-4-C Updating Key Performance Indicators of the EITI
Board Paper 40-4-D Inquiry from Germany regarding requirements 4.1 and 4.6
- 14:30** **40-5 Report from the Outreach & Candidature Committee**
Board Paper 40-5-A 2018 – 2019 Outreach Strategy
Board Paper 40-5-B Candidature Assessment from the Netherlands
- 15:00** **Non-reporting of taxes while the US implemented the EITI (report from the Chair)**
- 15:15** **Session ends**

Friday 29 June 2018

- 09:00** **40-6 Report from the Validation Committee**
Board Paper 40-6-A Validation of Cameroon
Board Paper 40-6-B Validation of Colombia
Board Paper 40-6-C Validation of the Republic of Congo
Board Paper 40-6-D Validation of Madagascar
Board Paper 40-6-E Validation of São Tomé and Príncipe
Board Paper 40-6-F Validation of Solomon Islands
Board Paper 40-6-G Validation of Ukraine
- 10:30** **40-7 Report from the Governance and Oversight Committee**
Board Paper 40-7-A Supporting company minimum expectations
Board Paper 40-7-B Update on the EITI grievance review
- 11:15** **40-8 Report from the Finance Committee**
Board Paper 40-8-2018 Q1 Accounts and Q2 Forecast
- 11:30** **40-12 Report from the Nominations Committee and the Chair (closed session)**
- 12:30** **Lunch**
- 13:15** **40-9 EITI Global Conference**
- 13:30** **40-11 Any other business**
- 15:00** **Close**

Summary of actions from previous Board meetings

Note: In Berlin, the Board agreed to include, in future Board agendas, a summary of action points agreed at previous meetings and details on their current status. In Lima, the Board agreed the update should list all actions from the previous meeting and action items from earlier meetings that were not yet complete.

Agenda item	Action	Status
Action items from the 39th Board Meeting, 13-14 February 2018, Oslo		
39-4-A	International Secretariat to implement the measures recommended in Board paper 39-4-A on systematic disclosures, with an oversight by the Implementation Committee.	In progress
39-4-B	Implementation Committee to continue developing the options outlined in Board Paper 39-4-C on the application of Requirement 8.3.c.i, with a view of presenting a recommendation to the Board.	Ongoing
39-4-C	EITI Chair to write to the Governments of Ghana, Honduras, Madagascar and Peru announcing the Board's decisions.	Complete
39-4-D	The Chair to write to the Government of Ukraine announcing the Board's decision.	Complete
39-4-D	The Secretariat to publish the results of the Validation, including the supporting documentation.	Complete
39-5-A	The Chair to write to the Government of Albania announcing the Board's decision.	Complete
39-5-A	The Secretariat to publish the results of the Validation, including the supporting documentation.	Complete
39-5-B	The Chair to write to the Government of Burkina Faso announcing the Board's decision.	Complete
39-5-B	The Secretariat to publish the results of the Validation, including the supporting documentation.	Complete
39-5-C	The Validation Committee to submit a recommendation on the Validation of Cameroon, following review of MSG comments and finalisation of the Validation report	Complete
39-5-D	The Chair to write to the Government of Kazakhstan announcing the Board's decision.	Complete
39-5-D	The Secretariat to publish the results of the Validation, including the supporting documentation.	Complete
39-5-E	The Chair to write to the Government of Mongolia announcing the Board's decision.	Complete
39-5-E	The Secretariat to publish the results of the Validation, including the supporting documentation.	Complete
39-5-F	The Board to reconsider the Validation of the Republic of Congo following agreement on the application of requirement 8.3.c.i.	In progress
39-5-G	The Validation Committee to submit a recommendation on the Validation of Senegal, following review of the MSG comments and finalisation of the Validation report	Complete
39-5-H	The Chair to write to the Government of Timor-Leste announcing the Board's decision.	Complete
39-5-H	The Secretariat to publish the results of the Validation, including the supporting documentation.	Complete
39-5-I	The Validation Committee to submit a recommendation on the Validation of Togo, following review of the MSG comments and finalisation of the Validation report.	Complete
39-6	The Governance and Oversight Committee to work with constituencies to support updating constituency guidelines.	Ongoing

39-6	The Governance and Oversight Committee to work with supporting countries to propose minimum financial requirements to the EITI Board.	Ongoing
39-6	The Governance and Oversight Committee to work with supporting companies with an aim to propose minimum expectations of companies.	Ongoing
39-8	The International Secretariat to publish the 2017 Audit Accounts.	Complete
Incomplete action items from previous Board meetings		
Action items from the 38th Board Meeting, 26-27 October 2017, Manila		
38-4-C	The Secretariat to conduct outreach to SOEs and experts, and to report to the Implementation Committee on progress.	Ongoing
38-6-B	The International Secretariat to amend the proposed Board statement in paper 38-6-B to emphasise the need for continuous government efforts to ensure that there were no obstacles to civil society participation in the EITI process.	Ongoing
38-7-A	The Governance and Oversight Committee to continue working on the EITI Grievance Mechanisms paper before it is resubmitted to the Board.	Ongoing
Action items from the 37th Board Meeting, 23-24 May 2017, Oslo, Norway		
37-3-B	The Board agreed on the proposals in Paper 37-3-B, including that the Board conducts a self-assessment every two years and that the Governance and Oversight Committee works with the Chair and Board Members to ensure a high rate of participation by Board Members.	Ongoing
Action items from the 36th Board Meeting, 8-9 March 2017 in Bogota, Colombia		
36-4-B	In line with the approach outlined in the proposal, the Implementation Committee to review current project level reporting practices by implementing countries with a view to developing recommendations for revising requirement 4.7, reviewing considerations related to the payments to be covered by the requirement, and developing guidance on the implementation of the requirement and a transition schedule for Validation.	Ongoing
Action items from the 35th Board Meeting, 25-26 October 2016, Astana, Kazakhstan		
35-2-A	The Rapid Response Committee to closely monitor the situation in Ethiopia and report back to the Board as needed.	Ongoing
35-9-B	Supporting countries to finalise discussions on a common position on the EITI funding review, ahead of the 36th Board meeting.	Ongoing
35-8	The Board to review the wording on proxies in greater detail before making any decision to include this in the Board manual.	Ongoing
35-4-C	The International Secretariat to implement the mainstreaming action plan as part of the 2017 workplan.	In progress, through 2018 Work Plan
Action items from the 34th Board meeting, 1-2 June 2016, Oslo, Norway		
34-2	The Implementation Committee to consider whether sustained instability and violence like that currently experienced by Yemen may affect the status of countries after a certain point.	Complete
AOB	The International Secretariat will aim to send Committee papers at least five days ahead of Committee meetings.	Ongoing
AOB	The Board to consider holding a Board retreat in the first half of 2017.	Complete
Action items from the 32nd Board Meeting, 23 February 2016, Lima, Peru		
32-4	Recommendation to the new Board to undertake a review of the nominations procedures for each constituency.	Ongoing
32-5-A	New Board to consider review of constituency guidelines.	In progress
32-5-B	Validation to examine whether the MSG and government had taken all measures under their control to ensure all companies reported.	Ongoing

Action items from the 31th Board Meeting, 9-10 December 2015, Kiev, Ukraine		
31-2-A	The Board recommends that the new Board considers the issue of company participation in US.	N/A – US no longer implements the EITI
31-8-B	The Secretariat to establish a technical working group to develop EITI data standards for consideration by the EITI Board.	Pending
31-9	African implementing countries to continue outreach within the region.	Ongoing
Actions from the 30th Board Meeting, 21-22 October, Berne, Switzerland		
30-2-A	The Implementation Committee to discuss the suspension of CAR in more detail.	In progress
30-2-A	The company constituency to consider the challenge and implications of certain EITI Supporting Companies not reporting in implementing countries like Colombia and the US.	Pending
30-2-B	The Implementation Committee to consider the issue of EITI reporting in territories affected by conflict and potential implications under international law.	Pending
30-3	The World Bank to circulate the EGPS work plan and budget to the Board, including minutes of the first EGPS meeting on Thursday 22 October.	Pending
30-3	Board members to assist the World Bank in encouraging donors to contribute to the EGPS.	Ongoing
Action items from the 29th Board Meeting, 14-15 April 2015, Brazzaville, Republic of Congo		
29-2-A	The Secretariat to inform through Board circular when correspondence for the Board is received and to upload documents to the internal website.	Ongoing
29-3-B	The Validation Committee to be informed of any Validation extension requests.	Ongoing
29-4	Future Board papers to include a paper from the World Bank.	Ongoing
Actions items from the 27th Board Meeting, 1-2 July 2014, Mexico City		
27-3	The Rapid Response Committee to assess the situation in PNG.	Not completed. Redundant.
27-8	Governance Committee to consider recommending a policy on Committee attendance.	In progress
Actions items from the 25th Board Meeting, 16-17 October 2013, Abidjan		
25-3	Further consideration should be given by the Governance Committee to how to manage potential conflicts of interest in that the Secretariat both coaches and supports candidate countries and carries out Secretariat Reviews.	In progress
Actions items from the 24th Board Meeting, 24 May 2013, Sydney		
24-5	Committees to consider drafting work plans to be presented to the Board.	Ongoing
Action items from the 18th Board Meeting, 25 October 2011, Jakarta		
18-4	The Secretariat to sketch next steps towards a firmer UN commitment to the EITI.	Ongoing

Decisions taken via Board circulars after the 39th Board meeting, 13-14 February 2018, Oslo, Norway.		
BC 247	22.03.2018	Meeting minutes of the 39 th Board meeting in Oslo are considered final as of 28 March 2018.
BC 248	17.04.2018	Judith Herbertson, Deputy Director for Governance, Open Societies and Anti-Corruption (GOSAC) Department at DFID, UK, succeeded Rhona as Bent's alternate as of 1 May 2018.
BC 249	2.05.2018	Cote d'Ivoire has made meaningful progress in implementing the 2016 EITI Standard as of 8 May 2018.
BC 249	2.05.2018	Senegal has made satisfactory progress in implementing the 2016 EITI Standard as of 8 May 2018.
BC 249	2.05.2018	Togo has made meaningful progress in implementing the EITI Standard as of 8 May 2018.
BC 249	2.05.2018	CowaterSogema International is appointed as the Independent Validator for the 2018 EITI Validations as of 10 May 2018.

BC 251	31.05.2018	Timor-Leste's reporting deadline is extended to 30 June 2019 as of 8 June 2018.
BC 251	31.05.2018	Marte Briseid of the Norwegian government's Oil for Development Programme became Judith Herbertson's alternate as of 8 June 2018.

Board Paper 40-1-B

Participant List (Board members not attending in grey)

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Alt: **Mr César GAMBOA**, Derecho, Ambiente y Recursos naturales, Perú

Ms Cielo MAGNO, Bantay Kita, Philippines

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Board paper 40-2-A

Berlin, 28-29 June 2018

Submitted by: EITI International Secretariat

on: 14 June 2018

Confidential

IMPLEMENTATION PROGRESS REPORT

March – June 2018

For decision

For discussion

For information

This report provides an update on EITI implementation in the 51 implementing countries, highlighting key developments in the period March – June 2018. It discusses progress and innovations as well as challenges in implementation, particularly in relation to EITI reporting and Validation. Eight countries - **Central African Republic, Guatemala, Honduras, Kyrgyz Republic, Mozambique, Solomon Islands, Tajikistan and Tanzania** – are highlighted as facing significant challenges.

The report reflects the views of the International Secretariat based on information from implementing countries and other sources. The EITI Board and other stakeholders are encouraged to consider where they can provide additional support to implementing countries.

Supporting documentation

Annex A Contract Transparency Brief 2018 – review of findings from Validations, and Annex B Coverage of Artisanal and small-scale mining information in EITI reporting

Has the EITI competence for any proposed actions been considered?

Monitoring progress with implementation is an EITI competence

Financial implications of any actions

Not assessed

Document history

Submitted to the Implementation Committee	31 May 2018
Submitted to the EITI Board	14 June 2018

IMPLEMENTATION PROGRESS REPORT MARCH – JUNE 2018

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1. Summary

Key facts on implementation

- 51 countries are implementing the EITI. As of June 2018, 21 EITI countries have been validated against the EITI Standard, and three countries were found to have made satisfactory progress.
- More than 800 civil society organisations are engaged in EITI implementation both at local and international levels.
- 60 major international oil, gas and mining companies support the EITI.
- EITI Reports have been published by 48 countries covering 376 fiscal years and over USD 2.4 trillion in government revenues.

March-June has been a period with many ongoing activities related to key areas of EITI implementation, that are captured in this Implementation Progress Report.

The country-by-country assessments are now structured to give a clearer picture of how implementing countries are progressing on **systematic disclosures**. These highlight some of the efforts that are ongoing in particular on the government side with regards to online disclosures, and emphasise the need for EITI to be part of those efforts at the national levels. The thematic focus on the **EITI reporting cycle** further demonstrates the potential benefits of mainstreaming EITI reporting by making the increasingly lengthy reporting cycle more efficient and timely. The review shows that despite the years of experience with EITI reporting, preparing EITI Reports is taking more time.

The country sections also highlight the status of implementation of **beneficial ownership transparency**. These assessments indicate that while some countries are progressing well with building the institutional and legal framework for beneficial ownership transparency (Ghana, Kazakhstan, Kyrgyz Republic, Mongolia, Senegal, Ukraine, United Kingdom and Zambia), at least 26 EITI countries have made limited progress in implementing the beneficial ownership roadmaps. Some of the reasons cited are competing priorities, political instability and lack of technical and financial assistance. The Implementation Committee paper on technical and financial assistance needs for beneficial ownership disclosure highlights the need significant need for technical and financial assistance needs for beneficial ownership disclosure to be achieved by 2020.

The EITI Spotlight on **contract transparency** shows how Validation has helped identify several opportunities for EITI stakeholders to engage in the national debate on contract transparency and to improve disclosures. The spotlight highlights common challenges such as accessibility of contract information, but also how EITI can continue to address these challenges through ongoing reforms. The annex to this IPR (Annex A) provides more details on the review undertaken by the Secretariat of the 31 Validations that had been undertaken by the time of the review.

EITI countries are increasingly looking for ways to use the EITI to address their priorities related to **artisanal and small-scale mining (ASM)**. Another annex to this IPR (Annex B) takes stock of how implementing countries have engaged with the ASM sector through the EITI process, and disclosed information related to ASM through EITI reporting. It highlights opportunities for EITI to contribute to improved ASM transparency.

The targeted efforts on **commodity trading transparency** also continue to make progress, with specific reports expected in the coming months in Albania, Ghana, Nigeria in addition to Indonesia disclosing more comprehensive data on the sale of the state's share of oil, gas and minerals. As we see different disclosure practices in countries where there are significant sales of commodities, there are different emerging disclosure practices. The Secretariat is currently consulting with members of the EITI Working Group on Commodity Trading Transparency for recommendations on how to apply the requirement on the sale of the state's share of production and revenue s collected in-kind (Requirement 4.2.)

The last section on **Secretariat activities** summarises Secretariat missions and EITI media and communications statistics. The EITI social media audiences continue to grow, and latest videos on Validation and contract transparency are viewed by an increasing number of followers.

As always, section four of the IPR provides an update on implementation progress and challenges in each EITI country. The country-by-country assessments highlight the progress countries have made and how stakeholders and partners can support implementation at the country level. The number of "red" countries, i.e. **countries that face significant delays with implementation, are suspended or at risk of suspension, is down from eleven to eight.**¹ These include countries that are suspended due to delayed EITI reporting (Honduras). It also includes countries that are currently suspended and where there is limited progress or other challenges such as political instability (Central African Republic, Kyrgyz Republic, Solomon Islands and Tajikistan). Government engagement and internal challenges remains difficult in Guatemala, Mozambique, Solomon Islands and Tanzania.

¹ Central African Republic, Guatemala, Honduras, Kyrgyz Republic, Mozambique, Solomon Islands, Tajikistan and Tanzania.

Countries that were previously marked red due to risk of suspension caused by delayed EITI reporting include Madagascar, Republic of Congo and Sierra Leone. These countries have either been granted an extension request or published reports since the last Implementation Progress Report.

2. EITI spotlight: EITI and contract transparency - review of findings from Validations

In the last two years, the International Secretariat has provided a spotlight in each Implementation Progress Report as a means of highlighting examples of good practice, innovation, and particular challenges related to implementation. Earlier spotlights include implementing reforms in the Philippines, mainstreaming transparency in Sierra Leone, transparent oil trading in Republic of the Congo, and improving the impact of mining royalties at the local level in Ghana. Previous IPRs can be accessed under “Board Papers” on www.eiti.org/internal.

The EITI encourages implementing countries to publish contracts and license agreements governing oil, gas and mining operations. The Secretariat has reviewed the performance of implementing countries on the contract transparency requirements of the EITI Standard as documented during Validation. The objective of this review was to establish the impact of the EITI on contract transparency and highlight the views of stakeholders in implementing countries with regards to contract disclosure.

Background

The EITI began encouraging contract transparency in 2013. According to research undertaken by NRGi in 2017, contract disclosure has now become the norm among EITI member countries². This research found that 29 EITI implementing governments—well over half—have disclosed at least some of these agreements, and several more were taking concrete steps to join their ranks. Some other countries are licence-only regimes that do not use contracts. The decision whether to publish contracts or not ultimately lies with a country’s government, and will be determined through the legislation and/or contracts governing the extractive sector.

Requirement 2.4 of the EITI Standard requires that countries document the government’s policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. Documentation of government’s policy should include: relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. Where applicable, countries should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published. Countries are also encouraged to disclose

² Past the Tipping Point? Contract Disclosure within EITI, Don Hubert and Rob Pitman, March 2017, Natural Resource Governance Institute <https://resourcegovernance.org/sites/default/files/documents/past-the-tipping-point-contract-disclosure-within-eiti-web.pdf>

the full text of any agreement to exploit oil, gas and/or mineral resources, as well as any annexes or amendments.

By providing a space where citizens, companies and governments can share experiences and lessons learned across stakeholder groups and national boundaries, the EITI has helped these actors share concerns and potential benefits, and discuss possible approaches and ways of achieving contract transparency.

EITI and contract transparency

The review conducted by the Secretariat in preparation of this report identified several opportunities for EITI stakeholders to engage in the national debate on contract transparency and to improve disclosures, based on findings from Validation:

- **EITI Reports could more clearly describe the types of contracts and agreements used in the oil, gas and mining sector and distinguish between the contract transparency policy and practice in the two sectors.** In most instances, EITI Reports do not distinguish clearly between government's policy on the oil and gas and mining sectors. In **Albania** and **Cote d'Ivoire**, although the government policy is clear for the oil and gas sector, it is unclear for the mining sector. It may be useful to conduct a further review of which contracts, i.e. exploration vs production, oil and gas vs mining, are currently disclosed and the differences in these various forms of disclosures.
- **EITI Reports could increase public understanding of what terms and conditions are negotiated in the contracts/agreements, and which terms and conditions are set out in law.** Validation has shown that for countries where most of the terms are in the legislation, there were few objections to the publication of contracts. This was documented in **Burkina Faso**, the **Kyrgyz Republic** and **Norway**. The latter publishes information on the work program, progress against work programmes, license group, operator, shares and other relevant information. Special environmental conditions are announced in the press-release that accompanies the publication of a granted license. This is important as countries move towards including more information in the legal and regulatory framework versus contracts. In **Zambia**, the report states that contracts are no longer executed. The 2015 Mines and Development Act *"ruled that no special agreements should be entered into by the government for the development of large scale mining licenses and annulled the development agreements concluded under the previous act. Mining companies now operate under a common legislative framework regulated primarily by the Mines and Minerals Development Act 2008"*. This has led to confusion on what changes to disclosure this will bring and what should be disclosed under such regimes.
- **EITI and its partners could help governments bridge gaps between policy and practice.** Validation has shown that in some countries where contract transparency is a legal requirement, there is a discrepancy between the government policy and practices, and retroactive effects of legal amendments are not always clear. In countries like **Burkina Faso** and **Cote d'Ivoire**. Stakeholders often required clarification on whether legal provisions cover previously allocated contracts such as. Where contract transparency is a legal requirement, there has not always been a comprehensive review to ensure that all contracts are published. In **Liberia** for example, Validation found that no comprehensive review had been undertaken of contracts disclosed on the LEITI

website and that it was unclear which contracts were missing. This may also be due to poor record-keeping on the part of the government. Secretariat staff in Liberia explained that the reason some contracts had not yet been disclosed was likely that there were challenges in locating the contract, rather than a decision not to publish it. In **Niger**, article 150 of the Constitution requires the publication of all contracts concerning production and exploration of natural resource, as well as the revenues paid to the State, in the Government's official journal but contracts are not published in practice. A senior government official explained that while the Constitution required publication of extractives contracts, it did not specify the timeframe for publication, which explained why contracts were published according to priority and depending on space constraints in the official gazette.

- **EITI countries could consider provisions enabling contract transparency when reforming oil, gas and mining legislation.** Validation has shown that many EITI countries are undertaking legal reforms which could be used as an opportunity to embed contract transparency provisions in sector legislation or make transparency rather than confidentiality the default in model contracts, with provisions for redactions if necessary. In **Kazakhstan**, stakeholders viewed the development of new subsoil code as an opportunity to lobby for contract transparency. In **Ukraine**, contract transparency is covered in a Draft Law of Ukraine #6229 on disclosure of information in extractive industries. The draft law was submitted to the parliament (Verkhovna Rada of Ukraine), in early 2017 and approved in 1st reading on March 1, 2018. Now law is awaiting 2nd reading in the parliament and then to signed by the President to become effective.
- **EITI and its supporters could help countries establish more accessible disclosure frameworks, helping countries that require disclosure of contracts to achieve transparency in a timely manner with data available in open data formats.** Validation has highlighted ongoing reforms to disclosure frameworks. In **Togo**, the 2014 EITI Report recommendations state that the General Directorate for Mines and Geology, DGMG, will publish the contracts without confidentiality clauses on the site of the Ministry of Energy and Mines. The Minister of Mines and Energy noted that some licenses were disclosed on the site Togomines.com and confirmed that the publication of contracts was in progress.
- **EITI could continue to consider ways of acknowledging countries that practice contract transparency in Validation and to provide more clarity on how the EITI Requirement on contract transparency is assessed.**

3. Thematic focus: The timeliness of EITI Reporting

As with the spotlight section, each IPR also includes a thematic focus highlighting a key aspect of EITI implementation, drawing from a wider range of practices in EITI implementing countries. Thematic focus sections in past IPRs have highlighted quality of EITI reporting, EITI as an instrument to support reforms, improving impact through report recommendations and availability of EITI data. Previous IPRs can be accessed under "Board Papers" on www.eiti.org/internal.

While there is growing focus on encouraging systematic disclosure³, multi-stakeholder groups (MSGs) and national secretariats spend most of their time on overseeing the various stages of EITI reporting. The cycle typically includes: (i) scoping work in order to identify what data should be disclosed, including establishing materiality thresholds and identifying reporting entities; (ii) drafting and agreeing the Terms of Reference for the Independent Administrator; (iii) procuring the Independent Administrator; (iv) data collection; (v) reviewing and approving draft and final EITI Reports; (vi) disseminating the findings to interested stakeholders; and (vii) following up on the findings and recommendations⁴.

The EITI Standard requires that implementing countries disclose data no older than the second to last complete accounting period (e.g. an EITI Report covering the fiscal year ending 31 Dec 2016 must be published by 31 Dec 2018). However, the users of EITI data often lament that 2-year-old data is of limited value. For the debate in the media, amongst parliamentarians or investors, data needs to be more up to date. A number of countries are addressing this issue and have moved to publishing reports within 12 months. However, several implementing countries struggle to meet the two-year rule, mostly because: (1) the procurement of the Independent Administrator starts too late, which is often linked to funding constraints and/or donor procurement requirements, and (2) the reconciliation process is cumbersome and time-consuming, especially if the reporting process is delayed. Validation has shown that in most countries, audited financial data is available from companies and government agencies within 10-12 months of the end of the financial year. However, EITI reporting often starts much later.

To highlight these challenges, the Secretariat has undertaken a review of the reporting timelines in the 48 implementing countries that have published EITI Reports between 2012-2017.

Methodology

The International Secretariat has undertaken a country-by-country review of the timing of key milestones in the EITI reporting cycle, from agreeing the TOR for the Independent Administrator to the publication of the EITI Report (see Table 1). The data was compiled based on consultations with national secretariat, documentation from Validations and details on publication of reports from EITI summary data⁵. The review covers reports published between June 2011 and December 2017. Reports covering financial year 2016 were excluded, as only 13 countries have published 2016 data to date.

Findings

The key finding is that there has been no improvement in the timeliness of the EITI data since the last review in 2014. The average report is published 18 months after the end of the financial year. It is commonplace that reports are published very close to the 2-year deadline.

³ <https://eiti.org/document/encouraging-systematic-disclosure>

⁴ See EITI Guidance note 8 on MSG oversight of the EITI reporting cycle
<https://eiti.org/document/guidance-note-on-msg-oversight-of-eiti-reporting-cycle>

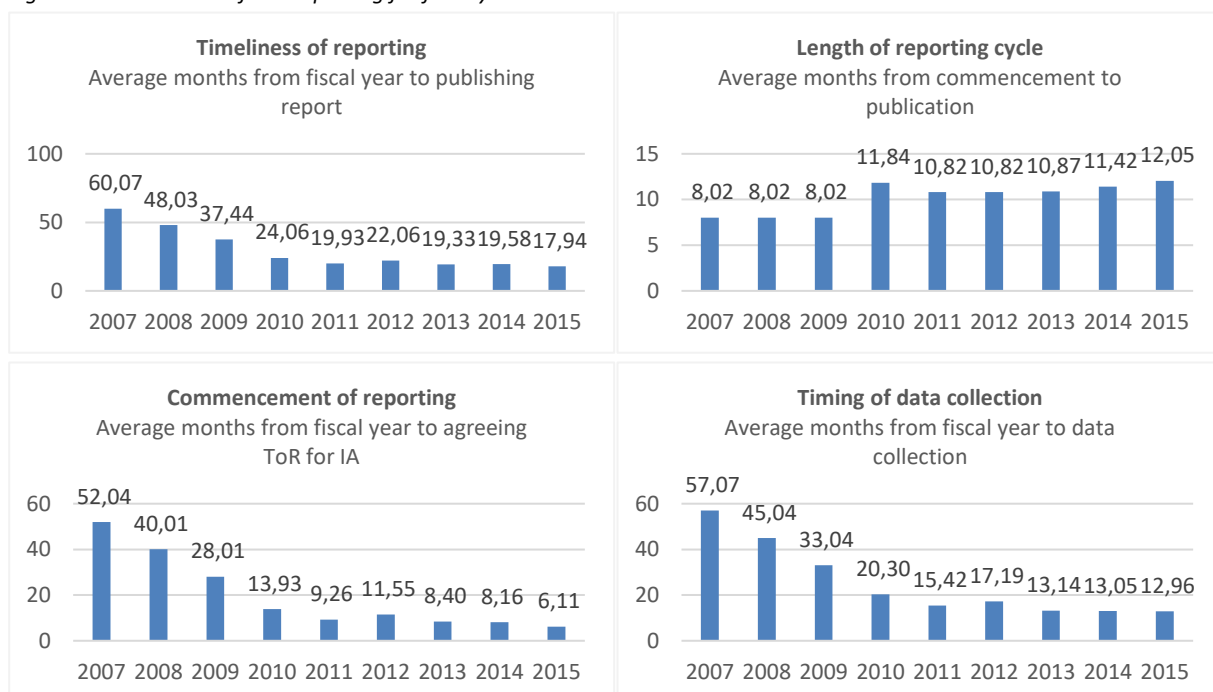
⁵ <https://eiti.org/explore-data-portal>

There may be several explanations, such as the expansion of reporting requirements following the introduction of the EITI Standard in 2013 (reports for fiscal years 2014 and 2015 were the first to address these new requirements).

The EITI has sought to standardise reporting procedures through the Board-approved Standard Terms of Reference (TOR) for Independent Administrators (IAs)⁶. However, as Validation results have largely shown, adherence to these procedures is often problematic⁷.

Several countries prepared reports for multiple years in their first publications as EITI implementing countries. This has led to low timeliness on average for the reports covering fiscal years 2007 and 2008. The improvement slow in fiscal year 2011 (when the ‘timeliness requirement’⁸ was introduced).

Figure 1-4: Timeliness of EITI reporting for fiscal years 2007 to 2015



Source: Survey of EITI countries' reporting cycle, EITI International Secretariat. Years reflect fiscal years covered of EITI disclosures, not years of publication.

Preparing EITI Reports is taking more time

Another key finding is that the length of the reporting cycle has increased (i.e., the time between the agreement of the ToR and the publication of the report). It jumped from an average of eight months per report for the FY2010 (and earlier) reports, to 10-12 months for the FY2010-2015 reports. The data shows that it took the 43 implementing countries on average twelve months to complete their latest EITI Report. The IA ToRs were agreed, on average, six months after the end of the fiscal year. Data

⁶ <https://eiti.org/document/standard-terms-of-reference-for-independent-administrator-services>

⁷ See 'Board Paper 39-5-J Lessons Learned from the 2016 & 2017 Validations: <https://eiti.org/document/39th-board-meeting>

⁸ The 'timeliness requirement' refers to EITI Requirement 4.8, which states that EITI countries must disclose EITI data no older than the second to last accounting period. In effect, this means that there is a two-year-deadline for disclosing EITI data: <https://eiti.org/document/standard#r4-8>.

collection commenced, on average, 13 months after the end of the fiscal year. The remaining steps took, on average, an additional five months.

The assessment from 2014 highlighted some key challenges encountered by MSGs, several of which remain today: inadequate scoping work, unclear Terms of References for the Independent Administrators, inadequate funding for EITI reporting, and time-consuming national procurement processes.

EITI countries have adopted several measures to try to address prolonged and complicated reporting procedures, as well as recent funding issues. National secretariats have increasingly been involved in collection and disclosure of contextual information (non-financial information) and TORs covering multiple reporting years have often been adopted to avoid lengthy procurement periods. One example of this is Zambia, where the Independent Administrator is procured for two consecutive reporting years, to minimise the administrative burden.

Suggested next steps

The Board has agreed to put a greater emphasis on systematic disclosure by companies and government agencies.⁹ For example, at the end of each financial year, companies and government agencies can publish their audited financial statements, together with the information disclosures required by the EITI Standard. The preparation of EITI Reports would therefore focus on *data compilation* (rather than data collection), addressing any gaps in disclosure and any concerns about data quality. MSGs and IAs could then put a greater emphasis on explaining the data and discussing any recommendations for further improving disclosure practices.

Where MSGs elect to continue with data collection by an Independent Administrator, further work is needed to encourage MSGs and national secretariats to commence the reporting process earlier. For example, the ToRs and procurement of the IA can be undertaken before the end of the financial year. The IA can then start work as soon as the reporting entities have finalised their audited financial statements. Some MSGs could also consider reports covering several fiscal years to clear the backlog of EITI Reports.

MSGs could finally consider simplifying the reporting process, for instance by applying higher materiality thresholds to exclude immaterial information.

⁹ Board paper 39-4-A on *Encouraging systematic disclosures*.

Year	2011				2012				2013				2014				2015				2016				2017																	
Month	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
Albania																																										
Armenia																																										
Burkina Faso																																										
Cameroon																																										
Central African Republic																																										
Chad																																										
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Côte d'Ivoire																																										
Democratic Republic of Congo																																										
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Guyana																																										
Honduras																																										
Indonesia 2010/2011																																										
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Indonesia 2012/2013, 2014 and 2015																																										
Iraq																																										
Kazakhstan																																										
Kyrgyz Republic																																										
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Mali																																										
Mauritania																																										
Mexico																																										
Mongolia																																										
Mozambique																																										

4. Country by country assessment

A summary of country progress over the past year is presented in Table 2 below. A narrative country-by-country assessment of progress in the period November 2017 – February 2018 is presented in Table 3 below. The table classifies the 51 implementing countries as:

- **Red:** There are significant challenges causing delays with implementation and the country is facing considerable challenges with meeting the EITI Requirements. The country is suspended with limited progress made since the last IPR, or is at risk of being suspended.
- **Amber:** The country is making progress but is facing some challenges with implementation.
- **Green:** Implementation is progressing well. The country is not experiencing any particular difficulties with the EITI Requirements, but further work may be necessary to increase impact and relevance of implementation.

This is a confidential assessment as requested by the Board, particularly with a view to highlighting countries that experience difficulties. The International Secretariat has drawn on information from implementing countries and other sources.

Table 2: Country assessment of progress March - June 2018

Country	March-May 2017	June-Oct 2017	Nov 2017 – Feb 2018	March – June 2018
Afghanistan				
Albania				
Armenia				
Burkina Faso				
Cameroon				
Central African Republic				
Chad				
Colombia				
Côte d'Ivoire				
DR Congo				
Dominican Republic				
Ethiopia				
Germany				
Ghana				
Guatemala				
Guinea				
Guyana				
Honduras				
Indonesia				
Iraq				
Kazakhstan				
Kyrgyz Republic				
Liberia				

Madagascar				
Malawi				
Mali				
Mauritania				
Mexico				
Mongolia				
Mozambique				
Myanmar				
Nigeria				
Norway				
Papua New Guinea				
Peru				
The Philippines				
Rep of Congo				
Sao Tome & Principe				
Senegal				
Seychelles				
Sierra Leone				
Solomon Islands				
Suriname				
Tajikistan				
Tanzania				
Timor-Leste				
Togo				
Trinidad and Tobago				
Ukraine				
United Kingdom				
Zambia				

The country assessments in Table 3 below also include an indication of observed overall improvements made by implementing countries in addressing corrective actions from Validation:

- ↘ Backsliding from previous assessment
- ?? Limited or no improvement
- ↗ Some improvement

Table 3: Country assessment of progress March - June 2018

Country Status	Assessment
Afghanistan Yet to be assessed against the EITI Standard <i>Validation commenced on 1 November 2017</i> Current assessment Previous assessment Country manager: Pablo Valverde	<u>Context and opportunities for EITI:</u> With parliamentary elections scheduled for July 2018 and a persistently difficult security situation, the government is eager to demonstrate that it is improving the governance of the mining sector. A flurry of roadmaps and policy documents to address corruption are at different stages of implementation, arguably with limited coherence or integration amongst them. There are signs that the EITI is being used by the government to make progress on priority areas for the sector, including mapping all existing contracts, developing a Finance Management Information System at the Ministry of Mines and Petroleum (MOMP) and centralising all major corporate mining and oil and gas taxpayers. Importantly, the MOMP has established an online repository portal on their website, containing their entire license registry. <u>EITI disclosures:</u> Afghanistan published its 2014 and 2015 data together. The MSG did not take advantage of the additional time this provided to begin the reporting process for 2016 data, and the MSG is only now finalizing the TORs for the Independent Administrator (IA). Although the draft TORs are an improvement on previous reporting exercises, low capacity at the national secretariat and lack of understanding of the EITI Standard in the MSG suggest that some of the gaps identified in the fact-finding stage of Validation will not be addressed in the next reporting exercise. Afghanistan's Validation began on 1 November 2017 and the initial assessment is being shared with stakeholders. <u>Beneficial ownership:</u> President Ashraf Ghani has committed to a beneficial ownership registry, which the Central Business Register (CBR) is charged with developing. The CBR is working closely with the MSG to progress on its work with support from the German government and the European Union, among others. Afghanistan will collect BO data in its next reporting exercise. Capacity constraints, the absence of government control over large parts of the country and a political economy that incentivizes informality are important challenges that the CBR struggles with. <u>Other implementation issues:</u> AEITI continues to fall between two chairs, being championed by the MOMP but administratively under the Ministry of Finance (MOF). The Secretariat has recently lost a number of employees due to restructuring within the MOF and its capacity is increasingly constrained. <u>Support and funding needs:</u> Funding is not currently a problem, although over-reliance on one source of funding (World Bank grants) is a challenge in the middle to long term. Supporters can continue to help by reinforcing the key message that an empowered EITI could be a useful tool for the Government of Afghanistan to deliver on its reforms.

Albania Meaningful progress against the EITI Standard Corrective actions: ↗ <i>2nd Validation commences on 13 February 2019</i> Current assessment Previous assessment Country manager: Olana Valigura	<u><i>Context and opportunities for EITI:</i></u> Extractive industries in Albania are relatively small and contribute only 4% to GDP. However, a number of projects is on the horizon, including the Trans-Adriatic Pipeline for natural gas and positive prospects for Shell's oil exploration, which could increase the revenues and importance of the sector. There is also growing interest in the hydropower sector, despite its contribution of less than 1% to GDP. <u><i>EITI disclosures:</i></u> The EITI process in Albania is on track and generally well managed. The 2016 EITI Report published in May 2018, addressed some of the corrective actions from Validation. In March Albania EITI launched a project on commodity trading, targeting Albpetrol's sale of profit oil. A separate report on oil trading is expected in July 2018. <u><i>Beneficial ownership:</i></u> Progress with implementing beneficial ownership disclosure is limited. Since November 2017, when Albania EITI submitted to the government a draft law on EITI that included recommendations on beneficial ownership transparency, there have not been further development. <u><i>Other implementation issues:</i></u> Civil society MSG members with support from the Open Society Institute (OSI) have started to address a corrective action on civil society engagement in the EITI. This May, with the support of Oleksiy Orlovsky and PWYP, the civil society group met with the local OSI office, as a neutral partner, to agree the action plan and to re-launch the CSO participation in the EITI. <u><i>Support and funding needs:</i></u> Albania EITI secretariat is fully funded by the government. EGPS World Bank funding, focused on producing the EITI reports, is available until 2019. Supporters and donors can provide funding to support the implementation of the beneficial ownership roadmap and to build the capacity of the multi-stakeholder group. Civil society organisations have requested technical and financial support to re-organise their participation in the EITI.

Armenia Yet to be assessed against the EITI Standard <i>Validation commences 9 September 2019</i> Current assessment Previous assessment Country manager: Oliana Valigura	<u><i>Context and opportunities for EITI:</i></u> Mining is the fastest growing sector of Armenia's economy and contributes to around 2.5% of GDP. The country has significant deposits of gold, copper, molybdenum as well as smaller deposits of zinc, lead, iron and silver. Through EITI implementation, Armenia aims to attract more foreign investments particularly in the mining sector, and enable public access to reliable information for citizens and the business community. EITI in Armenia can become a credible platform to build consensus and an understanding of these issues among the affected stakeholders. <u><i>EITI disclosures:</i></u> The country is amber due to the disruption to the EITI process caused by the resignation of Prime Minister Serzh Sargsyan and his government following a wave of protests in Yerevan this April. The newly formed government has not yet appointed a new EITI Chair, nor the government representatives to the MSG. Earlier in April, the MSG had approved the TORs for the IA and reporting templates. In March, the Parliament adopted an amendment package to enable the EITI reporting process for the mining companies. The MSG planned to create an e-reporting portal to make sure that as much data as possible is systematically disclosed from the outset of EITI reporting. Ahead of the EITI Board meeting in June 2018, the MSG submitted an extension request of the reporting deadline (9 September 2018). If the EITI Board does not approve the extension request, Armenia will be suspended. <u><i>Beneficial ownership:</i></u> With support from EBRD, a legal review and a beneficial ownership roadmap for Armenia were approved by the MSG in December 2018. Following a discussion at the Anti-Corruption Council Meeting in March 2018, the MSG submitted a draft regulation on beneficial ownership disclosure for government approval. <u><i>Other implementation issues (if applicable):</i></u> On 12 May, the recently appointed Prime Minister Nikol Pashinyan formed a government, removing the previous EITI Champion, Minister of Justice, David Harutunyan. The change within the government affects the government's constituency representation on the MSG. Activities of the MSG are currently stalled until the new MSG government composition is in place. It is not clear who will be the new MSG Chair. <u><i>Support and funding needs:</i></u> The World Bank EGPS funding has been delayed since September 2017. The government has signed the grant agreement in April 2018. Partners can support the MSG's 2018 work plan activities by providing capacity building.
Burkina Faso Meaningful progress against the EITI Standard Corrective actions: ↗ <i>2nd Validation commences on 14 August 2019</i>	<u><i>Context and opportunities for EITI:</i></u> Burkina Faso is a growing gold producer. Production grew by 20% in 2017. The mining code was updated in 2015 and the regulations are steadily coming into force. The country hopes to launch its mining cadastre in June 2018. The EITI Board assessed that Burkina Faso had made meaningful progress against the EITI Standard in February 2018 and will have 18 months to implement corrective actions. <u><i>EITI disclosures:</i></u> Burkina Faso signed up for the Open Government Partnership in 2016, which led to the creation of the Burkina Open Data Initiative (BODI). BODI has been working with the national secretariat to support open data disclosures and to explore mainstreaming possibilities. Alongside BODI, the World Bank has initiated numerous reforms aimed at improving government information systems with the Ministry of Mines and Tax Authorities. The EITI national

Current assessment Previous assessment Country manager: Gisela Granado	secretariat is revising terms of reference to complement and expand on this work. <u>Beneficial ownership:</u> Burkina Faso conducted a detailed analysis of the legal framework in Burkina Faso as part of the EITI beneficial ownership pilot in 2015. There has not been any progress on addressing the legal framework since this study. The country has begun collecting data from companies as part of the EITI reporting process but the quality assurance for such disclosures remains unclear. A mission of the International Secretariat to Burkina Faso to address these issues is planned for Q3 2018. <u>Other implementation issues (if applicable):</u> The MSG structure is two-tiered. The Steering Committee is headed by the Permanent Secretary in the Ministry of Economy, Finance and Development, Mr Mabourlaye Nombre, whilst the higher level Supervisory Committee is headed by the line minister, Mrs Hadizatou Rosine Coulibaly. Validation has highlighted that the Supervisory Committee has faced challenges of inconsistent participation. It has been difficult for the Minister of Finance to mobilize other Ministries in implementing EITI reforms. Burkina Faso is currently reviewing its governance structures in a bid to better position itself to lead the dialogue on mining reforms. <u>Support and funding needs:</u> The government funded approximately 28% of the planned budget in 2017 (USD 450 000), with heavy support from external partners. Burkina Faso is in the last phases of the World Bank PADSEM project which ends in June 2018. They have long relied on donors to finance reconciliation reports but this will be significantly reduced with the closing of PADSEM. The Government supports implementation but is administratively heavy and funds are not being released in a timely manner. Partners are asked to support implementation of the country's beneficial ownership roadmap and mainstreaming feasibility studies.
Cameroon Yet to be assessed against the EITI Standard Validation commenced 1 July 2017 Current assessment Previous assessment Country manager: Bady Baldé	<u>Context and opportunities for EITI:</u> In March 2018, the national oil company, SNH and its partners Perenco, Golar LNG started production of natural gas at a floating LNG. According to long terms purchasing agreements, all the 1.2 million tonnes annual output from the project has been sold to Gazprom's trading arm for eight years. The first LNG cargo left Cameroon in April. Cameroon's floating LNG plant is the first in Africa and the second in the world. <u>EITI disclosures:</u> Cameroon has published detailed information on the sale of oil by SNH in its 2015 Report. The report includes information about the price and buyers for the first time. Oil sales data are set out cargo-by-cargo and make a clear distinction between crude oil belonging to the State and equity oil belonging to SNH. SNH has also mainstreamed EITI disclosures in its reporting and provides more timely information on its website. The MSG approved TORs for the 2016 and 2017 Reports on 17 May. These reports will be aimed at addressing recommendations identified in the initial assessment for Validation. <u>Beneficial ownership:</u> Cameroon's new mining code includes provisions for beneficial ownership disclosure. At its meeting on 17 May, the MSG reviewed progress in the implementation of the beneficial ownership roadmap and launched plans for a national workshop to train key government agencies and companies on beneficial ownership disclosure. Overall progress in the implementation of the beneficial ownership roadmap remains limited.

	Cameroon will face difficulties to meet the 2020 deadline, especially for the oil and gas sector. <u>Support and funding needs:</u> EITI implementation is fully government funded at an estimated cost of \$665,000 in 2017. There were no funds available for the MSG to complete activities outside the 2017 work plan, such as the targeted efforts on commodity trading. Partners are encouraged to support the implementation of the beneficial roadmap, including drafting a detailed government regulation to implement the beneficial ownership provision in the mining code and expand disclosure to the hydrocarbon sector.
Central African Republic Yet to be assessed against the EITI Standard <i>Suspended due to political instability</i> Current Assessment Previous assessment Country manager: Bady Baldé	<u>Context and opportunities for EITI:</u> The Central African Republic (CAR) is ranked red because the country continues to face enormous challenges to resume EITI implementation after four years of suspension due to political instability and conflict. The security situation in Bangui remains volatile. Artisanal mining of diamonds is the only extractive sector. The sector is limited to one operator approved by the Kimberly process. <u>EITI disclosures:</u> In October 2017, EITI-RCA launched data collection for its 2016 Report. Its previous data dates back to 2011. The MSG agreed that new EITI Reports will cover the mining, hydrocarbon and forestry sectors. <u>Beneficial ownership:</u> CAR has not made progress on the publication of beneficial ownership data. <u>Support and funding needs:</u> The CAR government has committed \$271 000 of the EITI's estimated budget of \$411 791 for 2018. CAR has requested support to train new MSG members and to fund its next EITI Report. Partners are encouraged to support the functioning of the MSG and preparation of an adapted implementation request, that reflects the challenges facing the extractive sector. CAR will also need support to rebuild government archives and to formalise the artisanal and small-scale mining sector.
Chad Yet to be assessed against the EITI Standard <i>Validation commences 1 July 2018</i> Current assessment Previous assessment Country manager: Bady Baldé	<u>Context and opportunities for EITI:</u> Chad produced over 110,000 bpd in 2017 and production is expected to grow to 130 000 bpd in 2018. In February, the Government of Chad reached a deal with Glencore and four banks to restructure the USD 1.4 billion oil backed-loan. Debt restructuring and greater transparency on the loan repayment was a precondition of the negotiations for an IMF programme. <u>EITI disclosures:</u> The 2016 EITI Report is due to be published in June. It provides detailed information about the delivery of crude oil to Glencore for the repayment of the loan and oil sales by Glencore. The information is set out cargo by cargo. With support from the World Bank, the government also adopted a new policy on contract transparency in April. The new policy calls for the publication of all contracts within 90 days following their signature. EITI-Chad has played a key role in the development, adoption and implementation of the new policy. <u>Beneficial ownership:</u> The draft 2016 EITI Report does not provide information on beneficial ownership, but it confirms that the Ministry of Petroleum has issued a press release for the publication of beneficial ownership information on

	the Ministry of Finance and Budget website. The IA noted in the draft report that the team was unable to collect beneficial ownership information and highlighted the delays in implementing the roadmap within the established timeframes. The EU mission in N'Djamena has agreed to support the disclosure of beneficial ownership in the EITI Report. <u>Support and funding needs:</u> EITI implementation is fully government funded and costed USD 900,000 in 2017. The 2018 budget is set at USD 1,000,000. Chad is in the process of renewing its MSG membership and is preparing for Validation in September 2018. Partners are encouraged to support implementation of the beneficial ownership roadmap and the development of the mining and petroleum cadastre.
Colombia Yet to be assessed against the EITI Standard <i>Validation commenced 1 January 2018</i> Current assessment Previous assessment Country manager: Francisco Paris	<u>Context and opportunities:</u> The extractive sector is high on the agenda in the lead up to presidential elections in May-June. Distribution of royalties, regional development, future expansion, including non-conventional gas-fracking, and, more generally, fighting corruption are central to the campaign debates. The EITI has addressed the complex issue of distribution of royalty revenues to regions. EITI Reports include explanation of the distribution formula and links to monitoring tools available to track royalty money. More could be done to improve regional engagement, licensing transparency and beneficial ownership disclosure. <u>EITI disclosures:</u> Colombia has completed its third reporting cycle covering 2016. A number of areas are systematically disclosed by government agencies (hydrocarbon licenses, cadastre information, SOE transactions, production and export data) with others being compiled (subnational transfers) or produced by the EITI (revenue data). Colombia is well placed to make progress on systematic disclosure. <u>Beneficial ownership:</u> A national beneficial ownership law is postponed until the next legislature in July. EITI Colombia has made limited progress in implementing the roadmap. The national secretariat is currently consulting industry stakeholders to explore options for beneficial ownership disclosures as part of future EITI reporting. Government agencies such as the mining regulator (Agencia Nacional de Minería) has discussed ways to include collecting beneficial ownership data in their licensing records. A planned reform of the mining code could be an opportunity to address this. In all cases, it will be for the new authorities to renew the political commitment to make beneficial ownership disclosure possible by 2020. <u>Other implementation issues:</u> EITI Colombia has identified a number of issues related to environmental regulations for the reporting to cover. The Ministry of Environment including the licensing agency (Autoridad Nacional de Licencias Ambientales) has been engaged. Similarly, the Ministry of Mines and Energy is discussing areas in which the EITI could contribute to, for example, facilitating due diligence for stakeholders in the gold supply chain. <u>Support and funding:</u> Government funding has been secured for 2018 and 2019. The EGPS has agreed in principle to support subnational engagement with a USD 500,000 grant expected for the second half of 2018. Development partners are encouraged to explore possibilities to support the move to systematic disclosure and the next reporting cycle.

Côte d'Ivoire Meaningful progress against the EITI Standard Corrective actions: ↗ <i>2nd Validation commences on 8 November 2019</i> Current assessment Previous assessment Country manager: Gisela Granado	<u><i>Context and opportunities for EITI:</i></u> Côte d'Ivoire is an important gas producer in West Africa allowing it to become a net exporter of electricity to neighbouring countries such as Burkina Faso and Ghana. Gold production reached 23 tonnes per year in 2015, overtaking oil as the top extractive export. The government's priority remains attracting foreign investment for the further development and formalisation of its extractive sector. It continues to work closely with the regional body, the West African Economic and Monetary Union (UEMOA), on a revised mining code. <u><i>EITI disclosures:</i></u> During the country's Validation, Cote d'Ivoire was assessed as going beyond the EITI Standard in its disclosures on exploration data and social expenditures. The Board highlighted the need for improved MSG governance and disclosures by the state-owned enterprise, PETROCI. Cote d'Ivoire is currently working on its 2016 EITI Report. The government launched its online mining cadastre in July 2017, which will also better monitor the process for license allocation. <u><i>Beneficial ownership:</i></u> Cote d'Ivoire's beneficial ownership roadmap provided information on defining beneficial ownership, data collection and data assurance. The 2015 UEMOA directive on money laundering and financing of terrorism defines beneficial owners and PEPs and was translated into national law in 2016. The national secretariat is conducting a legal study to further support identification of the body that would house the beneficial ownership register. <u><i>Other implementation issues:</i></u> Cote d'Ivoire's Validation highlighted several issues on MSG and national secretariat governance. These included opaque per diem disbursements and unclear nomination procedures. The MSG held workshops in April 2018 to address these issues and improve transparency in the management of the national secretariat. Recommendations from these MSG workshops will feed into ongoing revisions to the country's workplans. Cote d'Ivoire will participate the EITI's peer-learning commodity trading workshop in Paris 26-27 June 2018. <u><i>Support and funding needs:</i></u> EITI implementation was fully government funded in 2017. The country received an EGPS grant of \$250 000 which is committed to implementation of the 2018 work plan. Partners are encouraged to help generate high-level political will, to raise the ambition of EITI implementation and better integrate it within national policy processes. Partners are also encouraged to support the activities identified in the country's work plan (such as contract transparency and artisanal mining) and to build awareness with the Ministry of Petroleum and key stakeholders on how Côte d'Ivoire could benefit from taking part in EITI's commodity trading efforts.
Democratic Republic of the Congo (DRC) Yet to be assessed against the EITI Standard <i>Validation commences 1 July 2018</i>	<u><i>Context and opportunities for EITI:</i></u> A new Mining Code was promulgated on 8 March. Notable changes include the increase in taxes on profits from 30% to 35%; the doubling of the government's stake in new mining projects from 5% to 10%; and the increase in royalty rate from 2% to 3.5% for copper and cobalt, which were designated as strategic minerals. Seven of the largest mining companies left the Chamber of Mines in protest over these changes and the possible cancellation of stability clauses in their contracts. The new Mining Code also includes provisions for transparency in accordance with the EITI Standard on areas such as contract transparency, beneficial ownership and production

Current assessment Previous assessment Country manager: Bady Baldé	data. DRC EITI is taking part in the drafting of the regulations, in the hope that detailed transparency provisions are included. EITI reporting will be crucial in describing the new fiscal regime and monitoring its implementation in practice. <u>EITI disclosures:</u> The DRC is making progress with timely disclosure. The Ministry of Finance published aggregate government revenues from the oil, gas mining and forestry sectors for the last quarter of 2017. The DRC EITI Technical Secretariat is conducting outreach activities with government agencies on systematic disclosures. Preliminary findings reveal stark discrepancies between different agencies, with significantly more publicly accessible data on the mining sector than on the oil sector. The upcoming 2016 report will aim to address stakeholders' concerns about the transparency of state-owned enterprises. DRC EITI aims to publish the report, as well as their 2017 Annual Progress Report and a revised triennial work plan, before the start of Validation in July. <u>Beneficial ownership:</u> A stakeholder workshop took place in February 2018 to revise the beneficial ownership roadmap. Even though DRC EITI has been a leading country on beneficial ownership disclosures, there are concerns that progress in actual disclosures has stalled. An MSG working group was being formed in May, tasked with revising definitions and establishing an appropriate framework for disclosures amongst others. The national secretariat is supporting revisions to the beneficial ownership provisions of the regulations for the new mining code. <u>Other implementation issues:</u> The International Secretariat has provided extensive support to the EITI-DRC in the first half of 2018 to support preparation for Validation and resume EITI implementation that stalled in 2017 due to internal governance issues. The Secretariat undertook two missions to the DRC in March and May in support to EITI implementation. DRC EITI has gradually resumed its activities and improved its internal procedures with regular reporting to the MSG on the financial management of funds allocated to EITI implementation. The MSG has drafted a decree to renew MSG membership and to improve MSG functioning. <u>Support and funding needs:</u> EITI implementation is fully government funded at an estimated \$ 1.377.401 in 2017. Partners are particularly encouraged to build on achievements to date on beneficial ownership and to fund mainstreaming activities through a systematic disclosure feasibility study that would comprise the entire extractive sector and look at both government and corporate systems. Given the fragmented fiscal regime, the DRC needs extensive support in financial modelling. Financial modelling will help government officials to better understand and monitor company commitments in the sector. Partners are also asked to support efforts aimed at introducing project level reporting. Combined with financial modelling, project-level reporting would help clarify the applicable fiscal regime to large projects and ensure adequate reporting.
Dominican Republic Yet to be assessed against the EITI Standard	<u>Context and opportunities for EITI:</u> The Ministry of Energy and Mines continues to advance an agenda aimed at improving governance of the extractive sector, including the updating of regulatory framework, improving licensing and monitoring production. The EITI could be more engaged in the discussions about the new Mining Law. <u>EITI disclosures:</u> To complement the EITI data portal launched in August 2017, Dominican Republic EITI published the 2015 EITI Report in November 2017. The

<i>Validation commences on 1 January 2019</i> Current assessment Previous assessment Country manager: Santiago J. Dondo	report highlighted the need to improve inter-governmental coordination, modernise the rules and system on distribution of subnational transfers and revise the scoping for future reporting. The MSG is now in the process of hiring the IA for the 2016 report, which gives an opportunity to address these recommendations and move towards systematic disclosure where feasible. <u>Beneficial ownership:</u> Recent regulations on beneficial ownership in general have been approved (Law No.115-17 and Regulations No.408-17). The Dominican Republic EITI is working with the Ministry of Economy to analyse the rules and detailed plans for implementation, to check and understand the gaps, if any, with the requirement of the EITI standard. <u>Support and funding needs:</u> Dominican Republic submitted an application for a second EGPS grant to fund the second report to be considered by the EGPS management committee in June. IADB is actively assisting Dominican Republic in various issues regarding the extractive sector more generally. Partners are encouraged to assist in strengthening the analytical capacity of government agencies and civil society stakeholders.
Ethiopia Yet to be assessed against the EITI Standard <i>Validation commenced 1 April 2018</i> Current assessment Previous assessment Country manager: Ines Marques	<u>Context and opportunities for EITI:</u> Ethiopia is currently going through a political change following the appointment of a new Prime Minister, Abiy Ahmed in April. So far this year, more than 7,000 political prisoners have been released. After weeks of protests over the environmental effects of the country's only large-scale mine (Legadembi gold mine), the government suspended the license in May. The company operating the mine, MIDROC, is owned by the Ethiopian-born Saudi billionaire Mohammed Hussein al-Amoudi, detained in Saudi Arabia on corruption charges. The EITI does not appear to have contributed to these ongoing debates, despite demands for information related to the economic contributions of MIDROC's mining operations. While the space for civil society to operate continues to be restricted by the 2009 Charities and Societies Proclamation, there are widespread expectations that revisions to the proclamation might be made in the coming year. <u>EITI disclosures:</u> There is generally little publicly available information related to public financial management in Ethiopia, and key government documents such as the auditor general's report and budget execution documents are not available online. Considering current level of disclosures and capacity constraints in government, it is unlikely that Ethiopia could fully transition to systematic disclosures in the next three years. Ethiopia's EITI Reports have provided useful information on mining licensing in particular, while stakeholder consultations for the ongoing Validation revealed that much of the missing information could be easily disclosed through the cadastre system. Key disclosure gaps relate to the financial relationship between and government and the state-owned Ethiopian Minerals, Petroleum and Biofuels Corporation, which will play a key role in the development of the Ogadin gas field. <u>Beneficial ownership:</u> A beneficial ownership scoping study was undertaken in 2017. The 2015-16 EITI Reports provided some interesting beneficial ownership information, including names of politically exposed persons holding mining licenses. While there is clear demand for beneficial ownership information from the mining cadastre, the petroleum department appears less aware of the value of this information. The MSG plans to use EITI reporting to collect and disclose ownership information.

	<u>Support and funding needs:</u> In recent years, funding for implementation has mostly come from the World Bank MDTF, which has about USD 100,000 in funds for disbursement by June 2019. The national secretariat's operational costs are covered by the government. The Government of Canada is also providing wide-ranging support to the Ministry of Mines, Petroleum and Natural Gas, with opportunities for EITI support from other donors under the project.
Germany Yet to be assessed against the EITI Standard <i>Validation commences 1 January 2019</i> Current assessment Previous assessment Country manager: Sam Bartlett	<u>Context and opportunities for EITI:</u> While Germany is generally not regarded as a resource-rich country, the coal sector is a particular focus of attention as Germany pursues ambitious plans to switch to renewable energy (the so-called "Energiewende"). Germany is the world's largest producer of lignite (brown coal), which accounts for about a quarter of the annual power generation. Another 20% is generated by hard coal. Production is dependent on subsidies which are being phased out. In addition to subsidies, there is considerable interest in the environmental impact of the extractive industries. <u>EITI disclosures:</u> Germany has strong privacy protections regarding government disclosure of company financial and tax information. The MSG agreed to align EITI reporting with the EU Accounting and Transparency Directives. The 2016 report, first published in August 2017, was updated in March 2018 with the latest company data. The first EITI Report was challenging, as companies had to sign waivers to allow the government to disclose data. This was particularly problematic for business taxes, the second largest revenues stream. Companies were asked to sign waivers for each local government area where they were operating. The reconciliation work that was carried out did not reveal any significant discrepancies. The MSG has proposed a higher materiality threshold for reconciling sub-national payments and requested Board approval of this approach. The Implementation Committee is considering this request. The MSG is also considering other opportunities for systematic disclosure. <u>Beneficial ownership:</u> Progress on beneficial ownership disclosure will depend on the German federal government's transposition of the 5th EU Anti-Money Laundering Directive. The Directive requires that beneficial ownership registers for legal entities, such as companies, will be public. Member States have up to 18 months to transpose these new rules in their national legislation¹⁰. <u>Other implementation issues:</u> The MSG is also considering requesting an early Validation, so that the results are available before the next global conference. <u>Support and funding needs:</u> The government fully funds EITI work plan activities, including the cost of the Independent Administrator. The International Secretariat has been providing support to the MSG's pre-validation work.
Ghana Meaningful progress against the EITI Standard Corrective actions: ↗	<u>Context and opportunities for EITI:</u> Ghana continues to face a significant debt crisis resulting from increased lending and borrowing off the back of the discovery of oil. Sector reforms are seen as a way of addressing this crisis, including the recent completion of an online cadastre administration system, using the EITI to review whether companies are operating as they should and comprehensively cleaning up small-scale mining. EITI reporting has highlighted gaps in the way the extractive sector is managed and catalysed important tax

¹⁰ See http://europa.eu/rapid/press-release_STATEMENT-18-3429_en.htm and http://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=48935

<i>2nd Validation commences 8 September 2018</i> Current assessment Previous assessment Country manager: Pablo Valverde	policy changes such as the introduction of capital gains tax, higher ground rent and fixed royalty rates. <u>EITI disclosures:</u> Ghana published its 2015 data by the extended deadline of 1 May 2018. The reports suggest that Ghana has made progress in addressing the corrective actions, but some gaps remain on state participation, comprehensiveness and data quality, among others. The Secretariat will work with GHEITI, NREGI and other partners over the coming months to address these. Ghana is also undertaking a pilot project on commodity trading, which will among other things seek to clarify the role of state-owned enterprises in marketing the state's share of oil and gas following reforms in 2016. The report is expected to be concluded by June. <u>Beneficial ownership:</u> The Registrar General (RG) has been tasked with setting up a beneficial ownership registry. The Companies Bill that is currently being discussed by Parliament includes beneficial ownership provisions that according to partners meet international standards. A roundtable discussion was organised by DFID in May with key stakeholders to facilitate the passage and implementation of the Companies Bill. Ghana is due to receive support from the UK government to develop an ownership register that links to the Open Ownership global register. There are challenges in developing an MOU with Open Ownership because the Government of Ghana does not wish to pre-empt the ongoing legislative process. Unless these can be overcome, the support from DFID may be withdrawn. In the meantime, Ghana EITI is working with the RG to support progress in the sector, including through EITI reporting. <u>Other implementation issues:</u> There is potential for tying implementation closer to ongoing reforms, however this is hampered by the absence of a high-level government official to champion the process. <u>Support and funding needs:</u> Delays in grant disbursements were at the core of Ghana's request for an extension of the reporting deadline. A grant financing agreement is being finalized with the World Bank and GHEITI does not currently report funding challenges. Partners can support by encouraging implementation of the corrective actions from Validation and GHEITI's commodity trading work programme, encouraging the government to ensure that the beneficial ownership registry will be publicly accessible and push for the government to appoint a senior EITI Champion in the government.
Guatemala Yet to be assessed against the EITI Standard <i>Validation commenced 1 April 2018</i> Current assessment Previous assessment	<u>Context and opportunities for EITI:</u> The activity of the extractive sector has declined severely for the last years in Guatemala. Fiscal contribution of the extractive industries has fallen from USD 230 million in 2011 to USD 93 million in. Besides the closure of the largest mine (Marlin, operated by Goldcorp) and the suspension of another large mine (San Rafael), there is a de-facto moratorium on new oil, gas and mining licenses. This resulted from the Constitutional court ruling on free-and-prior-informed-consultations in 2017. It is unlikely that the extractive activity could recover in the short-term. <u>EITI disclosures:</u> In this context and with widespread scandals of corruption in the country, the main civil society organisations are not focusing on the extractive sectors. The government could not get an approved national budget

Country manager: Santiago J. Dondo	from the Congress and, thus, funding the EITI has been difficult. The EITI process did not make much progress during 2017. <u>Beneficial ownership:</u> Not much progress has been made with respect to beneficial ownership. <u>Other implementation issues:</u> With EITI implementation at its weakest point since becoming an EITI country in 2011, Guatemala is undergoing Validation as of 1 April 2018. Last January, the International Secretariat wrote to the Minister of Energy Luis Chang, to invite the government and MSG to consider options for EITI implementation, including voluntary suspension or recalibrating EITI implementation using the available mechanisms in the Standard (i.e. limited engagement policy). The Secretariat also held several discussions with members and supporters of EITI Guatemala. However, so far there has been no interest in exploring these alternatives. In March, EITI Guatemala requested an extension of one-month to submit documentation and decided to continue with the Validation process. <u>Support and funding needs:</u> The government has yet to secure funding for the 2018 work plan, including preparation of the fourth EITI Report. Partners are encouraged to work with the government in exploring options for recalibrating its EITI process.
Guinea Current assessment Previous assessment Yet to be assessed against the EITI Standard <i>Validation commences 1 July 2018</i> Country manager: Gisela Granado	<u>Context and opportunities for EITI:</u> Guinea has substantial iron ore, bauxite, gold and diamond reserves. Guinea is now China's largest supplier of bauxite. Rio Tinto sold its stake in the Simandou project to Chinalco in November 2016. In May, Guinea's government approved an approximate USD 2.8 billion investment by Chinese company TBEA Co Ltd in a new bauxite mine, an aluminium refinery and an aluminium smelter. The industry's development, however, has been slowed by riots in the northwest, Boké, over the mining industry's perceived failure to raise living standards. <u>EITI disclosures:</u> Guinea continues to use EITI Reports as its main source of EITI disclosures. The MSG hopes to publish its 2015 EITI Report by June 2018 ahead of the start of the country's Validation in July. This EITI Report will include data on sub-contractors to the sector and the Supreme Audit Institution will be responsible for the certification of government data. The Bureau of Strategic Development collects monthly information on some extractive statistics such as exports but this information is not yet published. The MSG aims to have a cohesive mainstreaming plan by December 2018. <u>Beneficial ownership:</u> The MSG, in collaboration with the Ministry of Justice and NRG, has developed draft beneficial ownership legislation that has been submitted to parliament for review. The body currently managing the mining cadastre, the Centre for Mining Promotion and development (CPDM), will house the beneficial ownership register. <u>Support and funding needs:</u> Government provided about \$ 552 000 (61%) of the budget for the 2017 work plan, and has committed \$ 467 000 (38%) for 2018. State funding is slow but the MSG continues to pursue this option. Remaining sources of funding for a 2018 work plan are yet to be confirmed. The World Bank is funding the 2016 and 2017 EITI Reports and GIZ is supporting dissemination activities. GIZ is funding dissemination activities. Partners are

	asked to support the government in its efforts to improve communication on mining sector reforms and to improve the contribution and formalization of the ASM sector.
Guyana Yet to be assessed against the EITI Standard <i>Validation commences 25 April 2020</i> Current assessment Previous assessment Country manager: Francisco Paris	<u><i>Context and opportunities:</i></u> With the development of promising offshore oil fields, Guyana is expected to become an important oil producer in the region over the coming years. Together with gold, bauxite and timber, natural resources are the main economic sectors. Guyana's main challenge is to manage these resources soundly. With the country's legacy of mismanagement, corruption and opacity, the EITI is central part of the Government of Guyana's plan to ensure that transparency contributes to the improved governance of the sector. <u><i>EITI disclosures:</i></u> Guyana EITI is finalising the selection of the IA. The IA will be responsible for collecting and reconciling revenue data and identifying and collating non-revenue information. The Secretariat is supporting then on identifying opportunities for systematic disclosure. The first report is expected by Q1 2019. <u><i>Beneficial ownership:</i></u> No progress has been made in implementing the roadmap. The MSG has tasked a legal working group to update the roadmap submitted last October. <u><i>Other implementation issues:</i></u> Capacity in the government agencies is low. The International Secretariat is coordinating with the GYEITI Secretariat to further support scoping, materiality, quality assurance and beneficial ownership disclosure. Another challenge continues to be the need for the MSG to ensure effective stakeholder representation to address potential conflicts of interest. The government is planning to create an Energy Department directly reporting to the Office of the President. This unit will absorb some of the responsibilities of the EITI host – the Ministry of Natural Resources - related to managing the oil and gas sector. This has not affected the functioning of the MSG. However, the first report should address these changes as part of the discussion of the legal and institutional framework. <u><i>Support and funding:</i></u> The government is hosting the GYEITI Secretariat and funding their first report. Half of the work plan (USD 290,000) remains unfunded. Areas where further support is needed include strengthening of government systems with an aim at systematic disclosure of EITI data. GYEITI and the World Bank are discussing support as part of the Guyana Oil and Gas Capacity Building Project. Partners are encouraged to explore with the government further support for GYEITI.
Honduras Meaningful progress against the EITI Standard <i>Second Validation commences 25 April 2019</i>	<u><i>Context and opportunities:</i></u> Honduras faces political instability alongside a backdrop of weak economic growth, inequality, social unrest, violence and high levels of organized crime activity. Expected investments in the extractive sector have not materialised. Oil exploration has halted. No big mining projects are likely in the short term. Deep-rooted anti-mining sentiment and large informal and illegal activities have restricted any expansion. EITI Honduras initially helped promote dialogue between stakeholders and contributed to some administrative improvements in the cadastre and tax offices. Validation revealed the need to reinvigorate stakeholder engagement in the process and promoting public debate.

Corrective actions:  Current assessment Previous assessment Country manager: Santiago J. Dondo	<u>EITI disclosures:</u> Honduras did not publish the 2015 EITI Report by December 2017 and was suspended by the Board in February. The IA is already hired and the MSG expects to publish a report covering 2015 and 2016 by June, so suspension could be lifted. Validation highlighted the need to address subnational payments in future EITI reporting. IA has been requested to consider opportunities for systematic disclosure, but the MSG has not really included this issue in their working agenda. <u>Beneficial ownership:</u> Despite the government's initial interest in advancing beneficial ownership disclosures to fight corruption and money laundering in the mining sector, no progress has been made. <u>Other implementation issues:</u> The corrective actions from Validation could be an opportunity for Honduras to revisit the scope of its EITI process and explore opportunities for limited engagement implementation. In February, the International Secretariat raised this option with EITI Honduras and shared the "limited engagement policy" approved by the Board in Manila. No answer nor reaction has been received yet. <u>Support and funding needs:</u> Validation revealed several challenges to implementation including sustainable funding and hosting arrangements for the local secretariat. The government has yet to secure funding for the 2018 work plan. Partners are encouraged to work with the government and the MSG to explore ways to assist them in recalibrating their EITI process.
Indonesia Yet to be assessed against the EITI Standard <i>Validation commences 1 September 2018</i> Current assessment Previous assessment Country manager: Gay Ordenes	<u>Context and opportunities for EITI:</u> The government is strengthening the SOE's (Pertamina and PT Inalum) role as a holding company for the petroleum sector by consolidating the government's holdings in said companies. This highlights the need to foster more transparency in state-owned enterprises through the EITI. A commodity trading report was published in February which could be improved by including information on buyers, as well as imports. Indonesia's policy framework for the extractive sector has undergone several changes in recent years, leading to withdrawals of some foreign investments. <u>EITI disclosures:</u> The International Secretariat and the World Bank are mapping extractives data currently available from government websites. The initial finding is that there is an uneven level of disclosures among government agencies and SOEs both in terms of granularity and timeliness. The MSG has started discussing systematic disclosures and will decide on a timetable to move towards mainstreaming. Meanwhile, the national secretariat is uploading data from EITI Reports in a data portal established in 2017. <u>Beneficial ownership:</u> Beneficial ownership disclosures are now required in two regulations—the Presidential Regulation on beneficial ownership which applies to all companies registered in Indonesia and requires the establishment of a register, and a ministerial regulation issued by the Energy Ministry (ESDM) which requires disclosure as part of the licensing processes for mining, oil and gas activities. It is likely that Indonesia would be able to disclose beneficial ownership information by 2020 but the MSG should work towards making the register and the information from ESDM publicly accessible. <u>Other implementation issues:</u> The MSG could benefit from a refresh of its membership to ensure that key people are involved, especially from

	government. There are plenty of opportunities for the EITI to be part of national conversations around the extractive sector but a more proactive leadership at the national level is needed to realize the EITI's potential to contribute to reforms. <u>Support and funding needs:</u> The current available funding for EITI implementation is USD 423,000. Not all activities in the work plan are funded because of a decrease in government funding. EITI implementation will be fully funded by the government starting in 2019 as the Natural Resources for Development Fund (NR4D) managed by the World Bank for bank-executed activities closes at the end of 2018. Bank-executed support could still be requested but the government has not submitted a request to date. The national secretariat is currently applying for EITI implementation's inclusion in the national budget for 2019 while looking for additional funding support. There are available funds from SECO to support the publication of the next commodity trading report.
Iraq Inadequate progress against the EITI Standard Corrective actions: ↗ <i>Second Validation commences on 26 April 2019</i> Current assessment Previous assessment Country manager: Pablo Valverde	<u>Context and opportunities for EITI:</u> A law passed by parliament in March created a new National Oil Company that would significantly change the governance of the sector. The law has not yet been implemented and the recent parliamentary election in May, which did not lead to a working majority for any party, make progress unlikely in the short and middle term. Although the higher commodity prices will provide much-needed relief for Iraq, there are also signs that the sector is struggling to attract investment: a licensing round in April failed to attract bids from international energy companies, with five of the eleven blocks on offer failing to attract any bidders. The EITI could play an important role in the coming months as it could contribute to ongoing discussions about the implications of the legal code, inform the debate about the real contribution of the sector to the economy and bring some transparency to exports from the Kurdish Regional Government. This would require much closer interaction with the Ministry of Oil and stronger government engagement. <u>EITI disclosures:</u> Iraq is on track to publish data for 2016 and 2017 this year, probably in two reporting exercises to address any gaps identified in the first report. The World Bank is supporting systematic disclosures following a mainstreaming mapping exercise carried out by the MSG in May. <u>Beneficial ownership:</u> Iraq is struggling to operationalise the EITI's beneficial ownership requirement, given that its oil and gas sector is 100% state-owned, and buyers of Iraqi crude are generally publicly listed majors or national oil companies. Additional work is needed to find a way to meaningfully apply the requirement in the Iraqi context. <u>Other implementation issues:</u> Iraq's Validation, concluded in October 2017, found that Iraq was making inadequate progress in implementing the Standard. Iraq is therefore suspended until it can demonstrate progress against the 29 corrective actions identified by the EITI Board. Areas where progress is needed include oversight by the MSG, licenses and contracts, revenue collection including direct subnational payments, revenue allocations and social expenditures. Iraq has sought to make quick progress in addressing the findings of Validation. Nevertheless, there continues to be a concern that the corrective

	actions plan developed by the MSG does not sufficiently engage the Ministry of Oil nor address broader challenges in the sector. <u>Support and funding needs:</u> Iraq's funding for its USD 1.4m 2018 work plan comes exclusively from the World Bank and the Ministry of Oil. Diversifying funding sources should be a priority, and partners are encouraged to reach out to IEITI to fund specific areas of the work plan. Partners can also support by encouraging further integration with ongoing reform attempts, including encouraging the country to participate in the targeted efforts on commodity trading.
Kazakhstan Meaningful progress against the EITI Standard Corrective actions: ↗ <i>Second Validation will commence on 13 August 2019</i> Current assessment Previous assessment Country manager: Oliana Valigura	<u>Context and opportunities for EITI:</u> Kazakhstan continues to diversify its economy, decreasing its dependency on natural resources. The country's oil production increased by 10% in 2016. Despite fluctuations of commodity prices, the extractive sector continues to play a central role in Kazakhstan's economy. The government is working on the regulations for the new Code on Subsoil and Subsoil Use that was adopted in December 2017. In addition to simplified license procedures and taxation, the Code also requires beneficial ownership disclosure. <u>EITI disclosures:</u> In February, the Board agreed that Kazakhstan had made meaningful progress in implementing the EITI. The MSG has already started addressing some of the corrective actions, such as quasi-fiscal expenditures and social payments. A mainstreaming feasibility study was published in October 2017 and showed that company data and most of the government data are already available through the existing online platform EGSU (Unified State System of Subsoil Management). Furthermore, submission of applications for various permits, announcements of tenders and tender results, data on geological information, licensed areas (cadastre) and other information required by the EITI Standard is already available online. However, the MSG is reluctant to follow up on the recommendations from the study. <u>Beneficial ownership:</u> The Code on Subsoil and Subsoil Use includes a definition of control, however, the provisions related to beneficial ownership transparency are somehow ambiguous. Currently the government is working on finalising the related bylaws and regulations that are expected to include more detailed requirements related to beneficial ownership. The International Secretariat, with support from EBRD, has conducted two workshops on beneficial ownership for civil society and media representatives in November 2017 and February 2018. The main focus of these workshops was to enable a legal framework for beneficial ownership transparency and to learn how to use and analyse the BO data, based on the 2016 pilot disclosures in Kazakhstan. <u>Other implementation issues:</u> Kazakhstan could benefit from disclosing information on Kazmunaigaz's equity oil trading operations as part of the EITI targeted efforts on commodity trading. <u>Support and funding needs:</u> EITI implementation is funded by the government. The EBRD has provided support for beneficial ownership-related activities until the end of 2019. Partners can support implementation by providing funding for civil society activities, including report dissemination, in order to generate public debate.

Kyrgyz Republic Inadequate progress against the EITI Standard <i>2nd Validation commences 8 September 2018</i> Corrective actions: ↘ Current assessment Previous assessment Country manager: Oliana Valigura	<u><i>Context and opportunities for EITI:</i></u> The newly elected president Sooronbai Zheenbekov has set new directions for the country, including prioritising e-governance and diversification of the economy. The new government is shifting its focus from gold mining to more consistent development of the regions. On 20 April, Kyrgyz Parliament appointed a new Prime Minister Mukhammedkalyi Abylgazie. The EITI Champion and MSG Chair, Ulanbek Ryskulov, who is also the Head of the State Committee on Energy, Water and Subsoil Use has kept his current position within the new government. In April, after a long review of the President's comments to the Law on Subsoil, the Parliament adopted amendments to the law, which among other changes mandates the extractive companies to be transparent about their payments and beneficial owners. The EITI could contribute to the systematic disclosures through governmental online portals, such as Open Budget and "Taza Koom". <u><i>EITI disclosures:</i></u> The Kyrgyz Republic remains suspended due to overall inadequate progress in its first Validation. Although considerable progress has been made on mainstreaming and beneficial ownership, the country is ranked red because of severe funding challenges and a risk of being delisted in September. Given the lack of funding and that the government has already been providing routine disclosures of the tax payments through the Open Budget Portal, moving toward systematic EITI disclosures would fit well with the wider government priorities on e-governance. In February-March, the International Secretariat conducted the mainstreaming feasibility study and presented the outcomes to the Supervisory Board. identifying next steps for systematic disclosures in the Kyrgyz Republic. <u><i>Beneficial ownership:</i></u> The Law on Subsoil Use enabling beneficial ownership disclosures is now in place. With support from EBRD, work is underway to support the development of bylaws. The government is considering signing an MoU with OpenOwnership to build a publicly accessible register, aligned with the global beneficial ownership open data standard. <u><i>Support and funding needs:</i></u> The government is in need of funding support to produce its 2015-2016 EITI Report before September 2018, otherwise the country faces delisting. The government did not manage to raise funds for the 2015 EITI Report, failing to meet the deadline of 31 December 2017. The World Bank's EGPS funding approved in April 2017 is overly delayed and the cause for delay was not communicated to the government. Due to these delays, the EBRD agreed to continue supporting one staff member at the national secretariat until September 2018.
Liberia Meaningful progress against the EITI Standard Corrective actions: ↘ <i>2nd Validation commences on 24 November 2018</i>	<u><i>Context and opportunities for EITI:</i></u> The EITI could be playing an important role in supporting the recently-appointed government's efforts to reform the extractive sector and develop oil production in Liberia. Instead, President George Weah's appointment of a new national coordinator in March and the ensuing criticism from stakeholders about how the appointment was made have effectively stopped all progress on implementation. It is furthermore uncertain whether Liberia currently has an MSG, as the term of the old MSG finished in October 2017 and a new one has not been nominated. The International Secretariat's is preparing a mission to Monrovia on the week of 18 June to meet with President Weah and discuss a way forward. <u><i>EITI disclosures:</i></u> Liberia was on track to publish its 2015/2016 data by its deadline of 30 June 2018 and a draft report seems to have been prepared by

Current assessment Previous assessment Country manager: Pablo Valverde	the Independent Administrator, however due to the ongoing challenges it has not been shared with stakeholders. Led by PWYP, civil society groups have reportedly said that they will not approve a final report until the broader situation in LEITI has been addressed. It is thus increasingly likely that Liberia will miss its reporting deadline, and there are no indications that progress is being made towards addressing the corrective actions from the first Validation. <u><i>Beneficial ownership:</i></u> With the new government being sworn in in January 2018 and the subsequent challenges to implementation, the Secretariat is not aware of any progress having been made on beneficial ownership disclosure since Liberia went into election mode in the fall of 2017. Before this time, Liberia had made some progress in piloting beneficial ownership disclosures through EITI Reports and had identified numerous gaps in government records as a result. The 2016 Petroleum Law includes beneficial ownership provisions that LEITI could be contributing to operationalise. <u><i>Other implementation issues:</i></u> Despite numerous attempts since March 2018, the International Secretariat has only recently been able to establish contact with LEITI or the new government. On 23 May, the President's named national coordinator confirmed receipt of the International Secretariat's correspondence and the International Secretariat is seeking a fuller discussion. <u><i>Support and funding needs:</i></u> International partners have put their support to LEITI on hold until the current situation is resolved. Partners can help by encouraging the government to hold a meeting between the EITI's Executive Director and President Weah to bring the process back on track.
Madagascar Yet to be assessed against the EITI Standard Validation commenced 1 September 2017 Current assessment Previous assessment Country manager: Indra Thévoz	<u><i>Context and opportunities for EITI:</i></u> Tensions surrounding the presidential elections scheduled in November have sparked fears of a political crisis similar to that of 2009. This in turn is affecting confidence in the extractive sector. Madagascar EITI has voiced concerns about increased opacity in the allocation of mining licenses. The MSG is using EITI reporting to monitor the implementation of two recent ministerial orders that define the disbursement of mining fees to communities affected by mining activities, including by the country's largest operator Ambatovy. The MSG held a central role in the promulgation of these ministerial orders. <u><i>EITI disclosures:</i></u> The World Bank is funding a preliminary mainstreaming feasibility study led jointly by EY and the national secretariat. Recent improvements to the mining cadastre's and petroleum SOE's websites are creating opportunities for improving systematic disclosures. Following the Board approval of Madagascar's extension request in February, the 2015-16 EITI Reports were published in May. The report provides extensive information beyond what is required by the EITI Standard about the allocation of revenues at the sub-national level and artisanal and small-scale mining. <u><i>Beneficial ownership:</i></u> A national workshop on beneficial ownership organised by Madagascar EITI in February led to clear recommendations for the revision of the EITI roadmap. The report recommended that the beneficial ownership registers be held by the mining cadastre office for mining companies and by office for national mines and strategic industries for oil and gas companies. Beneficial ownership has become the MSG's priority following publication of the delayed 2016 EITI Report in May.

	<u>Support and funding needs:</u> The majority of implementation costs for 2017 were provided by the AFDB (\$ 310 000), while the government provided \$ 150 000 (20% of work plan budget). Sources of funding for 2018 work plan are yet to be confirmed. Madagascar needs technical and financial support to improve the transparency of its SOEs (Kraoma in the mining sector and OMNIS in the oil sector). Support will also be needed to improve dissemination in the regions, especially since Madagascar EITI is struggling to secure government funding despite the Prime Minister's office legal obligation to do so. Partners are encouraged to advocate for greater government ownership of the EITI process in Madagascar.
Malawi Yet to be assessed against the EITI Standard <i>Validation commences 1 September 2018</i> Current assessment Previous assessment Country manager: Ines Marques	<u>Context and opportunities for EITI:</u> Malawi's extractive sector is currently small, and the country's economy relies on agriculture. The company running the only large-scale mining project, the Kayelekera uranium mine, has been criticised by some stakeholders for failing to generate socio-economic benefits. There is no petroleum production in Malawi, but licenses to explore six oil blocks were awarded between 2011 and 2013. The government is in the process of enacting the new Mines and Minerals legislation, which has been reviewed by parliament for the last couple of years. <u>EITI disclosures:</u> The government has established an online mining cadastre portal. The MSG is looking to the cadastre as a platform that can be used to facilitate mainstreamed EITI disclosures. A Resource Contracts portal was also launched earlier this year, disclosing some of the country's production sharing agreements. The first EITI Report covering 2014/15 highlighted gaps related to licensing, lack of clarity on the basis for charging royalties in the petroleum legislation, weaknesses in accounting records and lack of collection of certain payments. Malawi EITI is currently preparing their second EITI Report (2015/16), and has procured an Independent Administrator. Funding-related delays put Malawi at risk of missing the reporting deadline in June, which is why Malawi is ranked amber. <u>Beneficial ownership:</u> As part of the ongoing reform of the company legislation, Malawi EITI is coordinating with the Company Registrar's Office to explore opportunities to include provisions related to ownership transparency. The MSG is also considering the possibility of enacting a subsidiary legislation to provide for beneficial ownership transparency for extractives. The MSG is planning to collect beneficial ownership data in the next EITI Report. The Malawi EITI secretariat has also been collaborating with OGP on the inclusion of a beneficial ownership-related commitment in the Malawi OGP action plan. <u>Support and funding needs:</u> The government is covering the operational costs of the national secretariat. GIZ has committed to provide financial support for the Malawi EITI work plan for 2018. However, no funds have been confirmed for 2019 activities. Partners are encouraged to provide support to the Malawi EITI, especially for activities relating to mainstreaming and the implementation of the beneficial ownership roadmap.
Mali Meaningful progress against the EITI Standard	<u>Context and opportunities for EITI:</u> While the country's political and security situation remains volatile, mining (mainly gold) has continued in the south of Mali. Production has remained stable at around 50 tons per year in the last five years. Artisanal mining, which accounts for about ten percent of production has picked up in the last two years. Recent discoveries have tripled the country's bauxite reserves. With IMF support, the country is seeking to increase revenues

Corrective actions: ↗ <i>2nd Validation commences 24 November 2018</i> Current assessment Previous assessment Country manager: Dylan Gélard	from mining and petroleum resources. General elections will be held in July 2018. <u>EITI disclosures:</u> Mali's modern mining cadastre provides a basis for more regular and systematic EITI disclosures. More awareness-raising will be required over the coming months to encourage the MSG develop a roadmap for more regular and systematic EITI disclosures. The preparation of Mali's 2016 EITI Report is currently underway and the report is expected to be published by the end of June 2018. As part of addressing the corrective actions from Validation, the MSG is addressing disclosure gaps related to license allocation, data comprehensiveness and reliability. <u>Beneficial ownership:</u> Mali EITI is currently conducting a scoping study on beneficial ownership, with support from the European Union. This will inform the MSG's next steps towards a definition and the identification of an institutional arrangement for beneficial ownership disclosures. <u>Other implementation issues:</u> The International Secretariat visited Bamako at the end of February to conduct a pre-Validation workshop. Priorities ahead of the second Validation include improving the functioning of the Technical Secretariat, MSG governance (including updating the EITI decree), and documenting impact. <u>Support and funding needs:</u> Mali EITI is currently receiving support from GIZ (for communications and awareness building on beneficial ownership), the European Union (for a mapping study on beneficial ownership). The World Bank has also indicated interest in supporting EITI implementation. The Government of Mali is currently funding the preparation of the 2016 report. Mali EITI is seeking additional resources for a study on subnational transfers. Beneficial ownership and mainstreaming will require additional funding over the next few years.
Mauritania Meaningful progress against the EITI Standard Corrective actions: ↗ <i>2nd Validation commences 8 September 2018</i> Current assessment Previous assessment Country manager: Dylan Gélard	<u>Context and opportunities for EITI:</u> Mauritania has weathered the storm of lower iron ore prices, which took away half of exports and widened the fiscal deficit in 2014 and 2015. However, the mining sector remains depressed and the government is planning to reform the mining code. Despite the end of production from the Chinguetti offshore oilfield in March 2017, large discoveries of offshore natural gas in the joint maritime border with Senegal have added to the urgency of formulating a long-term vision for sector. While improvements have been slow, Mauritania's ten years of EITI implementation have had yielded some positive results, including the first sovereign petroleum fund audit and publication of the two extractives SOEs' audited financial statements. <u>EITI disclosures:</u> Mauritania launched an EITI mainstreaming feasibility project in April, with support from GIZ. The project will allow the MSG to develop a roadmap for mainstreamed disclosures. Mauritania is also planning to upgrade its mining cadastre, with support from the World Bank. <u>Beneficial ownership:</u> There has been no progress since the beneficial ownership roadmap was adopted in 2017. The MSG is considering undertaking a scoping study on beneficial ownership ahead of the regional beneficial ownership conference in October.

	<u>Other implementation issues:</u> The International Secretariat visited Nouakchott at the end of February to conduct a pre-Validation workshop. Mauritania's second Validation will begin on 8 September 2018. Priorities include clarifying the government's policy on contract disclosure, on state participation in the sector (in particular the financial relationship between the mining SOE, SNIM, and the State), and on subnational transfers. Mauritania is currently seeking an Independent Administrator for its 2016 report, due to be published at the end of November. <u>Support and funding needs:</u> The government is providing funding for about in 120 000 USD in 2018. There have been concerns with the delays in the finalization and disbursement of the 300 000 USD World Bank EGPS grant for 2018-2020. In addition to supporting the mainstreaming feasibility study, GIZ is providing funding for the preparation of the 2016 EITI Report, as well as small grants for capacity building and communication activities.
Mexico Yet to be assessed against the EITI Standard <i>Validation commences 25 April 2020</i> Current assessment Previous assessment Country manager: Francisco Paris	<u>Context and opportunities:</u> Oil, gas and mining make up 1/3 of Mexico's fiscal revenues and 1/6 of its exports. The hydrocarbon sector, led by SOE Pemex, has been opened to private investment following the energy reforms initiated in 2013. Over the last year and half, the government has issued around 200 new oil and gas licenses in offshore (deep and shallow waters) and traditional onshore areas. The development phase is expected to be 3-5 years. The other major change has been the creation of the Mexican Oil Fund, fed only by Pemex until new projects come to stream. Licensing rounds have been broadly transparent and associated contracts have been published. The EITI is an integral part of this transparency effort, including dialogue and monitoring. Mexico's presidential election is scheduled for 1 July with an inauguration on 1 December. Renewed political commitment will most likely affect the depth and speed of future implementation of both the energy reform and the national beneficial ownership policy. <u>EITI disclosures:</u> EITI Mexico's first reporting cycle will include regular EITI disclosures via an online portal and a feasibility study with an aim at identifying gaps and necessary actions to ensure future systematic disclosure. Procurement of the Independent Administrator is underway. Additionally, the MSG is commissioning a feasibility study to bring environmental information on a number of areas including environmental licenses, environmental impact, reparation payments, pollution and other penalties. <u>Beneficial ownership:</u> The government is committed to beneficial ownership disclosure. The Secretary of the Public Function has started to map the legal framework to inform the future beneficial ownership policy. EITI Mexico has not started to implement the beneficial ownership roadmap. <u>Support and funding needs:</u> The German Government is providing the bulk of support for the first reporting cycle with the rest of funding coming from the national budget. Partners are encouraged to discuss further support needed with Mexican stakeholders to ensure that most progress with EITI disclosures is achieved by the time the next administration is inaugurated.
Mongolia	<u>Context and opportunities for EITI:</u> Mongolia continues to be one of the world's most mining-dependent countries as its mining accounts for 20% of GDP, 19% of government revenue and 86% of total exports in 2016. There are 400 producing mines in Mongolia, but one high-profile project has dominated public debate. Rio Tinto is developing the massive Oyu Tolgoi copper and gold mine that is

Satisfactory progress against the EITI Standard <i>Revalidation commences 13 February 2021</i> Current assessment Previous assessment Country manager: Olana Valigura	expected to account for a third of GDP when it comes online in 2027. The government also plans to expand its mining operations by four times. Frequent government changes falter the consistency of reform agenda. Nonetheless, there is a great opportunity to use the EITI as a tool for government's reforms. <u>EITI disclosures:</u> Mongolia EITI has already started working on the next report and the next Independent Administrator is soon to be announced. Following the submission of the draft mainstreaming feasibility study, the MSG met in May to discuss the recommendations. The MSG established an ad-hoc working group to review the mainstreaming feasibility study and to agree on an action plan to address the study's recommendations. However, there is a strong push back from the national secretariat and the civil society to move towards mainstreaming. <u>Beneficial ownership:</u> Beneficial ownership reporting is clearly high on the agenda, even if the government appears lukewarm to make rapid progress on public beneficial ownership disclosure. The International Secretariat attended a high-level government meeting on beneficial ownership in May, where the government held a frank discussion on issues such as deterring investment and lack of coordination between entities. The Cabinet Secretary will need to take leadership in coordinating the government towards consistent BO transparency including a single definition amongst the many related laws. The EITI International Secretariat, with support from EBRD, has conducted two workshops on beneficial ownership for civil society and media representatives in February and May. The workshops aimed at enabling legal framework for beneficial ownership transparency and using/analysing the ownership data. <u>Other implementation issues:</u> Transparency of SOEs and subsidiaries remains challenging. In May, the CEO of Erdenes Mongol – the main SOE in Mongolia – resigned due to mismanagement of SOE's subsidiaries. Re-establishing contacts with the new leadership is another priority. <u>Support and funding needs:</u> As current World Bank support under the EGPS closes in December 2018, the national secretariat prepared a funding proposal for 2019-2020. The Ministry of Finance will submit the proposal to the World Bank in June. It is far from clear that a grant will be forthcoming. This would leave the Mongolia EITI in financial crisis. Medium-term support from other donors, especially on supporting mainstreaming is encouraged.
Mozambique Meaningful progress against the EITI Standard <i>Corrective actions: 2</i> <i>2nd Validation commences 1 January 2017</i>	<u>Context and opportunities for EITI:</u> Mozambique is currently going through a debt crisis, exacerbated by the discovery in 2016 of hidden state-backed loans amounting to over USD 2bn. An independent audit report about the loans has not yet been made public. Despite the crisis, the development of the Coral South floating LNG plant is moving forward, which is expected to provide significant revenue to the government. Civil society has raised concerns regarding the fiscal terms for the project, which have not been made publicly available. Due to uncertainty about the level of government commitment to the process, EITI implementation has been slow. It has made a limited contribution to demand for more transparency in public sector management and the extractive industry. It is not clear how familiar the new Minister of Mineral Resources and Energy and MSG Chair Ernesto Tonela (appointed in December 2017) is with the EITI, and whether his appointment will help improve government engagement. A new national secretariat is yet to be established.

Current assessment Previous assessment Country manager: Ines Marques	<i>EITI disclosures:</i> Mozambique published its 2015-16 EITI Report in January, which has made some improvements in addressing gaps related to licensing and state participation identified in Validation. The supreme audit institution published an annual report in late 2017 which includes data on licensing, contracts, SOEs and in-kind revenues. It demonstrates the need for Mozambique EITI to coordinate with other government agencies to systematically disclose EITI data. The World Bank is supporting two projects related to institutionalisation of EITI and e-reporting, which may help bring the process close to the government and make reporting more efficient. <i>Beneficial ownership:</i> The Ministry of Mines, Natural Resources and Energy has submitted a request to the Ministry of Justice to revise the commercial code to include provisions related to beneficial ownership disclosure. However, the latest EITI Report did not seek to collect beneficial ownership information from reporting companies. <i>Funding and support needs:</i> The World Bank has earmarked support for EITI through IDA which would cover the 2017 report, a mainstreaming feasibility study and the costs of a national secretariat. This is however conditional of a feasible strategy for institutionalisation of the EITI and allocation of government co-funding. Partners can provide support by raising the importance of transparency and EITI in discussions with the new Minister of Mines and Energy, as well as with other government entities such as the Ministry of Finance and the tax authorities.
Myanmar Yet to be assessed against the EITI Standard <i>Validation commences 1 July 2018</i> Current assessment Previous assessment Country manager: Gay Ordenes	<i>Context and opportunities for EITI:</i> The government is set to approve a new policy framework for the gemstone sector. One of the key issues that the policy aims to address is to determine how much the gemstone sector actually contributes to the economy, given the discrepancy between official figures and those estimated by independent studies. The MSG is part of the consultations, and the EITI contributed to the policy's transparency framework. SOE reform is part of the government's economic plan. The MSG intends to use the EITI process to inform the discussion on SOE reforms. <i>EITI disclosures:</i> Although data quality and comprehensiveness remains an issue, the EITI Report (2016 data published in March) is the only source of consolidated and up-to date public information on the extractives. In addition, the NRGi recently launched a data portal for jade. Considering the current capacity and technical constraints in government, it is not likely that Myanmar EITI could fully transition to systematic disclosures in the next three years. There are moves, however, to mainstream license information through the Ministry of Natural Resources and Environment Conservation (MONREC) and the Ministry of Energy and Electricity. <i>Beneficial ownership:</i> A Beneficial Ownership Task Force is being created to provide high-level support to beneficial ownership transparency. A work plan to implement the roadmap is being finalized. Disclosures will initially be done through EITI Reports. A beneficial ownership disclosure pilot for 15 companies will be concluded in July. Given the complexity of this issue in Myanmar and in the absence of a law mandating disclosure, only partial disclosure of actual beneficial owners from willing companies could be expected by 2020.

	<u>Other implementation issues:</u> The MSG needs to address the incomprehensiveness of data from the gemstone sector. It could consider applying for adapted implementation meanwhile as it creates an action plan to address these data gaps. <u>Support and funding needs:</u> Myanmar EITI is adequately funded until June 2019 (USD 3.1 million). Myanmar EITI is applying for a one-year grant extension of the current MP-MDTF. Technical support will be needed for the work on beneficial ownership when ASI's engagement expires this year. Support is also needed to engage agencies in the implementation of recommendations in the MEITI report. Partners could help by providing advice in developing an action plan for these recommendations.
Nigeria Meaningful progress against the EITI Standard Corrective actions: ↗ 2nd Validation commences 11 July 2018 Current assessment Previous assessment Country manager: Pablo Valverde	<u>Context and opportunities for EITI:</u> Nigeria has some of the largest proven reserves of both oil and gas in the world. In 2017 the oil and gas industry in Nigeria accounted for more than half of government revenue and most of its export earnings¹¹. Nigeria is also known to possess mineral wealth. The mining industry is however vastly underdeveloped and only accounts for 0.12% of the country's GDP. Both sectors have long been mismanaged and NEITI is leading the charge in addressing some of the key challenges in the management of the sector. NEITI's work has been effective in stimulating public debate about unpaid dividends, unpaid asset acquisitions and discretionary deductions by NNPC and its affiliates, as well as unpaid royalties, taxes, gas flaring penalties, and other fees by some oil companies. The debate has led to mounting calls for remediation and actions by the Federal Government to recover revenue and enforce payment more strictly. <u>EITI disclosures:</u> A mainstreaming study was carried out in December 2017 which highlighted opportunities and provided recommendations for systematic disclosure. NEITI is also looking at revamping their website to serve as a portal to provide up-to-date information on all the extractive industry value chain. A pre-Validation workshop and stakeholder meetings took place in May and was an opportunity to assess progress on systematic disclosure. NEITI will undertake a second Validation in July 2018. NEITI is working closely with the International Secretariat and the World Bank to address the issues that were identified through the first Validation. A commodity-trading pilot is underway, with final results expected soon. <u>Beneficial ownership:</u> NEITI and the Mining Cadastre Office have set-up a technical committee to establish a beneficial ownership register for solid minerals. Similar procedures are underway for the oil and gas sector through the Department of Petroleum Resources. Although there is strong government commitment to implement a national beneficial ownership register, this process is expected to take a long time due to the need for legislative amendments. <u>Other implementation issues:</u> The MSG has expressed strong support for the joint effort on commodity trading as a way of supporting reforms at NNPC and beneficial ownership disclosure has government buy-in. <u>Support and funding needs:</u> Most of NEITI activities are funded by the government through annual appropriation. There are significant shortfalls

¹¹ National Bureau of Statistics, (2017) 'Economic Report Nigeria'.

	however and NEITI will continue to rely on significant support from development partners to achieve its strategic objectives.
Norway Meaningful progress in implementing the EITI Standard Corrective actions: ↗ <i>Second Validation commences on 25 October 2019</i> Current assessment Previous assessment Country manager: Pablo Valverde	<u>Context and opportunities for EITI:</u> The oil and gas sector is Norway's largest in terms of value added, government revenues, investments and export value. Norway is also widely considered to have high levels of transparency. One of the overall principles of Norway's management of its petroleum resources is that exploration, development and production must result in maximum value creation for society, and that revenues must accrue to the Norwegian state and thus benefit society as a whole. To support these objectives, the government discloses timely and detailed information about the management of the sector, consolidated into an online portal.¹² <u>EITI disclosures:</u> On 25 October 2017, the EITI Board concluded that Norway had made meaningful progress in implementing the EITI Standard. The Board noted that Norway had gone beyond the EITI Standard on most of the reporting requirements but struggled to implement the non-reporting related requirements in the EITI Standard. The EITI Board also accepted Norway's application to mainstream the EITI and associated request for adapted implementation that would allow it to use existing channels of stakeholder consultation in Norwegian society. The Government of Norway is currently working to implement this decision. New regulations that will ensure systematic disclosures are awaiting final approval following a period of public consultations that finalised in March. A meeting of stakeholders is expected to be held shortly after the regulations are approved to present and discuss the data for 2016 and 2017 that will be made available through the online portal. After this, the country will probably seek to be revalidated as a mainstreamed EITI process. <u>Beneficial ownership:</u> Norway is preparing to set up a beneficial ownership registry as it prepares to implement the EU's Money Laundering Directive. While the Ministry of Finance is responsible for following up on directive, the register will be hosted by the Ministry of Trade and industry. <u>Support and funding needs:</u> Reporting is integrated in the Ministry of Petroleum's operations, meaning that there is no longer an EITI-specific cost to the government. Norway continues to support the EITI's international management.
Papua New Guinea (PNG) Yet to be assessed against the EITI Standard <i>Validation commenced 1 April 2018</i> Current assessment Previous assessment Country manager:	<u>Context and opportunities for EITI:</u> The extractive sector accounts for 3% of government revenue and 84% of exports. Government regulation of the sector continues to be a problem, as made evident by recent issues around potential versus actual revenues from the PNG LNG project which surfaced after an analysis made by a civil society organization using EITI data showed that the LNG project was not delivering revenues based on government projections. This issue highlights the need for accurate data which the EITI should continue to address. There are also issues around licensing procedures, made evident by the protests regarding the approval of the deep-sea mining project in Bismarck. The EITI could contribute by shedding light on how licensing procedures are actually applied. The EITI in PNG is also leading the reform of the petroleum license registry through its recommendations which were made into a directive by the National Executive Council.

¹² <http://www.norskepetroleum.no/en/>

Gay Ordenes	EITI disclosures: The ongoing Validation confirms that minimal extractives data are being published by government and companies, including SOEs. Considering current technical and capacity constraints in government, it is unlikely that PNG could fully transition to systematic disclosures in the next three years. There is an opportunity, however, to mainstream license information according to the EITI Standard in view of the upcoming reform of the license register by the Department of Petroleum and Energy. Beneficial ownership: Discussions on beneficial ownership have not progressed much since the publication of the roadmap. The conversations on beneficial ownership have taken place in connection with the Anti-Money Laundering regulations that the Bank of PNG is spearheading along with the Investment Promotions Authority (IPA). Without an existing legal framework, actual disclosures of beneficial owners will likely be through the EITI reporting process which is expected for the PNG EITI Report due on 31 December. Other implementation issues: Disclosure of subnational payments and transfers remain problematic in the absence of a reliable source of data. Audit procedures for government remain a concern. Support and funding needs: PNG EITI is adequately funded for 2018 (USD1.7 million) and 2019 (USD 1.2 million) by government and other partners including the World Bank through EGPS, JICA and the Australian government. On technical assistance, the MSG needs support to implement recommendations from their EITI Report, in particular in the improvement of the license cadastre for petroleum.
Peru Meaningful progress against the EITI Standard 2nd Validation commences on 1 July 2018 Corrective actions: 7 Current assessment Previous assessment Country manager: Santiago J. Dondo	Context and opportunities for EITI: Peru's growth is heavily based on mining and a further boost is expected in the coming years due to higher commodity prices. However, political instability and corruption scandals recently led to the resignation of President Pedro Pablo Kuczynski in March. Social conflicts surrounding mining projects are also a major challenge. The EITI process could, if refreshed and reinvigorated, be a space to mitigate these conflicts and provide credible information to design reforms in the sector. EITI disclosures: Peru published its 2015-2016 EITI Report in February, including for the first time a chapter on social and environmental aspects. The second Validation has been postponed until 1 July. An MSG sub-committee is working to collect further information on specific issues and preparing a special memo responding to each corrective action. Peru is ready to systematically disclose much of the information included in reports and all constituencies agree on the importance of moving from reports to systematic disclosures. Beneficial ownership: The MSG is not devoting much energy or time to the issue of beneficial ownership. They believe that complying with the requirement will not be difficult for them, since most of the minerals are produced by listed companies. The International Secretariat is working to raise the awareness of the complexity and importance of make progresses as from today. Other implementation issues: Peru is focusing almost all its efforts on developing pilots of sub-national (regional) processes following the EITI model. The International Secretariat is supporting these efforts to make them meaningful and integrated with the national EITI process.

	<i>Support and funding needs:</i> The last report was funded by government. The EGPS grant, with available funds of around USD 350,000, is focused on sub-national processes and dissemination. SECO is providing around USD 200,000 for other specific projects. Partners are welcomed to consider supporting a feasibility study on systematic disclosure within second semester of 2018.
Philippines Satisfactory progress against the EITI Standard <i>Revalidation commences 5 October 2020</i> Current assessment Previous assessment Country manager: Gay Ordenes	<i>Context and opportunities for EITI:</i> Mining accounts for less than 1% of the country's GDP but subnational impact in terms of contribution to local economy could account for one-fourth of local revenues in some areas. Unstable policies have led to a decline in mining investments over the years. The Mining Industry Coordinating Council is revising the mining fiscal regime. EITI data are being used in these conversations. The ongoing mining audit launched by the Department of Environment and Natural Resources (DENR) to assess mining companies' compliance with mining and tax laws also use EITI data in its assessment. <i>EITI disclosures:</i> A mainstreaming mapping exercise and feasibility study is in the pipeline. The MSG will thereafter agree on a timeline for transitioning to systematic disclosures. Initial findings show that several EITI requirements such as those relating to license processes, registers, production and export data are already being disclosed by relevant agencies and major companies although the granularity of some data needs to conform to EITI requirements. It is likely that Philippine EITI could transition to mainstreaming for majority of the EITI requirements in the next three years. <i>Beneficial ownership:</i> Disclosure of beneficial ownership information is expected in the next EITI Report. A technical working group has been established. The Philippines is due for a FATF evaluation in November, thus helping to finalize the regulatory framework for beneficial ownership transparency for all companies registered in the country. However, it is still uncertain whether these disclosures would be made publicly accessible by the Securities and Exchange Commission. <i>Other implementation issues:</i> The coal company responsible for over 90% of coal production still failed to participate in the recent EITI Report. Efforts should be made to secure their participation in future reports to ensure that this does not become an issue again leading into the country's next Validation in 2020. <i>Support and funding needs:</i> EITI implementation is adequately funded for 2018 (USD 988 thousand), both by the government and through the EGPS. A budget proposal has been submitted by the national secretariat for inclusion in the 2019 national budget (USD 1.2 million) which will be decided by the third quarter. Technical and financial support will be needed in 2019 as the country transitions to systematic disclosures.
Republic of the Congo Yet to be assessed against the EITI Standard <i>Validation commenced 1 April 2017</i>	<i>Context and opportunities for EITI:</i> Oil production continues to grow and is expected to reach 350,000 bpd in 2018. IMF Staff concluded a programme negotiation mission to Brazzaville in April. The mission stated that "it welcomes the authorities' efforts to enhance transparency in the oil sector, with a view to increasing the share of the state in the nation's natural resources." The IMF mission also recommended reconciliation of all government transactions backed by natural resources as the first step in this process. The EITI will play a key role in implementing government reforms agreed with the IMF.

Current assessment Previous assessment Country manager: Bady Baldé	<u>EITI disclosures:</u> The 2015 report published in February includes new detailed information on state participation in oil projects. Validation show that the EITI process has been useful in bringing contract transparency, more comprehensive figures on fiscal revenues and extending EITI reporting to the forestry sector. It has also identified challenges in the governance of the MSG and reporting gaps related to licenses, SOEs and allocation of revenues that are not recorded on the national budget. <u>Beneficial ownership:</u> Article 66 of the March 2017 Transparency Law requires the state to disclose the identity of beneficial owners “and their associates” for all mining, oil, gas and forestry exploration or production licenses, although the definition of “associates” is not further clarified. The Republic of Congo has made limited progress in the implementation of its beneficial ownership roadmap and the country will struggle to meet the 2020 deadline for an online BO register. <u>Support and funding needs:</u> EITI implementation is fully government funded and was budgeted as \$1 264 000 in 2017. However, the government is facing funding challenges due to ongoing public debt crisis. Partners, including the World Bank and the IMF, are encouraged to support the implementation of corrective actions identified in the Validation initial assessment and the implementation of the beneficial ownership roadmap.
São Tomé and Príncipe (STP) Meaningful progress against the EITI Standard Corrective actions: ↗ 2nd Validation commenced 8 March 2018 Current assessment Previous assessment Country manager: Ines Marques	<u>Context and opportunities for EITI:</u> STP is exploring for oil in two different zones under different jurisdictions. The Joint Development Zone (JDZ), shared with Nigeria, started to license blocks in 2003. The Exclusive Economic Zone (EEZ) has granted five blocks. Companies have paid significant signature bonuses, especially for the JDZ blocks. So far, oil has not been discovered in commercially viable quantities. Most companies have left the JDZ. Some new companies, such as Galp and Kosmos, have entered the EEZ, creating expectations about incoming signature bonuses from companies. <u>EITI disclosures:</u> STP EITI has set objectives to improve transparency with regards to the JDZ and to monitor social payments and implementation of social projects funded by petroleum companies. The latest EITI Report covering 2015 explained how the government and companies have established a committee to monitor the execution of funds for social projects. The report also appears to address many of the gaps highlighted during STP’s first Validation. <u>Beneficial ownership:</u> There has been limited progress with implementing beneficial ownership disclosure in STP. The latest report only disclosed legal ownership of companies within the scope. The MSG has also explored possibilities for collaborating with the petroleum regulator on collecting beneficial ownership information from the companies. <u>Other implementation issues:</u> STP has been granted an adapted implementation for EITI reporting on the JDZ, although STP EITI will continue to request information from the JDA and operating companies in accordance with the EITI Standard. A new adapted implementation request will have to be submitted for reports covering fiscal year 2017. The Secretariat will explore opportunities for STP to submit an adapted implementation request which might also take the Board’s decision on a limited engagement policy for countries with limited sector activity.

	<u>Support and funding needs:</u> The African Development Bank is providing financial support to implementation of the 2018 work plan, including the costs for the upcoming 2016 STP EITI Report. The government is supporting the operational costs of implementations, while the Government of Timor-Leste is also providing some funding for work plan activities. Sources for funding in 2019 have not been identified. Partners can support by encouraging reporting by the JDA and companies operating in the JDZ to be more transparent about their operations in the JDZ, and to encourage systematic disclosures by the petroleum regulator.
Senegal Satisfactory progress against the EITI Standard <i>Revalidation commences 8 May 2021</i> Current assessment Previous assessment Country manager: Dylan Gélard	<u>Context and opportunities for EITI:</u> There are plans for an offshore LNG terminal in a joint development zone with Mauritania to develop West Africa's largest untapped gas discoveries, with the potential to turn Senegal into an oil and gas producer by 2021. The mining sector is also expanding, with the opening of a second gold refinery in January. In addition to revising its Mining Code (in November 2016) and Petroleum Code (planned for 2018), the government is working on legislation on the distribution of oil and gas revenues. <u>EITI disclosures:</u> Senegal EITI is planning to undertake a feasibility study for mainstreamed EITI disclosures, with support from the World Bank. There are also plans to establish modern mining and petroleum cadastres. Senegal EITI is currently procuring the Independent Administrator for the 2017 EITI Report, due to be published in November. <u>Beneficial ownership:</u> Senegal EITI and the Ministry of Justice organised an awareness raising workshop on beneficial ownership in May. The trade and property register (Sen'infogreffe), under the Ministry of Justice, has been identified as the agency that will collect beneficial ownership data. <u>Other implementation issues:</u> The International Secretariat visited Dakar at the end of May and provided training to the MSG on legal provisions for beneficial ownership disclosures, mainstreaming and project-level reporting. <u>Support and funding needs:</u> There is USD 60,000 remaining of an EGPS grant for EITI which expires in December. While the Government has increased its funding to the EITI process, Senegal EITI is keen to mobilise additional resources for activities related to beneficial ownership and mainstreaming.
Seychelles Yet to be assessed against the EITI Standard <i>Validation commenced 1 January 2018</i> Current assessment Previous assessment	<u>Context and opportunities for EITI:</u> The Seychelles currently has no production in the extractive sector, but petroleum exploration activities are on-going offshore. A commercially viable discovery would have a significant impact on the country that has a population of approximately 90,000, but possible oil production is still years away. Stakeholders are hopeful about the petroleum sector, but there are also concerns about its impact on the marine ecology and other sectors such as tourism and fisheries. Oil revenue is small (USD 790,000 in 2016, although slowly increasing according to the latest 2015 and 2016 EITI Reports), but information on licenses and the license allocation process will be useful. <u>EITI disclosures:</u> As the oil sector is only emerging and government systems are generally sound, there is high potential to integrate disclosures into government systems. The SOE and petroleum sector regulator PetroSeychelles discloses comprehensive information related to the legal framework and licensing, and the Ministry of Finance is exploring the possibility of requiring the SOE to disclose details on the revenues it collects from the sector in its annual financial

Country Manager: Ines Marques	report. The International Secretariat will be supporting the Seychelles to consider implementing the EITI through adapted implementation and mainstreamed disclosures. <u>Beneficial ownership:</u> Seychelles has sought to collect beneficial ownership information through EITI reporting, resulting mostly in disclosure of legal owners. The SOE and sector regulator PetroSeychelles has indicated willingness to consider collecting ownership information from license bidders. The government is also in the process of drafting a specific law on beneficial ownership. <u>Support and funding needs:</u> Funding has been a challenge in the past year, as the MDTF grant from the World Bank expired in 2016. The government decided in late 2017 to fund the 2015-16 EITI Report. Partners could help the Seychelles to integrate systematic disclosure of the EITI information through government agencies and companies.
Sierra Leone Yet to be assessed against the EITI Standard <i>Validation commences 1 July 2018</i> Current assessment Previous assessment Country manager: Pablo Valverde	<u>Context and opportunities for EITI:</u> Diamonds, gold, bauxite, rutile and iron ore are known to exist in relatively large quantities in Sierra Leone. In spite of this, the contribution of the sector to the economy is small, accounting for under USD 60 million in 2016. Although several offshore oil discoveries were announced in 2009, 2010 and 2013, production is yet to begin. Newly-elected president Julius Bio has set out an ambitious reform agenda which the EITI could significantly contribute to by supporting legislative reform, the streamlining of revenue collection and the stabilisation of fiscal terms, among other things. <u>EITI disclosures:</u> Sierra Leone EITI is currently working towards publishing its 2016 data ahead of the commencement of Validation on 1 July. The 2015 Report, published in February 2017, had a number of significant gaps on comprehensiveness, data quality assurance, definition of materiality, licensing and social payments, among others, which the 2016 Report is intended to address. Importantly, the government of Sierra Leone is already publishing some information on payments made to government by companies and license information through the online repository which draws from data from the mining cadastre administration system. <u>Beneficial ownership:</u> The Corporate Affairs Commission (CAC) is taking the lead on beneficial ownership disclosure. Sierra Leone EITI is supporting by, amongst other things, pursuing amendments to the Companies Act and including beneficial ownership provisions in the upcoming Minerals Policy. Sierra Leone EITI is also collecting beneficial ownership data as part of 2016 reporting. Given that only one company provided some information on their beneficial owners, important additional efforts will be needed to achieve full disclosure. <u>Other implementation issues:</u> The MSG has never been refreshed and after more than a decade of implementation its members have never made the transition to the mind-frame of the EITI Standard. The new government is still being introduced to the EITI, and some members of the MSG have adopted a combative approach towards it. A refreshment of the MSG is long overdue. <u>Support and funding needs:</u> Funding needs are unclear as the new government has not yet come to grips with implementation and the work plan will need to be reviewed to address new government priorities. As well as financial and technical support, it is important that the international community continues to

	use opportunities to highlight to the government that better governance of the sector – for example, by implementing SLEITI recommendations – will help bring more investment and revenue. International civil society is particularly encouraged to explain to their colleagues on the MSG why it would be timely to refresh its members.
Solomon Islands Inadequate progress against the EITI Standard Corrective actions: 7 <i>Second Validation commenced 8 March 2018</i> Current assessment Previous assessment Country manager: Gay Ordenes	<u><i>Context and opportunities for EITI:</i></u> The extractive sector in the Solomon Islands is small with only one producing mine at the moment. Nonetheless, the government has adopted a Minerals Policy aimed primarily at mitigating the impact of exploration activities in the country. <u><i>EITI disclosures:</i></u> Extractives data are not publicly accessible outside of the EITI reporting process. The MSG has not discussed mainstreaming and it is unlikely that Solomon Islands would be able to transition to systematic disclosures considering financial, technical and capacity constraints. <u><i>Beneficial ownership:</i></u> There is no progress on the work on beneficial ownership after the publication of the roadmap. It is unlikely that Solomon Islands would be able to meet the EITI requirements by 2020. <u><i>Other implementation issues:</i></u> Only five of 21 corrective actions from Validation have been addressed based by Solomon Islands, based on the International Secretariat's initial assessment for the second Validation. The country's level of progress for ten requirements has regressed. In view of this, it has been recommended that Solomon Islands be delisted. The government has not renewed its support through any public announcement. <u><i>Support and funding needs:</i></u> The government's funding (USD 10 thousand) for EITI is limited to staff salary and expenses for MSG meetings. It has not applied for any funding support from partners.
Suriname Yet to be assessed against the EITI Standard <i>Validation commences 24 November 2019</i> Current assessment Previous assessment Country manager: Francisco Paris	<u><i>Context and opportunities for EITI:</i></u> Suriname's economy is dominated by the extractive sector, with exports of oil and gold accounting for approximately 85% of exports and 27% of government revenues in 2016. The recent commodity prices downturn affected the economy significantly. Suriname agreed a support package with the IMF and the World Bank. Suriname is developing promising oil and gas projects. This together with some recovery in commodity prices have improved the outlook for coming years. EITI implementation should help Suriname to face some of its challenges in ensuring this sector outlook translate to sustainable growth. These includes improved revenue collection, sound governance of the sector and attracting investment to develop the sector. <u><i>EITI disclosures:</i></u> Suriname has appointed an Independent Administrator for the first EITI Report. It is expected that the IA will review the scope and materiality of the first report and to identify and collate non-revenue information. The Secretariat is supporting the MSG on identifying together with the IA opportunities for systematic disclosures. The report is expected by end of Q3 2018. In preparation for the first report, the government has improved the cadastre information, licensing and monitoring procedures. Additional efforts include reporting companies' beneficial ownership disclosure and companies' annual reporting of production and royalty payments. The production of the

	first report within the 18 months deadline is still feasible despite some funding delays. <u>Beneficial ownership:</u> There has been limited progress in implementing the beneficial ownership roadmap. The limited progress seems to reflect the overall slow progress with EITI implementation. <u>Other implementation issues:</u> The national secretariat has been operationally dysfunctional. The original arrangement of lodging it in the Bauxite Institute has not worked. Engaging a new national coordinator is pending and staff recruitment is underway. <u>Support and funding needs:</u> Funds from the EGPS grant became available in March 2018 allowing implementation of the work plan to start with some delays.
Tajikistan Inadequate progress against the EITI Standard Corrective actions: ↗ 2nd Validation commences 8 September 2018 Current assessment Previous assessment Country manager: Oliana Valigura	<u>Context and opportunities for EITI:</u> The contribution of the extractive industries to the country's GDP is relatively limited, representing 5% of GDP. The EITI has uncovered issues related to discretionary licensing procedures, an unclear fiscal regime, hidden company ownership, and the lack of up to date geological data. As an outcome of the EITI implementation, President Emomali Rahmon has recently removed secrecy from data on gold production. Before 2018, the data on precious metals (gold is the main commodity produced in Tajikistan) production and export was classified. The EITI can contribute to improving the management of the extractive sector and to attracting foreign direct investments. <u>EITI disclosures:</u> Tajikistan is suspended after having made inadequate progress against the EITI Standard in the first Validation. Although there is progress with publishing the 2015-16 EITI Report, the country remains marked red because of the lack of funding that interrupted the national secretariat's work, causing significant delays in the work plan activities and the outstanding challenges related to addressing the corrective actions. Nonetheless, the 2015-16 EITI Report addressed some of the corrective actions, the outstanding challenges, such as license allocations and their coordinates, remain unaddressed. The MSG and the government should work together to remove these obstacles before the second Validation commences. <u>Beneficial ownership:</u> The draft Law on Subsoil and Subsoil Use that included mandatory EITI reporting and beneficial ownership transparency remains under the government's review. The implementation of beneficial ownership roadmap activities with regards to development of bylaws are postponed due to lack of political commitment. <u>Other implementation issues:</u> The leading entity has changes in leadership. Mr Kakhorzoda has recently been appointed as a new Minister of Finance. This has not affected the EITI Champion Ms Djonmamadova, who remains the Deputy Minister and MSG Chair. The International Secretariat will undertake a mission to Dushanbe in early June to meet with the Minister of Finance and to explore whether EITI implementation remains a priority for the government. <u>Support and funding needs:</u> The World Bank funding for the EITI process in Tajikistan expired in October 2017. The Ministry of Finance received about USD 50k from the World Bank's mining project to address some of the urgent

	activities form the work plan. The funding expires in June. Thus, the funding for EITI implementation remains unsustainable and the government needs to consider allocating budget resources to ensure that the national secretariat keeps running. Additional support to the implementation of the corrective actions, in particular on civil society, is essential.
Tanzania Meaningful progress against the EITI Standard Corrective actions: 7 2nd Validation commences 25 April 2019 Current assessment Previous assessment Country manager: Ines Marques	<u>Context and opportunities for EITI:</u> The mining industry in Tanzania appears to be normalising following President John Magufuli's governance reforms last year. The reforms, which among other things, allowed the government to renegotiate mining agreements, followed public upheaval related to the results of a mineral audit which accused the mining company Acacia of under-declaring the value of minerals exports. The government has also revoked some significant mining licenses. The industry raised concerns about the reforms with some mining companies facing losses. There are however signs of business getting back to usual, with reports of renegotiated contracts being signed and outstanding tax payments being made. With regards to the gas sector, the tax terms and local content provisions in the 2015 legislation appear to continue delaying the investment needed to set up the LNG facility and start production. The National Coordinator, who had been in his role for nine months, had made efforts to make EITI contribute to this agenda, and was recently appointed as Minerals Commissioner. <u>EITI disclosures:</u> Despite the suspension of direct support from the International Secretariat, Tanzania EITI is making progress on EITI disclosures. The MSG has been exploring possibilities of establishing an integrated database with regular disclosures with EITI data and other key government agencies with the aim of monitoring government revenues on a real-time basis. The latest EITI Report (2015/16) was published in March, and provides more information than previously on licensing and state participation in the sector, although there are still some gaps. The report highlighted discrepancies in payment of dividends from mining companies to the SOE, which is being followed up by the supreme audit institution. The MSG is also considering establishing a ResourceContracts platform for mining agreements. <u>Beneficial ownership:</u> Following up on the beneficial ownership study that was undertaken in 2017, the Ministry of Minerals established a task force to review the recommendations from report and has engaged the Auditor General to review the legal obstacles for disclosure. The MSG is exploring the possibility of establishing a public ownership register for extractive sector companies at the company registry (Business Registration and Licensing Agency). <u>Other implementation issues:</u> Due to the delay in progress on the fraud case, the country is still marked red. Since a mission by the International Secretariat to Tanzania in November, there has been some limited dialogue with the Ministry of Mines. The EITI Chair followed up with a letter to the Permanent Secretary, welcoming the government's efforts in trying to resolve the matter and requesting confirmation that stakeholders consider Tanzania EITI to have secure systems and procedures in place that could mitigate the risk of fraud in future. With support from the World Bank EGPS, Tanzania EITI is also undertaking a study of the artisanal and small-scale mining sector. <u>Support and funding needs:</u> The World Bank is providing support to the Tanzania EITI work plan for 2017-2019. Partners could support and encourage the

	national secretariat and acting National Coordinator to continue implementing their planned activities related to beneficial ownership, contract transparency and systematic disclosures.
Timor-Leste Meaningful progress against the EITI Standard Corrective actions: ↘ <i>Second Validation commenced 11 January 2018</i> Current assessment Previous assessment Country manager: Gay Ordenes	<u>Context and opportunities for EITI:</u> The petroleum sector accounts for 85% of state revenues and 48% of GDP. Timor-Leste just concluded a parliamentary election in March. The new administration is expected to focus on the issue of economic diversification which continues to be a primary concern as the country's sole producing field, Bayu Undan, is expected to be depleted by 2022. The EITI Report published in December notes that the Petroleum Fund registered a loss of USD 21.4m in 2015, which was the first annual loss incurred since the fund's inception in 2005. These concerns on revenue management highlight the importance of EITI as tool for transparency. The MSG could play a role in this dialogue through its analysis of the sustainability of the fund which they have been including in the past two EITI Reports. <u>EITI disclosures:</u> A mainstreaming feasibility study had been concluded with the finding that most extractives data are already being published online. However, the decision to transition to mainstreaming has been forestalled by the government transition. Depending on the level of commitment of the new government to the EITI, it is likely that Timor-Leste would be able to fully transition to systematic disclosures in the next two to three years. <u>Beneficial ownership:</u> Companies operating in Timor-Leste are publicly listed although there could be exploration licenses awarded between now and 2020. The MSG has agreed to disclose the beneficial owners of subcontractors and investors of operating companies. <u>Other implementation issues:</u> Timor-Leste requested an extension of its reporting deadline due to lack of funding from national government in view of the transition process. Although progress has been made since Validation, there is still a need to continuously build the capacity of the MSG to use the EITI as a tool for analysis of the sector. The new government should be engaged to ensure continued political support. <u>Support and funding needs:</u> EITI implementation currently has no funding support from government pending the approval of the national budget which is not expected until the third quarter of the year.
Togo Meaningful progress against the EITI Standard Corrective actions: ↗ <i>2nd Validation commences on 8 November 2019</i> Current assessment	<u>Context and opportunities for EITI:</u> Togo is a major producer of phosphates. Over the next five years, the government aims to modernise its mining cadastre, institutionalise auditing of the sector and update the mining database. The EITI Togo is actively involved in the UEMOA's regional efforts to review and harmonize the mining codes of its member states. <u>EITI disclosures:</u> The World Bank is recruiting a consultant to elaborate the country's first online mining cadastre. It has provided funding for a Togo EITI project for the automated disclosure of production and revenue data, which is in the planning phase. The Togo EITI is working with the Togolese Revenue Office to increase the scope of their online reporting such as online monthly tax payments and financial statements. The EITI plans to work with the Ministry of Mines to publish non-financial data.

Previous assessment <i>Country manager: Gisela Granado</i>	<u>Beneficial ownership:</u> The MSG has not yet agreed the agency which will house the BO register but the options under consideration include the Tax Commission, the Commercial Court or the General Tax Directorate (DGI). The list of shareholders is updated annually at the Tax Commission which might support the identification of legal owners. The MSG has created a sub-commission to work on the issue in the coming months. <u>Support and funding needs:</u> The African Development Bank currently funds EITI implementation in Togo and the grant ends this year. The World Bank has signed a funding agreement with the Togolese Ministry of Finance, which includes USD 300,000 EITI dedicated funding. This grant will particularly support mainstreaming and dissemination efforts. Partners can support the MSG to implement the corrective actions from Validation. The MSG will also need support for the systematic compilation and publication of non-financial information. Partners are also asked to support MSG capacity building and activities in the beneficial ownership roadmap.
Trinidad and Tobago Yet to be assessed against the EITI Standard <i>Validation commences 1 September 2018</i> Current assessment Previous assessment <i>Country manager: Francisco Paris</i>	<u>Context and opportunities:</u> Trinidad and Tobago (T&T) continues to struggle to overcome the economic downturn due to the fall in commodity prices. The severe fall in revenues and the implementation of austerity policies have exposed the need for improved revenue collection. The EITI has for long shed light on gaps in government systems and have made recommendations for addressing those gaps. Acting upon EITI findings is an opportunity to address these weaknesses. <u>EITI disclosures:</u> T&T EITI published the FY 2016 EITI Report in May. The report confirms a decline in revenues collected from the extractive sector of around 60%. The report also confirmed previous gaps identified in revenue collection. For example, the report identified that fees from transfers of production sharing contracts (PSCs) have not been collected. Other gaps are related to weak monitoring of the amounts due to be paid from these PSCs and poor quality in licensing data. T&T-EITI has prompted the Ministry of Energy to build an online licensing data base based on the data compiled through the EITI. <u>Beneficial ownership:</u> Ten companies submitted beneficial ownership data in the most recent report. A legal study was completed and is under consideration by the Ministry of Energy. The study points out to the need to amend legislation including company and petroleum acts, and data protection and freedom of information regulations. Awareness-raising and capacity building activities included in the beneficial ownership roadmap have been postponed due to lack of funding. <u>Other implementation issues:</u> T&T EITI has raised concerns about the recurrent protracted process of company and government disclosure of data following the confidentiality restrictions. It took 14 months between the previous reporting exercise and the one just concluded to complete the signing and collection of confidentiality waivers. An EITI bill addressing this was drafted in 2016 but it has not been considered by Parliament. <u>Support and funding:</u> There have been delays in accessing resources for the local secretariat staff. Although the last EITI Report was funded there is uncertainty about financing future reports. Other activities have been postponed due to a shortage of funding. Development partners are encouraged to discuss possible support with the T&T EITI. Following the EITI findings, the

	necessary improvements in government systems are an opportunity that could be considered. These include boosting monitoring capacity in the Ministry of Energy on verifying production and the Auditor General's ability to audit the revenue collection agency (Inland Revenue).
Ukraine Yet to be assessed against the EITI Standard <i>Validation commenced 1 July 2017</i> Current assessment Previous assessment Country manager: Oliana Valigura	<u><i>Context and opportunities for EITI:</i></u> According to the 2016 EITI Report, "the speed and scale of extending the mineral and raw material base in the country do not satisfy the needs of the Ukrainian economy". Therefore, the government continues its efforts on reforming the extractive sector. In March 2018, draft law 6229 on Transparency of Extractive Industries was adopted by the Parliament in the first reading. The Parliamentary Committee on Energy and Fuel is revising the draft law before the second reading. The draft law includes mandatory project-by-project reporting for oil, gas and mining companies, contract transparency, payments to local governments and transit/transportation. The licensing system, subnational transfers and state's participation are some of the key priorities among EITI stakeholders for the upcoming reforms in the sector. <u><i>EITI disclosures:</i></u> Ukraine's first Validation highlighted some disclosure requirements that require more work in the upcoming year. The 2016 EITI Report has been published in May 2018, addressing the gaps related to state participation, production data, transportation revenues, social expenditures and subnational transfers. The MSG will need to put more efforts to ensuring the data quality and audit practices. In September, the Ministry of Energy and Coal Industry will conduct a study on exploring opportunities to enable systematic disclosures. The government is likely to create an online data portal. <u><i>Beneficial ownership:</i></u> Ukraine's beneficial ownership register became part of the Global Beneficial Ownership Register launched by Open Ownership. In January, the Ministry of Justice established an inter-governmental working group on developing data verification procedures. The Ministry of Justice continues to work with international partners to improve the current company register, to make it user-friendly with machine readable data format. <u><i>Other implementation issues:</i></u> Despite the ongoing conflict in the Eastern regions of the country, Ukraine will continue its efforts towards inclusion of information from the temporary uncontrolled territories. <u><i>Support and funding needs:</i></u> The World Bank EGPS funding runs out in December and the Ministry of Energy and Coal Industry (MoECI) has already applied for new funding. Given the funding challenges, any support from international donors would be needed. In May 2018 MoECI has requested IBRD to help with financing of 4th EITI Report covering 2017 from Component 3 of Second Power Transmission Project and WB team agreed to support this, now requiring Ministry to select consultant for preparation of this 4th report.
United Kingdom Yet to be assessed against the EITI Standard	<u><i>Context and opportunities for EITI:</i></u> The United Kingdom is the world's 22nd largest producer of oil and gas. In addition, it produces small amounts of coal and other minerals. The extractives sector contributed a gross value added of almost USD 30bn in 2016 to the UK economy. The UK government has taken a strong leadership role on the global tax transparency debate, especially in the extractives sector. It has made commitments on commodity trading transparency, written project-by-project reporting for the sector into law and

<i>Validation commences 1 July 2018</i> Current assessment Previous assessment Country manager: Eddie Rich	set up a beneficial ownership register in June 2016. In April, the UK Parliament voted to require its overseas territories, including the British Virgin Islands and the Cayman Islands, to establish public beneficial ownership registers. Nonetheless, the process continues to face serious challenges over civil society selection and representation. <u>EITI disclosures:</u> The 2016 UKEITI report was published in April. The MSG agreed to undertake a mainstreaming study building on the publication of company payments under the EU Transparency and Accountability Directive. On the company side, there are challenges around ring-fencing extractive payments, currencies, time periods, etc., and, on the government side, there are severe limitations to company-by-company disclosure due to tax confidentiality. However, some significant mainstreaming progress should be possible. <u>Beneficial ownership:</u> The public People of Significant Control (PSC) register was established in 2016. Whilst it is much admired, a recent study suggested that 13% of the entries did not conform to the requirements and the UKEITI report itself showed that only 6/15 of the privately-owned extractives companies submitted their beneficial ownership information to the PSC. <u>Other implementation issues:</u> Given the issues around civil society representation, the current status of the MSG is unclear. The constituency has not agreed new representatives and the Civil Society Network, which includes PWYP UK, NRG, Global Witness and Transparency International-UK, withdrew from the process and disputes the validity of the current list of civil society members. The Chair and Secretariat agreed in February to seek a third party independent organisation to facilitate a process of selection of civil society representation for the UK MSG. Progress is still pending on this. The entity which did nominate civil society representatives to the MSG has been dissolved. <u>Support and funding:</u> The process is funded by the UK government.
Zambia Meaningful progress against the EITI Standard Corrective actions: 7 <i>2nd Validation commences 25 April 2019</i> Current assessment Previous assessment Country manager: Ines Marques	<u>Context and opportunities for EITI:</u> Zambia is a major producer of copper and cobalt, and the mining sector accounts for about 10% of GDP. Over the past few years, the government has made several changes to the fiscal regime for mining companies in search of optimising revenue. The revenue authority has recently announced plans to audit the largest mining companies, following a tax audit of First Quantum resulting in an USD 8b tax bill. Zambia's EITI disclosures has helped highlight the need for reliable production and revenue data to improve tax collection. <u>EITI disclosures:</u> There appears to be buy-in from the government for systematising EITI disclosures related to licensing, production and revenue data as part of existing data platforms such as the Mineral Data Analysis Centre. Further efforts are however needed to facilitate discussions on systematic disclosures with the MSG and key government agencies. This is also foreseen to help address the four corrective actions from Validation. Zambia EITI is currently procuring the Independent Administrator for the 2016 EITI Report. <u>Beneficial ownership:</u> The Patents and Companies Registration Agency (PACRA) amended the Companies legislation in November 2017 to establish of a central beneficial ownership register. Zambia EITI is currently preparing its input to the development of company regulations for the legislation.

	<i>Other implementation issues:</i> Zambia EITI has begun exploring opportunities for contributing to the government's plans to improve monitoring of artisanal and small-scale mining. The MSG is yet to agree how to systematically follow-up on findings and lessons learned from EITI reporting, which is one of the corrective actions from Validation. <i>Support and funding needs:</i> There is USD 150,000 remaining of a 2016-2018 EGPS grant for EITI which expires in July. This is likely to cover the 2016-2017 EITI Reports. A second grant of USD 150,000 focused on mainstreaming is currently being prepared by the World Bank. The government covers the operational costs of the EITI including the national secretariat. Partners could encourage Zambia EITI to integrate the EITI process into government and company systems through systematic disclosure of information.

5. EITI reporting

Since the last IPR covering November-February 2017, EITI Reports have been published in Ghana, Myanmar, Tanzania, Trinidad & Tobago, Ukraine and United Kingdom. This brings the total number of fiscal years covered by EITI Reports to 376. Table 4 provides an update on implementing country compliance with the requirement for timely EITI reporting. 48 countries have published a report in accordance with the EITI Standard. Thirty-eight countries have published 2015 data, and thirteen countries have published 2016 data.¹³ At least ten countries are planning to publish 2017 data this year. Up-to-date information with all published reports can be found on the EITI's new webpages <https://eiti.org/>. In addition to the individual reports, summary information from all the reports can be accessed in excel format at <https://eiti.org/summary-data>.

In Table 4 below, dark blue is used for countries whose reports have been published, light blue for countries with a deadline of 31 December 2018 that have not yet been published, grey for countries ahead of their reporting deadlines (i.e. that look set to publish 2017 data in 2018), and red is used for overdue reports.

Table 4: Overview of EITI reporting as of May 2018

Country	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Afghanistan							R	S	S	S	S	
Albania							S	S	S	S	S	
Armenia											S	
Burkina Faso							S	S	S	S	S	
Cameroon							S	S	S	S	S	
Central Afr. Rep.											S	
Chad							R	S	S	S	S	
Colombia								S	S	S	S	S
Congo, Rep. Of								S	S	S	S	

¹³ This does not include CAR which is suspended due to political conflict and instability.

Côte d'Ivoire							S	S	S	S	S	
DR Congo							S	S	S	S	S	
Dominican Rep.										S	S	
Ethiopia									S	S	S	
Germany											S	S
Ghana							S	S	S	S	S	
Guatemala								S	S	S	S	
Guinea							R	S	S	S	S	
Guyana											S	
Honduras							S	S	S	S	S	
Indonesia							S	S	S	S	S	
Iraq							S	S	S	S	S	
Kazakhstan							S	S	S	S	S	S
Kyrgyz Republic							R	S	S	S	S	
Liberia							S	S	S	S	S	
Madagascar							S	S	S	S	S	
Malawi										S	S	
Mali							S	S	S	S	S	
Mauritania							S	S	S	S	S	S
Mexico											S	
Mongolia								S	S	S	S	S
Mozambique							S	S	S	S	S	
Myanmar									S	S	S	
Nigeria							S	S	S	S	S	
Norway								S	S	S	M	
PNG									S	S	S	S
Peru							R	S	S	S	S	
Philippines							S	S	S	S	S	S
STP							S	S	S	S	S	S
Senegal							S	S	S	S	S	
Seychelles									S	S	S	
Sierra Leone							S	S	S	S	S	
Solomon Islands							S	S	S	S	S	S
Suriname											S	
Tajikistan									S	S	S	
Tanzania							R	S	S	S	S	
Timor-Leste							S	S	S	S	S	
Togo							S	S	S	S	S	
Trinidad & Tobago							R	S	S	S	S	
Ukraine								S	S	S	S	
United Kingdom									S	S	S	
Zambia							S	S	S	S	S	



Published



Deadline by 31 December 2018



Overdue (Requirement 8.4)



Planned publication by 31 December 2018

R = 2011 EITI Rules; S = EITI Standard; M=Mainstreamed

5. Validation

Currently, there are **12** ongoing Validations. The table below provides an overview as of 1 June 2018.

Country	Validation commenced	Comment
Republic of Congo	01-Apr-17	Final Validation report complete. VC review on 4 December 2017 and 12 January 2018. Discussed by the EITI Board in Oslo. Further review subject to Implementation Committee recommendation on the application of requirement 8.3.c.i.
Cameroon	01-Apr-17	Final Validation report complete. VC review on 26 January and 13 February 2018. VC Recommendation to the Board in BC 249. Following objections from EITI Board members, deferred to Berlin Meeting.
Ukraine	01-Jul-17	Final Validation report complete. VC review scheduled for 6 June 2018.
Madagascar	01-Sep-17	Final Validation report complete. VC review scheduled for 6 June 2018.
Afghanistan	01-Nov-17	Initial assessment complete. Draft Validation report pending.
Colombia	01-Jan-18	Draft Validation report complete. MSG comments pending. VC review scheduled for 6 June and 30 June 2018.
Seychelles	01-Jan-18	Initial assessment ongoing. Country visit completed
Solomon Islands (2nd)	08-Mar-18	Draft assessment complete. MSG comments pending. VC review scheduled for 22 May and 6 June 2018.
Sao Tomé and Príncipe (2nd)	08-Mar-18	Initial assessment ongoing. VC review scheduled for 6 June and 30 June 2018.
Ethiopia	01-Apr-18	Initial assessment ongoing. Country visit completed.
Guatemala	01-Apr-18	Initial assessment ongoing. Country visit to be completed between 4 and 8 of June.
Papua New Guinea	01-Apr-18	Initial assessment ongoing. Country visit completed.

As Validations are completed, the International Secretariat prepares a summary for the EITI website (see, for example, Timor-Leste [here](#)). Each case also has a record on the Validation Committee Internal page (see, for example, Mauritania [here](#)) with all the supporting documentation.

On 25 May 2018, the 2017 Validator completed its assignment and delivered a final report on lessons learned from the 2017 Validations. The Validation Committee intends to draw on findings from the 2016-2017 Validations in a Board paper with recommendations addressing possible amendments to the Validation Guide and Validation procedures.

6. Training and capacity building

Since the Board meeting in February 2018, the International Secretariat has facilitated the following capacity building events:

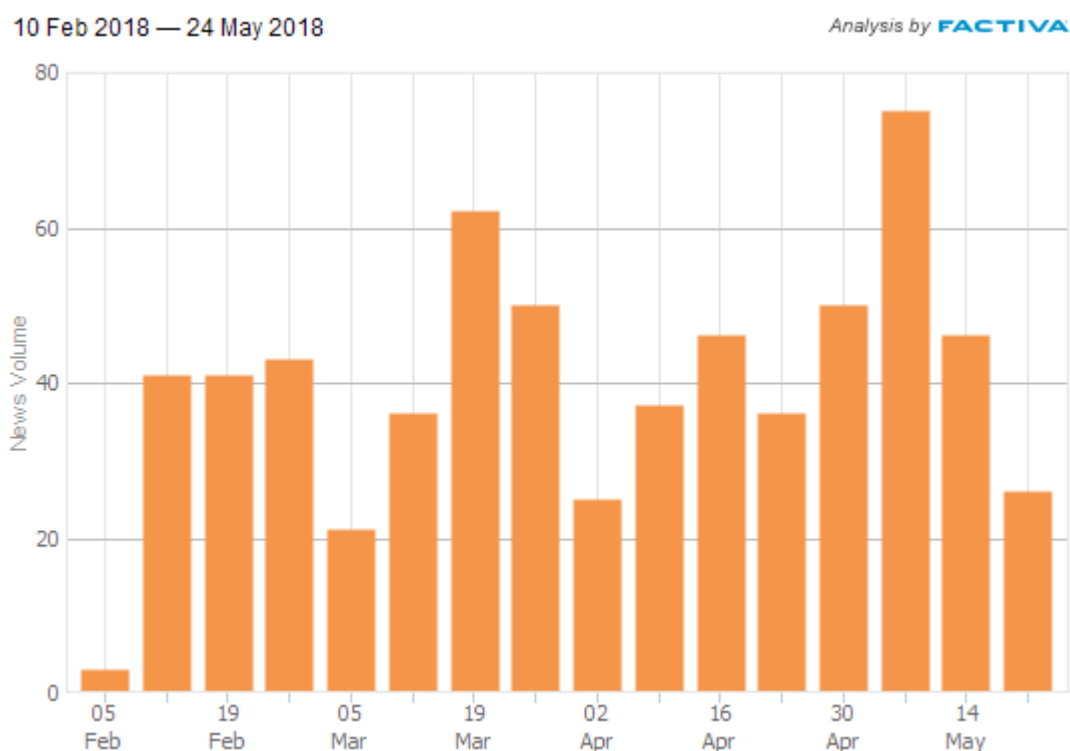
- In **Asia**, the International Secretariat facilitated a follow up two-day workshop in **Kazakhstan** focusing on beneficial ownership for civil society in February 2018. Similar workshops were held with civil society and media representatives in **Mongolia** in February and May 2018. These activities were implemented as part of the EBRD project. The Secretariat also facilitated pre-Validation workshops for MSG members in **Myanmar** in January and a beneficial ownership workshop in the Philippines where the level of details for the beneficial ownership disclosure form was discussed.
- In **Africa**, the International Secretariat together with the World Bank facilitated a two-day workshop for technical staff in **Nigeria** with a focus on addressing remaining gaps ahead of the upcoming second Validation. The International Secretariat facilitated a pre-Validation workshops in **Chad, Guinea, Mali and Mauritania**. Guinea's first Validation begins on 1 July 2018 whilst Mali and Mauritania's second Validation will begin in the last quarter of the year. Pre-validation workshops have been organised in **Chad**. In the **DRC**, The International Secretariat facilitated trainings for government agencies on systematic disclosures and on updating the work plan using stakeholders' recommendations to improve reporting.
- In **Europe**, the **UK** undertook a pre-validation assessment exercise.

7. Secretariat activities

In March-June 2018 there have been country visits by the International Secretariat staff to **the Central African Republic, Chad, the DRC, Ethiopia, Ghana, Guinea, Kazakhstan, Mali, Mauritania, Mongolia, Nigeria, Papua New Guinea, Peru, Philippines, Senegal, Suriname, Tajikistan and Zambia**.

Since the previous Board meeting in mid-February 2018 and up to late May 2018, the EITI has been mentioned in publications, web news and blogs around 1,100 times (around 800 during the same period in 2017). The increase from last year is partly explained by the media coverage following news stories such as Validations and the Oslo Board meeting in February. The Secretariat has also had an

increased focus on bringing in visitors from social media. The countries most focused on by the media regarding EITI were Nigeria (153 times), Africa in general (108 times), and Brazil (89 times).



Media mentions. Source: *factiva.com*

The EITI website was in this period visited by over 54,000 users in 94,000 sessions (a decrease of 6% in users and 10% in sessions compared to the same period last year). Altogether 250,000 pages were viewed (an increase of almost 30% compared to the last year).



Sessions on *eiti.org*, mid-February – late May 2018. Source: *Google Analytics*

The top three most visited pages were the [country overview page \(19,000\)](#), the pages on [who we are](#) (10,500) and [open data](#) (5,000).

The most read news item in this period was “[Senegal declared first country in Africa to have made satisfactory progress](#)” (over 600 combined French and English reads) followed by, “[Mongolia meets all requirements of the EITI Standard](#)” (324 reads). The most popular blog item was “[La Empresa Extractiva de Colombia Promueve la Transparencia](#)” (555 reads), followed by “[New Norwegian](#)”

[Development Minister Nikolai Astrup delivers speech to EITI on the eve of Board Meeting in Oslo.](#)“
(367 reads).

Much of the Secretariat’s communication efforts in the past months was focused on OGP-EITI collaboration, contract transparency progress, the International Women’s day and the 39th Board meeting in Oslo. There were clear spikes in social media statistics around 8 March. The EITI had a reach of almost 15,000 on Women’s Day, and the news about OGP and EITI cooperation gained about the same amount of reach. The EITI [contract transparency video](#) also gained a lot of attention on social media.

Following the new EU regulation on data protection, the Secretariat has updated its [privacy policy](#) and reviewed internal processes related to sensitive data.

The EITI newsletter is sent out monthly to near 7,000 subscribers. It is sent in four languages – English (80%), French (14%), Russian (1%) and Spanish (5%). The EITI’s Twitter account (@EITlorg) has over 11,000 followers, up by almost 600 since February. The EITI Facebook page has over 5,200 likes.

Contract Transparency Brief 2018 – review of findings from Validations

For decision

For discussion

For information**Summary:**

In accordance with the Implementation Committee Work Plan 2018 (3.1.h), the Secretariat has undertaken a review of the lessons learned from Validation related to contract transparency. The Secretariat is sharing the findings of this review in this brief for information.

Contract Transparency Brief 2018 – Validation

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1. Executive summary

The EITI encourages implementing countries to publish contracts and license agreements governing oil, gas and mining operations. The objective of this paper is to establish the impact of the EITI on contract transparency and the views of stakeholders in implementing countries with regards to contract disclosure. To this end, the paper draws from the performance of implementing countries on the contract transparency requirements of the EITI Standard as documented during Validation.

The following key findings have been identified:

- i. The EITI has significantly influenced the contract transparency debate in implementing countries. Five years after the EITI began encouraging contract disclosure, multi-stakeholder groups (MSG) around the world have considered or taken up the encouragement to publish contracts.
- ii. Validation has highlighted several benefits of contract transparency for many stakeholders. This includes improved ability to monitor contractual obligations, improved inter-agency collaboration, greater potential for forecasting future revenues and assessing the implications for affected communities. Yet, it is also clear that there is still limited use and analysis of contracts that have been made public.

- iii. There appears to be little focus on the EITI's encouragement of contract transparency in Validation. The EITI encourages implementing countries to disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals. Yet, given that validation only measures *the level of transparency* in a government's policy and practice in terms of contract publication, a country whose stated policy is zero public disclosure can nonetheless show satisfactory progress by stating that policy and disclosing no further information.
- iv. There continues to be a discrepancy between policy and practice in countries that provide for full disclosure. In at least six countries, the government's policy provides for full contract transparency but in practice not all the contracts are published¹. In countries with contract transparency provisions, it was unclear to stakeholders whether all contracts had been published, such as **Liberia** and **Niger**, and whether the legal provisions were retroactive, such as in **Burkina Faso** and **Cote d'Ivoire**.
- v. Validation has shown a need for clarification of the meaning of confidentiality clauses, and to what extent they prevent contract publication. There was general confusion on the role of confidentiality clauses, government's ability to use their sovereign prerogative to break confidentiality clauses, and the use of model contracts to progress on these issues. This was highlighted as an issue in **Albania, Cote d'Ivoire, Ghana, Iraq, Mozambique, Timor-Leste** and **Ukraine**.
- vi. EITI Reports could provide further contextual information for stakeholders. Reports could pay further attention to the distinction between the mining and oil and gas sectors, the different types of contracts, whether the full text is published and accessibility of such contracts.

2. Background

2.1 Contracts

Contracts, licenses and associated agreements are crucial parts of the legal framework which establish the rights, terms and obligations governing the exploration and production of oil, gas and minerals. Such terms and obligations vary but will typically include work obligations, fiscal terms, social and environmental provisions, safety standards, local content requirements etc. In some countries, these rights, terms and obligations are primarily set out in legislation. In other countries, there might be a practice of mostly negotiating the terms and obligations on a case-by-case basis for each individual extractive project. In such cases, the terms and conditions will primarily be found in the contract or agreement between the investor and the host-government governing the project.

As contracts are legal documents that governments enter into on behalf its people, a case can be made that citizens have the right to know the terms and conditions of these contracts, just like any terms and conditions that are set out in law. The call for such transparency is particularly pressing in countries where most of the terms and conditions are negotiated. It has also been argued that contract transparency can help reduce information asymmetry and improve the level playing field as all actors know the terms that apply, improve inter-agency collaboration and prompt enforcement of contractual obligations, and increase the perceived legitimacy of contracts which could ensure more

¹ EITI Contract Transparency Brief: <https://eiti.org/document/eiti-brief-contract-transparency-in-eiti-countries>

stability of investments and reduce calls for revisions of terms. Although there continues to be some concern that contract transparency could harm the commercial competitiveness, experience with contract publication has shown that commercially sensitive data (e.g. seismic data, samples, well logs, geological structure maps, use of certain technologies etc.) do not tend to appear in the contract itself but rather stem from the implementation of the contract. It is common for petroleum contracts to be signed by consortiums of companies and for the companies within those consortiums to change overtime. This may mean that competing companies will have access to contracts. In such circumstances, it would be unlikely that a company would risk writing trade secrets into a contract. Further, it appears that where there are justifiable concerns that commercially sensitive data is contained in a contract, this could be resolved through redaction or delayed publication of the contract.

2.2 EITI Requirements

The EITI began encouraging contract transparency in 2013. According to research undertaken by NRGi in 2017, contract disclosure has now become the norm among EITI member countries. This research found that 29 EITI implementing governments—well over half—have disclosed at least some of these agreements, and several more were taking concrete steps to join their ranks². A recent Oxfam survey of contract disclosure policy among leading extractives companies, out of 29 EITI supporting companies in their sample, 16 supported contract transparency in some form³.

The decision whether to publish contracts or not ultimately lies with a country's government, and will be determined through the legislation and/or contracts governing the extractive sector. Following consultations with stakeholders in developing the [2013 EITI Standard](#), the EITI therefore agreed that it was necessary to ask countries to document the government's policy and practice on contract transparency as well as any reforms underway in a bid to support the national debate on the issue⁴. Countries are also encouraged to disclose the full-text of any agreement to exploit oil, gas and/or mineral resources, as well as any annexes or amendments. Requirement 2.4 of the EITI Standard thus requires that countries document the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. Documentation of government's policy should include: relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. Where applicable, countries should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published. The EITI Requirements are set out in full in Box 1 below.

The EITI evaluates adherence to Requirement 2.4 as part of its country evaluations, known as Validation. [Validation](#) is intended to provide all stakeholders with an impartial assessment of

² NRGi Past the Tipping Point – Contract disclosure within the EITI:

<https://resourcegovernance.org/sites/default/files/documents/past-the-tipping-point-contract-disclosure-within-eiti-web.pdf>

³ OXFAM survey of contract disclosure policy among leading extractive industry companies: <https://policy-practice.oxfam.org.uk/publications/contract-disclosure-survey-2018-a-review-of-the-contract-disclosure-policies-of-620465>

⁴ Further details are included in the consultation on contract transparency: EITI Secretariat, February 2013 <https://eiti.org/document/consultation-on-contract-transparency>,

whether EITI implementation in a country is in line with the provisions of the EITI Standard. There are four levels of progress: no progress, inadequate progress, meaningful progress and satisfactory⁵. An overview of countries' performance during Validation on all EITI Requirements is available on the EITI website⁶.

Box 1 – EITI Standard 2016: Requirement 2.4

- a) Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.
- b) It is a requirement that the EITI Report documents the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. Where applicable, the EITI Report should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.
- c) The term contract in 2.4(a) means:
 - i. The full text of any contract, concession, production-sharing agreement or other agreement granted by, or entered into by, the government which provides the terms attached to the exploitation of oil gas and mineral resources.
 - ii. The full text of any annex, addendum or rider which establishes details relevant to the exploitation rights described in 2.4(c)(i) or the execution thereof.
 - iii. The full text of any alteration or amendment to the documents described in 2.4(c)(i) and 2.4(c)(ii).
- d) The term license in 2.4(a) means:
 - i. The full text of any license, lease, title or permit by which a government confers on a company(ies) or individual(s) rights to exploit oil, gas and/or mineral resources.
 - ii. The full text of any annex, addendum or rider that establishes details relevant to the exploitation rights described in in 2.4(d)(i) or the execution thereof.
 - iii. The full text of any alteration or amendment to the documents described in 2.4(d)(i) and 2.4(d)(ii).

Source: EITI 2016 Standard, page 19.

2.2 Methodology

This brief is based on a review of EITI Validation reports and initial assessments⁷. Validation of requirement 2.4 includes a review of the relevant documentation related to contract transparency. This may include commitments in EITI workplans, statements in EITI Reports and multi-stakeholder group (MSG) meeting minutes documenting contract transparency discussions. Secondary sources of data such as provisions in laws or contracts and information on contract publication portals, are also

⁵ Explanation of country status and degrees of progress: <https://eiti.org/about/how-we-work#degrees-of-progress-country-statuses-explained>

⁶ Performance during Validation: https://eiti.org/sites/default/files/inline/validation_comparison_table_0.png

⁷ Overview of EITI Validation reports and initial assessments: <https://eiti.org/document/validation-schedule-decisions#underway>

considered. The Validation process involves stakeholder interviews on the issue of contract transparency. Based on these consultations, the International Secretariat prepares a report making an initial assessment of progress against the contract transparency requirement, in accordance with the Validation Guide. The EITI Board will appoint an Independent Validator who will assess whether the Secretariat's initial assessment has been carried out in accordance with the Validation Guide⁸.

Validation is a snapshot evaluation of EITI implementation at a given time. This paper is based on Validations undertaken in 32 countries (where Validation began in the period 1 January 2016 to 31 December 2017), regardless of whether a final decision on the outcomes of Validation has been taken by the EITI Board⁹.

The EITI Board has made a final Validation decision for 24 of these 32 countries, namely **Albania, Azerbaijan, Burkina Faso, Ghana, Honduras, Iraq, Kazakhstan, Kyrgyz Republic, Liberia, Mali, Mauritania, Mongolia, Mozambique, Niger, Nigeria, Norway, Peru, Philippines, Sao Tome & Principe, Solomon Islands, Tajikistan, Tanzania, Timor-Leste** and **Zambia**.

As at 1 May 2018, the EITI Board had not decided the outcome for eight countries, namely **Afghanistan, Cameroon, Cote d'Ivoire, Madagascar, Republic of Congo, Senegal, Togo** and **Ukraine**. The initial assessment, Validation Report and associated MSG comments are considered confidential until the Board has reached a decision.

This paper also considers two countries which were subject to second Validations, namely **Mongolia** and **Timor-Leste**. In both cases, the evaluation on contract transparency remained the same during the first and second evaluation. As such, no distinction is made between first and second Validations in this analysis.

3. Transparency in contract disclosure: policy, practice and impact

3.1 Validation results

As noted above, **Validation of Requirement 2.4 is first and foremost a measure of how transparent a government's policy and practice is with regards to contract transparency, and not a measure of how transparent the contracts in the country are**. Of the 24 countries for which a Validation decision had been made, two countries were assessed as going beyond the EITI Requirement, 17 countries were assessed as having made satisfactory progress, seven countries were assessed as making meaningful progress, four as making inadequate progress and one country was assessed as making no progress¹⁰. Annex 1 provides further details on progress in contract transparency during Validation.

Peru and the Philippines were evaluated as going beyond the EITI Requirements on contract transparency, meaning that they have taken on additional work on contract transparency than the EITI requires. In **Peru**, contract transparency is provided through the Law on Transparency and Access to Public Information. This law requires that public entities disclose contract information.

⁸ EITI Validation Guide: <https://eiti.org/document/eiti-validation-guide>

⁹ Explanation of country status and degrees of progress: <https://eiti.org/about/how-we-work#degrees-of-progress-country-statuses-explained>

¹⁰ Performance during Validation: https://eiti.org/sites/default/files/inline/validation_comparison_table_0.png

Peru's 2014 EITI Report includes a list of hydrocarbon contracts with the links to where full text of the contracts are publicly accessible. It also provides an overview of the mining projects that have signed 'Contracts of Guarantees and Investments Promotion' also known as Mining Stability Contracts. These contracts aim to reduce uncertainty concerning tax policy for investors and were signed at a time when Peru required private capital to recover from the 1980s crisis and sought to attract foreign direct investment¹¹. In the **Philippines**, the 2014 EITI Report includes in-depth discussion of the government's policy on contract transparency. The full text of standard contracts is included in Annex L-N of the PH-EITI Report. In 2015 PH-EITI launched an open database where the contracts of most companies participating in the EITI reporting process are disclosed¹². Using the open source ResourceContracts platform¹³, the Philippines and NRGi worked together to assign unique IDs, which followed the Open Contracting Data Standard (OCDS)¹⁴. The OCDS enables data to be disclosed in a way that is interoperable at all stages of the contracting process and was created to increase contracting transparency, and allow deeper analysis of contracting data by a wide range of users. It involves step-by-step disclosure, creation of summary records for an overall contracting process and common open data publication patterns.

The EITI Standard requires that the EITI Report documents the government's policy on contract disclosure, including referencing relevant legal provisions, actual disclosure practices and any reforms. At least seven countries had a clear policy on contract transparency in their EITI Report¹⁵. There is also a wide variety in what is considered a government policy. For example, this included statements by high-level officials in **Afghanistan** and **Albania**, sector-specific legislation in **Burkina Faso** and **Cameroon**, Freedom of Information Acts such as in **Liberia**, a public-private partnership laws in **Mozambique** and the national constitution in **Niger**. In these cases, the EITI Reports reference relevant legal provisions and provides clarification on the mandate to publish or keep contracts confidential. Nine of these countries had a clear policy for the publication of contracts whilst three had a clear policy against the publication of contracts. Most of the countries that had a clear policy enabling contract publication referenced legal provisions in the petroleum or mining laws.

Government policy provides for full contract transparency in seven countries: **Burkina Faso** (mining), the **Republic of Congo** (oil and gas), **Côte d'Ivoire** (oil and gas), the **Democratic Republic of Congo** (oil, gas and mining), **Mauritania** (mining), **Niger** (oil, gas and mining) and **Zambia** (mining). However, in practice, with the exception of **Zambia**, the remaining six countries have either no or partial disclosure for a variety of reasons including non-functioning national gazettes (**Niger**) or ongoing consultations with companies (**Cote d'Ivoire**). In other instances, countries published contracts although the government's policy was unclear such as **Afghanistan** (oil and gas) and **Mali** (mining).

At least 18 countries included information on actual practice on contract publication. Where countries publish contracts, the EITI Report should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.

¹¹ Overview of EITI Validation reports and initial assessments: <https://eiti.org/document/validation-schedule-decisions#underway>

¹² Philippines EITI Report: <https://eiti.org/document/philippines-2015-eiti-report-fy-2013>
NRGi contracts portal: <http://contracts.ph-eiti.org/>

¹³ Resource Contracts Platform: <http://www.resourcecontracts.org>

¹⁴ Information on Open Contracting Data Standard: <http://standard.open-contracting.org/latest/en/>

¹⁵ Countries with legal commitments but limited contract/license disclosure: Burkina Faso, Central African Republic, Cote d'Ivoire, Mauritania, Niger, Republic of Congo and Tanzania.

The challenge observed is that some EITI Reports lack a comprehensive list of all contracts and amendments. Some EITI Reports do not explicitly state how contracts can be accessed by the public. In some instances, the links provided in the EITI Report are broken or no longer valid.

Few countries included information on ongoing reforms related to contract transparency, with the exception of **Afghanistan, Togo and Ukraine**. Documentation of ongoing and planned reforms were frequently omitted in the EITI Reports. This may present missed opportunities to further the contract transparency debate in these countries.

Implementation of the EITI's requirements on contract transparency have highlighted some potential confusion. Firstly, it has been argued that the way the requirement is assessed is potentially sending the wrong signal, rewarding countries that are not necessarily practicing contract transparency, but that are simply transparent about their decision not to do so. For example, in **Kazakhstan**, the 2015 EITI Report notes that Kazakhstan does not practice contract transparency¹⁶. According to stakeholders, contracts have confidentiality provisions which indicate that the signed contract could not be disclosed. However, the country is transparent about its policy and practice being zero public disclosure, and has therefore achieved satisfactory progress by stating so. In contrast, **Niger** has a clear policy on contract transparency set out in the constitution, and actual publication of contracts is to take place through the Official Gazette, according to the EITI Report. Despite this policy, Niger only achieved inadequate progress on the EITI Requirement because the implementation of the contract transparency policy through the gazette was not confirmed by the EITI Report. This seems contrary to the intent of the EITI Requirement which encourages implementing countries to disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.

Secondly, this analysis also sheds light on the challenge of what to do to address the gap between policy and practice on contract transparency. The EITI Standard does not assess practice. **Cote d'Ivoire** has been assessed as having made satisfactory progress since the government policy on contract transparency is clear in the 2012 amendments to the Oil Code. It is also clear on the actual practice, which is that no contracts have been published in Cote d'Ivoire including those which were signed after the law was adopted. This case highlights a clear discrepancy between government policy and practice, that does not have bearing on the level of progress achieved on Requirement 2.4, given that this requirement is only a measure of the level of transparency. Similar concerns were raised by civil society representatives in Mozambique during the Validation consultations.

3.2 Impact of the EITI on the contract transparency debate

Given that the EITI encourages contract disclosure, many countries have adopted the practice of disclosing contracts because of the global and national debates facilitated by EITI. By providing a space where citizens, companies and governments can share experiences and lessons learned across stakeholder groups and national boundaries, EITI has helped these actors share concerns and potential benefits, and discuss possible approaches and ways of achieving contract transparency. The

section below highlights the EITI's impact on contract transparency as documented through Validation.

Creating a forum for debate: Civil society organizations from multi-stakeholder groups in **Cameroon, Ghana, Kazakhstan** and **Madagascar**, have put contract transparency on the MSGs' agenda as part of their advocacy for full contract disclosure. In Ghana, these efforts culminated in the publication of all contracts through a portal established by the Petroleum Commission. In Kazakhstan, the MSG was used to debate the pros and cons of contract disclosure.

Facilitating disclosures: EITI stakeholders have been creative in getting contracts published. In two countries, **Azerbaijan** and **Tanzania**, surveys were used to push for contract disclosure. The national EITI secretariat in Azerbaijan conducted a survey to obtain permission to upload the Production Sharing Agreements (PSAs) on the Azerbaijan EITI website for public access¹⁷. Five PSAs had been uploaded following the company survey. Similarly, in Tanzania, the former Ministry of Energy and Minerals communicated with extractive companies that had entered mineral development or production sharing agreements with the government¹⁸. The Ministry informed them that its plans to publish the agreements on its website, and requested comments on the disclosure. Two companies, British Gas and Statoil, responded, noting the need to protect proprietary information and to undertake an awareness-raising campaign for the public before the disclosures of the agreements are made. The Ministry replied to the companies and proposed that the two companies and the Tanzania EITI Committee meet to discuss the way forward.

Providing access to contracts: In **Liberia**, Section 3.2.f of the LEITI Act defines one of the objectives of LEITI "to promote the public disclosure of contracts and concessions bearing relationship with the extraction of forest and mineral resources". Section 4.1.f requires LEITI "To serve as one of the national depositories of all concessions, contracts, and licenses and similar agreements and rights granted by the Government of Liberia". EITI websites and reports were stated as the forum for disclosure in **Azerbaijan, Kyrgyz Republic, Liberia** and **Mongolia**.

Supporting legal reform enabling contract transparency: In **Mozambique**, civil society's push for contract disclosure through the MSG and other fora have led to a higher-level policy dialogue on contract transparency in the country. In part as a result of these efforts, the Mining Law 20/2014 includes Article 8.4 requiring companies to publish all their new contracts. In **Madagascar**, civil society has also proposed contract transparency provisions as part of the ongoing revisions to the Petroleum and Mining Code. In **Mongolia**, the MSG's involvement in the working group on contract disclosures in collaboration with the Petroleum Authority of Mongolia (PAM), successfully removed the confidentiality clause from new model PSAs developed following the revised Petroleum Law in 2014. In **Cameroon**, although contracts are not published, several civil society organisations noted that civil society calls for contract transparency had been a key factor in the publication of the model Petroleum Sharing Contract (PSC) on the state-owned company, Société Nationale des Hydrocarbures (SNH) website.

4. EITI stakeholders' views on contract transparency

One of the key objectives of contract transparency is to ensure that the contracts that are entered into conform with the overall legal framework of the petroleum sector. It can also serve additional

¹⁷ Azerbaijan production sharing agreements: <http://www.eiti.az/index.php/en/senedler-2/agreements>

purposes such as increasing public trust in how the government manages the petroleum sector through improved monitoring of contract implementation. It helps guard against the spread of misinformation about contract terms. Contract disclosure may also lead to improved tax collection and domestic resource mobilisation through better inter-agency collaboration. Contracts may not only be useful to government actors but also development partners and civil society through fiscal modelling and revenue projections. In some countries, contract transparency has been difficult to achieve in practice for a variety of reasons. This section recaps some of the stakeholder views gathered during Validation on the benefits and challenges with contract disclosure.

4.1 Benefits of contract disclosure for some stakeholders

Improving monitoring and compliance with contractual obligations: Contract transparency could enable better monitoring of the implementation of contractual obligation and ensure consistency between contractual obligations and the overall legal framework. According to EITI stakeholders, contract transparency affects the work of governmental auditing institutions in terms of monitoring government activities. In **Cote d'Ivoire**, the General State Inspectorate (IGE) is responsible for the audit of government revenue and expenditure. By scrutinizing public financial management and reporting, it provides assurance that resources are used as directed by national parliaments and governments for the benefit of citizens. Representatives of the IGE mentioned that they did not have access to the contracts which limited their role in overseeing the management of public finances. Further, when notified that the contract transparency provisions of the Petroleum Code of Côte d'Ivoire were not yet implemented, the IGE decided to investigate potential violations of the legislation on contract transparency during their next audit. In **Liberia**, the LEITI 2013 post-award audit showed that some contracts entered into by the government contained tax and other stabilisation clauses that exceeded the timeframe allowed by the Internal Revenue Code.

Improving interagency collaboration: Validation has highlighted that access to contracts can help ensure proper tax collection and auditing of the sector. Where multiple government agencies are involved in collecting taxes and administering the fiscal regime, contract disclosure can strengthen inter-agency collaboration as access to the contract would no longer be confined to one ministry, and is essential for other ministries to levy and collect the right taxes for example. This could also have benefits for industry actors who have an interest in prompt enforcement of the terms. In **Afghanistan**, a 2016 Supreme Audit Office compliance audit report found that the various departments in the Ministry of Finance, including the Revenue Department, did not systematically have access to extractives contracts. This was despite requirements for the Ministry of Mines and Petroleum to make all contracts available to the Ministry of Finance. In **Ghana**, the Ghanaian Revenue Authority expressed strong support for contract transparency, given that they were among the main users of contracts in the country. Similarly, in **Togo**, the Togolese Revenue Office lamented that contracts were not systematically available, which caused errors in their data collection related to contractual data. This affects the Revenue Office's ability to monitor the sector and collect the appropriate payments due to them in a given fiscal year.

Improving fiscal projections and revenue forecasting: Contracts constitute part of the web of sector specific and general legislations and regulations that together make up the total legal framework for the petroleum industry in a country. Some governments, in particular where there is weak institutional capacity, might face challenges in navigating this web. It has therefore been argued that contract transparency could help ensure proper government monitoring and enforcement of terms that are specific to individual contracts. Fiscal modelling may also be useful to development partners and civil society actors within the country. In **Cameroon**, stakeholders consulted during Validation

emphasised how the International Monetary Fund (IMF) highlighted in its Article 4 consultations how the lack of publicly-available PSCs hinders its ability to refine its modelling of oil and gas fiscal revenues and thus the accuracy of its medium-term fiscal models for Cameroon. A civil society representative noted that while the government had asked the IMF to undertake a review of its oil and gas fiscal regime in 2014, it had never provided the fund with copies of the oil and gas contracts, thereby hindering the ability to model fiscal terms.

Improving monitoring of the impact of the extractive sector on affected communities. Contracts often contain terms and obligations that could be relevant for the local communities where the extractive activities take place. Civil society has found access to contracts helpful in monitoring such impacts. In **Albania**, civil society requested access to the full text of mining, oil and gas contracts in preparing the 2013-14 EITI Report in order to assess the existence of mandatory social expenditures. In **Cameroon**, several civil society members noted that the sections of mining, oil and gas contracts of greatest relevance for civil society were clauses affecting host communities most directly, including social expenditures. In **Mali**, civil society representatives explained that they have access to contracts in the mining sector, which allowed them to undertake a comparative analysis of publicly accessible contracts.

Box 2 – Use of contracts in Mali

Gold production in Mali came to 46.9 MT in 2016, making the country Africa's third-largest gold producer after South Africa and Ghana. However, gold production remains controversial in Mali, since a large proportion of gold is produced by artisanal miners and recurring incidents of fatal accidents, smuggling, child labor and environmental damage. The PWYP-Mali Coalition, with the financial support of the Extractive Industries Governance Support Project (PAGIE-GIZ), conducted a comparative analysis of mining contracts in March 2016. The study reviewed nine contracts signed between the Malian government and mining companies between 1987 and 2014 covering 10 to 30-year gold and iron mining agreements. The study aimed to equip local communities, regional MPs and civil society actors with an understanding of the evolution of the mining legislation and variations between the different mining contracts affecting them.

Following a desk review and stakeholder consultation in the Kayes region, the report noted that the opacity of the sector combined with the complexity of contracts, led to a limited understanding of the terms of the contract by both the public and other local decision-makers. The report called for a review of tax exemptions and stability clauses have led to significantly reduced revenues for the Malian State; training for government staff on transfer pricing and strengthened interagency collaboration in the monitoring of the sector.

The report was subsequently translated into local languages in August 2016 and then formed part of a dissemination campaign. The report was picked up by local media and stimulated a national debate on the topic. The 2015 EITI Report, published in 2017, included contextual on tax exemptions for the year under review. The Mali multi-stakeholder group aims to include the value of tax exemptions in its 2016 EITI Report.

Source: PWYP-Mali 2017, Study on the distribution of the 'Patente' sub-national payments to the mining region communities in the mining regions of Kayes and Sikasso and their impact on their impact on the funding of social services in the Sadialo and Sanso communities.

4.2 Challenges with contract disclosure

Despite great potential usefulness of contracts, the use of contracts in practice remains limited. Obstacles to effective use of contracts as identified by stakeholders included the lack of an appropriate instrument for the publication of contracts; conflicting sources of contract information and the lack of a common understanding of the confidentiality disclosures.

Accessibility: A survey of the initial assessments and EITI Reports shows that little attention has been given to data accessibility and the format in which contracts are disclosed. Stakeholder views differ across countries on the desired format for disclosures. Some contracts are disclosed in PDF format, whilst others are available in searchable formats online. These differences of opinions may be linked to the level of computer literacy in the country. For example, in **Burkina Faso**, civil society representatives consulted did not consider online publication as particularly important. They explained that free access to the contracts at the Ministry of Mines and Energy would be considered as adequate. Stakeholders had not conducted a thorough review of the contracts or licenses that were available online. In **Liberia**, the simplified contract matrix has helped civil society organisations such as Rights and Rice to run roadshows in concessions areas to help local populations gain a better understanding of the terms of the contracts. In the **Kurdistan region of Iraq**, none of the stakeholders consulted aside from some analysts were aware that PSCs awarded to Chevron, ExxonMobil and Dana Gas had not been published by the government.

Stakeholders noted that in some instances technical problems and a lack of an appropriate instrument prevented the publication of this information online. Civil society representatives in **Burkina Faso** confirmed that they have access to all contracts, upon request, but contracts are not systematically published online. In the **Kyrgyz Republic**, a government representative noted that the challenge was mainly technical. Although all license agreements have been scanned and were available in an electronic format on the internal part of the license database, the current IT system did not have capacity to load such big files. In **Niger**, stakeholders noted that the official journal had experienced a back log on the publication of contracts.

Conflicting sources and outdated information: Validation revealed that there is often lack of clarity on which government agency is responsible for publishing contracts and challenging in keeping contract databases up to date. In the case of the **Kurdistan region of Iraq**, there were differences in the number of contracts published on the various public sources of information. Some Production Sharing Contracts were published on the Kurdistan Regional Government (KRG) Ministry of Natural Resources website, whereas the ResourceContracts.org website and the OpenOil contracts database host a different number of contracts related to Kurdistan. In **Liberia**, it appeared that the final versions of all contracts were not publicly available from the LEITI website. For instance, the website provided only some of the PSCs, including at times initial PSCs that had subsequently been amended (e.g. Block 13), ratified PSCs or PSC amendments without the original.

The EITI Standard encourages publication of the full text of any addendum, alteration, amendment, annex, or rider to contracts and licenses. Stakeholders in several countries commented on the availability of full text of contracts and addendums. In **Mozambique**, stakeholders noted that the 2014 Petroleum Law states that the “main terms” of contracts are to be published, without making clear whether addendums will remain confidential. In **Timor-Leste**, civil society representatives explained that so far only summaries of the contracts entered into under the Interim Petroleum Mining Code prior to 2003 had been published, as required by law, but that they wanted the full terms of these contracts to be disclosed.

Confidentiality clauses: Validation has highlighted a need to interrogate the confidentiality of the contracts in further detail, including the extent to which confidentiality clauses encompass the contract itself or mainly information and data flowing from the execution of the contract. In **Albania**, stakeholders questioned whether governments could use their sovereignty to unilaterally publish contracts that were signed despite containing confidentiality clauses. Certain lawyers considered that the government could use its sovereign prerogative to break confidentiality clauses of a contract. However, a major issue was the technical capacity of the government to successfully engage multinational companies on issues linked to contract transparency. A senior government official highlighted a number of cases where the government had lost cases brought by companies at international arbitration and explained that the government had to proceed cautiously with such matters. In **Cote d'Ivoire**, company representatives argued that the contract transparency provision so of the 2012 Oil Code did not have retroactive effect and did therefore not supersede the confidentiality clauses in the contracts. In **Madagascar**, government representatives noted that confidentiality clauses covering all aspects of PSCs last as long as the contract is active, and that companies insist on these clauses. In **Ukraine**, MSG members maintained that contracts are not accessible due to confidentiality provisions preventing the publication of the agreements themselves.

There appears to be some difference in perceptions regarding confidentiality provisions in model contracts. In **Honduras**, the contract between the government and the BG group explicitly mandates that any information considered confidential can be disclosed and published without prior consent of the parties for EITI purposes. In **Iraq**, the confidentiality provisions of the Technical Sharing Contract could be waved upon consent from the two parties to the contract. In **Mozambique**, contracts signed prior to the coming into effect of Public-Private Partnership Law 15/2011 are disclosed where companies have agreed to waive confidentiality provisions.

Commercial sensitivity: The question of commercially sensitive information in contracts was not frequently cited by EITI Stakeholders as a reason not to disclose contracts. The use of a technology or trade secrets, for example, could be considered sensitive. Trade secrets is information central to a company's business activities and which could cause economic harm or competitive disadvantage if known.¹⁹ In the oil and gas industry, seismic data, samples, well logs, geological structure maps, and certain technologies could likely constitute a trade secret. If a company is planning to use a particular technology that is not common to the industry and this is described in the contract, this could constitute a trade secret that it could be commercially harmful to disclose. The **Philippines** 2012 EITI Report listed the information that could be deemed confidential in contracts by mutual agreement in mining and routinely in oil and gas. In **Nigeria**, none of the mining industry representatives consulted had any objection to the publication of the full-text of their licenses, stating that these did not contain any commercially-sensitive information nor any confidentiality clauses. However, they noted that for the oil and gas sector, the split in Profit Oil between the operator and NNPC from the PSC and details of work programme obligations were more commercially sensitive. Civil society in **Kazakhstan** noted that there had been heated debates over contract transparency during the last year, and they lamented that the National Steering Committee had not yet reached a more nuanced level of discussion about what terms could be considered sensitive and what terms could be publicly released.

Fear of instability: In some countries, governments officials seem to fear public criticism or instability if contracts were to become public. In **Cote d'Ivoire**, government representatives feared that the

¹⁹ Cathey, B (2014) Trade Secret Protections, Oil and Gas financial journal, <http://www.ogfi.com/articles/print/volume-11/issue-1/features/trade-secret-protections.html>

public will be unable to understand the companies' contribution to the Government. In the **Kyrgyz Republic**, companies also feared that people did not have sufficient capacity to understand the financial terms of the agreement and this could create further misunderstandings and conflicts. In **Iraq** for example, an official from the Ministry of Oil explained that some of the terms of the contracts, including for crude oil specifications, appeared so general that they could expose the government to public outcry if published.

5. Conclusions and opportunities for establishing more effective contract disclosure frameworks

Contract transparency has come a long way. The EITI has played a major role in changing the language on contract transparency. More countries are publishing contracts and facing common challenges. 29 EITI implementing governments—well over half—have disclosed at least some of these agreements. The review of lessons learned from EITI Validation related to contract disclosure demonstrates that EITI implementation is a useful tool in documenting reforms on contract transparency and countries where partners can support contract transparency. Validation has identified several opportunities for EITI stakeholders to engage in the national debate on contract transparency and to improve disclosures:

a) EITI Reports could more clearly describe the types of contracts and agreements used in the oil, gas and mining sector and distinguish between the contract transparency policy and practice in the two sectors. In most instances, EITI Reports do not distinguish clearly between government's policy on the oil and gas and mining sectors. In Albania and Cote d'Ivoire, although the government policy is clear for the oil and gas sector, it is unclear for the mining sector. In the mining sector, it was unclear if the policy applied to both exploration and production contracts, such as in Mali.

b) EITI Reports could increase public understanding of what terms and conditions are negotiated in the contract/agreement, and which terms and conditions are set out in law. This would help highlight the need for contract transparency in cases where terms are mainly negotiated. Validation has shown that for countries where most of the terms are in the legislation, there were few objections to the publication of contracts. This was documented in **Burkina Faso**, the **Kyrgyz Republic** and **Norway**. The latter publishes information on the work program, progress against work programmes, license group, operator, shares and other relevant information. Special environmental conditions are announced in the press-release that accompanies the publication of a granted license. This is important as countries move towards including more information in the legal and regulatory framework versus contracts. In **Zambia**, the report states that contracts are no longer executed. The 2015 Mines and Development Act *"ruled that no special agreements should be entered into by the government for the development of large scale mining licenses and annulled the development agreements concluded under the previous act. Mining companies now operate under a common legislative framework regulated primarily by the Mines and Minerals Development Act 2008"*. This has led to slight confusion on what changes to disclosure this will bring and what should be disclosed under such regimes.

c) EITI and its partners could help governments bridge gaps in between policy and practice. Validation has shown that in some countries where contract transparency is a legal requirement, there is a discrepancy between the government policy and practices, and retroactive effects of legal amendments are not always clear. In countries like **Burkina Faso** and **Cote d'Ivoire**. Stakeholders often required clarification on whether legal provisions cover previously allocated contracts such as. Where contract transparency is a legal requirement, there has not always been a comprehensive

review to ensure that all contracts are published. In **Liberia** for example, Validation found that no comprehensive review had been undertaken of contracts disclosed on the LEITI website and that it was unclear which contracts were missing. This may also be due to poor record-keeping on the part of the government. Secretariat staff in Liberia explained that the reason some contracts had not yet been disclosed was likely that there were challenges in locating the contract, rather than a decision not to publish it. In **Niger**, article 150 of the Constitution requires the publication of all contracts concerning production and exploration of natural resource, as well as the revenues paid to the State, in the Government's official journal but contracts are not published in practice. A senior government official explained that while the Constitution required publication of extractives contracts, it did not specify the timeframe for publication, which explained why contracts were published according to priority and depending on space constraints in the official gazette.

d) EITI countries could consider provisions enabling contract transparency when reforming oil, gas and mining legislation. Validation has shown that many EITI countries are undertaking legal reforms which could be used as an opportunity to consider embedding contract transparency provisions in sector legislation or make transparency rather than confidentiality the default in model contracts, with provisions for redactions if necessary. In **Kazakhstan**, stakeholders viewed the development of new subsoil code as an opportunity to lobby for contract transparency. In **Ukraine**, contract transparency is covered in a Draft Law of Ukraine #6229 on disclosure of information in extractive industries. The draft law was expected to go to the parliament (Verkhovna Rada of Ukraine), before the end of 2017.

Some countries such as **Afghanistan** are revising their model contracts. Several government officials highlighted the Ministry of Mines and Petroleum's plans to review and standardise royalty rates, which differ per contract, and to develop a model mining contract. There may be opportunities to include contract transparency provisions in the model mining contract. In **Timor-Leste**, the government has added provisions to the model contracts confirming the public nature of the contract.

e) EITI and its supporters could help countries establish more accessible disclosure frameworks, helping countries to achieve contract transparency in a timely manner with data available in open data formats. Validation has highlighted ongoing reforms to disclosure frameworks. In **Togo**, the 2014 EITI Report recommendations state that the General Directorate for Mines and Geology, DGMG, will publish the contracts without confidentiality clauses on the site of the Ministry of Energy and Mines. The Minister of Mines and Energy noted that some licenses were disclosed on the site Togomines.com and confirmed that the publication of contracts was in progress.

f) The EITI could continue to consider ways of acknowledging countries that practice contract transparency in Validation and to provide more clarity on how the EITI Requirement on contract transparency is assessed.

1. Annexes 1 – Summary table on progress with the EITI Standard

	Country	Validation completion date	EITI report year	Overall performance	Progress on contract transparency	Link to initial assessment
1	Afghanistan*	-	2014-2015	-		Ongoing at the time of the review.
2	Albania	13.02.2017	2015			https://eiti.org/sites/default/files/documents/albania_report_on_initial_data_collection_and_stakeholder_consultations_en.pdf
3	Azerbaijan	26.10.2016	2014			https://eiti.org/sites/default/files/documents/eng_azerbaijan_draft_report_on_initial_data_collection_and_stakeholder_consultations.pdf
4	Burkina Faso	13.02.2018	2015			https://eiti.org/sites/default/files/documents/burkina_faso_initial_assessment_en.pdf
5	Cameroon*	-	2014	-		Ongoing at the time of the review.
6	Cote d'Ivoire*	-	2015	-		Ongoing at the time of the review.
7	Ghana	08.03.2017	2014			https://eiti.org/sites/default/files/documents/ghana_-_initial_data_collection_and_stakeholder_consultations_0.pdf
8	Honduras	25.10.2017	2014			https://eiti.org/sites/default/files/documents/honduras_2017_eiti_validation_report_on_initial_data_collection_and_stakeholder_consultations.pdf
9	Iraq	26.10.2017	2015	-		https://eiti.org/sites/default/files/documents/iraq-2017_validation_initial_assessment_final_draft_asl_comments.pdf
10	Kazakhstan	13.02.2018	2015			https://eiti.org/sites/default/files/documents/eng_kazakhstan_draft_report_on_initial_data_collection_and_stakeholder_consultations_final.pdf
11	Kyrgyz Republic	08.03.2017	2013-2014			https://eiti.org/sites/default/files/documents/eng_kyrgyz_republic_draft_report_on_initial_data_collection_and_stakeholder_consultations.pdf
12	Liberia	24.05.2017	2013-2014			https://eiti.org/sites/default/files/documents/liberia_report_on_initial_data_collection_and_stakeholder_consultations.pdf
13	Madagascar*	-	2014	-		Ongoing at the time of the review.
14	Mali	24.05.2017	2013			https://eiti.org/sites/default/files/documents/mali_validation_initial_assessment.pdf
15	Mauritania	08.03.2017	2014			https://eiti.org/sites/default/files/documents/mauritania_draft_report_on_initial_data_collection_and_stakeholder_consultations.pdf
16	Mongolia	11.01.2017	2014			https://eiti.org/sites/default/files/documents/mongolia_validation_initial_assessment_september_2016.pdf
17	Mozambique	25.10.2017	2013-2014			https://eiti.org/sites/default/files/documents/validation_of_mozambique_-_report_on_initial_data_collection_and_stakeholder_consultation.pdf
18	Niger	26.10.2017	2014			https://eiti.org/sites/default/files/documents/niger_validation_initial_assessment_final_clean.pdf
19	Nigeria	11.01.2017	2013			
20	Norway	04.12.2017	2014			https://eiti.org/sites/default/files/documents/15-01-2017_-_norway_-_validation_initial_assessment.pdf
21	Peru	11.01.2017	2014			https://eiti.org/sites/default/files/documents/peru_international_secretariat_initial_assessment_final_as_of_15_sept_2016_1.pdf
22	Philippines	05.10.2017	2014			https://eiti.org/sites/default/files/documents/philippines_eiti_2017_validation_initial_assessment_on_data_collection_and_stakeholder_consultation.pdf
23	Republic of Congo*	-	2014	-		Ongoing at the time of the review.
24	Sao Tome e Principe	08.03.2017	2014			https://eiti.org/sites/default/files/documents/sao_tome_initial_assessment_for_validation_final.pdf
25	Senegal*	-	2014	-		Ongoing at the time of the review.
26	Solomon Islands	08.03.2017	2014			https://eiti.org/sites/default/files/documents/secretariats_initial_assessment_of_the_solomon_islands.pdf
27	Tajikistan	08.03.2017	2014			https://eiti.org/sites/default/files/documents/eng_tajikistan_draft_report_on_initial_data_collection_and_stakeholder_consultations.pdf
28	Tanzania	25.10.2017	2013-2014			https://eiti.org/sites/default/files/documents/eiti_validation_of_tanzania_-_report_on_initial_data_collection_and_stak.pdf
29	Timor Leste	11.01.2017	2013			https://eiti.org/sites/default/files/documents/timor_leste-international_secretariats_report_on_data_collection_and_consultation.pdf
30	Togo*	-	2014	-		Ongoing at the time of the review.
31	Ukraine*	-	2014-2015	-		Ongoing at the time of the review.
32	Zambia	25.10.2017	2015			https://eiti.org/sites/default/files/documents/zambia_2017_eiti_validation_report_on_initial_data_collection_and_stakeholder_consultations.pdf

Coverage of Artisanal and small-scale mining information in EITI reporting

For decision

For discussion

For information**Summary**

This paper assesses the extent to which EITI covers Artisanal and Small-Scale Mining (ASM) in relevant EITI implementing countries.

COVERAGE OF ASM IN EITI REPORTING

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1 Summary

This paper takes stock of how EITI implementing countries are covering artisanal mining sector in multi-stakeholder group (MSG) deliberations, EITI work plans, EITI reporting, and dissemination campaigns related to the ASM sector. The stocktake finds that ASM is relevant in at least 31 EITI implementing countries and among those, 16 countries¹ have included some objectives related to ASM in their work plans. Stakeholders' representation and engagement in the EITI process remains uneven. Governments are generally well represented by regulatory agencies regularly participating in MSG meetings, but participation of representatives from artisanal mining associations and formal or semi-formal trading companies remains limited.

¹ Burkina Faso, Central African Republic (suspended), Colombia, Cote d'Ivoire, the Democratic Republic of the Congo, Guyana, Mali, Myanmar, Nigeria, the Philippines, Senegal, Tanzania, Togo and Zambia.

With regards to disclosures, EITI Reports are overall beginning to make references to existing studies and official statistics on the estimate of the ASM contribution to the economy, such as employment figures. The data is however generally out of date, unreliable and often not sufficiently detailed. The stocktake also found that only few countries with EITI objectives related to ASM have designed a comprehensive approach to cover ASM in EITI reporting. Finally, the review notes that EITI Reports are widely disseminated in mining areas, and artisanal miners and communities affected by artisanal mining are in many cases aware of the EITI process. The paper concludes by highlighting opportunities for the EITI to improve ASM transparency as a platform for engagement between ASM stakeholders and as a way of complementing existing reporting mechanisms for ASM data.

2 Introduction

In many resource rich developing countries, artisanal and small-scale mining (ASM) provides a livelihood for millions of people and is a major source of economic development for many rural and regional communities. ASM does not typically generate material revenues at national level and is thus often excluded from EITI reporting. However, the EITI does require that estimate of informal sector activity, including but not necessarily limited to artisanal and small-scale mining, is disclosed (Requirement 6.3). In collaboration with the World Bank, the EITI has developed a guidance note for implementing countries on how the EITI can be a tool for addressing ASM challenges.²

The Secretariat's 2018 work plan outlines various activities in support of ASM reporting, including compiling examples of impact of ASM reporting in EITI countries so far and providing guidance to countries with ASM challenges on reporting on production and export data. The objective of this stocktake is to document EITI coverage of artisanal mining activities, including through reporting and stakeholders' engagement in view of improving access to reliable data on this informal sector. The stocktake also aims to identify emerging good practices that can be used to update the guidance note. The main findings of the review are highlighted below:

- **While many of the countries with significant ASM sector wish to use the EITI to address challenges related to ASM, few EITI countries have clear objectives for how to do so.** The lack of clearly articulated objectives and activities in the national work plans could affect the potential impact of the EITI in improving transparency and monitoring of the ASM sector.
- **Engagement by key ASM stakeholders in the EITI process is important for the EITI to be an effective platform for addressing ASM issues.** The main actors engaging in ASM and responsible for overseeing the sector should be involved in the planning and EITI implementation of ASM-related activities. MSGs could also be a platform for policy dialogue and a space for monitoring formalisation in cases where key stakeholders are adequately represented in the MSG³.

² EITI Guidance note 21 on the coverage of Artisanal and Small-Scale Mining (ASM) under the EITI, <https://eiti.org/GN21>.

³ The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) has issued a detailed step-by-step guidance on ASM formalisation. The guidance recommends that the first step towards

- **There are diverse practices among EITI countries on disclosure of information related to the legal and regulatory framework for ASM.** These disclosures highlight the opportunity for EITI countries with significant ASM activities to bring such information together and make it accessible for stakeholders in a more comprehensive manner.
- **Disclosure of production figures, estimates of volumes and values of exports and government revenues from ASM are limited.** There is more information on the estimates of number of artisanal miners, but this information is often referencing old studies and tend to be outdated and/or unreliable. EITI Reports rarely provide estimates of total government revenues from ASM, and only few reports provide estimates of lost revenues due to informal or illegal mining.

More broadly, governments' outright ban of the ASM sector is becoming less frequent. Governments and partners are increasingly adopting innovative approaches to managing the relationship between artisanal miners, affected communities, and large-scale mining companies, while working to formalise the ASM sector. The quality of production data and employment figures are gradually improving thanks to various NGOs, development partners and mineral traceability schemes for specific minerals⁴. Despite this recent progress, the ASM sector generally escapes government oversight. Mineral smuggling, child labour and environmental degradation remain key challenges facing the sector. In many countries, the EITI is well placed to play a role in the sector formalisation, but this requires a more comprehensive approach to ASM coverage in EITI that few countries have adopted to date.⁵

3 Methodology

For this stocktake, the Secretariat conducted a desk review of studies and mineral production data bases⁶ to identify countries, where ASM plays a significant role. This preliminary work led to the identification of 31 countries where at least one mineral is produced at small scale using rudimentary methods. Annex A shows the list of countries where ASM is relevant and the extent of the coverage in work plans. For these countries, the Secretariat reviewed national work plans to identify which countries include objectives or activities related to the artisanal mining sector. A review of the composition of MSG was conducted to assess whether stakeholders involved in ASM activities or potentially affected by such activities are participating in MSG meetings. This review aimed to determine the extent to which EITI can be the right forum to debate policy reforms and monitor the formalisation of the ASM sector, while mitigating negative effects of the ASM sector. Finally, the Secretariat reviewed EITI Reports, APRs and Validation Report to assess the extent to which ASM related issues are covered in EITI Reporting.

sector formalisation is to establish a task force to create space for consulting ASM stakeholders.
<http://igfmining.org/resources/asm-guidance-document/>.

⁴ The Kimberly process for diamond production and export, the World Gold Council, ITRI, etc.

⁵ Such an approach is likely to require government commitment and financial support. If key activities are adequately reflected in EITI work plans, increased ASM coverage is likely to increase the cost of EITI implementation.

⁶ IIED country reports and USGS data of mineral production.

4 Review of ASM coverage in EITI processes

This section presents the findings from the comparative analysis of coverage of ASM in EITI work plans and national objectives for ASM reporting.

4.1 Objectives related to ASM in EITI work plans

According to EITI Requirement 1.5 (a), implementing countries should adopt national work plans that “reflect national priorities for the extractive industries”. The objective is to ensure that EITI implementation is linked to wider reform priorities. MSGs are also encouraged to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting. Based on the review of work plans adopted by MSGs in 31 implementing countries, where ASM is relevant, 14 countries⁷ have included objectives related to ASM in their work plans. Objectives and activities identified in national work plans broadly fall into four categories: (i) improving access to reliable data on artisanal mining; (ii) understanding the contribution of ASM to the national economy; (iii) raising awareness on ASM related issues such as mineral smuggling, and (iv) supporting capacity building activities for formalisation of the sector and feasibility studies on how to cover ASM in EITI reporting.

i) Improving access to reliable data on ASM. Most countries seeking to cover ASM in EITI reporting are implicitly working to improve access to reliable data on ASM. However, only a few countries, including **the Democratic Republic of the Congo (DRC), Mali, the Philippines, and Suriname**, have made this an explicit objective in their work plans or identified activities to achieve this objective. These are also countries where ASM represents a significant share of production of one or multiple minerals. Some of these countries outline specific activities aimed at achieving this objective of improved access to reliable information on ASM. For example, the work plan of the **DRC** includes a detailed list of activities for the publication of an ASM-specific EITI Report.⁸ **Mali’s** 2016 work plan calls for the publication of production data, government revenues, and legislation relevant to the ASM sector to achieve the overall objective of enabling access to reliable data on artisanal production of gold.

ii) Understanding the contribution of ASM to the national economy. Some countries have EITI work plans that stipulate objectives aimed at establishing reliable estimates of the ASM sector’s contribution to the national economy. In **Myanmar**, the 2016-2017 work plan calls for a review of the illegal and ASM sector to understand the potential contribution to the national economy and estimation of production data. According to the NEITI 2018 workplan, **Nigeria** also plans to conduct a study on the impact of ASM on the national economy.

⁷ The following countries have included at least one activity related to ASM in their work plan: Burkina Faso, Central African Republic (suspended), Colombia, Cote d’Ivoire, the Democratic Republic of the Congo, Guyana, Mali, Myanmar, Nigeria, the Philippines, Senegal, Tanzania, Togo and Zambia.

⁸ The DRC [2015-2017 Work plan](#) calls for the publication of a pilot report on the artisanal mining sector (objective S3). Key activities include: A12 adopt TOR for an IA for a 2014 ASM report; A14 conduct training workshops in Kinshasa and Goma on data collection; A15 collect and reconcile data; A16 seek comments on a draft report; A17 adopt and publish the ASM pilot report; and A18 summarise, translate in local languages and disseminate the final report.

iii) Raising awareness about mineral smuggling and building capacities for the formalisation of the ASM sector. Many objectives and activities identified in work plans focus on dissemination campaigns and training activities with the view to raise awareness and promote reforms. For example, **Burkina Faso's** 2016-2017 work plan includes activities such as organisation of workshops for artisanal miners on the process for obtaining exploitation authorisations. It also includes targeted activities to raise awareness on gender related issues for managers of mining companies. Capacity building activities are also envisaged in the work plans of the **Central African Republic** and **Tanzania**, which specifically aim to train mineral traders and artisans on taxation issues. **Togo** includes activities to inform discussions about a cadastre of artisanal sites.

iv) Improving transparency in the ASM sector, including through feasibility studies on how to cover ASM in EITI reporting. Many countries have included preliminary feasibility or scoping studies on how to extend the scope of EITI reporting to the ASM sector with a view to increase transparency in the ASM sector. **Colombia**⁹ and **Cote d'Ivoire** have included in their work plans studies to explore whether the scope of EITI reporting should be extended to ASM. Other countries, such as the **DRC, Mali, Guyana, the Philippines, Senegal, Suriname, Tanzania, Togo and Zambia** appeared to have already made the decision to include ASM in EITI reporting and are conducting scoping studies to map out challenges and design a reporting process applicable to the ASM sector.

In summary, while many EITI implementing countries are already including some aspects of ASM in EITI reporting, ASM coverage is not always clearly reflected in their work plans. The lack of clearly articulated objectives and activities in the work plan could affect the potential impact of the EITI in improving transparency and monitoring of the ASM sector.

The ad-hoc approach to ASM coverage could also undermine monitoring progress of implementation of ASM related activities by the MSG. DRC, Colombia and Ethiopia included ASM-related activities in previous work plans, but did not report on progress with implementation of the planned activities in their Annual Progress Reports. Subsequent work plans from these three countries did not include follow-up activities beyond the year in which ASM was covered. As seen in the Mali and Myanmar examples, clear objectives for EITI activities on ASM can contribute to highlight the role that the EITI can play in policy dialogue on ASM and ensure that all stakeholders understand the role that the EITI is playing. Where, ASM activities are significant and is a priority for the government, implementing countries are encouraged to make references to ASM in their work plans and to consider studies to develop strategies on how to include ASM in EITI Reporting.

4.2 EITI engagement with ASM stakeholders

EITI Requirement 1.4(a) requires the establishment of a multi-stakeholder group to oversee EITI implementation, including deciding on the scope of EITI disclosures and conducting outreach, consultations and awareness on EITI activities. It is a requirement that the MSG comprises appropriate stakeholders and that all stakeholders are adequately represented. For the EITI to play a role in addressing governance challenges facing the ASM sector, stakeholders including government officials regulating and overseeing the artisanal mining and small sector, buying houses and other

⁹ Colombia's 2014-2016 Work plan includes one activity related to ASM: "design a strategy of promotion and adaptation of the EITI process to achieve the participation of the ASM sector and other sectors not considered so far". Cote d'Ivoire's 2017 - 2019 Work plan includes a study to be conducted prior to the extension of the EITI scope to the ASM sector (action

intermediaries, and artisanal miners and local communities affected by artisanal mining activities should be adequately represented in the MSG. This section assesses the extent to which EITI engages with ASM stakeholders in the countries where ASM is deemed relevant.

In terms of MSG representation, the main finding is that government officials from ministries overseeing the ASM sector are generally well represented in MSGs. In some cases, including for example **Colombia**, senior government officials that have given priority to ASM sector sit on the MSG and have been able to influence EITI work related to ASM. In other cases, including for example in **Madagascar** and **Mozambique**, directorates and agencies that are directly responsible for regulating ASM activities are not members of the MSG but are represented through the line ministry to which they report.

MSG representation of other key stakeholders involved in ASM vary significantly from strong representation to modest and non-existent. Cooperatives of artisanal miners are most frequently represented either through unions, as is the case in for example **Central African Republic** and **Liberia**, or through national mining associations (**DRC, Ghana, Mali, Mongolia, Nigeria, Tanzania** and **Zambia**) which are usually not limited to artisanal miners. In some countries, including in **Afghanistan, Liberia, Madagascar, Mongolia, Mozambique, Papua New Guinea** and **the Philippines**, civil society groups that take an interest in ASM issues have a seat on the MSG. Buying houses are less commonly represented but are engaged in the multi-stakeholder groups in the **Central African Republic** and **Guinea**.

Participation of ASM stakeholders in EITI processes can also take other forms beyond MSG representation. While some stakeholders participate in the conception, design and implementation of the EITI process as MSG members, others participate through EITI reporting by providing data that is disclosed in EITI Reports. ASM stakeholders are also often targeted in dissemination campaigns of EITI Reports, capacity building events and implementation of recommendations from the EITI process. For example, in **Burkina Faso, Mali** and **Guinea**, EITI dissemination campaign have often targeted mining sites occupied by artisanal miners. In turns these dissemination events have led to more dialogue between regulators, buying houses and artisanal miners and the demand for training activities targeting artisanal miners.

In summary, the engagement of stakeholders in the EITI makes it a useful platform for dialogue about the ASM sector. Engagement by key ASM stakeholders in the EITI process is therefore important for the EITI to be an effective platform for addressing ASM issues. MSG could also be a platform for policy dialogue and a space for monitoring formalisation in cases where key stakeholders are adequately represented in the MSG. In cases where a country has established a task force to formalise ASM, the government could consider inviting the MSG to be represented to contribute to oversight of the formalisation process. Alternatively, MSGs could consider establishing an EITI working group to oversee activities related to ASM.

4.3 Description of ASM licensing and regulatory framework in EITI reporting

The EITI requires implementing countries to disclose a description of the legal framework and fiscal regime governing the extractive sector (Requirement 2.1). The objective is to ensure transparency in the legal and regulatory rules, terms and conditions governing extractive activities as well as the role and responsibilities of government agencies involved in managing the sector. In countries where

ASM activities are prevalent, this could include information about the legal and regulatory framework applicable to ASM activities. This section presents the findings from the comparative analysis of coverage of licensing and legal framework in ASM reporting. The main finding is that EITI Reports generally describe the role of government agencies, applicable laws and regulations and ongoing reforms to formalise the ASM sector. However, there is limited information on licensing requirements, the number of active licenses and their locations in EITI Reports.

i) Transparency in legal and regulatory framework. Almost all countries that cover ASM in EITI reporting have disclosed some information about the governing laws and regulations in their EITI Report. These include EITI Reports from **Burkina Faso, Cameroon, Cote d'Ivoire, DRC, Ethiopia, Ghana, Guyana, Guinea, Kyrgyz Republic, Mali, Madagascar, Mongolia, Myanmar, Nigeria, Papua New Guinea, Philippines, Togo**, which provide an overview of the legal framework applicable to ASM activities and fiscal terms applicable to ASM are explained in the EITI Report.

The **Ethiopia** 2014-15 EITI Report describes the legal framework, license award process and types of ASM licenses referring to the key legal proclamations (pp. 17-20 and 28). The dedicated Ethiopia EITI ASM study goes into greater detail highlighting some of the gaps in the existing framework and lacking enforcement. The scoping study on small-scale mining from **Philippines** discusses in detail the fiscal regime for ASM, permitting and contracting regulations, regulatory framework at the national and local level, safety and health regulations, and gaps in the licensing and regulatory framework. **Burkina Faso's** 2015 EITI Report provides an update of recent changes to the mining sector legislation related to ASM, noting that the new code includes innovations such as provisions for improved security for artisanal and small-scale mining sites.

In **Cote d'Ivoire**, the latest report (2015) describes the roles of the government agencies in overseeing the sector. It explains that the state-owned enterprise SODEMI has the mandate of supervising artisanal miners' activities. In return for its services, SODEMI is authorised to collect fees (maximum 8% of the sales price) from mining cooperatives (2015 EITI Report p.39). The **Myanmar** 2015-16 EITI Report highlights that under a recent amendment to the Mining and Gemstone Laws, the review of the small-scale mining permits will be devolved to the state and regions (2015-16 EITI Report, p.82). The 2015 EITI Report from **Cameroon** notes that regional delegates of the Ministry of Mines, Industry and Technological Development oversee awarding licenses, which makes it difficult to map the extent of licenses (Cameroon EITI Report 2015, p.54).

Some countries have also used EITI reporting to highlight gaps in the legal framework governing ASM activities; **Mozambique's** 2015-16 EITI Report recommends that the mining law is revised to strengthen ASM sector monitoring mechanisms and to improve available information on the types of licenses issued in the ASM sector. The **Philippines** EITI Report highlights discrepancies between the two acts governing ASM, noting that the laws have brought about confusion and conflict in the implementation and regulation of small-scale mining activities between local government agencies and the national government or among the agencies of the national government.

ii) Information about ongoing reforms. Some countries have used the EITI Reports as a means of communicating ongoing reforms. For example, the **Cote d'Ivoire** EITI Report describes the government programme for the formalisation of the gold mining sector, while **Nigeria's** 2015 EITI Report on mining highlights ongoing government efforts to establish minerals buying centres and cooperative societies. **The Philippines** latest 2015-16 EITI Report mentions recent developments

related to harmonisation of the legislation on the small-scale mining. **Malawi's** 2014/15 EITI Report refers to mining sector reforms being implemented, including a draft Artisanal and Small-Scale Mining Policy that is under development.

iii) Explanation of the permitting process. EITI reporting in **Cameroon, Cote d'Ivoire, DRC, Ethiopia, Ghana, Honduras, Mozambique, Myanmar, Philippines, Togo, Zambia** describes the process for granting permits or licenses for artisanal and small-scale mining activities. These reports also often describe the types of small-scale licenses. EITI reporting highlights that the way ASM licenses and permits are granted and under what conditions vary from country to country. In **Cote d'Ivoire** and **Ghana**, ASM permits are only granted to nationals of the country. In **Togo**, requests for artisanal licenses processed by the government are valid for one year and are renewable, but not transferable. In **Myanmar**, small-scale Mineral Production Permit are issued by MONREC to a person or an organisation desirous of carrying out small scale production operation of metallic minerals, industrial minerals or stones. The total land area for which the permit may be issued must not exceed 1 km² and the period should not exceed five years (with possible extension for one year). It is also possible to apply for an integrated permit or a permit for more than one operation.

Ghana EITI provides information on the registration criteria for artisanal and small-scale miners, while the **Philippines** 2015-16 EITI Report also describes the criteria for granting artisanal licenses. Licenses are awarded by both the central and regional levels in Afghanistan, Ethiopia, the Philippines, and Madagascar. **Honduras'** EITI Report has shown irregularities in the permitting process for ASM licenses.

iv) Overview of active ASM permits. Some countries, including **Burkina Faso, Cameroon, Malawi, Nigeria, Papua New Guinea**, have disclosed the number of active ASM licenses. **Philippines** disclosed a list of areas declared as mining communities in the 2016 report with corresponding location and area, and type of commodity produced. Burkina Faso and Nigeria also provided an overview of ASM licenses granted during the reporting year. In the **DRC**, the website of the Ministry of Mines sites qualifications and supply chain control mechanisms and other relevant contextual information about the situation of the mines.

In summary, there are diverse practices among EITI countries on disclosure of information related to the legal and regulatory framework for ASM. The practices highlight the opportunity for EITI countries with significant ASM activities to bring such information together and make it more accessible for stakeholders in a more comprehensive manner. EITI countries can also use EITI reporting to highlight potential gaps in the legislation and monitoring of the sector.

4.4 Coverage contribution of ASM to the economy in EITI

EITI implementing countries must disclose information about the contribution of the extractive industries to the economy, including the informal sector (Requirement 6.3). Estimates of the contribution of the ASM sector (employment, production and export) are sometimes included in EITI Reports, but the quality of the estimates vary from country to country. In most cases EITI Report provide a partial overview of the ASM sector contribution to the economy, focusing mostly on the number of artisanal miners. The data included in EITI Reports about artisanal miners is often based on decades old studies and do not reflect the seasonal nature of ASM activities. This section presents

the findings from the comparative analysis of the level of transparency in revenues, production, export and employment figures.

The main finding is that although implementing countries are referring to ASM data in their EITI Reports, disclosure of production figures, estimates of volumes and values of exports are limited. EITI Reports rarely provide estimates of total government revenues from ASM, with estimates having been provided in **Cameroon, Ethiopia, Ghana, Liberia, Philippines EITI Reports**. There is more information on the estimates of number of artisanal miners, but this information is often referencing old studies and tend to be outdated or unreliable.

i) Estimates of artisanal production and export. Coverage of production and export data from ASM varies widely in EITI reporting. **Countries such Burkina Faso, Cameroon, DRC, Ethiopia, Ghana, Philippines, Sierra Leone** refer to production data in their EITI Reports. Ghana, Nigeria and Philippines also provided details on the percentage share of ASM production of total mineral production, while Ethiopia, Philippines, Sierra Leone and Tanzania also disclosed ASM production values in their EITI Reports. Ghana, Liberia and Sierra Leone's EITI Reports included data on exports from ASM.

In some cases, EITI Reports have referenced estimates of production of key minerals, such as gold from various studies but the reports do not assess the reliability of the referenced data. Estimates of the volumes and values of production and export of minerals produced at small scale or by artisanal miners are generally unreliable. This is partly due to issues arising from the informal nature of the ASM sector such as mineral smuggling to avoid paying taxes. The quality of the referenced studies also varies widely. Some studies are often old and provide outdated information, but this is not always clearly stated in the EITI Report leaving the reader to believe that the estimates are current. That this highlights the potential for implementing countries and ASM stakeholders to use EITI as a source of reliable data for ASM.

Some studies use scientific methods, satellite data, official statistics on imports from trading partners to deduct the exported minerals. Other studies are mostly based on the official statistics of production and export by the producing country, which is often unreliable, and does not capture minerals smuggled out of the country. EITI reporting on gold production by artisanal miners in **Burkina Faso** illustrates this point (see box 1). **Ethiopia** and the **Philippines** have taken a more comprehensive approach on how to cover the ASM sector in EITI reporting, by publishing ASM specific studies that provide more detailed data on the ASM sector (see box 2).

A comparative analysis of the disclosed data on ASM production and export shows that the reliability of the production and export figures is often dependant on the level of formalisation of the ASM sector. Countries that participate in the certification of export of diamond by the Kimberly process tend to have more reliable data on the production and export of this mineral. For example, in **Côte d'Ivoire**, the [2015 EITI Report](#) includes more data for the diamond sector, which is relatively more formalised than the gold sector. In **Cameroon**, the [2015 EITI Report](#) referred to figures provided by the Kimberley Process on production and export of diamond, which was estimated at 2 244,61 carats valued at USD 498 000. The Kimberly process also contributed to the formalisation of the ASM sector of diamond in Cote d'Ivoire, Guinea, Liberia, Tanzania and Sierra Leone.

Box 1: Example of inconsistent figures on ASM production in Burkina Faso

EITI reporting in Burkina Faso highlight multiple sources of production data with a high degree of variation of estimates of production ranging from 0.2 to 15 tonnes of gold produced by artisanal miners in Burkina Faso.

[Burkina Faso's 2015 EITI Report](#) shows official statistics of gold production (industrial, semi-mechanical and artisanal) over the period 2011 to 2014 (p. 43). Artisanal production formally declared to authorities was estimated at 0.2 tonnes in 2014. A Swiss-based non-governmental organisation, Berne Declaration (now Public Eye) [published a study in 2015](#) which provided partial estimates of gold produced by artisanal miners in Burkina Faso, smuggled to Togo and exported to refiners in Switzerland. According to this study, the volume of gold imported by Switzerland from artisanal mines in Burkina Faso via Togo, surpassed seven tons in 2014 alone. The study notes that this figure does not provide the full picture of gold smuggled out of Burkina Faso, because it does not account for other routes of smuggling toward other refining hubs such as Dubai. A parliamentary inquiry in Burkina Faso on the mining sector, [published in 2016](#), notes that production from “informal gold mining” was estimated to be between 15 and 30 tonnes per year for the period 2006-2015. These figures have been disputed by stakeholders who consider the upper bound estimate of annual production by artisanal miners in the parliament commission report (30 tonnes per year) to be unreasonable. This would mean that artisanal miners in Burkina Faso are producing as much gold as all large mining companies combined. The EITI Report shows that gold production by industrial mining companies in 2014 was 36 tonnes. There are doubts that artisanal miners would have the capacity to process the needed quantities of ore to produce such an amount of gold in a year. The parliamentary inquiry estimated that the government has lost USD 182.4 million in government revenues due to mineral smuggling over the period 2006-2015.

Box 2: Example of ASM reporting through EITI from the Philippines.

The [2013 PH-EITI Report](#) included a scoping study and pilot disclosures in two areas with significant artisanal mining activities, namely, South Cotabato and Compostela Valley (2013 PH-EITI Report, Vol.II, pp.109-135). The report includes reporting templates received from these two areas (2013 EITI Report, Annexes X and Y), which disclose small scale mining taxes and fees paid for minerals and coal. In 2015, the MSG commissioned a separate ASM study which includes estimates of production volumes and values of gold based on proxy data from the Central Bank's purchase of gold from small-scale mines. The 2015-2016 EITI Reports provide estimates of coal production from small-scale mines (53,926 at 10,000 British thermal unit/lb). The report notes that total coal production from one coal permit amounted to 56.37 thousand metric tons and 56.15 thousand metric tons for 2015 and 2016, respectively. These come directly from the production of small-scale coal miners. Further, the related direct sales volume was registered at 135.55 thousand metric tons in 2015 and 62.69 thousand metric tons in 2016. For gold, the report notes that small-scale mining was estimated to generate 0.85% of gold production in 2014 at a value of PHP 218 m (2013 EITI Report, p.18).

The MSG has also used the EITI Reports to provide information on topics of interest for public debate and ongoing reforms. In March 2015, the Department of Environment and Natural

Resources (DENR) issued an Administrative Order regarding the immediate adoption and implementation of the People's Small-Scale Mining Act. The order took effect in April 2015 and requires small-scale miners to organise themselves into cooperatives – a Minahang Bayan (mining communities) - and ensure that they have the technical capability and the financial resources to conform to the tax and structural requirements prescribed for the concession area. Small scale mining outside a Minahang Bayan would be considered illegal. According to the 2016 PH-EITI Report, there are now six Minahang Bayan in the country, and 102 Minahang Bayan applications awaiting approval by DENR ([2016 EITI Report](#)). Small-scale metallic mining will continue to be evaluated for inclusion in future EITI Reports.

Box 3: Establishing reporting mechanisms for minerals produced by artisanal miners in the DRC

Countries with a wide variety of minerals produced by artisanal miners may develop reporting mechanisms specifically focusing on the ASM sector covering a wide variety of minerals. In the DRC, significant quantities of cobalt, diamond, gold, and the 3Ts are produced by artisanal miners. EITI DRC [published a scoping study](#) focusing on the ASM sector in July 2015. The study referred to data published by the government agency, the Cellule Technique de Coordination et de Planification Minière (CTCPM), the Center of Expertise, Evaluation and Certification of precious and semi-precious minerals (CEEC) as well as data produced by academic institutions and independent studies (International Peace Information Service, Service d'Assistance et d'Encadrement du Small-Scale Mining - SAESSCAM and World Bank). The study also identified multiple cooperatives with varying degree of formalisation, 771 traders, 44 processing entities and 22 comptoirs. The 2015 scoping study provides a brief assessment of the quality of the data that is already in the public domain. For example, the study identified 193 cooperatives in the five targeted provinces, while SAESSCAM identified 392 across the country. The study included production figures of diamond from various sources. Similarly, the study provides official figures of production and estimated values for each of the minerals. The study identified revenue streams, reporting entities and materiality thresholds and recommended the publication of an ASM specific annual EITI Report.

ii) Estimates of employment figures. Artisanal mining is a labour intensive seasonal activity that provides a source of income to millions of artisanal miners and their families. EITI Reports generally provide estimate numbers of artisanal miners based on previous studies, and have done so in **Afghanistan, Cote d'Ivoire, DRC, Madagascar, Malawi, Mongolia, Myanmar and Philippines**. However, the reliability of the disclosed data varies significantly across countries, depending on the availability of recent studies. Estimated number of artisanal miners varies on average from 500,000 to 1 million on average per country. In **Ethiopia**, an [EITI scoping reporting on ASM](#) found that while the government has estimated that between 300,000 to 350,000 people were engaged in ASM gold mining, consultations and the data collected at the regional government offices, suggested that a more correct estimate would be about 1.26 million people. While artisanal mining remains a seasonal activity, it is still the main source of income for a significant proportion of the extremely poor and vulnerable population. Given the high dependency ratio, an even larger share of the population is directly or indirectly affected by artisanal mining activities. EITI Reports could

contribute in providing more reliable data of artisanal miners and document progress with various training and formalisation programmes.

5 Opportunities for improving ASM transparency

A key finding of this exercise is that implementing countries often do not state explicitly the reasons why MSGs should cover ASM in EITI reporting. This lack of clarity of the purpose makes it difficult to determine which requirements would be most pertinent for ASM coverage in each country. Lack of clear objectives also makes it more difficult to assess whether the MSG has the relevant actors to address ASM related issues. It is also practically impossible to assess progress when the underlining objectives are not clearly stated in the first place. **Implementing countries could be encouraged to state clearly in their work plans the key challenges facing the ASM sector and the potential role the EITI can play in addressing those challenges.**

As for countries that are already working on ASM issues, it can be observed that broadly the objectives for ASM coverage in EITI reporting could fall into three categories: improving access to reliable data for the ASM sector (transparency goals), supporting government reforms to formalise the sector (formalisation goals) or improve mineral traceability to mitigate the risks of mineral smuggling (traceability goal). As the mentioned countries have shown, these objectives could be addressed within the EITI framework, such as, for example, by using the EITI process to provide clarity in the regulatory framework and to suggest reforms that could contribute to formalisation goals. Disclosure of production data by region, as has been done in some of these countries could improve mineral traceability. Other countries could therefore be encouraged to follow these models in addressing issues related to ASM. All three categories may not simultaneously apply to all countries seeking to cover ASM in EITI reporting. Identification of activities and resources required to achieve these goals will depend on the importance of the ASM sector in each country. **Implementing countries could be encouraged to develop fully costed work plans detailing activities related to ASM coverage in the EITI process.**

EITI countries could also improve their engagement with ASM stakeholders. Consultation with stakeholders highlight some of the benefits of using the EITI platform for this purpose. In Ghana, ASM representatives have expressed that they see EITI as an opportunity to work towards creating a level playing field between the large-scale and ASM sectors and a platform for exposure and better understanding of the sector, as well as to help ensure consistency in applied tax rates and records of tax paid. In Zambia, representatives from the ASM sector explained that they saw the EITI platform as an opportunity to discuss challenges related specifically to small-scale miners and to ensure that the regulatory framework addresses the risks they face. A government representative involved in EITI implementation also explained that engagement with ASM representatives through EITI to encourage reporting on production had been constructive, as the EITI was perceived as less threatening by artisanal and small-scale miners than for instance the revenue authority. **Implementing countries could be encouraged to using the EITI platform for stakeholder engagement to raise and discuss challenges and possible solutions related to ASM transparency and accountability.**

In many countries, the EITI is well placed to play a role in the sector formalisation, but this require a more comprehensive approach to ASM coverage that very few countries have adopted to date. The

stocktake has identified the following **opportunities for implementing countries to use EITI reporting to contribute to improved ASM transparency:**

- **Providing a clear overview of the legal and fiscal framework governing the ASM sector.** The stocktake found that there are diverse practices among EITI countries on disclosure of information related to the legal and regulatory framework for ASM. EITI Reports generally describe the role of government agencies, applicable laws and regulations and ongoing reforms to formalise the ASM sector. However, there is limited information on licensing requirements, the number of active licenses and their locations in EITI Reports. The practices highlight the opportunity for EITI countries with significant ASM activities to bring such information together and make it more accessible for stakeholders in a more comprehensive manner. EITI countries can also use EITI reporting to highlight potential gaps in the legislation and monitoring of the sector.
- **Compiling, collecting and disclosing ASM data (exploration, production, exports and employment).** The main finding is that disclosure of production figures, estimates of volumes and values of exports are limited. There is more information on the estimates of number of artisanal miners, but this information is often referencing old studies and tend to be outdated or unreliable. EITI Reports rarely provide estimates of total government revenues from ASM and only few reports provide estimates of lost revenues due to mineral smuggling.
- **Commenting on the comprehensiveness and reliability of available ASM data.** While estimates of the contribution of the ASM sector (employment, production and export) are sometimes included in EITI Reports, the quality of the estimates varies from country to country. In most cases, EITI Reports provide a partial overview of the ASM sector contribution to the economy, focusing mostly on the number of artisanal miners. In many cases, there is no commentary or assessment of the comprehensiveness and reliability of the referenced data. Some studies are often old and provide outdated information, but this is not always clearly stated in the EITI Report. This highlights the potential for implementing countries and ASM stakeholders to use EITI as a source of reliable data for ASM and as a tool to identify gaps in available information.

EITI implementing countries seeking to address ASM as part of their EITI reporting could consider exploring ways to design a reporting framework based on the EITI Requirements that will help produce reliable data on production, export and employment. As EITI countries that are currently planning to undertake ASM-specific reports, the Secretariat could also compile and distribute best practices

6 Next steps

Based on this review, the EITI could consider the following next steps:

- Encourage implementing countries with significant ASM activities to develop clear objectives for how to use the EITI to cover ASM, and to engage with key stakeholders in planning and implementation of activities to meet the objectives.

- Update the Guidance note on ASM with more recent examples to support implementing countries that want to use the EITI to address challenges related to the ASM sector, and publish a brief highlighting country examples for stakeholders in EITI countries where the ASM sector is significant.
- Support countries wishing to pilot ASM disclosures through EITI reporting and encourage MSGs with significant ASM activities to consider undertake scoping of ASM in their countries, potentially as part of scoping for EITI reporting, to help determine the extent to which ASM sector is material. Countries that have existing mechanisms for reporting ASM data could be encouraged to consider referring to this information in EITI reporting use the EITI process to identify any potential gaps.
- Collaborate with global and regional actors to explore opportunities for EITI to contribute to ongoing efforts to improve transparency and accountability of ASM, such as OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development, and other partners leading efforts to improve transparency and accountability in ASM.

Annex A: list of implementing countries with significant ASM activities

Countries	ASM stakeholders participate in MSG meetings or dissemination campaigns	ASM is included in workplans	Information about ASM is included in EITI Reports.
Afghanistan	x		x
Burkina Faso	x	x	x
Cameroon	x		x
Central African Republic	x	x	x
Colombia	x	x	
Cote d'Ivoire	x	x	
DRC	x	x	x
Dominican Republic	x		
Ethiopia	x		x
Ghana	x		x
Guinea	x		x
Guyana	x	x	x
Indonesia	x		
Kazakhstan	x		
Liberia	x		
Madagascar	x		x
Mali	x	x	x
Malawi	x		
Mongolia	x		x
Mozambique	x		
Myanmar	x	x	x
Nigeria	x	x	
Papua New Guinea	x		
Peru	x		
Philippines	x	x	x
Senegal	x	x	x
Sierra Leone	x		
Suriname	x	x	
Tanzania	x	x	
Togo	x	x	
Zambia	x	x	

Annex B: Country-by-country overview of coverage of ASM in EITI

Country	Coverage of ASM in EITI (work plan objectives, engagement with stakeholders and EITI disclosures)
Afghanistan	There is a recognition among stakeholders of the need to raise awareness of the scale and potential value to the government of improving the formalisation of ASM, but no concrete activities are listed in the work plan. The Minister of Mines and Petroleum chairs the MSG and oversees regulating the ASM sector. There are no buying houses or exporters involved in EITI, although the SOE Northern Coal - who buys most coal production from ASM - is expected to join the MSG. There are no cooperatives of artisanal miners and local communities, although civil society groups that work with ASM are represented on the MSG. There is no significant ASM disclosures in AEITI reporting. A GiZ study on ASM in annex to the 2012-13 EITI Report provides estimates of employment in the artisanal mining sector, which included around 50k miners directly employed in ASM and between 200,000 and 450,000 employees directly and indirectly involved in upstream and downstream ASM, or between 3% and 6% of the country's labour force
Burkina Faso	As of December 31, 2016, there are 34 semi-mechanized gold licenses and 84 artisanal mining licenses (APR). According to a parliamentary inquiry on the mining sector in 2016, the number of people involved in these activities is estimated at 1,200,000. The national agency governing artisanal and semi-mechanical mining, ANEEMAS, was created in 2015. The 2016-2018 work plan includes activities aimed at training of artisanal miners, but does not include clear objectives specifically targeted to the ASM sector. Activities include organiinge workshops on the process of granting semi-mechanized and artisanal exploitation authorizations for artisanal miners and to raise awareness of mining companies and artisanal farms to consider the gender dimension in the mining sector. The Director General of the Ministry of Mine, which regulates the industry is member of the MSG. The Coop�ration Nationale des Artisans et Exploitants de Petites Mines du Burkina (CONAPEM) is represented on the MSG. The 2015 EITI Report shows gold production by type of production (industrial, semi-mechanical, artisanal) over the period 2011 to 2014 (gold production volumes p. 43). During consultations for Validation, development partners noted that production figures for the artisanal and small-scale mining sector were not covered in official production figures published by the government, but remained significant in the Burkina Faso context.
Cameroon	There is no mention of ASM in the work plan. However, stakeholders consulted during Validation confirmed that there was a growing public interest in ASM and its social and environmental impact. Formalising ASM is a government priority.

	According to certain NGOs, Chinese companies are using industrial means to produce gold but hiding their activity as "artisanal" to evade taxes. Therefore, the MSG aims to expand EITI reporting on the issue over the next reporting cycles. There is limited disclosure of figures on ASM in the EITI Reports, but the 2015 report indicates the estimated value of in-kind revenues collected by the <i>Centre d'Appui à l'Artisanat Minier</i> (CAPAM) (p.18) and the details of the retrocessions to the Ministry of Finance and how the latter redistributes the revenues (p.55). It also discloses revenue flows in the ASM sector, including revenues transferred to the Treasury (p.65) Stakeholders consulted during Validation raised that an important share of gold produced by artisanal mining is smuggled through the Congolese border although there are no available estimates.
Central African Republic	All diamond production in CAR comes from the artisanal mining sector. According to UNDP, a third of artisanal diamond production leaves the country illegally. The 2017 work plan to resume EITI implementation mentions the training of those in charge of buying houses, as well as training of artisanal miners and collectors. The Prime Minister chairs the MSG. The Ministry of Mines and key government agencies are represented on the MSG. Buying houses are also represented on the MSG as part of the company constituency. ". The 2016 MSG Decree nominates a representative of the syndicate of diamond and gold collectors and a representative of the National Union of Mining Cooperatives of CAR. They are both part of the industry constituency. EITI reporting only covers revenue payments to government from ASM. There are no estimates of production quantities and source, although the 2010 EITI Report notes that total production (including industrial) peaked at 450,000 carats in 2007, and decreased to 301,550 carats in 2010.
Colombia	The Ministry of Mines and Energy has at various occasions indicated that the financial contribution of the ASM sector should be covered by EITI reporting. The "General System of Royalties" (SGR) is composed, among others, by the "Departamento Nacional de Planeación" and the Ministry of Mines and Energy, which are represented on the MSG. The SGR has as a priority to encourage the structuring of projects that promote the development of mining and energy production, particularly medium and small-scale mining. The 2014-2016 work plan considered as an activity to "Design a strategy of promotion and adaptation of the EITI process to achieve the participation of the ASM sector and other sectors not considered so far". There is no mention of ASM specifically in the latest work plan for 2017-2019. ARM (Multiactiva Agro-Minera, Coodmilla y La Fortaleza) are artisanal mining cooperatives which are represented on the MSG through the CSO Responsible Mining Alliance. The 2016 EITI Report discloses a study (2016) by the United Nations called "Exploitation of alluvial gold. Evidence from remote perception" showing the importance of illegal mining in Colombia. There are no ASM-specific disclosures in their EITI reporting. The 2016 APR mentioned that for future EITI reporting it will be key to go more in depth into the figures of small-scale mining.

Cote d'Ivoire	The 2017-2019 work plan includes an activity to conduct a scoping study on the coverage of the ASM sector in EITI. The organization and traceability of data on the artisanal mining sector has been identified as a challenge (2016 APR). The Ministry of Mine, which regulates the ASM sector is represented in the MSG. The state-owned company, SODEMI, which monitors ASM production and provide trainings to cooperatives of gold producers is also represented on the MSG. There is little disclosure of ASM figures in EITI reporting. The latest report notes the production capacity and included information on licensing and the regulatory framework for ASM. The 2015 EITI Report identifies four artisanal diamond authorizations in 2015. The 2016 APR notes that a self-assessment workshop was held to assess progress, challenges and activities in the ASM sector but no details are given in the document (p. 22).
The Democratic Republic of the Congo	The 2015-2017 work plan included the publication of a pilot report on the artisanal mining sector. Key activities included adopting a TOR for a consultant to produce a standalone ASM report, which will include organising workshops on data collection and dissemination with key entities involved. Despite these detailed activities, the DRC only published a scoping report in July 2015. There is no mention of ASM in the draft updated 2017-2018 work plan. The Ministry of Mine, which regulates the ASM sector, is represented in the MSG. Some buying houses are indirectly represented on the MSG through the Chamber of Mines. The <i>Cellule Technique de Coordination et Planification Minières</i> (CTCPM), which is a government led project focusing on production data and statistic of mining sites, is also part of the MSG. The 2015 EITI Report figures on production estimates, export estimates, government revenues from resulting from diamond, gold, tin, and tantalum production.
The Dominican Republic	There is no mention of ASM in the 2015-2017 work plan. The Ministry of Mines intends to track employment rates generated by ASM. The Minister of Mines and Energy sits on the MSG, but there is no ASM-specific agency representative. The 2015 EITI Report mentioned that the mining sector is composed by metallic mining, non-metallic and ASM. There were no further references to ASM in the 2015 report.
Ethiopia	Most mining activities in Ethiopia are at the artisanal and small-scale level, and ASM is a key priority for the government and EITI. The Ministry of Mines, Petroleum and Natural Gas which oversees the ASM sector chairs the MSG, and the National Bank of Ethiopia, which is the buying agent for gold produced by small-scale miners, is also represented. The MSG prepared an ASM study in 2016, which sought to analyse aspects of ASM operations in Ethiopia, its economic value, social contribution and impacts by studying the ASM value chain. It describes the legal framework governing ASM activities, the licensing system and types of ASM licenses, estimates of production (volumes and value) by region, estimated revenue and potential revenue loss from informal activities. The scoping study highlighted the gaps and inconsistencies in the existing framework and

	available information related to ASM, as well as recommendations for how to address these. The EITI 2015/16 Report also includes a brief overview of ASM activities and estimates of artisanal gold production.
Ghana	Ghana carried out a scoping study on the ASM sector that led to substantial discussions among stakeholders on the actual and ideal fiscal provisions in the mining law. The 2016 APR notes that there is a recommendation from the scoping study to levy royalty on ASM production that is being attempted, marked as "ongoing". In parallel to this, a moratorium on all small-scale mining activity is in place while operations are reviewed to address concerns about health and safety, the environment and illegal mining as part of the government's Multi-sector Mining Integrated Project. The Ministry of Lands and Natural Resources and the Minerals Commission are represented in the MSG and are the government agencies that regulate ASM. Artisanal gold is bought and sold through the SOE "Precious Mineral Marketing Company" (PMMC). It is not represented in the MSG. Artisanal miners are represented in the MSG through the Ghana Chamber of Mines, which represents all mining companies large and small. Substantial information is provided on ASM laws and regulations in the 2015 EITI report. Information on the registration criteria is also provided.
Guatemala	There is limited information on ASM in EITI reporting, except for a definition of artisanal mining and a scope of legal framework about small-scale mining. There was no mention of ASM in the 2016 APR.
Guyana	The 2017-2019 work plan sets out an objective to design a study on the characteristics of the artisanal and small-scale mining sector and/or quarrying and if/how to include it in EITI reporting. There are two industry representatives on the MSG, Guyana Gold & Diamond Miners Association and Guyana Women Miners Organisation. There is no disclosure of ASM in EITI reporting.
Indonesia	Indonesia's 2014 EITI Report explains that ASM is regarded as illegal, and may cause loss for state revenues, long-term ecosystem destructions and occupational health and safety (p. 75). In addition, the report explains the disadvantages of illegal mining. The 2015 report clarifies further that while ASM is not recognised in Indonesia, the existing legislation regulates People's Mining to accommodate traditional mining practices in communities. The Ministry of Energy and Natural Resources is represented in the MSG. There is no disclosure of ASM figures in EITI reporting.
Kazakhstan	Small-scale mining exists in Kazakhstan and the new subsoil code includes clear provisions on licensing, areas, reporting, etc. The public debate on small-scale mining also

	cover legal and illegal mining and related ecological challenges. ASM issues do however not appear to be discussed within the EITI framework. The EITI is led by the Ministry for Investments and Development (MID), which is the ministry overseeing the ASM sector. Civil society organisations on the MSG do not appear to be involved with ASM issues. There is no disclosure of ASM figures in EITI reporting.
Liberia	Liberia is currently in the process of nominating a new MSG. In the last MSG, which expired in October 2017, the gold and diamond miner's union was represented on the MSG with one representative (under the civil society constituency). LEITI does not have a current work plan. Figures on ASM production, exports and government revenues are available from the 2015 annual economic review. Liberia's 2015 APR notes that payments from the artisanal and small-scale miners in the solid mineral sector are only reported by the government, and have not been independently verified or reconciled by the LEITI Independent Administrators due to lack of data from the Artisanal and small-scale miners. .
Madagascar	ASM is not mentioned in the 2017 work plan. However, MSG members consulted during Validation have expressed their intention to improve EITI reporting on ASM (description of the supply chain and actors, estimation of production, exports). Madagascar EITI regularly collaborates with the GIZ and the Australian development agency on issues related to ASM, e.g. participates in visits to the regions, and aims to contribute to the national policy on regulating the sector. The Minister of Mines and Hydrocarbon chairs the MSG, but the Agence Nationale de l'Or (ANOR), which is responsible for delivering permits to collecting and refining agencies as well as keeping an updated registry of artisanal miners in the gold sector, is not directly represented on the MSG. Neither the 2013 nor the 2017 MSG Decrees explicitly mention a representative from the ASM sector on the MSG. However, there are civil society representatives from mining communities on the MSG, which are affiliated to a local artisanal miners' association. The 2016 APRs mentions estimated loss in government revenues from illegal smuggling of gold and precious stones. The 2015 EITI Report provides information about government reforms to formalise the ASM sector and specific challenges, estimated loss in government revenues, estimated production and export figures, estimated number of artisanal miners. as well as a description of the license allocation for mining rights in the ASM sector. Several CSOs highlighted the need for more information on ASM. Government representatives consulted during Validation confirmed that the regulation of the sector was a priority, while others noted the importance of distinguishing between illegal and legal ASM activities.
Malawi	The Ministry of Natural Resources Energy and Mining (MNREM) has drafted an Artisanal and Small-Scale Mining Policy. This policy was submitted to the Office of the President and Cabinet but is yet to be approved.

	The ASM policy was developed to stimulate and guide ASM operations by administering, regulating and facilitating the growth of the sub-sector through a well-organised and efficient institutional framework. According to the 2014/15 EITI Report, the policy will further promote orderly and environmentally friendly artisanal and small-scale mining. The Ministry of Natural Resources, Energy & Mining (Department of Mines) are represented on the MSG. Licenses are listed in the 2014/15 EITI Report but not classified as ASM. The report notes that as most artisanal miners are informal, it is difficult to obtain statistics on both their production and sales (p.15). The estimated quantities of production are not given but the source of the gemstones is given. Exports, government revenues from ASM and mineral certification schemes are not disclosed. To curb illegal marketing of gemstones, the Ministry of Natural Resources, Energy and Mining (MNREM) has plans to set up a gemstone marketing centre (2014-2015 EITI Report, p.15).
Mali	The 2018 work plan includes an objective to ensure the publication of reliable data on artisanal exploitation of gold. It also includes an objective to integrate production, government revenues, and the legislation of the ASM sector in EITI reporting. There are also plans for capacity building of the MSG to improve reporting on ASM in future EITI Reports. The Minister of Mines chairs the MSG. Agencies under the ministry's supervision regulate and monitor the artisanal mining sector, which accounts for 10% of gold production. Cooperatives of artisanal miners "orpailleurs" are represented on the MSG through the Chamber of Mines. Cooperatives of artisanal miners "orpailleurs" are represented on the MSG through the Chamber of Mines.
Mexico	ASM governance is not a priority for the government. It seems that there is a mercury market of small scale mining in Querétaro. Mexico has not yet published an EITI Report.
Mongolia	Several objectives of the 2018 work plan could help address aspects of ASM, such as developing a policy paper on disclosing issues related to the environment and activate local level communications. On the National Council, there is representation from the regulator, the Mineral Resources and Petroleum Authority (MRPAM), the Governor of Tuv Province (Aimag). The Mongolian Gold Producers Association is also represented on the National Council. Various NGOs with networks in the provinces (e.g. My Mongolian Land Movement NGO; Khuvsul Lake Movement NGO and Responsible Mining Initiative NGO) are represented. No production or export figures are provided for ASM in the 2016 EITI Report. Neither is information on buying houses, intermediaries or exporters for ASM. The 2016 EITI Report (pp.50-52) provides estimates of number of ASM miners per province (aimag), disaggregated between men and women where possible. The 2016 EITI Report (p.52) provides a brief overview of the Sustainable Artisanal Mining (SAM) project established

	in 2005 in partnership between MRPAM and the Swiss Agency for Development and Cooperation (SDC).
Mozambique	The Ministry of Mines, Natural Resources and Energy (MIREME) is represented on the MSG. The main agency overseeing ASM activities (Mining and Geological Institute) is not involved in the EITI process. One of the civil society organisations represented on the MG has mining communities and rights of workers in the formal and informal sector as a key concern. The 2015-2016 EITI Report briefly describes the type of license available for small scale mining and the license application process (p. 56). The report recommends that the mining law is revised to strengthen ASM sector monitoring mechanisms and to improve available information on the types of licenses issued in the ASM sector (p. 60). The report provides details on production and export volumes from MIREME but does not distinguish between large and small-scale production (p. 81).
Myanmar	The 2016-2017 work plan includes activities related to ASM, such as carrying out a review of the illegal and ASM sector to understand potential contribution to national economy and estimation of production data. Representatives of relevant ministries overseeing small-scale mining such as Ministry of Natural Resources and Environmental Conservation (MoNREC) and Department of Mines (DoM) are among MSG members. 20,000 people are estimated to be involved in artisanal small-scale mining according to a scoping study in the 2015-2016 Report (p. 39). Figures on ASM production, export and government revenue are not disclosed.
Nigeria	Previous reports (covering 2007-2014) have observed wide spread environmental degradation and hazards caused by artisanal and small-scale miners activities. To address this issue, the report recommended to formalise ASM operations into clusters and encourage them to adhere to the relevant laws. EITI reporting has also highlighted that ASM has caused serious health challenges like poisoning, trauma- induced sickness and mental retardation among others. As part of the process of developing the 2015 EITI solid minerals report, the Independent Administrator visited at least five villages in Anka and Bungudu local governments of Zamfara state, where about 500 people were estimated to have died due to lead poisoning. The 2015 solid minerals report notes that there are ongoing government programmes) that could provide opportunities to formalize ASMs (p.72). Government representation on the MSG includes the Federal Minister of Solid Minerals, who is the MSG chair. The buying house/ exporter Astro Minerals and Spectrum Minerals, and the Miners' Association of Nigeria (MAN) – an industry association –are also represented on the MSG. The 2015 report provides the number of licenses awarded for mining gold, copper, Iron Ore, Lead-Zinc, Limestone, Coal, Gypsum, Sand and Marble for the fiscal year in section 4.1.1 (p.25). The report does not provide figures on production or exports. The 2015 report notes that there is no record of revenue contribution from ASM and where it exists, it is insignificant. Unilateral disclosure by companies show that they paid out 50,000 NGN to the Artisanal

	and Small-Scale Mining Department. The 2012 report recognizes the constant smuggling of minerals out the country but does not provide any values (p.75). The 2012 report (p.37) includes two buying centres in its reconciliation scope. It's not clear if these were all the buying centres in Nigeria at the time. The 2013 report notes that buying centres activities are not monitored resulting in revenue loss for the government (p.78). The 2015 report recommends the establishment of private buying centres to facilitate revenue collection and address illegal mining (p.72). Estimated number of artisanal miners is not disclosed.
Papua New Guinea	According to the PNG EITI 2016 Report, this sector is largely unmonitored, and there is limited information about its size (p. 73). According to the report, the Mining Act 1992 allows people to mine for alluvial minerals on their own land by nonmechanical means without the need for a mining licence. This is provided that the land is not the subject of tenement and that the mining is carried out safely. The report explains that there are plans to develop an alluvial mining policy. The value of gold and silver export is disclosed in the PNG EITI 2016 Report. However, these values are included in the graph only providing an estimate (no specific number, p. 5).
Peru	The 2015-2016 Report mentions ASM for its first time, among the environmental and social concerns related to the extractive sector. The Ministry of Mines and Energy is represented on the MSG. The 2015-2016 Report shows that small-scale, artisanal, informal and illegal mining grew, in particular in gold mining. Informal mining - which is different to ASM - is defined in Legislative Decree No.1105. The report refers to a report on "The struggle for legality in mining activity (2011-2016)" elaborated by the Ministry of Environment where it is mentioned that one of the key challenges to fight against illegal mining is formalisation. No figures related to ASM production or export are disclosed in the EITI Report.
Philippines	Small-scale mining (including with regard to environment protection) is an important and widely discussed topic in the country. The inclusion of small-scale mining has regularly been on the MSG's agenda and reflected in the EITI work plans. The regulatory agency for ASM, the Mines and Geosciences Bureau (MGB), and the Union of Local Authorities of the Philippines are represented in the MSG. Some civil society representatives working on the issue of ASM at the local level are represented in the MSG. Several steps have been taken by the MSG to include coverage of ASM, however, the data is still not disclosed in the latest 2015-2016 EITI Report. A scoping study on small-scale metallic mining was commissioned by the MSG in 2015. Small-scale metallic mining is still being assessed and will continue to be evaluated for inclusion in the succeeding report. The government is strengthening the regulation of ASM, and is considering including it in the scope of EITI reporting.

	The 2013 EITI Report includes an overview of the scoping study on the small-scale metallic mining in the Philippines. The report also provides a good overview of the small-scale mining in general, including legal background. The scoping study on small-scale mining discusses in detail the fiscal regime for ASM, permitting and contracting regulations, regulatory framework at the national and local level, safety and health regulations, and gaps in the licensing and regulatory framework. Estimates of production volume and value of gold are also included. The report discloses small scale mining taxes and fees paid for minerals and coal. In the latest 2015-2016 EITI Report, a section on ongoing reforms is included and recent developments related to harmonisation of the legislation on the small-scale mining are mentioned (pp.14-16, 19). A list of areas declared as mining communities (minahang bayan) are listed in the 2016 Report (p.153) with corresponding location and area, and type of commodity produced.
Senegal	ASM employs 8000 to 9000 artisanal miners and produces 1 tons of gold per year (15% of total production). The 2018 work plan includes an objective to conduct a study on ASM to be included in contextual information for the 2017 EITI Report. The Roadmap for accessibility to compliance status (2016-2020) also includes a study on ASM. The Ministry of Mine, which regulates the ASM sector is represented in the MSG.
Sierra Leone	There is no mention of ASM in the EITI work plans. The Ministry of Mines and Mineral Resources is member of the MSG. According to the 2015 report, artisanal licenses are awarded by the Director of Mines. Small scale is awarded by the Ministry of Mineral Resources. The consent of the owner, rightful occupier or Chiefdom Mining Allocation Committee is needed. Regulatory framework includes the diamond cutting and polishing act and the diamond trading act. Figures on production, exports and government revenue are disclosed.
Suriname	The 2016-2018 work plan mentioned that studies have been conducted to enhance the scope for future EITI Reports, which might cover elements of the artisanal and small-scale mining sector. There are no available figures on production value, production volumes, exports, or government revenue. The documentation supporting the EITI candidature application mentioned that ASM is going to be a critical dimension of the producer's involvement in Suriname because there is high demand for information about the sector but it is very difficult because it is mainly informal.
Tanzania	The 2017-2018 work plan includes activities to hire a consultant to map the ASM sector and establish reporting challenges the artisans face. The consultant should also develop reporting guidelines, training of mineral traders and artisans on taxation, and develop a data base of artisans.

	The Ministry of Minerals is represented on the MSG, as is the Federation of Miners' Associations, which include artisanal miners. The 2014/15 EITI Report describes licenses including those covering small-scale licenses and trading licenses (p. 12-13). Estimates of production is disclosed. Figures on exports, smuggled minerals and government revenues from ASM are not disclosed. The report references the Kimberley Process website (p. 6). The 2016 APR does not provide any further information on activities related to ASM, although mentions some capacity building and outreach activities in which the secretariat and some MSG members participated which focussed on ASM activities.
Togo	The work plan includes plans to conduct a workshop to discuss a potential study of the cadastre of artisanal gold and diamond mining sites and the need to disclose contextual information in EITI reporting. The Ministry of Mines, which regulates the ASM sector, is represented in the MSG. Production volume is disclosed in the 2015 EITI Report, but export figures and government revenues from ASM are not. The report explains that as part of ongoing reforms of the mining cadastre and production monitoring, an assessment of the ASM sector will be undertaken and an action plan to remedy the identified shortcomings will be prepared (p. 27).
Zambia	The 2018 work plan includes an activity to map ASM activity. The activity will be done by the ZEITI and the Ministry of Mines and Minerals Development. The outcome of the mapping will be presented to Cabinet through the Ministry of Mines and Minerals Development. The work plan also proposes to publish a policy brief on the findings. The Ministry of Mines and Minerals is represented on the MSG, as well as the Federation of Small Scale Miners Associations of Zambia. The EITI Reports disclose information on the types of ASM licenses for multiple minerals mined (latest 2015 report, p. 49 and Annex 5). Production values or volumes, export figures and government revenues from ASM are not disclosed in latest EITI Reports. The last reported data on ASM was in the 2011 EITI Report (also reported in the 2008, 2009, and 2010 reports).

Outreach Progress Report: March 2018-May 2018

For decision

For discussion

For information

This is the Secretariat's report to the Board on EITI outreach activities in the period March-May 2018.

Supporting documentation

2018-2019 Outreach Strategy [To be added](#)

Has the EITI competence for any proposed actions been considered?

The International Secretariat 2018 work plan direct the International Secretariat to coordinate EITI outreach in accordance with the Board's 2018 Outreach Strategy.

Financial implications of any actions

Given the Secretariat agreed priorities in the 2018 Work plan, active outreach activities are foreseen to be limited. The EITI Board agreed a budget of USD 70k, including staff costs, for outreach activities in 2018. The International Secretariat's limited outreach efforts are directed toward the priority countries outlined in the 2018 Outreach Strategy

Document history

Draft submitted to the Outreach and Candidature Committee	24 May 2018
Submitted to the EITI Board	14 June 2018

OUTREACH PROGRESS REPORT: MARCH-MAY 2018

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Summary

This report provides an update from the International Secretariat on outreach developments in the period March-May 2018.

The International Secretariat's outreach efforts are focused on the priority countries outlined in the 2018 Outreach Strategy¹. This report focuses on countries where the International Secretariat is aware of new developments during the period March-May 2018. To summarise:

- **Argentina:** The MSG has been set up and has met three times already. This MSG has been formed and aims to prepare a candidature application by the end of 2018.
- **Australia:** Preparations for candidature have slowed. The Government has proposed an independent gap analysis of the requirements for EITI membership against the 2016 Standard. The ToRs state that "the outcomes will be used to assist relevant government agencies in providing advice to the Australian Government on Australia's EITI engagement". The International Secretariat has sought a clarification on the outlook for EITI implementation and the schedule for submitting a candidature application. The MSG's next meeting is scheduled for late June.
- **Ecuador:** The Minister of Mines Rebeca Illescas announced the government's commitment to implement the EITI in the annual meeting of the Prospectors & Developers Association of Canada

¹ The International Secretariat has drafted an Outreach Strategy paper for the consideration of the Outreach and Candidature Committee with an aim at discussing in the coming Berlin's Board meeting in late June 2018.

(PDAC) in Toronto in early March. The International Secretariat and development partners including the German cooperation (GIZ), the Inter-American Development Bank, and the Embassies of Canada, United Kingdom and United States in Quito are discussing with the government and other stakeholders how to support the preparations for candidature application.

- **Niger:** after withdrawing from the EITI in 2017, Niger is seeking to re-join. Jonas and Dylan travelled to Niamey on 13-14 March to meet with Prime Minister Brigi Rafini, civil society actors, companies, and international partners. A working group has been established under the Prime Minister's office to oversee Niger's re-application and to update the EITI decree and action plan. The challenge remains to engage with civil society.

Background

The 2018 work plan² tasks the Secretariat with proposing a new outreach strategy which is presented as a separate Board paper. It is expected that outreach activities will predominately focus on countries that have committed to implement the EITI, such as Australia, Argentina, Ecuador, Lebanon and Tunisia and on new opportunities in Angola, Chile, South Africa and Zimbabwe. The Secretariat will support efforts by implementing countries to reach out to other countries, such as Trinidad and Tobago's Caribbean Outreach project which helped bring in Suriname and Guyana and has started a discussion in Jamaica about possible EITI implementation. Parallel efforts will focus on increasing support among companies, investors and civil society organisations.

Board members are invited to contact the Secretariat with additional updates on these or other countries. Previous issues of the OPRs are available on the internal website (<https://eiti.org/internal/outreach-candidature-committee>).

Angola

While there has been limited progress in Angola since a Presidential Decree in December 2014 announced that the government would consider EITI membership, recent changes in the political leadership suggests that there might be opportunities to engage. Since President João Lourenço took office in September 2017, he has made significant changes to high-level public administration including removing the former President's daughter, Isabel dos Santos, from her position as head of the national oil company Sonangol, and his son, Jose Filomeno dos Santos, as head of Angola's USD 5bn sovereign wealth fund.

In April, Jonas and Ines met with a delegation from Angola led by Ana Celeste Januário, the State Secretary for Human Rights and Citizenship of Angola. It was a good meeting but there is still some work to convince the government that EITI can be complementary to their agenda and implementation of other initiatives. The State Secretary referred to Angola as 'observer' to the EITI that endorsed the principles, without implementing the Standard. The main concern seemed to be that Angola already was implementing other initiatives such as Kimberley Process and other national efforts on transparency.

² https://eiti.org/sites/default/files/documents/international_secretariat_work_plan_2018_-_4_dec_0.pdf

A delegation consisting of representatives from the Ministry of Justice and Human Rights and non-governmental organisations are visiting the International Secretariat for a brief presentation on EITI in early June. The meetings with the Angolan delegation have been facilitated by the Government of Norway, and the Secretariat is exploring opportunities and political buy-in for undertaking a study showing how EITI can complement the legal framework and transparency efforts relating to the oil, gas and mining sector in Angola.

Fredrik Reinfeldt has written to the President to seek a meeting.

For further information, contact Eddie Rich (erich@eiti.org).

Argentina

Between April and May, the MSG held three meetings in Buenos Aires. This MSG is formed by a platform of civil society organisations, the industry chambers of mining and oil & gas, the oil state-owned company and three agencies from Government (Ministry of Energy and Mining as leading institution, Ministry of Economy and the Secretary of Institutional Strengthening from the Presidential Chief of Staff Office).

The MSG has agreed to meet regularly with an aim at submitting the candidature application by end of 2018. The MSG will consider adapted implementation because a substantial part of government revenues is collected by provinces who are constitutionally the owners of subsoil wealth. It is envisioned that provincial governments will be subsequently invited to the EITI process.

On 24 May 2018, an Argentine delegation visited London on a commercial mission, with a focus in extractive sectors. Francisco Paris participated in a meeting hosted by the International Council on Metals and Mining (ICMM) at which Undersecretary of Mining Policy, Juan Biset confirmed their intentions to submit a candidature application this year.

The International Secretariat is working with the national coordinator, Luciano Caratoni to develop a scoping study of what the adapted implementation application could look like.

Stakeholders will need extensive assistance to prepare for EITI implementation. GIZ, the British and the Canadian embassies in Buenos Aires are considering providing support. The national secretariat is in discussions with the Inter-American Development Bank for further support. Other partners are encouraged to explore opportunities to support.

For further information, contact Santiago J. Dondo (SDondo@eiti.org).

Australia

In May 2016, the Australian Government announced that it would implement the EITI³. An MSG was

³ <http://www.minister.industry.gov.au/ministers/frydenberg/media-releases/increasing-transparency-global->

established in November 2017. Progress has slowed in recent months, in part due to concerns about the EITI's requirements for project-level reporting and beneficial ownership disclosure⁴. Government representatives have expressed concern that there are significant risks in applying for membership if compliance cannot be guaranteed. On 24 May, the MSG was advised that following consultation with the Minister for Resources and Northern Australia, Senator Matt Canavan, the government had decided to undertake an independent gap analysis of the requirements for EITI membership against the 2016 Standard. The ToRs state that "the outcomes will be used to assist relevant government agencies in providing advice to the Australian Government on Australia's EITI engagement". The International Secretariat has sought a clarification on the outlook for EITI implementation and the schedule for submitting a candidature application. The MSG's next meeting is scheduled for late June.

For further information, contact Sam Bartlett (sbartlett@eiti.org).

Brazil

Brazil has undergone several years of political instability. It is preparing for presidential elections in October 2018 and trying to improve its investment climate. This creates opportunities to promote the EITI, but securing a commitment from the Government will remain challenging. The International Secretariat is in contact with stakeholders and development partners such as the Norwegian Embassy and the TI-chapter in Brazil to explore possible support. There have not been further contacts with Brazilian stakeholders in recent months.

For further information, contact Francisco Paris (fparis@eiti.org).

Chile

Following Presidential elections in December 2017, Sebastian Piñera, took office on 11 March 2018. Chile continues to be the world's largest producer of copper, and economic growth is expected to recover following recovered copper prices. The new government is committed to open government. President Sebastián Piñera recently declared that: *"Transparency is the most powerful antidote to the fight against corruption. We are going to make a huge effort to let citizens know [...] what the authorities are doing and what the resources are being spent on"*.

The International Secretariat, with the assistance of the Chilean Embassy in Oslo, is seeking a meeting between EITI's Chair, Fredrik Reinfeldt, and Chilean President, Sebastián Piñera. The International Secretariat is also contacting the Ministry of Mining and Ministry of Presidential Secretary to seek additional meetings to discuss possible EITI implementation. EITI Board member Daniel Kauffman, recently met with industry representatives and other stakeholders who were positive about EITI

[resources-sector](#)

⁴ As part of Australia's first Open Government National Action Plan, the Government committed to improve transparency of information on beneficial ownership and control of companies available to relevant authorities. A public consultation process was led by the Treasury Department <https://treasury.gov.au/consultation/increasing-transparency-of-the-beneficial-ownership-of-companies/>.

implementation. The International Secretariat has also briefed a number of civil society organization. Partners are encouraged to discuss possible ways to support Chilean stakeholders in their discussions of possible EITI implementation.

For further information, contact Santiago J. Dondo (SDondo@eiti.org).

Ecuador

The Minister of Mines Rebeca Illescas announced the government's commitment to implement the EITI at the annual meeting of the Prospectors & Developers Association of Canada (PDAC) in Toronto in early March. On 15 May, the government announced that the ministries of Hydrocarbons, Mines and Electricity will be merged. The transition to a new ministry might delay the preparations for the candidature application.

The International Secretariat and development partners including the German cooperation (GIZ), the Inter-American Development Bank, and the Embassies of Canada, United Kingdom and United States in Quito are discussing with the government and other stakeholders how to support the preparations for candidature application. A number of civil society organizations have started to discuss how to organize their constituency. Next steps include formalizing the MSG and identifying the scope for EITI implementation. Given the limited resources in the Mining Ministry and the transition to the new merged ministry, partners are encouraged to discuss with stakeholder further support needed.

For further information, contact Francisco Paris (fparis@eiti.org).

Lebanon

After a long delay, Lebanon is taking concrete steps to form the MSG. They started drafting the MSG's terms of reference and, with support from international partners, are working on the EITI's work plan. A mainstreaming feasibility assessment is being carried out with support from the German government to inform the work plan. Civil society has begun the process of nominating its members to the MSG with support among others from PWYP. It is expected that Total S.A, Eni International BV and JSC Novatek – the only three companies currently operating in the sector will represent industry. Although the government has not yet committed to a timeline, the International Secretariat understands that an application in Q3 or Q4 is being considered. The Secretariat is working together with the Lebanese Petroleum Authority to encourage donor coordination.

For further information, contact Pablo Valverde (pvalverde@eiti.org).

Niger

Following an invitation from the Government of Niger, Jonas Moberg and Dylan Gelard visited Niamey on 13-14 March to meet with Prime Minister Brigi Rafini, civil society actors, companies, and international partners. There is a strong willingness from all stakeholders to promptly re-join the EITI. A working group has been established under the Prime Minister's office to oversee Niger's re-application and to update the EITI decree and action plans. The Prime Minister has also nominated Mr Askar Abdelkarim to serve as National Coordinator. The Government of Niger indicated it would recommit officially to the EITI during a national conference on natural resource governance to be organised in the coming months. This remains a government-led process. The challenge for Niger will be to get the multi-stakeholder process running again, and ensure the engagement of civil society.

For further information, please contact Dylan Gelard (dgelard@eiti.org).

South Africa

Following the change of leadership in South Africa in February, Fredrik Reinfeldt wrote a letter to President Cyril Ramaphosa outlining the reasons why EITI would benefit the country. This included reference to the Open Government Partnership. The letter also offered a meeting. Jonas has followed the letter up with another to Minister of Mineral Resources, Gwede Mantashe.

Meanwhile the sector is struggling with production down by over 8% since last year. The new Minister is expected to announce a wide range of reforms to improve production.

For further information, contact Eddie Rich (erich@eiti.org).

Tunisia

In February 2018, the Government of Tunisia appointed the General Director of Strategies at the Ministry of Energy and Mines, Mohammed Ali Khelil, as national coordinator for the EITI. The government has also publicly invited constituencies to nominate their representatives to the MSG, and PWYP is supporting civil society in this process. NRGi is providing support. The International Secretariat has confirmed its availability to support Tunisia's efforts, but to date there continue to be no contacts between the Government of Tunisia or its newly appointed national coordinator and the EITI, except through NRGi.

For further information, contact Pablo Valverde (pvalverde@eiti.org) or Dylan Gelard (dgelard@eiti.org).

Zimbabwe

Zimbabwe has the world's second-biggest reserves of platinum after South Africa as well as abundant diamond reserves. Following the change of administration in November, Fredrik Reinfeldt wrote to President Emmerson Mnangagwa to seek a meeting. The Permanent Secretary at the Ministry of Finance then raised the EITI with the British Embassy to ask how they would go about joining. We are in touch with them.

Furthermore, the long-version of the Government's paper for the World Bank/IMF Spring Meetings included a specific reference to the EITI:

"In the mining sector, there is need for greater transparency and accountability in the management of mineral revenue and Government will improve mineral governance, including adoption of international best practices, benefitting from the Extractive Industry Transparency Initiative (EITI)."

Mnangagwa's administration intends to issue a requirement that mining operations be at least 51 percent owned by black Zimbabweans. The government will also consider building central bank reserves of gold and diamonds with a view to relaunching the nation's own currency.

Progress on EITI implementation is likely to be delayed with elections which must be held by 22 August.

For further information, contact Eddie Rich (erich@eiti.org).



Comments to be Delivered to the EITI Board Meeting; Berlin, on June 27-28, 2018

1. Summary of Contents

Following discussions between the Bank, the Chairperson and the Executive Director of the International Secretariat, agreement was reached on the scope and content of information to be shared on an ongoing basis. Therefore, in line with the discussions, the document contains the following information. An update on the resources mobilization plan and progress to date. A list of EITI projects in the pipeline and implementation status of the projects funded through the EGPS trust fund. Also contained under table 2 is a summary of the Bank's extractives portfolio as relates to the EITI support.

2. Resources Mobilization Update

2.1 Short-Term Funding

In the short-term the liquidity situation has improved. To address immediate needs, we engaged relevant donors to facilitate immediately release of pledges that were earmarked for later disbursement and top ups where possible. As a result, the Bank received approximately US\$4. 5 million. The value of the pledges that are still to be drawn-down is about US\$ 1.7 million. Therefore, calls for project proposals were issued on May 11, 2018. The proposals will be presented to the EGPS Steering Committee of donors for endorsement on June 27, 2018. The total number of projects proposed for funding is eleven and equates US\$ 2.93m. EITI projects portion of this budget is US\$ 1. 650m. (*refer to table 2 for details*). This brings that donor contributions to date to a total of US\$32.9m. As shown under diagram 1, the percentage of EITI projects funded is 59%. To be able to announce the next round of calls for proposals in September, substantial replenishment will be necessary. The entire EGPS budget status as of June 1, 2018, is shown on table 1 below.

Diagram 1: Percentage Allocation of EGPS Funds



Table 1

TOTAL COMMITMENTS TO PROJECTS ROUNDS 1-5 (Including Post-Review Rounds 1-5)	27,278
FEES AND ADMINISTRATION COSTS ROUNDS 1-5	2,462
Administration Fee Previous Cost Recovery Agreements signed before December 31, 2015 (Actual)*	305
Program Management and Administration (Actual)	2,157
GRAND TOTAL ROUNDS 1-5	29,740

TOTAL NET DONOR FUNDING RECEIVED	32,889
Less Bougainville Preferred Amount	2,006
TOTAL DONOR FUNDING AVAILABLE (NET OF BOUGAINVILLE PREFERRED AMOUNT)	30,883
Account balance July 1, 2018	1,143
Called Funds (Germany and EU)	3,280
Total Available Funds for round 6	4,423
Pending Called (Belgium and Netherlands)	1,734

Table 2: Projects Proposed for EGPS Funding EITI Following Round Six

Project Title	Project Category	Budget (US\$, 000)
Chad: Mainstreaming EITI	RE	400
Tajikistan: Supporting EITI	RE + BE	375
Dominican Republic EITI implementation	RE	300
Ecuador EITI implementation	RE	390
Supporting the sustainability of the post-validation phase of the EITI process in Senegal	RE	250

* **BE** - Bank Executed

* **RE** -Recipient Executed

In addition to the information above, The EITI International Secretariat and the WB agreed on a customize information exchange to make coordination more efficient and EITI Board decisions more informed. This document therefore contains detailed information on preparation and implementation status of all EITI-related EGPS projects (see attached tracking table in annex 1).

2.2 Long-Term Funding

Long term funding challenges require a different approach and are the subject of more work and a different workstream a plan. While acknowledging that the EGPS is the preferred channel for receiving donors support, consideration is being given to pursue other channels. Equally, while wishing to retain the support of current donors, we are commitment to expand the donors base to include other bilaterals and philanthropic organizations. To date our engagement has covered discussions with authorities in Australia, Belgium, Canada, the European Union (EU), Finland, Germany, Japan, the Netherlands, Norway, Sweden, Switzerland and the United Kingdom (UK). Funding proposals have been prepared for submission to the Swedish, Norwegian and Canadian authorities. Discussions are underway on prospects for post EGPS period (year 2020) grant applications to the Swiss and EU authorities. Finally, we are in discussions with the Chinese, Korean and US authorities to explore prospects for these governments to join the EDPS trust fund. We have also reached out and discussions with the Danish and French officials and these

meetings are pending. It too early to say, but the likelihood is that any additional pledges will relate to post EGPS period. Therefore, a question of how these future potential sources of funding will be treated in view of the end of the current term of the EGPS arises. Below are some high-level observations from these first round of engagements with donors;

- donors earmark and that these preferences are not necessarily in line with EGPS pillars,
- extractives policy thematic development focus areas are few and far between as others like gender and climate change take centre stage,
- governance (though not specific to extractives) remains a core area of concern for donors,
- the wide scope of the EITI mainstreaming principle makes specificity difficult in submitting proposals,
- donors have shown a willingness to partner with the Bank and systematically advocate support for EGPS,
- even with the additional funding, the EGPS is unlikely to adequate fund mainstreaming,
- donor geographic mix of global, regional and national programs potentially translates more resources.

3. Overview of the Bank's Bank IDA and IBRD Portfolio Extractives Policy Support Program

The Bank and donors contribute to extractives governance in many ways that complement the EGPS and EITI effectiveness. This includes funding of trust funds in the Governance Unit, IFC, the Environment GP and regional Vice Presidency as well as the IMF. To, appreciate the full scope of the Bank's support requires review of these. However, from an Extractives Unit's perspective the Bank's work promotes reforms through policy, advise, provision of technical assistances analytics and advocacy work. The Extractives Unit relies on a variety of financial instruments including trust funds, Externally Financed Outputs, IDA and IBRD loans to fund technical assistance programs many of which facilitate mainstreaming. As at December 2017, the Unit's programs of support and total active and pipeline of IDA and RETFs equated US\$1 billion. The mining sector dominates with 57% of the projects followed by 35% in oil and gas and 33% in sector governance. Below is table 3 which contains the list of EITI support projects funded by the Bank in addition to the EITI.

Table3: EITI Projects and Projects with EITI Components

Project Name	Country	Agreement Type	Amount (US\$M)	Sub-sector
Ethiopia EITI (Grant II)	Ethiopia	RETF	0.38	Governance
Extractive Industries Technical Assistance	Ghana	RETF	0.35	Mining, Oil and Gas
Gas and Oil Capacity Building Project	Ghana	IDA	38	Oil and Gas
EITI Consolidation Project	Mauritania	REFT	0.30	Mining, Oil and Gas
Mozambique Mining and Gas Technical Assistance Project	Mozambique	IDA	78	Mining, Oil and Gas
Niger Africa Extractive Industries Trust Fund	Niger	RETF	1.5	Mining
NEITI Reporting Compliance	Nigeria	RETF	0.32	Governance

Senegal Support to EITI Compliance Process	Senegal	RETF	0.3	Governance
Extractive Industries Technical Assistance Project Phase 2	Sierra Leone	IDA	20	Mining
Togo: Mining Governance and Development Project Preparation - Phase I	Togo	IDA	15	Mining
EITI Post Compliance Implementation Support III	Zambia	RETF	0.35	Governance
Support to EITI Compliance Process Project	Albania	RETF	0.40	Governance
IRAQ EITI Implementation Support	Iraq	RETF	0.35	Governance
Growth with Governance in the Mineral Sector - PROMINES II	DRC	RETF	120	Mining
Extractives for Development	Afghanistan	RETF	40	Governance
Support to EITI Compliance Process Project	Ukraine	RETF	0.40	Governance
Caribbean EITI	Guyana and Suriname	RETF	0.29	Governance
Suriname Extractive Industries Technical Assistance RE	Suriname	RETF	0.35	Governance
EITI post-compliance implementation	Chad			
Second Philippines EITI Support Project	Philippines	RETF	1.50	Governance
Support to Civil Society Organizations in Papua New Guinea	PNG	RETF	0.16	Governance
Capacity Building Project	Guyana	IDA*	20	Oil and Gas
Governance of Mining Sector	Mali	IDA*	25	Governance

* Pipeline yet to be approved

4. Conclusion

As an institutional supporter and partner of the EITI from the onset, the Bank remains committed to the EITI goals and the MSG principle. The Bank believes that working together to build capacity, increasing awareness of the costs implications and motivating sovereign commitment to provide resources is a critical success factor. As such, the Bank will continue its support to countries (in and outside the EGPS framework), through advocacy for governance, strengthening relations with governments, investors and NGOs alike.

June 2018

EAP	Philippines	P157976	Philippines EITI Support Phase 2	1500	22-Dec-15	15-Jan-16	21-Jun-16	14-Sep-16	24-Oct-16	24-Nov-16	3-Jan-17	31-Dec-18
ECA	Albania	P158380	Albania EITI Support	1000	2-Dec-15	17-Dec-15	29-Dec-16	26-Feb-16	19-May-16	27-Jun-16	18-Jul-16	31-Dec-18
ECA	Armenia	P162640	Armenia Capacity Support for EITI Candidacy	180	28-Apr-17	16-Nov-16						13-Jun-17
ECA	Armenia	P163060	Armenia Mining Policy	450	23-Sep-16	22-Mar-17	21-Aug-17	31-Aug-17	25-Oct-17			30-Apr-20
ECA	Azerbaijan	P162544	Azerbaijan: Mainstreaming EITI Implementation	100		21-Nov-16						01-Aug-17
ECA	Kyrgyz Republic	P164905	Mineral Governance Support Program	350		10-Oct-17						31-Dec-18
ECA	Ukraine	P158379	Ukraine EITI Support	780	18-Nov-15	17-Dec-15	24-Dec-15	24-Dec-15	14-Jan-16	22-Mar-16	19-Apr-16	31-Dec-18
LAC	Guyana EITI	P160092	Caribbean EITI	100		03-May-17	28-Sep-17					07-Jun-17
LAC	Caribbean	P162883	Caribbean EI TA	290			02-Sep-17				26-May-17	31-Mar-20
LAC	Colombia	P106013	EITI Implementation	790		29-Mar-07	09-May-15	27-Aug-15	27-Aug-15		30-Oct-15	15-Dec-17
LAC	Dominican Republic	P161434	Dominican Republic EITI Support	200	9-May-16	20-Sep-16	8-Jun-17				06-Mar-18	24-Jun-19
LAC	Peru	P160633	Peru Sub-national EITI	500	5-Feb-16	26-Sep-16	31-Mar-17	3-Apr-17	18-May-17		07-Aug-17	15-Mar-19
LAC	Suriname	P163612	Suriname EITI	350		9-Aug-17	06-Dec-17	2-Mar-18	2-Mar-18			30-Mar-20
MNA	Iraq	P160274	Iraq EITI Implementation Support	800	31-Aug-16	7-Sep-16	21-Feb-16	2-May-17	2-May-17	5-Jul-17	28-Nov-17	28-Jun-19
SAR	Bhutan	P163172	Bhutan Supporting Minerals	300		23-Oct-17	02-May-18					31-Dec-19
GBL	World	n/a	CSO Support	1300								
GBL	World	P163395	EI Collective	220		23-Feb-17	21-Aug-17					31-Jan-19
GBL	World	P153504	EITI CoP	40		17-Nov-14	04-Mar-15					26-Jul-17
GBL	World	P161739	EITI Int'l: Assistance to the ICWG	120		21-Oct-16					10-Dec-16	21-Mar-18
GBL	World	P155263	EITI Validation and Data Support	920		10-Aug-15	08-Dec-15				13-Apr-16	31-Dec-17

Board paper 40-4-A

Berlin, 28-29 June 2018

Submitted by: Implementation Committee

on: 14 June 2018

Clarification of Requirement 8.3.c.i

For decision

For discussion

For information

Summary:

The Implementation Committee recommends that the Board agrees to clarify the application of Requirement 8.3.c.i. Some language, marked in square brackets [], is still under discussion.

Supporting documentation

This paper follows the Board discussion in Oslo (Board paper 39-4-B Review of the application of Requirement 8.3.c.i).

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

N/A

Document history

Submitted to the EITI Board	Board paper 39-4-B Review of the application of Requirement 8.3.c.i
Revised and discussed by the Implementation Committee	15 May 2018
Approval by the Implementation Committee	7 June 2018
Submitted to the EITI Board	14 June 2018

CLARIFICATION OF REQUIREMENT 8.3.C.I

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1. Recommendation

Provision 8.3.c.i of the EITI Standard states that “a country must achieve satisfactory progress on the following four requirements in order to avoid suspension: government engagement (1.1), company engagement (1.2), civil society engagement (1.3) and timely EITI reporting (4.8). Where a country achieves less than meaningful progress on data quality (4.9) and data comprehensiveness (4.1), the MSG will be required to disclose a time-bound action plans for addressing weaknesses in data reliability and comprehensiveness. Progress with implementation of this plan will be taken into account in subsequent validations”. In December 2016, the application of this provision to requirement (1.1) and (1.2) was amended in accordance with Board decision 2016-39¹.

The Implementation Committee recommends that the Board agrees the following:

The language of requirement 8.3.c.i remains unchanged, but that the EITI Board decides that the provision is applied as follows:

The EITI Board reaffirms that a country will be suspended or delisted if Validation demonstrates that a significant aspect of the EITI Principles and Requirements are not adhered to by an implementing country². This includes but is not limited to the requirements for government engagement (1.1), company engagement (1.2) and civil society engagement (1.3). In accordance with requirement 8.3.a.i, in order for the EITI Board to conclude that a country has made satisfactory progress, Validation needs to demonstrate that all aspects of the requirement have been implemented and that the broader objective of the requirement has been fulfilled. See additional detail below. [The Board (will consider developing / will develop) further guidance on how the policy is to be practically implemented].

The EITI Board also reaffirms that:

¹¹ <https://eiti.org/BD/2016-39>

² In accordance with Requirement 8.3.c, a country would also face suspension if its first Validation demonstrates that it has made inadequate progress overall, and/or if it country fails to make considerable progress in its second or third Validation. Furthermore, suspension can be invoked if a country does not ensure timely publication of EITI Reports (Requirement 8.2) and Annual Progress Reports (Requirement 8.4); in cases of political instability and conflict (Requirement 8.6.b); and if significant breaches of the EITI Principles and Requirements are established outside of the Validation process (Requirement 8.6), including in cases of allegation of ad hoc restriction on civil society participation (Protocol on civil society participation, part 3).

- *The requirements for government engagement, company engagement and civil society engagement are set out in Requirements 1.1, 1.2 and 1.3 of the EITI Standard and the Protocol on civil society participation.*
- *The procedures for assessing adherence to these requirements are set out in Requirement 8.3.a assessment of Progress with EITI implementation, the EITI Validation Guide³, and the Validation procedures⁴. In accordance with these procedures, the Validation Committee will review the Validation Report and the comments from multi-stakeholder groups, and make a recommendation to the EITI Board.*
- *In accordance with 2.6 of the Protocol, “for contextual purposes, the EITI Board will review the broader environment in which the EITI operates for example by reference to indicators or other types of assessments”. The Board may consider agreeing a standard set of indicators to be considered as part of this review.*
- *The consequences of non-adherence to the requirements are set out in 8.3.c., as amended by Board decision 2016-39 as well as this present amendment. The consequences include corrective actions as well as suspension/delisting in cases of significant breaches of the requirements.*
- *In accordance with Requirement 8.3.d.ii, the Board retains the right to establish shorter or longer timeframes for undertaking corrective actions beyond the standard 3-18 months timeframe.*

In accordance with requirement 8.3.a.i, in order for the EITI Board to conclude that a country has made satisfactory progress, Validation needs to demonstrate that all aspects of the requirement have been implemented and that the broader objective of the requirement has been fulfilled. In determining whether the broader objective of requirement 1.3 has been fulfilled, the Validations undertaken to date have:

- *Considered each element of the Protocol on civil society participation, namely: expression, operation, association, engagement, and access to public decision-making. An assessment of “satisfactory progress” requires that all aspects have been implemented and that the broader objective of the protocol has been fulfilled.*
- *Consulted civil society representatives who are substantively involved in the EITI process, including but not limited to members of the multi-stakeholder group. The ‘EITI process’ includes: activities related to preparing for EITI sign-up; MSG meetings; CSO constituency side-meetings on EITI, including interactions with MSG representatives; producing EITI Reports; producing materials or conducting analysis of EITI Reports; expressing views related to EITI activities; and expressing views related to natural resource governance.*
- *Reviewed existing laws/regulations that may restrict CSO’s ability to engage in the EITI process. This may include: requirements to register as legal entities, barriers to accessing funding, limits to freedom of movement, government inspection of NGO*

³ <https://eiti.org/document/eiti-validation-guide>

⁴ <https://eiti.org/document/eiti-validation-procedures>

activities and/or requirements for CSO reporting on activities. Validation considers the trends in the legal framework – are they deteriorating or getting better?

- *The extent to which any administrative restrictions have affected CSOs involved in the EITI process. Where concerns are raised, Validation considers whether administrative practice involves government discretion. For example, does the government appear to purposely and systematically neglect applications for registration from certain NGOs?*

This language will be added to the Validation Guide.

2. Background

At the 39th EITI Board Meeting in Oslo, the EITI Board reviewed the application of Requirement 8.3.c.i (Board Paper 39-4-B). The paper noted that it had been a year since the EITI concluded its first Validations under the 2016 EITI Standard and started to enforce Requirement 8.3.c.i on countries that achieve less than satisfactory progress due to lack of government-, industry- and/or civil society engagement. The Board agreed that the Implementation Committee should continue developing the options outlined in Board Paper 39-4-B, with a view of presenting a recommendation to the Board.

Board paper 40-4-B

Berlin, 28-29 June 2018

Submitted by: Implementation Committee

on: 14 June 2018

Technical and financial assistance needs for beneficial ownership transparency

For decision

For discussion

For information

Summary:

This paper aims to bring to the Board's attention the technical and financial assistance needs for implementing countries to achieve beneficial ownership transparency by January 2020. Based on the scenarios presented in the paper, the Committee recommends that the Board agrees on a direction for how to support EITI countries in meeting the EITI Requirements on beneficial ownership disclosure.

Supporting documentation

n/a

Has the EITI competence for any proposed actions been considered?

The paper highlights capacity and support needs related to implementation of beneficial ownership transparency by January 2020, as required by the EITI Standard.

Financial implications of any actions

The EITI Board will have to consider the financial implications of any action after having decided on a direction

Document history

Submitted to the Implementation Committee	9 May 2018
Revised and discussed by the Implementation Committee	7 June 2018
Approved by the Implementation Committee	13 June 2018
Submitted to the EITI Board	14 June 2018

TECHNICAL AND FINANCIAL ASSISTANCE NEEDS FOR BENEFICIAL OWNERSHIP TRANSPARENCY

1. Summary

While there is strong political commitment to beneficial ownership transparency in the extractive sector in most EITI countries, there are substantial technical and financial support needs in many EITI countries that do not appear likely to be met by 2020. The Implementation Committee is therefore bringing the status of beneficial ownership support needs for EITI implementing countries to the Board's attention. Based on the scenarios presented in the paper, the Committee recommends that the Board agrees on a direction for how the EITI and the international community should best support EITI countries in implementing beneficial ownership transparency.

2. Background

The EITI requires that as of 1 January 2020 all member countries must ensure that the beneficial owners of the oil, gas and mining companies operating in their countries publicly disclose the identity of their beneficial owners. The political commitment to achieve this goal remains strong. All EITI member countries published roadmaps setting out how to achieve this goal by 2020. In addition, nine EITI countries made commitments related to beneficial ownership transparency in at the Anti-Corruption Summit in London in 2016.¹ Seven EITI countries have also included beneficial ownership commitments as part of their Open Government Partnership action plans.²

However, as of June 2018, progress in implementation of these roadmaps appears to be too slow for the EITI to deliver on this commitment. There has been good progress in a handful of countries where the political commitment is matched with substantial technical and financial support, including from partners like DFID, EBRD and NRGi. Countries like Ghana, Kazakhstan, Kyrgyz Republic, Mongolia, Senegal, Ukraine and Zambia appear to progress well with building the institutional and legal framework for beneficial ownership transparency. There are good prospects for these countries to meet the EITI Requirements by 2020. In other countries such as Afghanistan, Democratic Republic of Congo and Nigeria, there is high political commitment but limited progress in developing the necessary institutional frameworks to disclose comprehensive beneficial ownership information. The Implementation Progress Report for most other countries are still working to identify the institutional home for beneficial ownership reporting, revising their roadmaps and searching for technical and financial assistance to support the necessary reforms. March – June 2018 indicates that 26 EITI countries have made limited progress in implementing the beneficial ownership roadmaps due various reasons including competing priorities, political transitions and lack of technical assistance. There thus seems to be an urgent need to consider how the EITI and the international

¹ Afghanistan, Colombia, Germany, Ghana, Nigeria, Norway, Mexico, Tanzania and United Kingdom.

² Ghana, Liberia, Mongolia, Nigeria, Norway, Ukraine and United Kingdom.

community should best support these countries as the January 2020 deadline draws closer.

The International Secretariat has only just sufficient capacity to conduct the minimum level of outreach and stakeholder engagement required to support the national dialogue on beneficial ownership transparency. The Secretariat does not currently have the human resources, skills and expertise to undertake the more substantial technical assistance needed to support the building of institutional, legal and reporting frameworks for beneficial ownership transparency in all EITI countries by January 2020. The Secretariat has been undertaking capacity-building activities, conducted workshops, facilitated discussions among stakeholders, proposing approaches to data collection and disclosure, and built capacity on the use of beneficial ownership data. With project-specific support from partners, the Secretariat has also supported priority countries in undertaking scoping studies and legal reviews to identify the action needed to establish a framework for beneficial ownership disclosure. However, it is currently a challenge to meet the demand from implementing countries for support on providing input to ongoing company or sector reforms and building public ownership registers.

The EITI could also consider options such as outsourcing some or most of the technical assistance to EITI countries on beneficial ownership disclosure, or substantially building the capacity of the International Secretariat to provide beneficial ownership technical assistance.

3. Possible directions for technical and financial assistance for beneficial ownership transparency in EITI countries

One of the possible scenarios for implementation support to EITI countries could aim at ensuring that most EITI member countries have a sustainable beneficial ownership transparency framework in place by 2020.

Establishing a beneficial ownership transparency framework is a major reform. Even if the necessary technical and financial assistance is provided, it is not likely that all countries will be able to complete this process by 2020. Further, building a sustainable institutional, legal and reporting framework for achieving beneficial ownership transparency in all EITI member countries will require significant fundraising. The cost of supporting the development of laws and regulations, outreach to stakeholders, building of reporting frameworks and beneficial ownership registers and providing capacity building for government staff is likely to be substantively higher than the current cost of implementation.

Provided that sufficient funding is raised to support the ambition in this scenario, there are different ways in which the necessary technical assistance could be provided, for instance by outsourcing parts of the work to one of the World Bank global practices already providing technical assistance on beneficial ownership³ or to a third party to deliver the in-country support. Another option could be building a beneficial ownership technical assistance unit in the International Secretariat. This would be likely to require considerable additional short-term staffing.

³ For instance, the Finance & Markets/Governance Global Practices. The Stolen Asset Recovery Initiative (StAR) and the Financial Market Integrity Unit have already been providing targeted technical assistance on beneficial ownership transparency to developing countries.

Another scenario is that most EITI member countries disclose on beneficial ownership in EITI Reports by 2020, while a few establish sustainable beneficial ownership transparency frameworks.

This alternative approach would be to lower the ambition and mainly focus on supporting EITI member countries with incorporating beneficial ownership reporting in their EITI Reports. The International Secretariat has sufficient capacity to provide guidance on such reporting as part of the general implementation support. The EITI International Secretariat would also continue to provide more substantial technical and financial advice to the few countries for which it has received funding to do so.

The advantage of this approach is that it is quicker to implement. All countries have an EITI reporting framework in place that can be used for collecting and publishing beneficial ownership data. However, there are several challenges with this approach:

- Experience with using EITI Reports as the vehicle for obtaining beneficial ownership information has shown that it rarely results in comprehensive and reliable beneficial ownership data. Of the 11 countries that participated in the EITI beneficial ownership pilot in 2013-2015, only one country managed to achieve a certain level of beneficial ownership disclosure.

Although many countries have continued to try to use the EITI reporting process to disclose beneficial ownership, the results have not improved. A review undertaken by the International Secretariat of ten EITI Reports with beneficial ownership data last year found that despite the growing experience and knowledge of common challenges associated with such reporting, the quality of the beneficial ownership disclosures has so far not improved. In the ten reports reviewed, it is estimated that only 23% of all companies disclosed the beneficial ownership information. Some of the barriers to comprehensive disclosure were (1) the lack of a legal requirement for companies to file beneficial ownership data with the authorities in the first place; (2) lack of awareness of the concept of beneficial ownership; (3) difficulties for companies in identifying their beneficial owners and getting approval from management to file this data given the lack of legal obligation to do so; (4) difficulties with understanding how to complete the beneficial ownership reporting templates; (5) lack of assurance process confirming the reliability of the data.

- Raising the additional funds required to include beneficial ownership in EITI reporting could be challenging considering the decreasing funds available for EITI implementation;
- Beneficial ownership transparency through EITI reporting is not sustainable in the long run, and would seem contrary to the ambition of achieving systematic disclosure within the next 3-5 years;

In light of this, there is a significant risk that this approach would not result in the EITI being able to ensure reliable and comprehensive beneficial ownership disclosure through EITI reporting in all member countries by 2020.

Unless the EITI and its partners provide significantly increased support, it appears likely that a

majority of implementing countries will not meet the requirements by 2020. If additional resources are not made available, the Board may also wish to communicate to member countries its expectations for implementation of the EITI Requirement on beneficial ownership disclosure and clarify how it will be assessed in Validation.

Updating Key Performance Indicators of the EITI

For decision

For discussion

For information

Summary

This paper presents a proposal for revising the EITI's Key Performance Indicators (KPIs) with the aim to better reflect the results of EITI implementation and the performance of the International Management¹.

The proposed changes mainly relate to the outcome indicators of the EITI. The working group proposes that the outcome indicators are revised to make greater use of results from Validation and to better demonstrate the relationship between the immediate results of the international EITI (outputs) and the results of implementing the EITI (impacts).

The working group also proposes some changes to how the actions and immediate results of the EITI are monitored. Rather than referring to "Secretariat effectiveness" it proposes to capture "input/activities" and "outputs".

Supporting documentation

Board Circular 75: <https://eiti.org/sites/default/files/EITI-Board-Circular-75.pdf>

Board paper 36-7-C: <https://eiti.org/BP36>

Has the EITI competence for any proposed actions been considered?

N/A

Financial implications of any actions

N/A

Document history

Drafts submitted to the working group	19 January 2018
Discussed by the working group and Implementation Committee	19 January 2018, 29 January 2018, 13 February 2018, 21 March 2018, 15 May 2018
Agreed by the working group	6 February 2018, 6 April 2018
Agreed by the Implementation Committee	25 May 2018

¹ International Management is a collective term for the Board and Secretariat of the EITI.

Submitted to the EITI Board

14 June 2018

UPDATING KEY PERFORMANCE INDICATORS OF THE EITI

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Recommendation

The working group proposes significant revisions to the EITI's key performance indicators (KPIs). The aim of the proposal is to ensure that the EITI Secretariat and International Management can better measure the effects and impact of their activities.

The KPIs are designed to help the **management** of the international EITI to assess the effectiveness of its various interventions by more closely relating budget inputs and activities to immediate results. Further, the proposal enables more systematic **monitoring** of the results of national-level implementation and to identify areas of success or challenges. The KPIs are also a tool for **communicating** and demonstrating specific results of EITI implementation, by highlighting impact-stories at the national and international level.

Three key changes are proposed:

First, that the *secretariat effectiveness* KPIs are revised to better distinguish between efforts and effectiveness of the EITI (i.e. inputs and activities) and the immediate results of these efforts (i.e. outputs).

Second, that Validation findings are used as indicators for measuring outcomes of EITI implementation. The new outcome indicators, based on Validation results, are all necessary to properly influence (i) national governance of natural resource wealth, (ii) investment and business climates, and (iii) sustainable economic growth and development; all of which are the broadly stated objectives from the EITI Principles. The proposal also contains changes to the *big picture indicators*. This proposal is based on the suggestion that the *EITI Standard* is the best way we have to capture the EITI's international outcomes as a national-level theory of change.

Last, that a large number of indicators are maintained. The reduction in indicators from 93 to 89 is only slight but due to greater data availability and the quality of the information, the data will be significantly easier to collect, monitor and analyse.

The working group therefore proposes that the EITI Board adopts the indicators as listed in Tables 1-5 for measuring the results of the EITI Management and Secretariat. Of the 51 member countries, between 15-25 are validated each year. These Validations take months to complete, are often based on 50 or more interviews and result in reports of 50-200 pages to capture countries' progress of implementing the EITI Standard. If the EITI wishes to track its effectiveness through the use of KPIs, it is time to make better use of this growing mass of documentation of EITI implementation.

Table 1 presents the proposed indicators for measuring the use of resources and activities of the International Management, and the outputs of these activities. Tables 2 and 3 include a completely new set of outcome indicators, while Table 4 contains EITI's big picture indicators. For a detailed view of changes please refer to Annex A. Annex B presents a comparison of the KPIs adopted by the EITI Board in 2010, and of the KPIs reported on in 2017.

Once the EITI Board has agreed the new KPIs to include in the framework, the working group recommends that specific targets should be set for each indicator, in particular for outcome indicators of table 2 and 3.

While the group recognises that there are challenges in basing the EITI's KPIs on Validation results, it is the most rigorous process available for assessing progress and is closely linked to the EITI Principles. The proposed changes ensure a framework which accommodates for any future alterations to the EITI Standard, as such changes will naturally also affect Validation procedures and results.

Table 1: Input, activities and output indicators

Category	Input and activity indicators	Output indicators
Training and Support to implementing countries	Budget allocation (% of total), implementation support	National Secretariats circulars issued
	% of staff time, implementation support	Missions to implementing countries
	Budget allocation (% of total), training	Fiscal years covered by EITI Reports
	% of staff time, training	Fiscal years covered by EITI Summary data
Outreach	Budget allocation (% of total)	Missions to outreach countries
	% of staff time	
Board and Chair support	Budget allocation (% of total)	Board meetings held
		Participants in Board meetings (incl. observers)
		Board decisions made (incl. by circular)
	% of staff time	Board papers submitted
		Committee meetings held
		Committee papers submitted
Relation with stakeholders	Budget allocation (% of total)	Number of supporting companies
		Financial contributions from supporting companies
		Number of supporting financial institutions
	% of staff time	Financial contributions from financial institutions
		Number of supporting countries
		Financial contributions from supporting countries
		Number of implementing countries
Global Conference	Budget allocation (% of total)	Participants broken down by gender and constituency
	% of staff time	
Communication	Budget allocation (% of total)	Mentions in media (Factiva)
		Social media (Facebook, tweeters) items
	% of staff time	Original publications by EITI
		Sessions on EITI website annually / monthly
Validation	Budget allocation (% of total)	Validation decisions
	% of staff time allocated	Initial assessments conducted
Management and administration	Budget allocation (% of total)	Number of staff broken down by level and by gender
	% of staff time allocated	Staff hours
		Percentage of staff retained

Table 2: Outcome indicators level 1

Category	Type	Indicator
Overall country performance against the EITI Standard		No. of countries with overall assessment: - Satisfactory progress - Meaningful progress - Inadequate progress - No progress - Yet to be assessed
	Countries with fully engaged governments	1.1 - Government engagement
	Countries with fully engaged company-stakeholders	1.2 - Industry engagement
	Countries with fully and freely engaged civil society	1.3 - Civil society engagement
	Countries with fully functional platforms for implementing the EITI Standard	1.4 - MSG governance 1.5 - Work plan

Table 3: Outcome indicators level 2

Category	Type	Indicator
Transparency indicators	Countries with transparent legal and fiscal frameworks commensurate	2.1 - Legal framework
	Countries with transparent licensing systems	2.2 - License allocations 2.3 - License register
	Countries with clear policies on contract disclosure	2.4 - Policy on contract disclosure
	Countries with full disclosure of the state's participation in extractive sectors	2.6 - State participation
	Countries with information on exploration activities	3.1 - Exploration data
	Countries with full disclosure of production and exports	3.2 - Production data 3.3 - Export data
	Countries disclosing comprehensive revenue-data in accordance with the EITI Standard	4.1 - Comprehensiveness
	Countries disclosing in-kind revenues	4.2 - In-kind revenues
	Countries disclosing information on infrastructure and barter arrangements	4.3 - Barter agreements
	Countries disclosing transport revenues	4.4 - Transportation revenues
	Countries disclosing state-owned enterprises' transactions	4.5 - SOE transactions
	Countries disclosing subnational payments	4.6 - Direct subnational payments
	Countries with sufficient disaggregation of data	4.7 - Disaggregation
	Countries with timely data	4.8 - Data timeliness
	Countries with comprehensive assessment of data quality in accordance with the EITI Standard	4.9 - Data quality
	Countries disclosing distribution of revenues	5.1 - Distribution of revenues
	Countries disclosing subnational transfers	5.2 - Subnational transfers
	Countries disclosing social expenditures	6.1 - Mandatory social expenditures
	Countries disclosing quasi-fiscal expenditures	6.2 - SOE quasi-fiscal expenditures
	Countries disclosing macroeconomic data	6.3 - Economic contribution
	Number of transparency requirements that are mainstreamed ²	
National level impact indicators	Countries that ensure EITI data is comprehensible, promoted, publicly accessible and contributes to public debate.	7.1 - Public debate
	Countries that follow up on recommendations	7.3 - Follow up on recommendations
	Countries that actively assesses outcomes and impact in accordance with the EITI Standard	7.4 - Outcomes and impact of implementation

Table 4: Impact indicators

Category	Indicator

² Fully mainstreamed requirements would be assessed as 'beyond' in Validation. There may also be other reasons for such Validation results other than mainstreaming. Nonetheless the indicator is the most systematic form of measurement available.

Growth, poverty reduction	Human Development Index score
	WEF score
Investment climate	World Bank's Doing Business index
	Net FDI (% of GDP)
Governance	Freedom house
	TI Corruption perception score
	WGI Control of Corruption
	WGI Voice and Accountability
	WGI Political Stability and Absence of Violence
	NRGI Resource Governance Index

Introduction and background

Since the adoption of EITI's Key Performance indicators (KPIs) in 2010, the EITI Standard has changed significantly. Combined with other developments, these changes warranted the review of the KPI framework to better reflect the current environment, disclosures and assurances of EITI implementation, as well as the work of the EITI International Management.

It is useful to introduce some concepts. A *result framework* is a management tool; a figure or model showing the relationship between different levels of efforts and results. It follows a logical approach that some **inputs** are used for performing **activities**. The activities are performed to produce an **output**. Several outputs combined lead to **outcomes**, while multiple and complementary outcomes lead to **impacts**³ (see Figure 1 below). In short, a results framework represents the *theory of change* of the organisation.

Figure 1: Results framework



In December 2017, a working group of interested EITI stakeholders was established to revise the indicators for measuring the results of EITI implementation, by proposing a new framework of EITI Key Performance Indicators (KPI) to the Implementation Committee of the EITI Board. The working group held two conference calls, on 19 January and 29 January. Subsequently, the paper was submitted to the Implementation Committee of the EITI Board for discussion on 13 February. Based on the discussions of the Implementation Committee, the working group held an additional conference call on 21 March 2018.

The working group aimed to ensure that the EITI's KPIs captured the organisation's intended outcomes and outputs, including the value for money of the EITI Secretariat and the International Management. The aim was also to clearly demonstrate the relationship between direct results of the EITI Secretariat and International Management, and the broadly stated objectives of the EITI as set out in the EITI Principles.

Since 2010, the International Secretariat has reported regularly on a set of indicators approved by the EITI Board⁴ by Board Circular in 2010. These have undergone minor changes and tweaks in measurements and methodology (see Annex B for a detailed comparison). Until now, the KPIs have been collected twice a year – for reporting to the EITI Board in annual work plans and for Progress Reports.

Four specific developments have occurred since the adoption of the KPIs in 2010. Whilst the developments listed below have not changed the EITI Principles, they have influenced the Secretariat's outputs and outcomes:

1. **The EITI Standard 2013⁵ introduced requirements beyond revenue transparency and reconciliation**, reflecting a wider coverage of the extractive sector. This included information on production and export, laws, contracts, license allocation, state participation, trading of commodities on behalf of the state, social payments, transfers and more.

³ For more information please refer to *Designing a Results Framework for Achieving Results* by the World Bank: https://siteresources.worldbank.org/EXT/ENVACAPDEV/Resources/designing_results_framework.pdf

⁴ See Board Circular 75: <https://eiti.org/sites/default/files/EITI-Board-Circular-75.pdf>

⁵ EITI Standard 2013: <https://eiti.org/document/eiti-standard-2013>

2. **The EITI Standard 2016⁶ was launched at the EITI Global Conference in Lima 2016.** While it did not represent as large a shift in reporting requirements for implementing countries, it introduced a new system of how implementing countries' performance is assessed through the Validation procedures.
3. **The 2016/17 EITI expenditure review⁷ provided several recommendations around monitoring the value for money for the Secretariat and international management.** The expenditure review included:
 - a review of the value for money of EITI's main expenditure lines,
 - a review of how to make the costs of its decisions, activities and procedures clearer in Board papers, and;
 - a brief review of whether the coordinating mechanisms with other technical providers such as the World Bank and the bilaterals could be made more efficient.
4. **The methods for reflecting national-level disclosures and results of Validation have become more standardised and robust.** Since the introduction of the EITI Standard 2016, EITI's website and information system has changed. The EITI now publishes scorecards on progress of each country towards EITI Requirements as Validations are decided by the EITI Board⁸ and EITI data is now regularly and systematically collected in a standardised form through the introduction of summary data⁹.

Combined, these changes warranted the review of the KPI framework to better reflect the current environment, disclosures and assurances of the EITI.

Description of 2017 KPIs¹⁰

The 2017 KPIs largely reflected the same information as in 2010 and were divided into three distinct categories: (i) *Secretariat effectiveness indicators*; (ii) *outcome indicators*; and (iii) *big picture indicators*. The first category, *Secretariat effectiveness*, monitored value for money. However, based on contemporary result frameworks and theory, it did not sufficiently distinguish between the inputs/activities and immediate results (outputs).

In addition, the *outcome indicators* the EITI monitored in 2017 often reflected immediate results and outputs, rather than the next form of results; namely outcomes. This led to problems of attribution when determining impacts of the international EITI's activities, i.e. in forming a link between activities and the *big picture indicators*. The big picture indicators seek to reflect the EITI Principles and are still relevant as the Principles have not changed.

The theory of change and revised indicators

The working group proposes a new model for measuring results as presented in Figure 2. This model seeks to measure change associated with implementation of the EITI Standard. The new outcome indicators, based on Validation results, are all necessary to properly influence (i) national governance of natural resource wealth, (ii) investment and business climates, and (iii) sustainable economic growth and

⁶ EITI Standard 2016: <https://eiti.org/document/standard>

⁷ Board paper 36-7-C: <https://eiti.org/BP36>

⁸ See <https://eiti.org/validation#validation-scorecard> or visit EITI country pages.

⁹ Summary Data: <https://eiti.org/summary-data>

¹⁰ Please refer to Annex for an overview of KPIs used in 2010 versus 2017

development. These represent the broadly stated objectives known as the EITI Principles¹¹.

Figure 2 contains the theory of change. It largely consists of the same indicator categories as were collected in 2017, however the previous category of *Secretariat Effectiveness* is now proposed to distinguish between inputs/activities and outputs. This is visible in the two first stages of the figure which are broken down into specific categories of the Secretariat's operations. The categories are linked to current budget codes and practices of the International Secretariat:

- Inputs/activities reflect budget inputs and staff time spent on various parts of EITI Secretariat responsibilities, and;
- Outputs focus on the immediate products of these inputs and activities. For more details on the precise changes to these KPIs please consult Annex A.

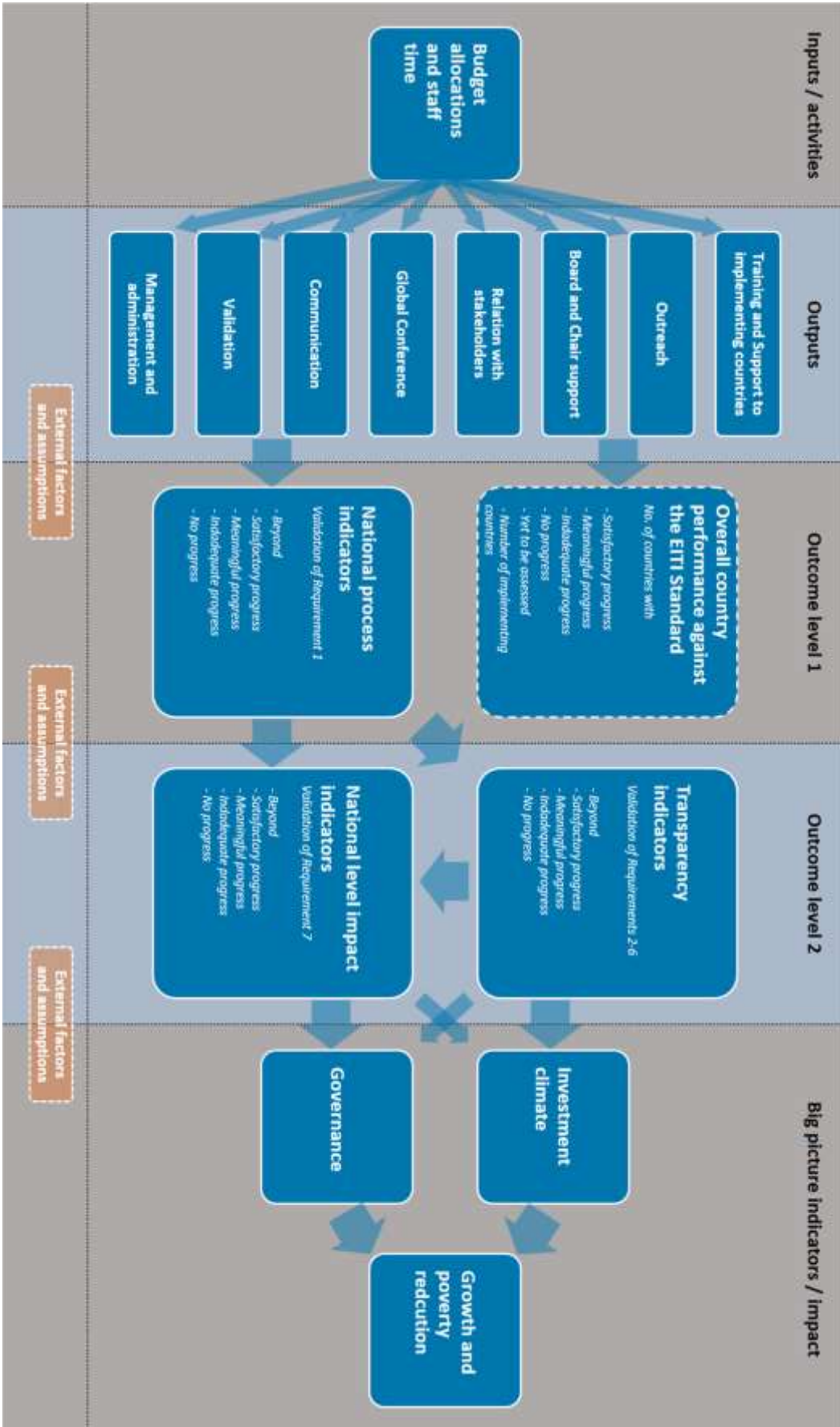
The working group also proposes that results from Validation should take a more prominent place in how the international EITI measures its own performance, not just how EITI assesses its implementing countries' progress. The Secretariat provides support to the EITI Board, national secretariats and multi-stakeholder groups. The outcome of this support is the quality and comprehensiveness of national level implementation. The Validation results are presently our best measure of that. However, it is not a direct link – the Secretariat can have excellent support and the country can still have poor validation results and vice versa. Furthermore, excellent validation results do not necessarily lead to excellent impact. The Standard provides therefore the *proxy* indicators for the theory of change. As with all proxies, they are imperfect. Attribution and causality remain challenges. However, previous outcome indicators did not provide data beyond the number of countries performing specific disclosures, such as production data. The results from Validation not only reflect whether disclosures exist, but also whether they meet the EITI Requirements, i.e. the *quality and comprehensiveness* of the information and progress towards mainstreaming.

Based on the prescribed procedures and requirements of the EITI Standard the group proposes to use two levels of outcomes based on Validation results. Level 1 outcomes will monitor the *Overall assessments of countries' progress towards the EITI Standard*, and the *National process indicators (i.e. the governance of the national processes – EITI Requirement 1)*. The second level of outcomes measure how countries are progressing in making more information accessible to the public (EITI Requirements 2-6). The working group suggests naming this category *Transparency indicators*. MSGs are also required to agree a set of objectives for disseminating the information to ensure impact at the national level. The Validation results of countries' progress towards EITI Requirement 7 is proposed to be called *National level impact indicators*, assessing whether the MSGs fulfil their role in ensuring EITI data is used for informing public debate, and whether they are achieving the goals they have set out in their work plans.

The big picture indicators, which are designed to monitor the broadly stated objectives known as the [EITI Principles](https://eiti.org/document/eiti-principles). These principles are still as relevant as when agreed in 2005, and the big picture-indicators remain as relevant in measuring such changes as they were in 2010, with some changes proposed. Collectively the national level outcomes could reasonably be expected to influence these big picture indicators but the link is not direct.

¹¹ See EITI Principles: <https://eiti.org/document/eiti-principles>.

Figure 2: The theory of change



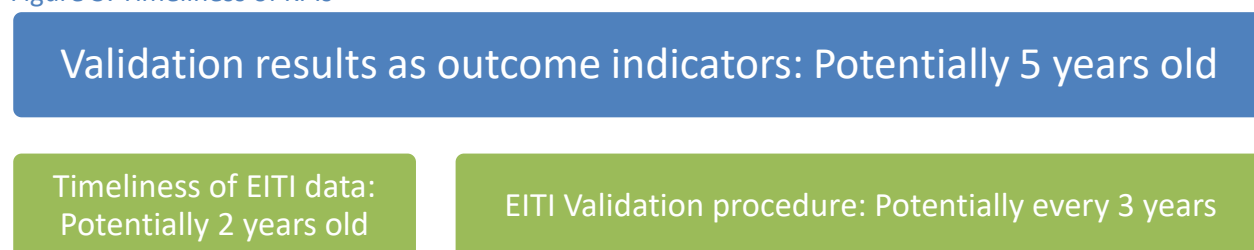
Challenges: Regularity, timeliness and numbers

So far, the proposal has described how Validation results can be used as an improved framework for EITI to measure realistic and attributable chains of effects of its activities. But as with any framework there are challenges associated with this proposal – external factors, timeliness and the number of indicators.

First of all, there are **assumptions and external factors** beyond the EITI International Management's control which also influence the indicators proposed by the working group. These are represented by the separate orange boxes in Figure 2. An example of an external factor could be a change in government, influencing the context in which a national secretariat and MSG operates. It may, for example, force national and international efforts towards ensuring political buy-in rather than focusing on EITI implementation. Alternatively, a change in government can bring with it a more reform-oriented political leadership which provides a more conducive environment. Commitment to reforms in the sector is also strongly influenced by commodity prices and new discoveries. However, in the absence of external factors, positive or negative, the work of the EITI International Management should influence national EITI processes positively.

Second, Validation results are the result of a rigorous process but comes at a **cost of timeliness**. The current procedure occurs only once every three years for each implementing country that is deemed to have achieved Satisfactory progress. This means that potentially the outcomes of EITI implementation will reflect Board decisions that have taken place three years earlier. In addition, the current Validation process focuses on the latest EITI Report of each implementing country. By factoring in EITI's timeliness requirement (4.8), this means that the EITI's outcome indicators could potentially reflect information that is up to five years' old (see Figure 3). The Secretariat does perform similar appraisals upon the publication of each new EITI Report, but these do not follow the same depth of quality assurance as validations. The Implementation Committee may wish to consider taking steps to make more regular assessments to ensure that monitored effects of EITI implementation reflects more timely data.

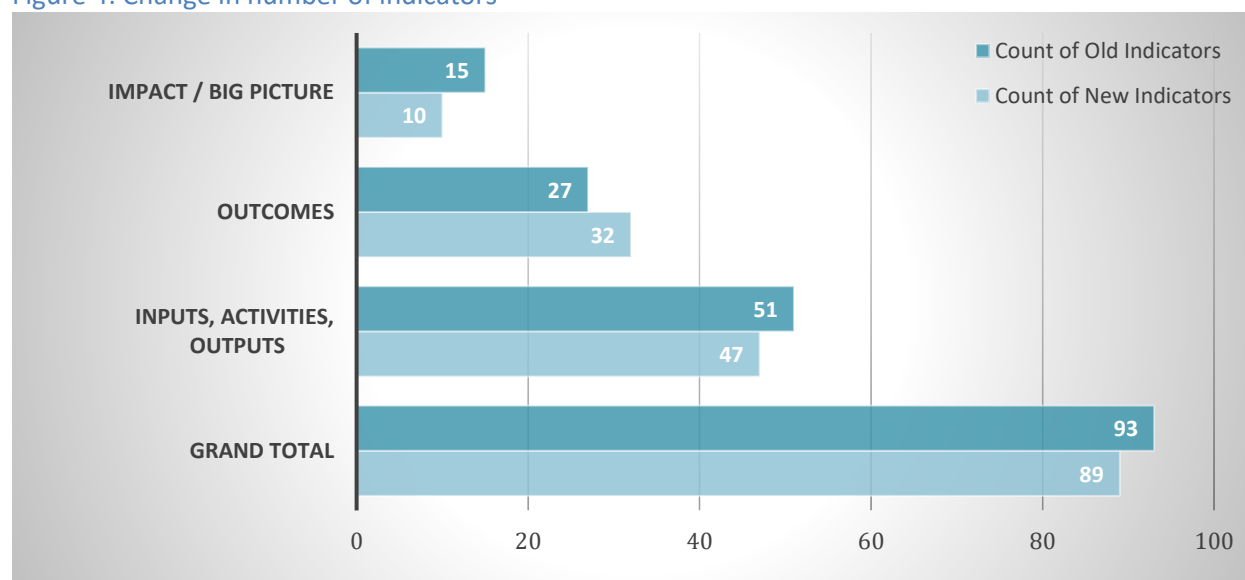
Figure 3: Timeliness of KPIs



Lastly, this proposal does not significantly decrease **the number of indicators**. As is visible from Figure 4 below, the proposal only reduces the number of indicators from 93 to 89 indicators due to the large amount of outcome indicators. The working group acknowledges this challenge of the revised framework, but recognises that the Validation process is still the most rigorous and consistent methodology available for assessing EITI countries' progress. Also, Validation results are accompanied by a highly usable product, the Validation scorecards, which greatly simplify data collection and analysis. In short, relying on Validation results helps systematise data collection for KPIs rather than establishing separate data collection processes – it mainstreams the majority of impact monitoring. An example is provided below

from Ghana's Validation in 2016¹².

Figure 4: Change in number of indicators



¹² <https://eiti.org/validation/ghana/2016>

Figure 5: Scorecard from Ghana's 2016 Validation

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
MSG oversight	Government engagement (#1.1) (+)					
	Industry engagement (#1.2) (+)					
	Civil society engagement (#1.3) (+)					
	MSG governance (#1.4) (+)					
	Workplan (#1.5) (+)					
Licenses and contracts	Legal framework (#2.1) (+)					
	License allocations (#2.2) (-)					
	The 2014 EITI Reports comprehensively disclose the respective process for awarding licences. The technical and financial criteria for awarding licenses are described in general terms on the Ghana EITI website. The efficiency and effectiveness of licensing procedures are discussed in the reports, leading to recommendations for change which have potentially contributed to sector reforms.					
	License register (#2.3) (+)					
	Policy on contract disclosure (#2.4) (+)					
	Beneficial ownership (#2.5) (+)					
	State participation (#2.6) (+)					
Monitoring production	Exploration data (#3.1) (+)					
	Production data (#3.2) (+)					
	Export data (#3.3) (+)					
Revenue collection	Comprehensiveness (#4.1) (+)					
	In-kind revenues (#4.2) (+)					
	Barter agreements (#4.3) (+)					
	Transportation revenues (#4.4) (+)					
	SOE transactions (#4.5) (+)					
	Direct subnational payments (#4.6) (+)					
	Disaggregation (#4.7) (+)					
	Data timeliness (#4.8) (+)					
	Data quality (#4.9) (+)					
Revenue allocation	Revenue management and expenditures (#5.1) (+)					
	Subnational transfers (#5.2) (+)					
	Distribution of revenues (#5.3) (+)					
Socio-economic contribution	Mandatory social expenditures (#6.1) (+)					
	SOE quasi-fiscal expenditures (#6.2) (+)					
	Economic contribution (#6.3) (+)					
Outcomes and impact	Public debate (#7.1) (+)					
	Data accessibility (#7.2) (+)					
	Follow up on recommendations (#7.3) (+)					
	Outcomes and impact of implementation (#7.4) (+)					
Overall assessment						

Annex A: Revised Key Performance Indicators (KPIs)

The pages below highlight the proposed changes to the KPIs in detail. Any changes to indicators are highlighted by presenting the text in red, brown or green; i.e. **removal**, **altering**, or **additions** in indicators.

The **removal** of certain indicators is proposed to reduce the total number of indicators and ease systematic data collection. Although some of these may be of interest as key facts, they do not necessarily represent significant results of *international* EITI efforts.

Another reason for proposing to remove indicators is due to other indicators being **added** which are more relevant for monitoring results. An example of this is the removal the indicator reflecting side events of EITI Board meetings and missions involving the EITI Chair, and replacing this with the number of Board papers submitted. The group proposes to add two gender equality-related indicators, measuring the gender compositions of the EITI Board and the International Secretariat.

Some indicators are carried over from previous outcome indicators, as seen when comparing the below tables to the ones in the Annex. These were never true outcomes of international EITI efforts, rather outputs or direct results - for example, the number of fiscal years covered by EITI summary data or number of sessions on the EITI website.

To simplify reporting, some indicators have been combined. For example, the new website and EITI database is now better suited to reporting the number of *original* EITI publications, through the newly created [EITI Publications page](https://eiti.org/publications)¹³, rather than as different number of *news items*, *blogs*, and “*other publications*”.

¹³ See <https://eiti.org/publications>

Inputs, activities and outputs (previously Secretariat effectiveness)

The *input and activities*-indicators and *output*-indicators were previously named Secretariat effectiveness indicators.

Other than distinguishing inputs/activities from outputs, some minor changes are proposed. As presented in Table A 1 input- and activity-indicators remain largely the same as in the previous framework. The only change is the combination of the categories “Training” and “Support to implementing countries” to a single category “Training and Support to implementing countries”. The reason for this is the significant overlap of outputs. The indicators for inputs (budget-allocations) and activities (% of staff time) are still distinguished from each other, in accordance with the Secretariat’s budget codes and practices.

Table A 1: Input and activities indicators

Category	Input/Activity indicators	
Training and Support to implementing countries	Budget allocation (% of total)	Budget allocation (% of total), implementation support
		% of staff time, implementation support
	% of staff time	Budget allocation (% of total), training
		% of staff time, training
Outreach	Budget allocation (% of total)	
	% of staff time	
Board and Chair support	Budget allocation (% of total)	
	% of staff time	
Relation with stakeholders	Budget allocation (% of total)	
	% of staff time	
Global Conference	Budget allocation (% of total)	
	% of staff time	
Communication	Budget allocation (% of total)	
	% of staff time	
Validation	Budget allocation (% of total)	
	% of staff time allocated	
Management and administration	Budget allocation (% of total)	
	% of staff time allocated	

For *output indicators* the working group proposes more substantial changes, as seen in Table A 2. The proposed changes can be summarised as follows ...

- **Removal** of ...
 - *Guidance notes issued/revised*
 - *Number of extension requests, suspensions and others processed*
 - *Number of peer learning events and conferences*
 - *Number of rapid responses processed*
 - *Number of reports reviewed*
 - *Number of capacity building/rising awareness events held*
 - *Number of side events held during Board meetings*
 - *Number of missions and/or visits that included the Chair*
 - *Number of meetings held (incl. donor coordination roundtables, companies)*
 - *Number of joint staff meetings (with World Bank)*
 - *Number of countries represented in the national expo*
 - *Number of newsletters issued*
 - *Number of videos published*
- The **addition** of ...
 - *Board papers submitted*
 - *Committee papers submitted*
 - *Number of implementing countries*
 - *Financial contribution from supporting companies*
 - *Financial contribution from implementing countries*
 - *Financial contribution from supporting countries*
 - *Financial contribution from financial institutions*
 - *Number of sessions on EITI website annually (monthly)*
 - *Number of fiscal years covered by EITI Reports*
 - *Number of fiscal years covered by EITI Summary data*
 - *Gender composition: EITI International Secretariat*
 - *Number of staff*
 - *Staff hours worked beyond normal working hours*
 - *Turnover rate of employees*
- And **combining** ...
 - *Number of news items published in EITI website*
 - *Number of blogs published in EITI website*
 - *Number of “other publications” issued (incl. mentions in media, case studies, impact stories, Progress report)*
 - ... into Number of original publications by EITI

These changes are also presented in the table on the next page, also containing some minor changes in language. It breaks down each specific indicator across each operational category of the International Secretariats, including which indicators the group proposes to **remove**, **add** or **alter**.

Table A 2: Output indicators

Category	Output indicators
Training and Support to implementing countries	National Secretariats circulars issued
	Missions to implementing countries
	Guidance notes issued/revised
	Extension requests, suspensions and others processed
	Peer learning events and conferences
	Rapid responses processed
	Reports reviewed
	Fiscal years covered by EITI Reports
	Fiscal years covered by EITI Summary data
Outreach	Missions to outreach countries
	Candidature applications processed
	Capacity building/rising awareness events held
Board and Chair support	Board meetings held
	Participants in Board meetings (incl. observers)
	Committee meetings held
	Board decisions made (incl. by circular)
	Side events held during Board meetings
	Missions and/or visits that included the Chair
	Board papers submitted
	Committee papers submitted
Relation with stakeholders	Number of supporting companies
	Number of supporting financial institutions
	Number of supporting countries
	Number of meetings held (incl. donor coordination roundtables, companies)
	Number of joint staff meetings (with World Bank)
	Number of implementing countries
	Financial contributions from implementing countries
	Financial contributions from supporting companies
	Financial contributions from supporting countries
	Financial contributions from financial institutions
Global Conference	Participants broken down by gender and constituency
	Number of countries represented in the national expo
Communication	Mentions in media (Factiva)
	Social media (Facebook, tweeters) items
	News items published in EITI website
	Blogs published in EITI website
	"Other publications" issued (incl. mentions in media, case studies, impact stories, Progress report)
	Newsletters issued
	Videos published
	Sessions on EITI website annually (monthly)
Validation	Validation decisions
	Initial assessments conducted
Management and administration	Number of staff broken down by level and by gender
	Staff hours
	Percentage of staff retained

Outcome indicators

The proposal is to move away from the previous *outcome indicators*, and to replace these with the results of the new Validation procedures of the 2016 EITI Standard. These results are readily available and closely monitored by the Validation Committee, with a subsequent decision of the EITI Board.

The results of Validation are available through Validation scorecard. These are also accompanied by brief summaries, providing the context for the assessment (see Figure 5 on page 13 for an example). This makes the information flexible enough for monitoring any reason for changes, while providing a necessary methodological rigour.

The proposal is to include two separate levels of outcome indicators. The first proposed level will monitor general results or the overall results from Validation. These are also accompanied by an additional determinant for the EITI to function properly, namely the *National process indicators*, represented by Validation results regarding MSG oversight.

Table 3 below sets out the proposed indicators. The group proposes to only keep one general indicator from the previous framework, which monitors the overall progress of EITI countries. However, the group also proposes to **remove** *Number of implementing countries* (instead this is included as an output indicator). Lastly, the proposal is also to **include** the Validation results of countries' progress towards each sub-requirement of EITI Requirement 1 as the *National process indicators*. The "Type" column of Table A 3 and Table A 4 also suggests how the results can be translated into more accessible language.

Table A 3: Outcome indicators level 1

Category	Type	Indicator
Overall country performance against the EITI Standard		No. of countries with overall assessment: - Satisfactory progress - Meaningful progress - Inadequate progress - No progress - Yet to be assessed
		Number of implementing countries
National process indicators	Countries with fully engaged governments	1.1 - Government engagement
	Countries with fully engaged company-stakeholders	1.2 - Industry engagement
	Countries with fully and freely engaged civil society	1.3 - Civil society engagement
		1.4 - MSG governance
	Countries with fully functional platforms for implementing the EITI Standard	1.5 - Work plan
No. of countries with ... - Beyond - Satisfactory progress - Meaningful progress - Inadequate progress - No progress		

The results of national EITI processes are two-fold: MSGs are both responsible for (i) the disclosure of EITI data and (ii) to disseminate and promote its usefulness to the public to ensure informed public debate. The proposed outcome indicators are included in Table A 4 below, as *transparency indicators* and *national level impact indicators*.

It is still important to note that three of the requirements are not included as proposed outcome indicators, as they are not assessed during Validation. They are EITI Requirements 2.5, 5.3 and 7.2, which are only *recommended* by the EITI Standard. Requirement 2.5 will be subject for inclusion once the requirement (on beneficial ownership) comes into effect in 2020.

Table A 4: Outcome indicators level 2

Category	Type	Indicator
Transparency indicators	Countries with transparent legal and fiscal frameworks commensurate	2.1 - Legal framework
	Countries with transparent licensing systems	2.2 - License allocations
		2.3 - License register
	Countries with clear policies on contract disclosure	2.4 - Policy on contract disclosure
	Countries with full disclosure of the state's participation in extractive sectors	2.6 - State participation
	Countries with information on exploration activities	3.1 - Exploration data
		3.2 - Production data
	Countries with full disclosure of production and exports	3.3 - Export data
	Countries disclosing comprehensive revenue-data in accordance with the EITI Standard	4.1 - Comprehensiveness
	Countries disclosing in-kind revenues	4.2 - In-kind revenues
	Countries disclosing information on infrastructure and barter arrangements	4.3 - Barter agreements
	Countries disclosing transport revenues	4.4 - Transportation revenues
	Countries disclosing state-owned enterprises' transactions	4.5 - SOE transactions
	Countries disclosing subnational payments	4.6 - Direct subnational payments
	Countries with sufficient disaggregation of data	4.7 - Disaggregation
	Countries with timely data	4.8 - Data timeliness
	Countries with comprehensive assessment of data quality in accordance with the EITI Standard	4.9 - Data quality
	Countries disclosing distribution of revenues	5.1 - Distribution of revenues
	Countries disclosing subnational transfers	5.2 - Subnational transfers
	Countries disclosing social expenditures	6.1 - Mandatory social expenditures
	Countries disclosing quasi-fiscal expenditures	6.2 - SOE quasi-fiscal expenditures
	Countries disclosing macroeconomic data	6.3 - Economic contribution
National level impact indicators	Countries that ensure EITI data is comprehensible, promoted, publicly accessible and contributes to public debate.	7.1 - Public debate
	Countries that follow up on recommendations	7.3 - Follow up on recommendations
	Countries that actively assesses outcomes and impact in accordance with the EITI Standard	7.4 - Outcomes and impact of implementation

Impact: Big picture indicators

If EITI countries succeed in all the above-mentioned aspects, and assuming other external factors beyond EITI's control remain constant, the Theory of Change suggests that a country's governance of natural resource wealth and investment climate will be influenced positively.

This paper does not propose to make many changes to the Big picture indicators, other than the **removal** of *PPP conversion ratio to market exchange rates*, *HDI Education score*, *HDI Health score*, *Health expenditure per capita* and *Health expenditures (% of public expenditure)*. The first five of these are removed as it is less relevant or coherent with the EITI Principles, while the latter two are removed due to issues of data availability¹⁴. Also we suggest to remove the Worldwide Governance Indicators (WGI), replacing them with an overarching governance indicator from Natural Resource Governance Institute (NRGI), as stated in the next paragraph.

The group also recommends the **addition** of the Human Development Index overall score, to supplant the pure economic indicator of GDP per capita. In addition, we introduce a new Governance-indicator: The *Resource Governance Index*, which is developed by the NRGI. This complements several indicators under the governance-category, as it is a composite index partly based on the WGI-indicators. This index also combines these with original research performed by NRGI and their affiliates, but is only published every three years.

Table A 5: Big picture indicators (impact)

Category	Indicator
Growth, poverty reduction	GDP per capita
	PPP conversion ratio to market exchange rates
	HDI education
	HDI Health
	Health expenditure per capita
	Health expenditures (% of public expenditure)
	Human Development Index overall score
Investment climate	WEF score
	World Bank's Doing Business index
	Net FDI (% of GDP)
Governance	Freedom house
	TI Corruption perception score
	WGI Control of Corruption
	WGI Voice and Accountability
	WGI Political Stability and Absence of Violence
	NRGI Resource Governance Index

¹⁴ This data has been collected as part of collecting information on the HDI indices, but the HDI Health index only uses the "latest data available", which is often not renewed for several years.

Annex B: Comparing Key Performance Indicators of 2010 and 2017

Find below three comparison tables of the KPI frameworks as decided by the EITI Board in 2010 and the current KPI framework included in the Workplan for 2018.

Table B 1: Big picture indicators, 2010 versus 2017

Last compiled for 2017 EITI Progress Report¹⁵

Thematic area	2010 KPIs	2017 KPIs
Growth, poverty reduction	GDP growth	GDP per capita
		PPP conversion ratio to market exchange rates
	UN GINI coefficients	Net FDI (% of GDP)
	UNDP's Human Development Index	HDI education
		HDI Health
		Health exp. per capita
		Health expenditure (% of public exp.)
Investment climate	Credit ratings	WEF score
		OECD Country Risk Classification
	World Bank's Doing Business index	Time spent on taxes
Governance	Global Integrity Index's indicators for - Civil society organisations - Public access to information - Government accountability - Overall score	WGI Voice and Accountability
	Freedom House's Freedom measure	Freedom house
	Open Budget Index	WGI Control of Corruption
	Transparency International's Corruption Perception Index	TI Corruption perception score
	World Bank's CPIA indicators for - Macroeconomic management rating - Equity of public resource use rating - Transparency, accountability and corruption in the public-sector rating	WGI Political Stability and Absence of Violence

¹⁵ <https://eiti.org/progress-report-2017>

Table B 2: Outcome indicators, 2010 versus 2017

Outcome indicators	2010 KPIs	2017 KPIs
General indicators from the Standard	No. of compliant countries	Number of countries Satisfactory progress
	No. of candidate countries	Number of countries Meaningful progress
	No. of supporting companies	Number of countries Inadequate progress
	No. of supporting investors	Number of countries Yet to be assessed
	No. of supporting countries	Number of implementing countries
	No. of completed validations	Number of countries that publish annual activity report on time/total number of countries
		Number of countries that publish EITI report on time/total number of countries eligible for publication
Revenue disclosure	No. of reports (including disaggregated reports)	Number of fiscal years reported in total (yearly and accumulated)
		Total (trillion US\$) amount of revenue disclosed (accumulated)
	Sector coverage (percentage)	Average size (in %) of net discrepancies reported in EITI Reports
		Number (average) of reports (reporting cycles/ fiscal years) published to become compliant
	Regularity in EITI disclosure	Timeliness (interval of time between end of fiscal year and data published)
		% of reports published using open data formats/ total number of reports published*
Value chain	N/A	Number of fiscal years covered by summary data*
		Average cost of reports per fiscal year reported (US\$)*
		% of countries that include information about licensing (register, allocation).
		% of countries that include production volumes
		% of countries that disclose beneficial ownership
		% of countries that include sub-national revenues
		% of countries that include social payments
		% of countries that, according to government policy, contracts can be fully or partially disclosed
		% of countries that, in practice, contracts are fully or partially disclosed
		% of countries (NOCs) that disclose information in accordance with 4.1.c (sales of in-kind)
Debate and impact	Users of EITI website	Number of sessions on EITI website annually (monthly)
	Articles published about the EITI	Number of articles and/or news items mentioning the EITI (Factiva)
	References of EITI in articles, news items and blogs	Number of subscribers to newsletter
	Subscribers to EITI's newsletter	Recommendation identified/follow-ups (from a selected number of countries)

Table B 3: Secretariat effectiveness indicators, 2010 versus 2017

Secretariat effectiveness indicators	2010 KPIs	2017 KPIs
Support to implementing countries	Resources allocated for missions and support to implementing countries	Budget allocation (% of total) % of staff time allocated
	Resources for training, including InWent seminars	Number of guidance notes issued/revised
	Number of people trained	Number of National Secretariats circulars issued
	Reconciliation reports reviewed	Number of missions to implementing countries
	Number of EITI Reports	Number of reports reviewed
	Number of EITI Reports with disaggregated information	Number of extension requests, suspensions and others processed
	Sector coverage (percentage)	Number of rapid responses processed
	Regularity of EITI disclosure	Number of National coordinators meetings held (regional, global)
	Companies participating in EITI Reporting	
Outreach	Resources allocated for missions to outreach countries	Budget allocation (% of total) % of staff time allocated
	Number of countries visited	Number of capacity building/rising awareness events held
		Number of visits to outreach countries
		Number of candidature applications processed
Board and Chair support	No. of Board meetings and resources allocated to Board meetings and Chairman's support	Budget allocation (% of total) % of staff time allocated
		Number of Board meetings held
		Number of participants in Board meetings (incl. observers)
		Number of side events held during Board meetings
		Number of Board circulars issued
		Number of Committee meetings held
		Number of missions and/or visits that included the Chair
Relation with stakeholders	Resources allocated to relations with stakeholders	Budget allocation (% of total) % of staff time allocated
	Meetings organised (including roundtables, Board and side meetings, national coordinators meeting and other conferences)	Number of meetings held (incl. donor coordination roundtables, companies)
		Number of joint staff meetings (with World Bank)
		Number of supporting companies (total accumulated)
		Number of supporting financial institutions (total accumulated)
		Number of supporting countries.
Global Conference	N/A	Budget allocation (% of total) % of staff time allocated
		Number of participants
		Number of countries represented in the national expo
Communication	Resources allocated to communication	Budget allocation (% of total) % of staff time allocated
	Publications, including website, notes and reports	Number of news items published in EITI website
		Number of mentions in media (Factiva)
		Number of social media (Facebook, tweeters) items
		Number of blogs published in EITI website
		Number of newsletter issued
		Number of "other publications" issued (incl. mentions in media, case studies, impact stories, Progress report)
		Number of videos published
Management & administration	Resources allocated to governance, management and administration	Budget allocation (% of total) % of staff time allocated
Training	N/A	Budget allocation (% of total) % of staff time allocated
		Number of people trained
Validation	Staff resources allocated to validation	Budget allocation (% of total) % of staff time allocated
	Validation reports reviewed	Number of Validations processed decisions (in progress)
		Number of initial data collection and stakeholder consultations (previously Secretariat reviews) conducted

Board paper 40-4-D**Berlin, 28-29 June 2018**

Submitted by: Implementation Committee

on: 14 June 2018

Inquiry from EITI Germany regarding requirement 4.1 and 4.6

For decision

For discussion

For information

Summary:

The Implementation Committee recommends that the Board agrees that the approach outlined by the MSG in Germany to requirement 4.1 and 4.6 is in line with the EITI Standard.

Supporting documentation

Request from D-EITI MSG available [here](#).

Has the EITI competence for any proposed actions been considered?

Guiding implementation is an EITI competence

Financial implications of any actions

Not applicable.

Document history

Submitted to the Implementation Committee	2 June 2018
Implementation Committee recommendation	7 June 2018
Submitted to the EITI Board	14 June 2018

INQUIRY FROM EITI GERMANY REGARDING REQUIREMENT 4.1 AND 4.6

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1. Recommendation

The Implementation Committee recommends that the Board agrees the following:

The EITI Board confirms that the proposal from the multi-stakeholder group in Germany on the materiality threshold for local business taxes is in line with the EITI requirements 4.1 and 4.6 of the EITI Standard.

2. Background

On 3 May 2018, the EITI Chair received a request (see Annex 1) for clarification on requirements 4.1 and 4.6 from EITI Germany (D-EITI). The request relates to whether a materiality threshold of €2 million for local business taxes is in line with the EITI requirements 4.1 and 4.6.

Requirement 4.6 states that:

It is required that the multi-stakeholder group establish whether direct payments, within the scope of the agreed benefit streams, from companies to subnational government entities are material. Where material, the multi-stakeholder group is required to ensure that company payments to subnational government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.

The D-EITI MSG has agreed that local business taxes are a material revenue stream. For 2016, Local business taxes were the second largest revenues stream. Requirement 4.1 therefore requires “a comprehensive reconciliation of [material] government revenues and company payments” (Requirement 4.1.c). It further states that “All government entities receiving material revenues are required to comprehensively disclose these revenues in accordance with the agreed scope” (ib id). In

addition, “Unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds” (Requirement 4.1.d).

3. Assessment of the request

The usual approach to defining materiality (of sub-national payments, and payments more generally) involves establishing a clear threshold for what constitutes a material payment. This is usually done in one of two ways:

1. Set an aggregate payment threshold based on the total payments made by a company. For example: “Any company making total payments (within the scope of the agreed material revenue streams) in excess of \$50 000 is considered material and should report all payments regardless of the size of the individual payments”
2. Set disaggregated payment thresholds—this approach employs the same rationale as above, but sets different thresholds for each of the material revenue streams. For example: “Any company paying corporate taxes greater than \$10000 or royalties greater than \$5000 or dividends greater than \$10 000, or license fees greater than \$1000 is required to report” The MSG should establish whether the entities that meet this test should disclose all payments, or just the payments that are material¹.

The request from D-EITI adopts the second approach. The MSG has agreed a materiality threshold of EUR €100,000 (in line with the EU-Accounting Directive). However, the MSG argues that reconciliation of local business taxes at EUR 100,000 is not feasible. As outlined in the request from the MSG, there are 11,192 communities in Germany. Local business tax is paid to any community (or communities for a shared area) in which an extractive company runs an operating facility. Companies disclose these payments in accordance with the German transposition of the EU-Accounting Directive. However, data collection from local communities is challenging due to the large number of municipalities and strong privacy protections which require a waiver letter from each company for each municipality in which they operate. A comprehensive reconciliation of the local business tax reported by companies for the D-EITI “Report for 2016” would involve more than 240 communities. Reconciling all payments disclosed by companies would be prohibitively expensive.

¹ Guidance note 13 on defining materiality, reporting thresholds and reporting entities
https://eiti.org/sites/default/files/documents/guidance_note_13_on_defining_materiality_2016.pdf

The MSG considered a number of options for addressing this issue. One option was maintaining the EUR 100 000 threshold, while reconciling only a sample of payments. The MSG preferred a higher threshold, which would focus on reconciling the largest payments. The MSG therefore proposes a higher materiality threshold for reconciling local business taxes of EUR 2 million. This is expected to cover approximately 50% of local business taxes. The proposal has the full support of the MSG.

4. Conclusion

In the Secretariat's view, the proposal from the D-EITI is in line with the EITI Standard and reasonable given the circumstances. The EITI Standard provides considerable flexibility to MSGs on how to define materiality. *Disaggregated* payment thresholds is an accepted (albeit atypical) approach. It is noteworthy that the approach ensures comprehensive disclosure by companies, and a cost-effective approach to reconciliation that focusses on the largest payments. The proposal has the full support of the MSG after extensive discussion. The MSG would have the opportunity to review and revise the thresholds for each reporting cycle.

Annex 1 – Request from the D-EITI MSG

Available [here](#).

EITI Outreach Strategy 2018-2019

For discussion

Summary

The International Secretariat recommends that the Board approves this EITI Outreach Strategy 2018.2019.

Supporting documentation

2018 EITI International Secretariat Work Plan available [here](#)

Has the EITI competence for any proposed actions been considered?

The International Secretariat 2018 work plan direct the International Secretariat to coordinate EITI outreach in accordance with the Board's 2018 Outreach Strategy.

Financial implications of any actions

Given the Secretariat agreed priorities in the 2018 Work plan, active outreach activities are foreseen to be limited. The EITI Board agreed a budget of USD 70k, including staff costs, for outreach activities in 2018. The International Secretariat's limited outreach efforts are directed toward the priority countries outlined in the 2018 Outreach Strategy

Document history

Draft submitted to the Outreach and Candidature Committee	24 May 2018
Submitted to the EITI Board	14 June 2018

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1 Summary

The EITI and its partners agree that there are opportunities to reach out to other resource rich countries that could benefit from EITI implementation and could contribute to improved global governance of natural resources and their contribution to development goals. This document provides a strategy for how the EITI, together with supporting governments, companies and organisations, commits to work towards wider implementation of the EITI.

This strategy builds on the consolidation of the EITI as the global standard implemented in 51 countries, the increased focus on embedding EITI implementation into government systems and regular public disclosures and the contribution of the EITI, nationally and globally, to address challenges in a number of areas such as beneficial ownership, commodity trading, SOEs governance, improved tax administration, and avoiding practices that could undermine taxation.

In accordance to the International Secretariat 2018 Work plan, this strategy addresses the costs and benefits of EITI implementation in prospective candidate countries and the cost implications for the International Secretariat. Given the Secretariat's budget priorities, the strategy focuses on the highest priority on countries which have committed to EITI implementation, and puts a greater emphasis on outreach from supporting countries and organisations. The strategy stresses that parallel and coordinated outreach efforts are needed from the EITI and partners to prospective supporting countries, companies, investors and civil society organisations.

2 Introduction

The EITI is increasingly recognised as the global standard for the good governance of oil, gas and mineral resources. The EITI is currently implemented by 51 countries and supported by over 60 companies and institutional investors, hundreds of civil society organisations and a number of international agencies. Several other countries have already committed to implement the EITI, including: Argentina, Australia, Ecuador, Lebanon and Tunisia.

There are still a number of resource-rich countries that could benefit from EITI implementation (e.g. Angola, Brazil, Chile, Kenya, South Africa, Uganda and Zimbabwe). The focus on embedding EITI transparency into government systems and regular public disclosures¹ together with the work on a number of areas related to good governance, present an opportunity to revitalise discussions with stakeholders in these countries.

There is a continuing need for comprehensive and reliable data to inform these deliberations.

Various stakeholders are working to promote the EITI in these countries with the EITI International Secretariat providing direct and indirect coordination and support. Parallel outreach efforts are needed from the EITI and partners to prospective supporting countries, companies, investors and civil society organisations.

The International Secretariat work plan 2018² instructed the Secretariat to support outreach efforts in accordance with the agreed strategy. USD 70,000 was allocated for outreach activities. There are extensive outreach activities that do not require funding or only some relatively minor funds. For example, improved coordination between EITI's stakeholders could result in enhanced outreach activities by others than the EITI Secretariat and Chair. Other times, the Chair is simply mentioning the EITI while on other business and letters from the Secretariat and Chair can be a cost-effective way of reaching out.

3 Background and EITI outreach so far

Most of the 51 countries implementing the EITI would not be doing so had it not been for activities by the EITI's supporters and Secretariat highlighting the benefits of EITI implementation. These activities are referred to in this strategy as "outreach". A wide range of supporters have throughout the brief history of the EITI played key roles in this outreach work. In the early days, the British government did most of the outreach, also strongly supported by the American and French foreign services. The World Bank also became an early strong proponent of the EITI. Some companies contributed importantly.

Outreach to governments has taken many forms. Bilaterally, EITI implementation has been suggested at all levels: sometimes it has been deemed appropriate to bring it up with heads of governments, other times at a technical level. There have also been a wide range of multi-lateral efforts. The way the British, French, German and US governments have used the G8/G7 process has been critically important to the success of the EITI. Multilateral efforts such as supportive statements by the G8/G7, G20, and the UN General Assembly resolution from 2008, have also reinforced outreach efforts.

These efforts to ensure growing implementation of the EITI have focused on government representatives. After all, without the government committing to implement the EITI there will be no implementation. A key aspect in this work is to develop the rationale or business case for EITI implementation. Implementing countries may benefit domestically from an improved investment

¹ The Board agreed the paper "Encouraging systematic disclosure" in its Oslo's meeting in February 2018 (see Board Paper 39-4-A)

² https://eiti.org/files/eiti_secretariat_workplan_and_budget_2016.pdf
https://eiti.org/sites/default/files/documents/international_secretariat_work_plan_2018_-_4_dec_0.pdf

climate by providing a clear signal to investors and international financial institutions that the government is committed to greater transparency. The EITI assists in strengthening accountability and good governance, as well as promoting greater economic and political stability. This, in turn, can contribute to the prevention of conflict based around the oil, mining and gas sectors. In some countries the EITI has an explicit focus on reducing corruption. In other countries this aspect is not emphasised. In many countries, it is important to be seen to be contributing to developing and reinforcing a global standard.

It is also recognised that parallel outreach efforts are needed to prospective supporting countries, companies, investors and civil society organisations. Company and civil society representatives, including Global Witness, the Natural Resource Governance Institute, and Publish What You Pay have played important outreach roles. There is already strong support from International Financial Institutions (IFIs) and a range of other partner organisations (see <http://eiti.org/supporters/partnerorganisations>). These organisations often play a key role in EITI advocacy and technical assistance.

There have been outreach activities to companies, state-owned companies and civil society organisations. Outreach to citizens and civil society organisations has also been important, particularly when a government has been ambivalent regarding implementation. This approach has been important in several countries such as Brazil, South Africa and Uganda.

The **Global EITI Conferences** have provided an important catalyst for EITI outreach. The Conference provides a high-profile platform for countries to commit to EITI implementation, or to lodge a candidature application. Equally important it often provides an opportunity to renew political commitment at a high level.

The EITI developed a first outreach strategy in 2007, focused on the BRIC countries. A more formal global strategy was approved in 2012. A Board committee devoted to the topic was established in 2011. The intention behind these strategies has been to establish a framework for prioritising outreach activities and to ensure effective Board oversight. A balance has been sought between bringing structure and clear reporting on one side, and the need for flexibility on the other. Flexibility is important for two reasons in particular. First, the EITI cannot direct its supporting partners. The EITI can *appeal* for support, but it is obviously up to the partners themselves how extensively they engage in EITI outreach activities. Second, successful outreach has often been opportunistic: it has for example often been dependent on meetings and encounters the EITI Chair, Board Members and others have had for other reasons than the EITI. As the EITI has grown, implementing countries have played a greater role in outreach to neighbouring countries.

It is acknowledged that the effectiveness of outreach activities in the short term can be challenging to monitor and evaluate. The objective of outreach activities, ultimately a commitment to implement the EITI, may also take a long time to materialise. Establishing the effectiveness of this work is particularly challenging when these activities are undertaken by external partners (where reporting may be limited). Internally, the Secretariat is committed to reporting on any outreach activities, including the extent to which the objectives can be considered to have been met.

Since 2011 the Secretariat has provided the Board with regular Outreach Progress Reports (OPRs).

These can be useful in that they provide a general overview. However, for outreach to be successful, suggested messages often need to be adapted, taking into account both the recipient and the messenger. Suggested speaking points for a senior government official are likely to be subtly different to arguments and messages from a senior company representative. The feedback on any engagement can also be complicated by the fact that those working on the EITI may not even get full reporting from their senior's conversations with for example a head of state and the reporting may be restricted. Thus, outreach efforts and the reporting thereof, require trust and close contacts between those involved.

4 Objectives

The overall goal is to pursue the following objectives:

- Expand and diversify the use of the EITI to improve extractives governance.
- Raise awareness in target countries about the importance of greater transparency and the benefits of EITI implementation.
- Strengthen the EITI's standing as a global standard for revenue transparency and accountability in the extractive industries.
- Prepare countries to meet the sign-up requirements and to prepare for EITI implementation in line with the EITI Standard, including early engagement with industry and civil society.

5 Criteria

The EITI has developed a set of criteria to guide its outreach priorities and efforts, drawing on approaches previously developed by the International Secretariat, the World Bank, NRGI and ICMM.

These criteria have not been significantly altered compared to earlier strategies. Rather, at least from the Secretariat's perspective, they have stood the test of time and have provided a reliable framework in determining which outreach activities should be given priority. For example, the EITI Chair and the Secretariat receive a considerable number of invitations to conferences and other events. The criteria have proven to be useful in determining whether to accept invitations, explore if others involved with the EITI can attend, or to simply decline the invitation.

Criterion 1 - Potential impact of the EITI

What is the potential impact of the EITI? This criterion focuses on a country's susceptibility to the resource curse and the potential for the EITI to mitigate against this paradox and improve natural resource governance for poverty reduction and development. It is widely acknowledged that resource wealth, if mismanaged, can have an adverse impact on growth and fuel corruption, conflict and social unrest. Resource dependent developing countries in particular have faced significant challenges in addressing these risks. Indicators to be taken into consideration include population, poverty levels, resource dependency, the effectiveness of governance, and the extractive industry outlook.

Criterion 2- Strategic importance for the EITI

Is an outreach activity of strategic importance for the EITI? This criterion puts an emphasis on a

country's potential to encourage the implementation of the EITI regionally and/or internationally and to support the EITI's credibility generally as an open and participative multi-stakeholder platform. The size of a country's natural resource sector and importance vis-à-vis the national economy may be relevant. Some of these countries are middle-income countries that have not yet committed to implement the EITI. At the same time, implementation by OECD countries and emerging economies would enhance the credibility and legitimacy of the EITI. This would also facilitate the use of the EITI Standard for policy setting because new implementers would not only endorse the EITI but would also be inclined to mobilise relevant support.

Criterion 3 - Regional diversity

Is an outreach activity contributing towards regional diversity? The EITI Standard is making excellent progress in establishing itself as a global standard. The EITI is currently implemented by 24 countries in Africa, 10 countries in Asia, six countries in Europe, two countries in the Middle East, and nine countries in Latin America and the Caribbean.

Criterion 4 - Likelihood of effective implementation

What is the likelihood of effective implementation? In order for implementation to be effective and sustainable, political commitment to the EITI from the government and local ownership are paramount. Another factor for successful implementation includes an enabling environment for company and civil society engagement in accordance with the EITI Standard.

Criterion 5 – Comparative advantage of EITI partners

Does the Secretariat and/or chair have a comparative advantage compared to other EITI supporters? A number of EITI partners are already active in target countries through policy dialogue, networks, local offices, and capacity-building, institutional strengthening and development programmes. These could be used to leverage outreach opportunities and streamline country specific interventions.

6 Strategic approaches

Strategic approaches will continue to focus on mobilising support from a wide range of stakeholders, including supporting and implementing countries, companies, investors and institutions, complemented by targeted outreach by the EITI Chair and International Secretariat. The following approaches, which draw on current practices, will be adopted or further enhanced, encouraging a balanced stakeholder in-country and global engagement:

► Country-specific programmes

The EITI will continue to work closely with international development partners to integrate outreach interventions into their country-specific programmes. The initial efforts focus on raising awareness about the EITI, create dialogue and build capacity of local stakeholders. A key feature of this work is developing the arguments in support of EITI implementation, in particular linking the EITI to other reform activities. Where government has expressed an interest or has committed to implement, a substantial amount of work is often required establish the EITI in government with oversight from an appropriately constituted and representative MSG. This can often be done quickly, although often requires extensive preparatory work.

► Ad hoc contact groups

The contact groups will bring together stakeholders with a common interest in particular countries to

share information, coordinate activities, promote synergies and agree concrete actions. This includes both local and international supporters, including government, industry, investor and CSO representatives.

► Country visits

Targeted country visits will be conducted by the EITI Chair, Board members and/or the International Secretariat to pursue a direct dialogue with government authorities and other relevant stakeholders. Where the Secretariat undertakes country visits, a “back to office report” is typically distributed, with an update on the prospects for EITI implementation and the priorities for further outreach activities.

► Use of strategic meetings, events and processes

The EITI will identify relevant meetings, conferences, summits and other events, and seek to maximise the opportunities to leverage policy dialogue, public attention, political commitments, and media coverage. The EITI Global Conference, for example, is an important vehicle to reach out to broader audiences and enlist their support. The next Global Conference is expected in mid-2019. It will provide, both in the run-up and during the conference, an opportunity for engaging stakeholders from outreach targets including governments from prospected candidates and outreach priorities.

► Strategic collaboration with like-minded initiatives and networks

Every effort will be made to identify and collaborate with relevant initiatives and networks such as the Open Government Partnership in order to profile and communicate the benefits of EITI implementation. Key partners not yet doing so will be encouraged to include the EITI in their awareness programmes. The next OGP Summit will be in Georgia in July 2018 and is a good opportunity for commitments to implement.

► Effective use of communications tools

The EITI will make extensive use of the wide variety of communication tools through which the different target audiences can be engaged and informed, including regular correspondence (by letter, phone, or e-mail), printed materials, and the EITI website.

► Engagement of the media

Media strategies will be integrated into outreach activities to promote awareness on EITI on a broad scale.

► Peer learning and exchange

The EITI encourages the active involvement of implementing countries in outreach efforts by providing support for peer-to-peer sharing of information and best practices at the regional and international levels.

► Role of the EITI International Secretariat

In some cases, the EITI International Secretariat may need to provide direct and high-level advocacy, and coordinate the efforts of others directly. In other cases, the Secretariat’s role may include indirect support and/or encouraging peer or regional coordination.

7 Priority countries

In light of the above key criteria, the EITI has identified a number of priority countries for EITI outreach. The list and motivations below need to be reviewed regularly, taking into consideration the strategic approaches identified in section 5 above. The list should not be considered rigidly. If for example a government approaches the EITI, the EITI is expected to respond positively even if it is not an outreach priority.

Latin America and the Caribbean

Building on the recent increased number of countries in this region implementing the EITI and the peer regional exchanges, the priority countries are **Argentina, Brazil, Chile** and **Ecuador**. Argentina made a commitment to implement in EITI in Lima and confirmed it in December 2017. Ecuador's Minister of Mines Rebeca Illescas announced the country's commitment to implement the EITI in Toronto during the most recent PDAC's conference in early March 2018. Brazil faces considerable political and economic challenges, and there is a strong case for using the EITI to address governance concerns in the extractive industries. The new administration in Chile has indicated a renewed commitment to open government including consolidating its regional leadership in transparency and good governance.

Asia and the Pacific

Outreach will focus on **Australia** and **Thailand**. Australia recently committed to implement the EITI. Preparations in Thailand are also progressing. There have been numerous efforts in the past to engage **China**, with a focus on engaging with Chinese companies that operate in EITI implementing countries. There have been limited efforts to date to engage **India**, which has a large mining industry. Indian companies have a growing role internationally and there is a need to more formally engage the Indian government.

Africa

Key priorities for outreach efforts in the region remain **Angola, South Africa and Zimbabwe**. In all three cases, there is renewed interest and potential following recent changes of leadership. Civil society and company efforts will be important. **Tunisia** has committed to implement and the Secretariat is supporting efforts to get the process started. The first meeting of the Tunisian MSG is expected in the coming months. **Niger** withdrew from the EITI in 2017 but has indicated that it is keen to re-join and the Secretariat has supported that interest.

Europe and Middle East

The Secretariat has received a candidate application from **the Netherlands**. The government of **Lebanon** has committed to implement and partners are encouraging progress. The first meeting of the Lebanese MSG is expected in the next few months.

8 Resource implications

Increased focus on outreach priorities does not always bring additional costs. It often requires more involvement of the EITI Chair, the Head of the Secretariat and other senior representatives, requiring changes of priorities rather than additional resources. It can mean adding a visit to a priority country to a mission to an implementing country. It can sometimes entail use of conferences and bilateral opportunities. The budgetary implications of the outreach strategy include some staffing-time, travel, communications and other administrative costs for the International Secretariat. The 2018 Secretariat work plan and budget has allocated USD 70,000 for outreach activities including staff costs.

Candidature Assessment: The Netherlands

For decision

For discussion

For information

Summary

The Outreach and Candidature Committee recommends that the Netherlands is admitted as an EITI candidate country.

Supporting documentation

The candidature application is publicly available [here](#).

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to admit candidate countries (Article 5(2)(i)(a)). The EITI Standard (chapter 2) outlines the sign-up requirements and the agreed procedure for processing candidature applications.

Financial implications of any actions

The International Secretariat does not provide direct financial support to implementing countries. However, each additional implementing country implies an increased work load for the Secretariat, including staff time dedicated to supporting the work of the national secretariat and MSG and additional translation, travel and Validation costs. The total cost to the International Secretariat varies depending on the size of the country and the extractive industries, the capacity of government agencies, industry and civil society, and the level of support provided by supporting organisations. The expected costs are reflected in the 2018 work plan.

Document history

Candidature application submitted	16 April 2018
Review by the OCC	29 May 2018
OCC agreement on a Board Paper	7 June 2018 *not quorate
Submitted to the EITI Board	14 June 2018

CANDIDATURE ASSESSMENT: THE NETHERLANDS

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1 Recommendation

The Outreach and Candidature Committee makes the following recommendation to the EITI Board:

The EITI admits the Netherlands as an EITI candidate country on <date of Board decision>. In accordance with the EITI Standard, the Netherlands is required to publish its first EITI Report within 18 months of becoming a candidate (i.e., by date of Board decision + 18 months). The Netherlands is required to publish an annual progress report for 2018 by 1 July 2019. Validation will commence within two and a half years of becoming a candidate (i.e., by date of Board decision + 2.5 years).

2 Summary

The International Secretariat received an EITI candidature application from the Netherlands on 16 April 2018. The application is publicly available on the EITI website¹. The procedures for assessing candidature applications are set out in the EITI Standard, which specifies five “sign-up” requirements:

“The EITI requires effective multi-stakeholder oversight, including a functioning multi-stakeholder group that involves the government, companies, and the full, independent, active and effective participation of civil society. The key requirements related to multi-stakeholder oversight include: (1.1) government engagement; (1.2) industry engagement; (1.3) civil society engagement; (1.4) the establishment and functioning of a multi-stakeholder group; and (1.5) an agreed work plan with clear objectives for EITI implementation, and a timetable that is aligned with the deadlines established by the EITI Board” (EITI Standard, p.14).

Requirement 8.1 stipulates that: “should the multi-stakeholder group conclude that it faces exceptional circumstances that necessitate deviation from the implementation requirements, it must seek prior EITI

¹ <https://eiti.org/document/netherlands-candidature-application>

Board approval for adapted implementation". The Netherlands has not made an adapted implementation request.

In accordance with agreed procedures, the application was assessed by the International Secretariat (see sections 3 and 4, below). In addition to reviewing the application, the Secretariat sought comments and clarifications from stakeholders.

The Secretariat's assessment is that the Netherlands has satisfied Requirements 1.1 to 1.5 and is therefore eligible to be admitted as an EITI candidate country.

The EITI Standard also outlines the requirements relating to reporting and Validation deadlines (see Requirements 4.8(a), 8.2 and 8.3(d):

Requirement 4.8(a): Implementing countries are required to produce their first EITI Report within 18 months of being admitted as an EITI candidate.

Requirement 8.2: If the EITI Report is not published by the required deadline, the country will be suspended.

Requirement 8.3(d): EITI candidate countries are required to commence the first Validation within two and a half years of becoming an EITI candidate.

These requirements are reflected in the recommendation above.

The transition procedures agreed by the EITI Board in Oslo in June 2016 state that countries applying for candidature after 1 January 2017 should outline plans for implementing beneficial ownership transparency as part of their work plan.

3 Background

One often-cited aspect of the "resource curse" is the risk of so-called "Dutch disease". The origin of the phrase is the Dutch economic crisis of the 1960s following the discovery of North Sea natural gas². The Groningen gas field is a giant natural gas field in the Groningen province in the northeastern part of the Netherlands. Discovered in 1959, it is one of the largest gas fields in the world. Initially, Dutch gas production was almost entirely dependent upon Groningen. Following the 1973–1974 oil crisis, the Dutch government designed a new energy policy, which saved Groningen as a strategic reserve to be used over a longer period, and promoted the exploitation of marginal fields via the Small Fields Policy (SFP)³. These discoveries transformed the economy. The term "Dutch disease" was coined to refer the macroeconomic challenges associated with the exploitation of this resource:

The revenues generated from the gas business were used by successive governments as current income, flooding public finances, overvaluing the national currency, and making exports in guilders far too expensive up until the emergence of the Euro in 2000. This vicious circle came to be known as the "Dutch Disease". Many national manufacturing industries struggled to export while public investments and resources were lost in bureaucracy⁴.

² <http://lexicon.ft.com/Term?term=dutch-disease>

³ <http://www.ogfi.com/articles/print/volume-7/issue-4/focus-reports/the-netherlands-the-energy-hub-of-europe.html>

⁴ Ibid

In 2018, the Netherlands faces a new challenge. In March 2018, the Dutch government said it would phase out gas production at the Groningen field by 2030 as part of efforts to reduce the danger caused by small but damaging earthquakes⁵. Production is set for 21.6 billion cubic meters (bcm) in 2018, down from a peak of 53.8 bcm in 2013, following a series of cuts as decades of extraction have led to dozens of earthquakes each year, damaging thousands of homes and buildings⁶.

Shutting down the Groningen gas field is expected to be complicated for the Netherlands. Gas from the field is used by almost 90 percent of the Dutch households. The Dutch government plans to build a new €500 million (\$616.6 million) nitrogen plant to convert imported gas into fuel⁷.

EITI in the Netherlands

The government of the Netherlands has been closely involved with the EITI since its inception in 2002. The candidature application provides a detailed overview. In late 2015, the Government committed to implement the EITI. In early 2017, Dirk-Jan Koch was appointed as the champion for Netherlands EITI (NL-EITI). In late 2017, the NL-EITI multi-stakeholder group (MSG). MSG Terms of Reference (ToRs) and a workplan have been established. The MSG's work plan is based on the national NL-EITI objective, described as follows:

The objective of NL-EITI is to provide each member of Dutch society with transparent and verified information about the money flows between the extractive industries and the government in the context of the extractive industry value chain, in order to contribute to a well-informed debate about the extractive industry value chain in the Netherlands.

The extractive industries include oil and gas extraction as well as salt mining.

4 Candidature assessment

EITI REQUIREMENT 1.1

The EITI Standard states that:

- a) The government is required to issue an unequivocal public statement of its intention to implement the EITI. The statement must be made by the head of state or government, or an appropriately delegated government representative.*
- b) The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation.*
- c) The government must be fully, actively and effectively engaged in the EITI process.*
- d) The government must ensure that senior government officials are represented on the multi-stakeholder group.*

Secretariat assessment

⁵ <https://www.reuters.com/article/us-netherlands-groningen-gas/netherlands-to-halt-gas-production-at-groningen-by-2030-idUSKBN1H51PN>

⁶ *Ib id*

⁷ <http://www.dw.com/en/netherlands-to-shut-europes-biggest-gas-field-to-limit-quake-risk/a-43190065>

The application clearly demonstrates the government's commitment to EITI implementation. The Government has appointed senior officials to lead on EITI implementation and participate in the MSG. The government has also undertaken extensive scoping work to prepare for EITI candidacy.

The International Secretariat's assessment is that the EITI Requirement 1.1 is met.

EITI REQUIREMENT 1.2

The EITI Standard states that:

- a) Companies must be fully, actively and effectively engaged in the EITI process.*
- b) The government must ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected.*
- c) The government must ensure that there are no obstacles to company participation in the EITI process.*

Secretariat assessment

The application demonstrates that companies are fully, actively and effectively engaged in the EITI process.

In the first instance, the scope of EITI implementation in the Netherlands will focus on oil and gas extraction. A considerable number of Dutch oil and gas extraction companies are members of the Netherlands Oil and Gas Exploration and Production Association (NOGEPa). NOGEPa has indicated that it is willing to advance EITI implementation in the Netherlands. It is both a full member and an alternate member of the NL-EITI MSG, and communicates the MSG's decisions to its member companies. In consultation with NOGEPa, its member companies NAM BV, Vermilion Energy Netherlands BV and Dyas BV are also full and/or alternate members of the MSG. Shell International BV, which is not a member of NOGEPa, is an alternate member of the MSG.

The International Secretariat understands that members of the industry constituency have freely discussed internally their views on the EITI process and their representation on the MSG. The International Secretariat is not aware of any obstacle to company participation in the process. The application notes that:

An important number of oil and gas extraction companies come under the scope of the Decree on Disclosing Payments to Government Entities (Besluit rapportage van betalingen aan overheden; i.e. the Dutch implementation of the EU's Directive on the annual financial statements). As such, these companies have been required to submit an overview of their payments to Dutch government entities to the Chamber of Commerce since 2017. From the standpoint of the administrative burden, the parallels between this Decree and the EITI Standard 2016 form a key argument for the participation of the oil and gas extraction companies in NL-EITI

The International Secretariat's assessment is that the EITI Requirement 1.2 is met.

EITI REQUIREMENT 1.3

The EITI Standard states that:

In accordance with the civil society protocol:

- a) Civil society must be fully, actively and effectively engaged in the EITI process.*
- b) The government must ensure that there is an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of civil society substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected.*
- c) The government must ensure that there are no obstacles to civil society participation in the EITI process.*
- d) The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI.*
- e) Stakeholders, including but not limited to members of the multi-stakeholder group must:*
 - i. Be able to speak freely on transparency and natural resource governance issues.*
 - ii. Be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate.*
 - iii. Have the right to communicate and cooperate with each other.*
 - iv. Be able to operate freely and express opinions about the EITI without restraint, coercion or reprisal.*

Secretariat assessment

There is an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice. The rights of civil society organisations are protected and respected.

Civil society in the Netherlands is actively and effectively engaged in the EITI process. CSO organisations have actively participated in preparatory workshops since 2015. This culminated in PublishWhatYouPay, Transparency International and FNV agreeing to join the NL-EITI MSG.

The International Secretariat's assessment is that the EITI Requirement 1.3 is met.

EITI REQUIREMENT 1.4

The EITI Standard states that:

a) The government is required to commit to work with civil society and companies, and establish a multi-stakeholder group to oversee the implementation of the EITI. In establishing the multi-stakeholder group, the government must:

- i. Ensure that the invitation to participate in the group is open and transparent.*
- ii. Ensure that stakeholders are adequately represented. This does not mean that they need to be equally represented numerically. The multi-stakeholder group must comprise appropriate stakeholders, including but not necessarily limited to: the private sector; civil society, including independent civil society groups and other civil society such as the media and unions; and relevant government entities which can also include parliamentarians. Each stakeholder group must have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse representation. The nomination process must be independent and free from any suggestion of coercion. Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies.*
- iii. Consider establishing the legal basis of the group.*

b) The multi-stakeholder group is required to agree clear public Terms of Reference (ToRs) for its work. The ToRs should, at a minimum, include provisions on:

The role, responsibilities and rights of the multi-stakeholder group:

i. Members of the multi-stakeholder group should have the capacity to carry out their duties.

ii. The multi-stakeholder group should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society. The multi-stakeholder group should also widely disseminate the public information that results from the EITI process such as the EITI Report.

iii. Members of the multi-stakeholder group should liaise with their constituency groups.

Approval of work plans, EITI Reports and annual progress reports:

iv. The multi-stakeholder group is required to approve annual work plans, the appointment of the Independent Administrator, the Terms of Reference for the Independent Administrator, EITI Reports and annual progress reports.

v. The multi-stakeholder group should oversee the EITI reporting process and engage in Validation.

Internal governance rules and procedures:

vi. The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner. Any member of the multi-stakeholder group has the right to table an issue for discussion. The multi-stakeholder group should agree and publish its procedures for nominating and changing multi-stakeholder group representatives, decision-making, the duration of the mandate and the frequency of meetings. This should include ensuring that there is a process for changing group members that respects the principles set out in Requirement 1.4.a. Where the multi-stakeholder group has a practice of per diems for attending EITI meetings or other payments to multi-stakeholder group members, this practice should be transparent and should not create conflicts of interest.

vii. There should be sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption.

viii. The multi-stakeholder group must keep written records of its discussions and decisions.

Secretariat assessment

The candidature application demonstrates that the government is committed to collaborate with companies and civil society on EITI implementation. Representatives from government, companies and civil society groups have been actively and substantively engaged in the design, implementation and monitoring of the EITI process. As noted in the application:

Preparatory work for the establishment of the NL-EITI MSG commenced in 2014 at the initiative of the Ministry of Foreign Affairs, in consultation with the Ministry of Economic Affairs and the Ministry of Finance. Following a consultation between the ministries and NOGPA on the subject of NL-EITI, Dutch civil society organisations were approached from 2015 onwards to take part in NL-EITI. The MSG was established following the appointment of Prof. Dirk-Jan Koch as NL-EITI champion (and MSG chair) as of April 1st, 2017.

The EITI Standard requires that “Each stakeholder group must have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse representation”. While, formally,⁷

speaking, the MSG chair invited the organisations to join the MSG, the International Secretariat's understanding is that each constituency was free to nominate its representatives.

The International Secretariat's assessment is that the EITI Requirement 1.4 is met.

EITI REQUIREMENT 1.5

The EITI Standard states that:

The multi-stakeholder group is required to maintain a current work plan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board. The work plan must:

- a) Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. Multi-stakeholder groups are encouraged to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business.*
- b) Reflect the results of consultations with key stakeholders, and be endorsed by the multi-stakeholder group.*
- c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation¹⁰ should be tailored to contribute to the desired objectives that have been identified during the consultation process. The work plan must:*
 - i. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation.*
 - ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9).*
 - iii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation.*
 - iv. Outline the multi-stakeholder group's plans for implementing the recommendations from Validation and EITI reporting.*
- d) Identify domestic and external sources of funding and technical assistance where appropriate in order to ensure timely implementation of the agreed work plan.*
- e) Be made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public.*
- f) Be reviewed and updated annually. In reviewing the work plan, the multi-stakeholder group should consider extending the detail and scope of EITI reporting including addressing issues such as revenue management and expenditure (5.3), transportation payments (4.4), discretionary social expenditures (6.1.b), ad hoc subnational transfers (5.2.b), beneficial ownership (2.5) and contracts (2.4). In accordance with Requirement 1.4.b (viii), the multi-stakeholder group is required to document its discussion and decisions.*
- g) Include a timetable for implementation that is aligned with the reporting and Validation deadlines established by the EITI Board (8.1-8.4) and that takes into account administrative requirements such as procurement processes and funding.*

Secretariat assessment

The MSG has agreed a 2018-2019 work plan. As noted above, the workplan includes implementation objectives that are linked to the EITI Principles and that reflect national priorities for the extractive industries.

The main milestones during this period are as follows:

April 2018: submission of candidature to the EITI Board;

July 2018: the Netherlands designated as an EITI candidate country;

October 2018: call for payments and revenues for 2017;

July 2019: completion of the first NL-EITI report for the fiscal year 2017;

September 2019: publication of the first NL-EITI report.

The work plan provides additional detail, with indicative costing. The application address both beneficial ownership disclosure, and future work on mainstreaming.

Additional work is recommended to more specifically address what kinds of information is of particular interest to stakeholders, and what analytical, communication and dissemination activities are needed to meet these demands.

The International Secretariat's assessment is that the EITI Requirement 1.5 is met.

Validation of Cameroon

For decision

For discussion

For information

The Validation Committee recommends that the EITI Board agree that Cameroon has made meaningful progress in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Cameroon will be requested to undertake corrective actions before the second Validation on **<date of Board decision + 18 months>**.

Supporting documentation

Final Validation report [\[English\]](#) | [\[French\]](#).

Comments on the draft Validation Report and initial assessment by the MSG [\[English\]](#) | [\[French\]](#).

Draft Validation report [\[English\]](#) | [\[French\]](#).

Initial assessment by the International Secretariat [\[English\]](#) | [\[French\]](#).

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in late-2019. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time and travel (if needed).

Document history

Draft Board Paper reviewed by the Validation Committee	26 January 2018
Board Paper (for discussion) reviewed by the Board	13 February 2018
Updated draft Board Paper reviewed by the Validation Committee	26 March 2018
Validation Committee agreement on a Board Paper	20 April 2018
Submitted to the EITI Board	14 June 2018

VALIDATION OF CAMEROON

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Proposed Board decision on the Validation of Cameroon

The Validation Committee recommends that the EITI Board takes the following decision:

Following the conclusion of Cameroon's Validation, the EITI Board decides that Cameroon has made meaningful progress overall in implementing the EITI Standard.

The Board congratulates the Government of Cameroon and Multi-Stakeholder Group (MSG) on the progress made in improving transparency and accountability in the extractive industries by providing a trusted source of data to inform public debate. The Board welcomes the EITI's impact in gradually enticing government agencies towards routine disclosures, evidenced by more regular publications by the national oil company, the Société Nationale des Hydrocarbures (SNH). The Board notes reforms spurred by EITI in the mining sector, ranging from the launch of an online mining cadastral portal to a new Mining Code in 2016 enshrining transparency requirements. The Board encourages similar efforts to enshrine transparency requirements in the new Petroleum code, including provisions related to beneficial ownership disclosure. In its ten years of EITI reporting, Cameroon has expanded the scope of EITI reporting to include the oil transportation sector, particularly revenues from the Chad-Cameroon pipeline. The Board recognises Cameroon's efforts to go beyond the requirements of the EITI Standard in its coverage of export data, including artisanal mining, and social expenditures.

The lack of clarity on the payment of per diems for EITI activities raises concerns about the integrity of the MSG's oversight that need to be addressed, particularly given stakeholder concerns over potential conflicts of interest caused by the per diems practice.

In making its decision, the Board takes special note of efforts by the national oil company, the SNH, to ensure regular disclosure of information on the oil and gas sector, includes oil sales, to its citizens through its corporate website, even if accessibility could be improved.

The Board has determined that Cameroon will have 18 months, i.e. until <date of Board decision + 18 months> before a second Validation to carry out corrective actions regarding civil society engagement (1.3), MSG governance (1.4), work plan (1.5), license register (2.3), policy on contract transparency (2.4), state-participation (2.6), production data (3.2), in-kind revenues (4.2), SOE transactions (4.5), distribution of revenues (5.1), subnational transfers (5.2), SOE

quasi-fiscal expenditures (6.2), public debate (7.1) and documentation of impact (#7.4), Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Cameroon's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 July 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

In taking this decision, the Board welcomed Cameroon's efforts to implement the corrective measures identified during the Validation process. The information published after the start of the Validation has not been taken into account in this evaluation.

Background

The Government of Cameroon committed to implement the EITI in March 2005 and enacted Prime Ministerial Decree 2005/2176 in June 2005 establishing the Monitoring Committee for the Implementation of the EITI Principles, the Multi-Stakeholder Group (MSG). Cameroon was accepted as an EITI candidate in September 2007 at the EITI Board's meeting in Oslo.

The Validation process commenced on 1 July 2017. In accordance with the Validation procedures, an initial assessment [[English](#) | [French](#)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report [[English](#) | [French](#)]. Comments from the MSG [[English](#) | [French](#)] were received on 12 February 2018. The Independent Validator reviewed the comments and responded to the MSG, before finalising the Validation Report [[English](#) | [French](#)].

The Validation Committee reviewed the case on 26 January 2018 and presented a paper for discussion at the Board's 39th meeting in Oslo on 13 February 2018. Following receipt of MSG comments and finalisation of the Validation report, the Validation Committee reviewed the case again on 26 March 2018. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below.

The Committee also agreed to recommend an overall assessment of "meaningful progress" in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

- ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.
- ...
- iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

The Validation Committee agreed to recommend a period of 18 months to undertake the corrective actions. This recommendation takes into account that the challenges identified are relatively significant

and seeks to align the Validation deadline with the timetable for Cameroon's 2016 and 2017 EITI Reports.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirements.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Cameroon. Progress in addressing these corrective actions will be assessed in a second Validation commencing on <date of Board decision + 18 months>:

1. In accordance with Requirement 1.3.a, civil society must be fully, actively and effectively engaged in the EITI process. To strengthen implementation, the civil society constituency should address the concerns regarding constituency representation, including potential conflicts of interest linked to per diems (see Requirement 1.4) and ensure more effective liaison between the CSO representatives and the broader constituency. The civil society constituency may wish to consider undertaking a capacity needs assessment and formulating actions to address capacity constraints. In accordance with requirement 8.3.c.i, the civil society constituency should develop and disclose an action plan for addressing the deficiencies in civil society engagement documented in the initial assessment and Validator's report within three months of the Board's decision, i.e. by <Board Decision + 3 months>.
2. In accordance with Requirement 1.4, the MSG should update its internal governance rules to cover all provisions of Requirement 1.4.b and publish procedures for nominating and changing MSG representatives, including the duration of mandates. In accordance with Requirement 1.4.b.vi, the MSG must clarify the practice of per diems for attending EITI meetings or other payments to MSG members to ensure that there is no conflict of interest. The MSG may wish to consider keeping public attendance records and posting MSG minutes online. The industry constituency may wish to consider establishing constituency guidelines and mechanisms to ensure coordination of mining, oil and gas companies as a constituency. The MSG may also wish to increase their engagement with Douala-based companies to ensure that their views are taken into account and that they are aware of the work of the MSG and the achievements of EITI Cameroon. The industry constituency could consider liaising with CCIMA or GICAM to ensure that

the views and interests of quarries and artisanal and small-scale mining are better represented on the MSG, considering the important public interest on this sub-sector. The civil society constituency may wish to take steps towards broad and full civil society participation. This could be achieved by adopting a constituency-wide code of conduct, which could serve as a basis to set out a process for civil society nominations to the MSG and to clarify the roles and responsibilities of CSO representatives on the MSG and the Technical Secretariat.

3. In accordance with requirement 1.5, the MSG should agree a work plan that is linked to national priorities and is revisited annually to take account of changing conditions and opportunities. Clearer links to national discussions and priorities will encourage more relevance of EITI information to popular demand and could help mobilise additional resources.
4. In accordance with Requirement 2.3, Cameroon is required to maintain a publicly available register or cadastre system(s) with timely and comprehensive information regarding each of the licenses pertaining to oil and gas companies. In the absence of a public register the MSG should ensure that dates of application and license coordinates are disclosed for all licenses held by material companies.
5. In accordance with Requirement 2.4, Cameroon should ensure that the government's policy on contract disclosure is clear and public, rather than commenting on the existence of specific contractual terms hindering the disclosure of contracts, and comment on actual practice of contract disclosure in the mining, oil and gas sectors.
6. In accordance with Requirement 2.6, Cameroon should ensure that there is a publicly-available comprehensive list of extractives companies in which the government, or any SOE, holds equity and the specific level of government ownership (and any change in the year under review). It should also work with government stakeholders to clarify the rules and practice related to the financial relationship between SOEs such as the SNH and its subsidiaries and the government as well as the existence of any loans or loan guarantees from the state or any SOE to companies operating in the mining, oil and gas sectors. The MSG may wish to integrate its approach to addressing this corrective action with (Section C) Article 23 of its July 2017 IMF extended credit facility agreement related to the SNH.
7. In accordance with Requirement 3.2, Cameroon should ensure that the production value of each mineral commodity (particularly natural gas) produced in the year(s) under review is publicly available. The MSG may also wish to explore opportunities for publishing volumes, values and pricing data in a routine manner online, drawing on data from MINMIDT, CAPAM and SNH.
8. In accordance with Requirement 4.2, Cameroon should ensure that information on volumes collected as the state's in-kind revenues, volumes sold and related revenues be publicly accessible and disaggregated by buyer for both oil, gas, condensate and gold received as the state's in-kind revenue.
9. In accordance with Requirement 4.5, Cameroon must ensure that the role of SOEs, including transfers between SOEs and other government agencies, is comprehensively and publicly addressed. The MSG may wish to consider working with the Treasury and SNH to publish information on SNH's sovereign advances to other government entities in a routine manner.

10. In accordance with Requirement 5.1, Cameroon should ensure that there is a clear public indication of which extractive industry revenues, whether cash or in-kind, are recorded in the national budget and clarify the allocation of revenues not recorded in the national budget, providing links to relevant financial reports as applicable. The MSG may wish to explore opportunities together with the Treasury and IMF to use annual disclosures as a diagnostic tool for assessing the efficiency of SNH sovereign advances in relation to normal budgetary spending.
11. In accordance with Requirement 5.2, Cameroon should undertake a more explicit assessment of the materiality of subnational transfers prior to data collection and ensure that the specific formula for calculating transfers to individual local governments be disclosed, to support an assessment of discrepancies between budgeted and executed subnational transfers. Given the high level of public interest in this issue, the MSG may wish to consider including extractives-hosting local government (communes) in the reporting process for subnational transfers in order to reconcile these transactions.
12. In accordance with Requirement 6.2, Cameroon should consider the existence and materiality of any quasi-fiscal expenditures undertaken by extractives SOEs and their subsidiaries, ensuring that all material quasi-fiscal expenditures are publicly disclosed.
13. In accordance with Requirement 7.1.e, Cameroon should ensure that outreach events, whether organised by government, civil society or companies, are undertaken to spread awareness of and facilitate dialogue about the EITI Report across the country. The MSG is encouraged to pursue its work in outreach and dissemination through a communication strategy, involving all three constituencies. The MSG might wish to foster public debate on the oil and gas sector through the use of specific data points and by building on its existing networks.
14. In accordance with Requirement 7.4.a.iii, Cameroon should ensure that the APR includes an overview of the MSG's responses to and progress made in addressing the recommendations from reconciliation and Validation. Cameroon is required to list each recommendation and the corresponding activities that have been undertaken to address the recommendations and the level of progress in implementing each recommendation. Where the government or the MSG has decided not to implement a recommendation, it is requirement that the MSG documents the rationale in the APR. In accordance with Requirement 7.4.a.iv, the MSG should include an assessment of progress with achieving the objectives set out in its work plan, including the impact and outcomes of the stated objectives. To strengthen implementation, Cameroon is encouraged to provide a comprehensive overview of the impact of the implementation of the EITI in the APR. Cameroon might also wish to conduct a formalised impact assessment after twelve years of implementing the EITI.

The government and the MSG are encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the MSG's responses to these recommendations in the next annual progress report.

Validation of Colombia

For decision

For discussion

For information

Subject to considering the comments from the MSG and the final Validation report, the Validation Committee recommends that the EITI Board agree that Colombia has made *meaningful progress* in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Colombia will be requested to undertake a corrective action before the second Validation on **<date of Board decision + 6 months>**.

Supporting documentation

Final Validation report (pending)

Comments on the draft Validation Report and initial assessment by the MSG [English: parts [1](#), [2](#), [3](#) | Spanish: parts [1](#), [2](#), [3](#)]

Draft Validation report [[English](#) | [Spanish](#)].

Initial assessment by the International Secretariat [[English](#) | [Spanish](#)].

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in early 2019-2020. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 5 000 USD, including staff time and travel (if needed).

Document history

Draft Board Paper reviewed by the Validation Committee	6 June 2018
Submitted to the EITI Board	14 June 2018

COLOMBIA VALIDATION

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Proposed Board decision on the Validation of Colombia

Subject to reviewing the comments from the MSG and the final Validation report, the Validation Committee recommends that the EITI Board takes the following decision:

Following the conclusion of Colombia's Validation, the EITI Board decides that Colombia has made meaningful progress overall in implementing the EITI Standard. Colombia has met all of requirements of the EITI Standard except for requirement 5.2 on subnational transfers.

The Board congratulates the Government of Colombia and Multi-Stakeholder Group (MSG) on the progress made in improving transparency and accountability in the extractive industries by providing a trusted source of data to inform public debate. The Board welcomes the EITI's impact in establishing a mechanism for discussing revenue transparency, the sector's contribution to the economy and the challenges in revenue distribution, social contributions, environmental regulation and illegal mining. The EITI has produced and compiled information in a regularly-updated online platform bringing together previously-scattered data and investigating poorly-understood issues. In its three years of EITI implementation, Colombia has expanded the scope of EITI reporting to include a wide range of areas from mineral transportation to environmental regulation. The EITI has shed light on current government agencies' regulatory practices, gaps in government systems, and on complex issues such as the distribution and allocation of royalties. This work has informed reforms in government agencies including the mining and hydrocarbon regulators. EITI Colombia is well-placed to continue contributing to improved governance of the extractive sector. Opportunities and challenges include monitoring reforms such as strengthening licensing management, including through beneficial ownership disclosures, improving engagement at the regional and community levels, coordinating efforts in expanding transparency across government agencies, contributing to curbing illegal mining, and improving compliance with environmental regulations. In addressing these challenges and seizing these opportunities, sustained engagement from all constituencies, including in the use of EITI data, and adequate resources for EITI implementation will be key.

*The Board has determined that Colombia will have 6 months, i.e. until **<date of Board decision + 6 months>**, before a second Validation to carry out corrective actions regarding the requirement relating to subnational transfers (5.2). In accordance with the EITI Standard,*

Colombia's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 January 2018. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

Background

The Government of Colombia committed to implement the EITI in May 2013 at the 6th EITI Global Conference in Sydney. A multi-stakeholder group was formed in December 2013. Colombia submitted an EITI Candidature application in July 2014 and was admitted as an EITI Candidate country in October 2014 at the Board's 28th meeting in Naypyidaw.

The Validation process commenced on 1 January 2018. In accordance with the Validation procedures, an initial assessment [[English](#) | [Spanish](#)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report assessment [[English](#) | [Spanish](#)]. Comments from the MSG were received on 11 June 2018 [English: parts [1](#), [2](#), [3](#) | Spanish: parts [1](#), [2](#), [3](#)]. The Independent Validator will review the comments and respond to the MSG, before finalising the Validation report.

The Validation Committee reviewed the case on 6 June 2018. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below.

The Committee also agreed to recommend an overall assessment of “meaningful progress” in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.

...

iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

The Validation Committee agreed to recommend a period of 6 months to undertake the corrective action. This recommendation takes into account that the challenges identified are relatively minor and seeks to align the Validation deadline with the timetable for Colombia's 2017 EITI Report.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirements.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective action

The EITI Board agreed the following corrective action to be undertaken by Colombia. Progress in addressing this corrective action will be assessed in a second Validation commencing on **<date of Board decision + 6 months>**:

In accordance with Requirement 5.2.a, Colombia should ensure that the specific formula for calculating transfers to individual local governments be disclosed and explained, to support an assessment of discrepancies between budgeted (allocated) and executed subnational resources. Given the high level of public interest in this issue, Colombia may wish to consider including LGUs in the reporting process for subnational transfers to reconcile these transactions.

The government and the MSG are encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the MSG's responses to these recommendations in the next annual progress report.

Validation of the Republic of Congo

For decision

For discussion

For information

The Validation Committee recommends that the EITI Board agree that the Republic of Congo has made meaningful progress in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, the Republic of Congo will be requested to undertake corrective actions before the second Validation on **<date of Board decision + 18 months>**.

The Validation Committee also recommends that the EITI Board agree that the Republic of Congo has made meaningful progress on requirement 1.3. The deficiencies relate to aspects of the Civil Society Protocol regarding expression and self-censorship. The Validation Committee will review its recommendation in accordance with the Implementation Committee's discussions regarding the clarification of requirement 8.3.c.i.

Supporting documentation

Initial assessment by the International Secretariat [[English](#) | [French](#)]

Draft Validation report [[English](#) | [French](#)]

Comments on the draft Validation Report from Government [[English](#) | [French](#)] and CSOs [[English](#) | [French](#)]

Final Validation report [[English](#) | [French](#)]

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in mid-2019. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time and travel (if needed).

Document history

Validation Report reviewed by the Validation Committee	4 December 2017; 12 January 2018
Validation Committee agreement on a Board Paper	26 January 2018
Submitted to the EITI Board	30 January 2018
Board Paper reviewed by the Validation Committee	6 June 2018
Submitted to the EITI Board	14 June 2018

VALIDATION OF THE REPUBLIC OF CONGO

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Proposed Board decision on the Validation of the Republic of Congo

The Validation Committee recommends that the EITI Board takes the following decision:

Following the conclusion of the Republic of Congo's Validation, the EITI Board decides that the Republic of Congo has made meaningful progress overall in implementing the EITI Standard. In accordance with requirement 8.3c, the Republic of Congo will be requested to undertake corrective actions before the second Validation on <date of Board decision + 18 months>.

The EITI Board decides that the Republic of Congo has made meaningful progress on requirement 1.3 Civil society engagement. [Given that the deficiencies relate to the Civil Society Protocol, pursuant to provision 8.3.c.i the Republic of Congo is suspended and will need to undertake corrective actions as outlined below.]

The Board congratulates the Government of Republic of Congo and the EITI Executive Committee on the progress made in improving transparency and accountability in the extractive industries by providing a trusted source of data to inform public debate. The Board welcomed regulatory reforms to embed transparency in government systems. The Board noted the adoption of a new Transparency Code in March 2017, which translates key EITI Requirements into national legislation, including contract transparency, state participation, reporting on cost-oil, revenues and expenditure by the national oil company, beneficial ownership disclosure, publication of production data, audit and reconciliation of government revenues, transparency of resource allocation and extra-budgetary spending, project-level reporting and open data. The Board encouraged full implementation of this ambitious legislation.

After ten years of EITI reporting, the Republic of Congo has also expanded the scope of EITI reporting to include the forestry sector. The Board welcomed this innovative use of the EITI reporting framework.

The Board recognises Republic of Congo's earlier efforts to publish quarterly reports on oil sales providing detailed information on the sale of oil by the national oil company (SNPC) in the period 2004 to 2014. The Board took note that these reports, which are highly relevant for compliance with certain aspects of the EITI Standard, are no longer in the public domain. The Board encouraged continued publication of information on the sale of oil by SNPC and the corresponding transfers to the treasury as provided by the Ministry of Finance quarterly

reports.

The Board noted that despite the constrained general environment, civil society appears particularly engaged in the EITI process. Representatives from the civil society constituency attend MSG meetings regularly, conduct analysis of EITI Reports, produce communication materials and organise public events to inform citizens on issues related to the governance of the extractive industries. Civil society representatives in the MSG regularly express their views related to EITI activities and highlight their concerns, but self-censorship is also common practice to avoid reprisals. Cases of intimidation and arrest of journalists substantially engaged in the EITI process remain a concern.

*The Board has determined that Republic of Congo will have 18 months, i.e. until **<date of Board decision + 18 months>** before a second Validation to carry out corrective actions regarding the requirements relating to civil society engagement (1.3), MSG governance (1.4), licence allocations (2.2), license register (2.3), state-participation (2.6), production data (3.2), in-kind revenues (4.2), barter agreements (4.3), SOE transactions (4.5), data quality (4.9), distribution of revenues (5.1), social expenditures (6.1), SOE quasi-fiscal expenditures (6.2) economic contribution (6.3) and public debate (7.1), with SOE quasi-fiscal expenditures being the main area of concern. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Republic of Congo's multi-stakeholder group may request an extension of this timeframe, or request that Validation commences earlier than scheduled.*

The Board's decision followed a Validation that commenced on 1 April 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. Stakeholder comments on the report were taken into consideration by the independent Validator in finalising the Validation report. The final decision was taken by the EITI Board.

Background

The government of the Republic of Congo (ROC) committed to implement the EITI on 9 June 2004 and established a multi-stakeholder group in October 2006, following broad consultations with stakeholders. The Republic of Congo became a Candidate country implementing the EITI in February 2008 and was declared Compliant with the EITI Rules in March 2013.

The Validation process under the Standard commenced on 1 April 2017. In accordance with the Validation procedures, an initial assessment [[English](#) | [French](#)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report [[English](#) | [French](#)]. Comments were received from Government representatives [[English](#)] and civil society groups [[English](#) | [French](#)]. The Independent Validator reviewed the comments, before finalising the Validation report [[English](#) | [French](#)].

The Validation Committee reviewed the case on 4 December 2017 and 12 January 2018. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below.

The Committee also agreed to recommend an overall assessment of “meaningful progress” in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.

...

iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

The Validation Committee agreed to recommend a period of 18 months to undertake the corrective actions. This recommendation takes into account that the challenges identified are relatively significant and seeks to align the Validation deadline with the timetable for Republic of Congo’s 2017 and 2018 EITI Reports.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1.)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirements.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Republic of Congo. Progress in addressing these corrective actions will be assessed in a second Validation commencing on **<date of Board decision + 18 months>**:

1. In accordance with Requirement 1.3, the Government of Congo should ensure that there is an enabling environment for civil society participation, and that civil society representatives are able to engage in public debate related to the EITI process and express opinions about the EITI process without restraint, coercion or reprisal.
2. In accordance with EITI Requirement 1.4, the government should renew the membership of the MSG in line with statutory documents. EITI Congo should review formalise and publish its per diem policy and set a reasonable amount in line with national practices. The MSG should ensure its TOR are in accordance with Requirement 1.4, publicly accessible, and implemented in practice.
3. To strengthen implementation, EITI Congo may wish to ensure that the fiscal framework, the roles and responsibilities of key government entities and current or recent reforms in the mining, oil and gas sectors are clearly described in future EITI reporting. EITI Congo may wish to consider whether the EITI Congo website could provide a platform for updated information on the legal environment and fiscal framework.
4. In accordance with EITI Requirement 2.2, EITI Congo should clearly define the number of mining, oil and gas licenses awarded and transferred in the year(s) under review, describe the statutory allocation and award procedures, including specific technical and financial criteria, and highlight any non-trivial deviations in practice. In addition, EITI Congo may wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.
5. EITI Congo is required to maintain a publicly available register or cadastre system(s) with timely

and comprehensive information in accordance with EITI Requirement 2.3. EITI Congo should ensure that future EITI Reports provide the dates of application and expiry, commodity(ies) covered and coordinates for all mining, oil and gas licenses held by material companies.

6. To further strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that EITI Congo considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. EITI Reports must document the government's policy and multi-stakeholder group's discussion on disclosure of beneficial ownership. EITI Congo may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory.
7. In accordance with EITI Requirement 2.6, EITI Congo should ensure that future EITI Reports clarify the rules and practices governing financial relations between extractives SOEs and the government, the level of and terms associated with state equity participation in the sector as well as a comprehensive overview of loans and guarantees extended by the state or SOEs to extractives companies in the year under review. EITI Congo may wish to consider the extent to which implementation of Article 15 of the March 2017 Transparency Law would support progress in meeting aspects of Requirement 2.6.
8. To strengthen implementation, EITI Congo may wish to ensure that the description of the extractive industries in future EITI Reports includes a clear overview of significant exploration activities in the year under review.
9. In accordance with EITI Requirement 3.2, EITI Congo should ensure that future EITI Reports provide production volumes and values for all minerals produced in the ROC in the year(s) under review. EITI Congo may also wish to consider the extent to which such information could be regularly disclosed on government websites as a means of complying with provisions requiring publication of more granular production data in Article 66 of the March 2017 Transparency Law.
10. To strengthen implementation, EITI Congo may wish to ensure that future EITI Reports provide export volumes and values for all commodities exported in the year(s) under review, including artisanal-mined commodities like gold.
11. To strengthen implementation, EITI Congo may wish to ensure that the materiality threshold for selecting companies in future EITI Reports ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The MSG is invited to consider whether setting a quantitative materiality threshold for selecting companies would ensure these aims are met.
12. In accordance with EITI Requirement 4.2, EITI Congo should ensure that future EITI Reports present information on the sale of the state's in-kind revenues disaggregated by buyer. The government is encouraged to reinstate the practice of publishing the Ministry of Finance's quarterly oil sales reports to ensure timelier compliance with Article 16 of the March 2017 Transparency Law and with Requirement 4.2 of the EITI Standard. The Validator notes the recent Public Eye report on a Swiss commodity trader in the Republic of Congo, and encourages the MSG

to take steps to provide more transparency in the role of oil commodity trading in future.¹

13. In accordance with EITI Requirement 4.3, EITI Congo should assess the existence of any barter arrangements or infrastructure provisions during the scoping phase for its next EITI Report to ensure that reporting of the implementation of such agreements provides a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. The MSG, together with the IA, should gain a full understanding of the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts.
14. To strengthen implementation, EITI Congo may wish to undertake outreach to SOCOTRAM with a view to engaging it in EITI implementation. Given the significant public debate surrounding the Maritime Tax, the MSG could consider including SOCOTRAM in the scope of reporting, further adding to the EITI's impact on public debate.
15. In accordance with EITI Requirement 4.5, EITI Congo should undertake a comprehensive assessment of transactions between SOEs (SNPC and its subsidiaries) and oil and gas companies, as well as between SNPC's subsidiaries and government in its scoping of future EITI Reports. All SOEs collecting material revenues or making material payments to government should be included in future EITI reporting.
16. To further strengthen implementation, the MSG may wish to consider the extent to which implementation of the March 2017 Transparency Law would enable it to make progress in implementing project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.
17. To strengthen implementation, EITI Congo may wish to consider the extent to which it can leverage implementation of Article 63 of the March 2017 Transparency Law to ensure timelier disclosure of data required under the EITI Standard through routine government and company systems.
18. In accordance with EITI Requirement 4.9, EITI Congo should ensure that summary data tables for all EITI Reports are prepared in a timely manner in line with requirements of the Board-approved IA's ToR. The MSG and the IA are encouraged to provide a more detailed account of audit and assurance practices of material companies and government entities, including SOEs with a view to formulating recommendations that strengthen government and company audit and assurance systems. They may also wish to revisit the quality assurance requested from government entities included in the scope of reporting.
19. In accordance with EITI Requirement 5.1, EITI Congo should work with the IA in preparing the next EITI Report to clearly trace any mining, oil and gas revenues that are not recorded in the national

¹ https://www.publiceye.ch/fileadmin/files/documents/Rohstoffe/PublicEye_Gunvor-in-Congo_report_2017_68p.pdf

budget and provide an explanation of the detailed allocation of these off-budget revenues.

20. To strengthen implementation, EITI Congo is encouraged to assess the materiality of subnational transfers, provide the specific formula for calculating subnational transfers of extractives revenues to individual local governments, disclose any material subnational transfers in the year(s) under review and highlight any discrepancies between the transfer amount calculated in accordance with the relevant revenue-sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.
21. To strengthen implementation, EITI Congo could consider including additional information on extractives revenues earmarked for specific purposes as well as on the budget-making and auditing process for government accounts in future EITI Reports.
22. In accordance with EITI Requirement 6.1, EITI Congo should systematically categorise types of mandatory social expenditures mandated by law or contract and ensure that reporting of mandatory social expenditures in future EITI Reports be disaggregated between cash and in-kind expenditures, by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. The MSG may also wish to consider the feasibility of reconciling mandatory social expenditures.
23. In accordance with EITI Requirement 6.2, EITI Congo should undertake a comprehensive review of all expenditures undertaken by extractives SOEs (and their subsidiaries) that could be considered quasi-fiscal. The MSG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.
24. In accordance with EITI Requirement 6.3, EITI Congo should ensure future EITI Report include employment figures for the mining, oil and gas sectors. The MSG may also wish to work with the Ministry of Finance, the national statistics agency (CNSEE), customs and the Ministry of Labour and Social Security to ensure that reporting of key information required by the EITI Standard on the extractive industries' share of GDP, revenues and exports is embedded in routine government disclosures.
25. To improve accessibility of EITI disclosure, and in accordance with EITI Requirement 7.1, EITI Congo should resume its dissemination activities of all EITI disclosures, including the EITI Reports, the KPMG Reports and other useful materials that can contribute to a public debate on the EITI Congo website.
26. To strengthen implementation, the MSG may wish to consider commissioning an independent impact evaluation study to better document the extent to which EITI Congo has contributed in changing behaviour and improving the management of the extractive sector for the benefit of all citizens.

Validation of Madagascar

For decision

For discussion

For information

The Validation Committee recommends that the EITI Board agree that Madagascar has made *meaningful progress* in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Madagascar will be requested to undertake corrective actions before the second Validation on **<date of Board decision + 18 months>**.

Supporting documentation

Validation report [[English](#) | [French](#)]

Comments on the draft Validation Report by the MSG [[English](#) | [French](#)].

Draft Validation report [[English](#) | [French](#)].

Initial assessment by the International Secretariat [[English](#) | [French](#)].

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in late 2019. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time and travel (if needed).

Document history

Draft Board Paper reviewed by the Validation Committee	22 May 2018
Validation Committee agreement on a Board Paper	6 June 2018
Submitted to the EITI Board	14 June 2018

VALIDATION OF MADAGASCAR

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Proposed Board decision on the Validation of Madagascar

The Validation Committee recommends that the EITI Board takes the following decision:

Following the conclusion of Madagascar's Validation, the EITI Board decides that Madagascar has made meaningful progress overall in implementing the EITI Standard.

The Board congratulates the Government of Madagascar and Multi-Stakeholder Group (MSG) on the progress made in improving transparency and accountability in the extractive industries. The Board recognises that the complexities of Madagascar's mining licensing system, fiscal decentralization and state participation in the extractives sector are particularly well-suited to the EITI's multi-stakeholder governance model. Overcoming funding and capacity challenges and uneven engagement of its different constituencies, EITI Madagascar is recognised for having made a tangible impact on extractives governance. While the EITI's impact has been greatest on clarifying mining license awards since the 2011 moratorium on new licensing and contributing to the launching of an online mining cadastre in 2017, the Board considered that more work was needed in clarifying license transfers. The Board notes that EITI data on subnational payments, transfers and social expenditures has empowered mayors in communes and regions to demand their statutory share of extractives revenues. The Board recognises Madagascar's efforts to go beyond the requirements of the EITI Standard in providing information on informal extractives activities. The Board encourages the government to continue discussions on extractives license management, production data and subnational transfers, and to expand them to other salient issues such as transparency of state owned companies (SOEs).

While stakeholder engagement has historically been inconsistent across different constituencies, the Board takes note of stakeholders' renewed engagement following the EITI's institutionalisation by Decree in August 2017. All three constituencies are urged to revitalise the Multi-Stakeholder Group in balancing interests between equal partners and representing the interests of their broader constituencies through proactive outreach, canvassing and dissemination.

*The Board has determined that Madagascar will have 18 months, i.e. until **<date of Board decision + 18 months>** before a second Validation to carry out corrective actions regarding the requirements relating to government engaged (1.1), civil society engagement (1.3), MSG*

governance (1.4), license allocation (2.2), contract transparency (2.4), state participation (2.6), comprehensiveness of revenue disclosures (4.1), transportation revenues (4.4), direct subnational payments (4.6), level of disaggregation (4.7), data quality (4.9), distribution of revenues (5.1), sub-national transfers (5.2), quasi-fiscal expenditures (6.2) and documenting outcomes and impact of implementation (7.4). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Madagascar's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 September 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

Background

The Government of Madagascar committed to implement the EITI in 2007 and was accepted as an EITI Candidate in February 2008. Following its suspension by the EITI Board for political instability in October 2011, interrupting the country's Validation under the EITI Rules, Prime Minister Jean Omer Beriziky issued a Ministerial Order in March 2013 establishing a permanent EITI National Committee. The EITI Board lifted Madagascar's suspension in June 2014. The government's Decree 2017/736 in August 2017 institutionalised the EITI under the Prime Minister's Office.

The Validation process commenced on 1 September 2017. In accordance with the Validation procedures, an initial assessment [[English](#) | [French](#)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report [[English](#) | [French](#)]. Comments from the MSG [[English](#) | [French](#)] were received on 8 May 2018. The Independent Validator reviewed the comments and responded to the MSG, before finalising the Validation report [[English](#)] [[French](#)].

The Validation Committee reviewed the case on 22 May 2018 and 6 June 2018. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below. The Committee also agreed to recommend an overall assessment of "meaningful progress" in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

- ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.
- ...
- iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

The Validation Committee agreed to recommend a period of 18 months to undertake corrective actions. This recommendation takes into account that the challenges identified are relatively significant and seeks to align the Validation deadline with the timetable for Madagascar's 2016 and 2017 EITI Reports.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirements.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Madagascar. Progress in addressing these corrective actions will be assessed in a second Validation commencing on *<date of Board decision + 18 months>.*

1. In accordance with Requirement 1.1, the government must be fully, actively and effectively engaged in the EITI process. The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation. To further strengthen implementation following the institutionalisation of EITI Madagascar through the 2017 Decree, the government is encouraged to further entrench EITI funding in government budgeting to ensure the sustainability of EITI implementation over the long term. In accordance with requirement 8.3.c.i, the government constituency should develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment.
2. In accordance with requirement 1.3.a, the civil society constituency should demonstrate that they are fully, actively and effectively engaged in the EITI process. Specifically, civil society should ensure that they fully contribute and provide input to the EITI process and that they have adequate capacity to participate in the EITI. In accordance with requirement 8.3.c.i, the civil society constituency should develop and disclose an action plan for addressing the deficiencies in civil society engagement documented in the initial assessment.
3. In accordance with Requirement 1.4.b.vii, the MSG should ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption. The MSG is encouraged to ensure that deviations from their ToR are recorded and transparent. Government and company constituencies are encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow

the MSG to take decisions and follow up on them. In accordance with Requirement 1.4.b.viii, the MSG must keep written records of its discussions and decisions.

4. In accordance with Requirement 2.2, a description of the process for transferring or awarding the license and the technical and financial criteria used should be publicly available. Not least given the significant debate surrounding license movements in the mining sector, EITI Madagascar is encouraged to use EITI reporting as a diagnostic tool for non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. In cases of competitive tender for mining, oil and gas licenses, the MSG will have to disclose the list of applicants and the bid criteria for licenses awarded through a bidding process. The MSG is encouraged to consider stakeholders calls for further analysis on the efficiency and effectiveness of licensing procedures in Madagascar.
5. In accordance with Requirement 2.4, EITI Madagascar should clarify and document the government's policy on disclosure of contracts and licenses, as well as actual practice, including any reforms that are planned or underway.
6. In accordance with Requirement 2.6, the MSG should ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. The MSG must also clarify the rules and practices governing financial relations between SOEs (most notably KRAOMA) and the state. The MSG may wish to liaise with relevant government entities and development partners to assess the extent to which clarification of such issues could support progress under the IMF extended credit facility. Stakeholders are encouraged to embed reporting of such information through routine government systems, for instance in publishing extractives SOEs' statutes and audited financial statements on a regular basis.
7. In accordance with Requirement 4.1.a, the MSG should ensure that its materiality decisions related to selecting companies and revenue streams for reconciliation are clearly documented. In its approach to the materiality of revenue streams, the MSG is encouraged to strike a balance between comprehensiveness and relevance for stakeholders, to ensure that a workable approach to reconciliation is adopted and to facilitate the embedding of revenue transparency in government and company systems. In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity is clearly assessed to support the IA's overall assessment of the comprehensiveness of reconciliation. In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of reconciliation, including revenues that fall below agreed materiality thresholds.
8. In accordance with Requirement 4.4, the MSG should assess the materiality of government revenues from the transportation of minerals, clarifying the management of port-related fees on the transportation of minerals.
9. In accordance with Requirement 4.6, the MSG should establish whether direct subnational payments, within the scope of the agreed benefit streams, are material. Where material, the MSG is required to ensure that reconciled information on company payments to subnational government entities and the receipt of these payments be publicly accessible. EITI Madagascar

may wish to provide more information on the disbursement of ristournes from Ambatovy to host communes built-up since the start of production in 2012 given the materiality of such delayed payments.

10. In accordance with Requirement 4.7, the MSG is required to ensure that EITI data is presented by individual company, government entity and revenue stream. To strengthen implementation, the MSG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018.
11. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:
 - a. examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his/her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.
 - b. ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
 - c. ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.
12. In accordance with Requirement 5.1, EITI Madagascar should publicly clarify which extractive industry revenues, whether cash or in-kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable. To strengthen implementation, EITI Madagascar may wish to use EITI reporting to monitor the migration of government finances towards a single Treasury account system, providing a platform for public information on the

management of off-budget extractives revenues.

13. In accordance with Requirement 5.2, the MSG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity. The MSG is encouraged to reconcile these transfers.
14. In accordance with Requirement 6.2, the MSG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.
15. In accordance with Requirement 7.4, the annual progress report should be the product of consultations with all stakeholders and include a review of the impact of EITI implementation. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the MSG, should be able to provide feedback on the EITI process and have their views reflected in the APR.

The government and the MSG are encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the MSG's responses to these recommendations in the next annual progress report.

Validation of São Tomé and Príncipe

For decision

For discussion

For information

Subject to considering the feedback from the São Tomé and Príncipe Multi-Stakeholder Group (MSG) and the finalisation of the assessment, the Validation Committee recommends to the EITI Board that São Tomé and Príncipe is found to have achieved “meaningful progress” overall in implementing the 2016 EITI Standard, with considerable improvements across several individual requirements. In accordance with Requirement 8.3.c.iv.2, São Tomé and Príncipe will be requested to undertake corrective actions before the third Validation on <date of Board decision + 12 months>.

Supporting documentation[Board decision on the 2016 Validation](#)[Draft assessment by the International Secretariat](#)

Comments from the São Tomé and Príncipe Multi-Stakeholder Group - Pending

Final assessment by the International Secretariat - Pending

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

There are no financial implications arising from the recommendation.

Document history

Draft Board Paper reviewed by the Validation Committee	6 June 2018
Submitted to the EITI Board	14 June 2018

SÃO TOMÉ AND PRÍNCIPE - SECOND VALIDATION

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1. Recommendation

Subject to considering the feedback from the São Tomé and Príncipe Multi-Stakeholder Group (MSG) and finalisation of the assessment, the Validation Committee recommends that the EITI Board agrees the following:

The EITI Board agrees that São Tomé and Príncipe has partly addressed the corrective actions from the country's first Validation. Consequently, São Tomé and Príncipe has made meaningful progress overall with implementing the EITI Standard, with considerable improvements across several individual requirements.

The Board recognises São Tomé and Príncipe's efforts to use the EITI to manage public expectations regarding the potential revenue and indirect contributions from the nascent oil and gas sector. São Tomé and Príncipe's EITI implementation is also recognised as having increased collaboration among government agencies and improved the government's public financial management systems. The second Validation has confirmed São Tomé and Príncipe's efforts to use EITI reporting as a diagnostic instrument to support reforms in the licensing system, oversight of companies' social expenditures and subnational revenue management.

The Board welcomes ongoing efforts to consider further the opportunities to improve government and company disclosures through systematic disclosures. The Multi-Stakeholder Group (MSG) should continue to ensure adherence to the EITI Principles and Requirements.

*The Board has determined that São Tomé and Príncipe will have 12 months, i.e. until **<date of Board decision + 12 months>** before a third Validation to carry out corrective actions regarding license allocations (2.2), license register (2.3) and data quality (4.9). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the third Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, São Tomé and Príncipe's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.*

2. Assessment card

EITI Requirements		Level of progress					Direction of progress
São Tomé and Príncipe Second Validation scorecard		No progress	Inadequate	Meaningful	Satisfactory	Beyond	
Categories	Requirements						
MSG oversight	Government engagement (#1.1)						=
	Industry engagement (#1.2)						=
	Civil society engagement (#1.3)						=
	MSG governance (#1.4)						→
	Work plan (#1.5)						→
Licenses and contracts	Legal framework (#2.1)						=
	License allocations (#2.2)						
	License register (#2.3)						
	Policy on contract disclosure (#2.4)						→
	Beneficial ownership (#2.5)						
	State participation (#2.6)						=
Monitoring production	Exploration data (#3.1)						→
	Production data (#3.2)						
	Export data (#3.3)						
Revenue collection	Comprehensiveness (#4.1)						=
	In-kind revenues (#4.2)						
	Barter agreements (#4.3)						
	Transportation revenues (#4.4)						
	SOE transactions (#4.5)						
	Direct subnational payments (#4.6)						=
	Disaggregation (#4.7)						=
	Data timeliness (#4.8)						=
	Data quality (#4.9)						=
Revenue allocation	Distribution of revenues (#5.1)						→
	Subnational transfers (#5.2)						
	Revenue management & expenditures (#5.3)						
Socio-economic contribution	Mandatory social expenditures (#6.1)						→
	SOE quasi-fiscal expenditures (#6.2)						
	Economic contribution (#6.3)						=
Outcomes and impact	Public debate (#7.1)						=
	Data accessibility (#7.2)						
	Follow up on recommendations (#7.3)						→
	Outcomes & impact of implementation (#7.4)						→
Overall assessment	Meaningful progress						

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

3. Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by São Tomé and Príncipe. Progress in addressing these corrective actions will be assessed in a third Validation commencing on **<date of Board decision + 12 months>**:

1. In accordance with Requirement 2.2.i and iii, São Tomé and Príncipe is required to disclose the technical and financial criteria used in awarding licenses and any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards related to the award or transfer of licenses pertaining to the companies covered in the EITI Report during the accounting period covered by the EITI Report.
2. In accordance with Requirement 2.3.b, São Tomé and Príncipe is required to maintain a publicly available register or cadastre system which includes the timely and comprehensive information on the date of application for each of the licenses pertaining to companies covered in the EITI Report. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.
3. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. The MSG should ensure that future EITI reporting includes a clear statement from the IA on the comprehensiveness and reliability of reconciled financial data.

4. Background

São Tomé and Príncipe was admitted as an EITI Candidate in 2008. The first Validation of São Tomé and Príncipe commenced on 1 July 2016. On 8 March 2017, the EITI Board found that São Tomé and Príncipe had made meaningful progress in implementing the 2016 EITI Standard. Nine corrective actions were

established by the EITI Board, pertaining to the following requirements:

1. MSG oversight (Requirement 1.4)
2. Work plan (Requirement 1.5)
3. License allocations (Requirement 2.2)
4. License register (Requirement 2.3)
5. Exploration data (Requirement 3.1)
6. Data quality (Requirement 4.9)
7. Social expenditures (Requirement 6.1)
8. Follow-up on recommendations (Requirement 7.3)
9. Outcomes and impact (Requirement 7.4).

The Board asked São Tomé and Príncipe to address these corrective actions to be assessed in the second Validation. STP has undertaken a number of activities to address the corrective actions:

- At its 27 January 2017 meeting, the MSG appointed PWC (Portugal) as the Independent Administrator for the 2015 EITI Report.
- On 16 March 2017, the MSG agreed the scope of the 2015 EITI Report with the Independent Administrator.
- On 28 September 2017, the MSG approved the 2016 Annual Progress Report, in light of the corrective actions related to Requirement 7.4.
- On 5 October 2017, the MSG agreed revised Terms of Reference (TOR) and work plan for 2017-2018 in light of corrective actions related to Requirement 1.4 and 1.5.
- On 22 December 2017, the 2015 EITI Report approved by the MSG was published.
- On 2 April 2018, the government invited EITI stakeholders to re-select their representatives on the MSG, in accordance with the approved TORs.

São Tomé and Príncipe's second Validation commenced on 8 March 2018. The Secretariat assessed the progress made in addressing the nine corrective actions established by the EITI Board. **The EITI International Secretariat's assessment is that São Tomé and Príncipe has fully addressed six of the nine corrective actions, with significant improvements on the three outstanding requirements.** The draft assessment was sent to the Multi-Stakeholder Group (MSG) on 1 June 2018. Following comments received on [date TBC], the assessment was finalised for consideration by the EITI Board.

Validation of Solomon Islands

For decision

For discussion

For information

The Validation Committee recommends to the EITI Board that Solomon Islands has made “inadequate progress” overall in implementing the 2016 EITI Standard. In accordance with requirement 8.3.c, the Solomon Islands would be delisted.

Supporting documentation[Board decision on the 2016 Validation](#)[Draft assessment by the International Secretariat](#)[Comments from the Solomon Islands Extractive Industries National Stakeholder Group \(national secretariat\)](#)[Final assessment by the International Secretariat](#)**Has the EITI competence for any proposed actions been considered?**

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

There are no financial implications arising from the recommendation.

Document history

Draft Board Paper reviewed by the Validation Committee	22 May 2018
Validation Committee agreement on a Board Paper	6 June 2018
Submitted to the EITI Board	14 June 2018

SOLOMON ISLANDS - SECOND VALIDATION

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1. Recommendation

The Validation Committee recommends that the EITI Board agrees the following:

That following its second Validation, the Solomon Islands is deemed to have made “inadequate progress” overall in implementing the 2016 EITI Standard. In accordance with Requirement 8.3.c, the Solomon Islands is delisted.

The Board recognises that progress with EITI implementation has been impacted by developments in the mining sector, including the closure of mining operations in the country. The Board welcomed the efforts by government agencies in recent years to improve disclosure practices, and the support of stakeholders that have participated in the SIEINSG. Should the outlook for the sector change, the Board would welcome renewed collaboration with the government of Solomon Islands as this decision does not preclude Solomon Islands from re-applying to the EITI.

2. Assessment card

EITI Requirements		Level of progress					Direction of progress
Solomon Islands Second Validation scorecard		No progress	Inadequate	Meaningful	Satisfactory	Beyond	
Categories	Requirements						
MSG oversight	Government engagement (#1.1)						=
	Industry engagement (#1.2)						=
	Civil society engagement (#1.3)						←
	MSG governance (#1.4)						←
	Work plan (#1.5)						=
Licenses and contracts	Legal framework (#2.1)						=
	License allocations (#2.2)						=
	License register (#2.3)						→
	Policy on contract disclosure (#2.4)						→
	Beneficial ownership (#2.5)						
	State participation (#2.6)						
Monitoring production	Exploration data (#3.1)						
	Production data (#3.2)						→
	Export data (#3.3)						→
Revenue collection	Comprehensiveness (#4.1)						←
	In-kind revenues (#4.2)						
	Barter agreements (#4.3)						
	Transportation revenues (#4.4)						
	SOE transactions (#4.5)						
	Direct subnational payments (#4.6)						→
	Disaggregation (#4.7)						←
	Data timeliness (#4.8)						←
	Data quality (#4.9)						←
Revenue allocation	Distribution of revenues (#5.1)						←
	Subnational transfers (#5.2)						=
	Revenue management & expenditures (#5.3)						
Socio-economic contribution	Mandatory social expenditures (#6.1)						←
	SOE quasi-fiscal expenditures (#6.2)						
	Economic contribution (#6.3)						=
Outcomes and impact	Public debate (#7.1)						
	Data accessibility (#7.2)						
	Follow up on recommendations (#7.3)						←
	Outcomes & impact of implementation (#7.4)						←
Overall assessment	Inadequate progress						

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

3. Background

Solomon Islands was admitted as an EITI Candidate in 2012. The first Validation of Solomon Islands commenced on 1 July 2016. On 8 March 2017, the EITI Board found that Solomon Islands had made inadequate progress in implementing the 2016 EITI Standard. Twenty-one corrective actions were established by the EITI Board, pertaining to the following requirements:

1. Government commitment, stakeholder engagement and MSG oversight (Requirements 1.1, 1.2, 1.3, 1.4 and 1.5)
2. Licenses and contracts (Requirements 2.1, 2.2, 2.3, and 2.4)
3. Monitoring and production (Requirements 3.2 and 3.3)
4. Revenue collection (Requirements 4.1, 4.6, 4.7, and 4.9)
5. Revenue allocation (Requirements 5.1 and 5.2)
6. Socio-economic contribution (Requirements 6.1a and 6.3)
7. Outcomes and impact (Requirements 7.3 and 7.4).

The Board asked Solomon Islands to address these corrective actions to be assessed in the second Validation.

Minimal activities have taken place since the first Validation. A budget cut by the government for the EITI implementation resulted in the national secretariat drafting the 2015 EITI Report. Moreover, as with previous reports, companies continued to refuse to provide data. Only four SIEINSG meetings have been conducted since March 2017. The SIEINSG does not appear to have engaged on the corrective actions beyond commenting in a letter to the EITI Board on the findings of the International Secretariat's initial assessment and submitting on 8 June 2017 an Action Plan to address the corrective actions. The Action Plan lists down each corrective action and the corresponding activities that the SIEINSG intends to conduct to address them, including engaging with and consulting relevant agencies and companies, assessing the capacity of civil society, revising the work plan and Annual Progress Report, and addressing

issues on data quality. It does not appear, however, that these activities have been conducted. The 2016 Annual Progress Report further shows that EITI activities beyond SIEINSG meetings have been limited.

Mining activities in Solomon Islands are minimal. According to the Central Bank of Solomon Islands statistics, mining and quarrying contributed to less than 1% of total GDP in 2015. While there were several active mines in recent years, all of them have ceased operations either due to revocation of licenses or risks to public safety. Currently, there is one active mine producing bauxite in Rennell Islands. There are, however, several prospecting licenses because of known substantial deposits of nickel and cobalt. Recognizing the potential of the extractive sector to contribute to the economy, the government adopted a new National Minerals Policy in 2017 that aims to strengthen the regulation of the sector by refining the roles of agencies and strengthening inter-agency coordination. The policy also includes principles on revenue transparency, apparently drawing largely from the EITI Standard.

Solomon Islands' second Validation commenced on 8 March 2018. The Secretariat assessed the progress made in addressing the twenty-one corrective actions established by the EITI Board. **The EITI International Secretariat's assessment is that Solomon Islands has addressed 5 of the 21 corrective actions.** The draft assessment was sent to the Multi-Stakeholder Group (MSG) on 11 May 2018. Following comments received from the national secretariat on 29 May 2018 the assessment was finalised for consideration by the EITI Board.

Validation of Ukraine

For decision

For discussion

For information

The Validation Committee recommends that the EITI Board agrees that Ukraine has made *meaningful progress* in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Ukraine will be requested to undertake corrective actions before the second Validation on **<date of Board decision + 18 months>**.

Supporting documentation

Final Validation report [[English](#) | [French](#) | [Ukrainian](#)].

Comments on the draft Validation Report and initial assessment by the MSG [[English](#) | [Ukrainian](#)].

Draft Validation report [[English](#) | [Ukrainian](#)].

Initial assessment by the International Secretariat [[English](#) | [Ukrainian](#)].

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in late 2019. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time and travel (if needed).

Document history

Draft Board Paper reviewed by the Validation Committee	22 May 2018
Validation Committee agreement on a Board Paper	6 June 2018
Submitted to the EITI Board	14 June 2018

VALIDATION OF UKRAINE

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Proposed Board decision on the Validation of Ukraine

The Validation Committee recommends that the EITI Board takes the following decision:

Following the conclusion of Ukraine’s Validation, the EITI Board decides that Ukraine has made meaningful progress overall in implementing the EITI Standard.

The Board congratulates the Government of Ukraine and the Multi-Stakeholder Group (MSG) on the progress made in strengthening the governance of the extractive industries. The EITI has helped ensure timely information on the revenues from mining, oil and gas, including from transportation, is provided to the public, most notably civil society, media and affected communities. The Board welcomes the extension of EITI implementation to a larger group of companies and to new sectors including coal, manganese, titanium mining and hydrocarbons transportation. Ukraine’s EITI implementation has helped drive broader economic, financial and institutional reforms by supporting the adoption of a law on “Transparency in the Extractive Industries”, and amendments to the laws on “State Registration of Legal Entities and Individual Entrepreneurs” and on the “Budget Code”.

The EITI has also provided a mechanism for civil society to raise concerns with government and industry stakeholders, leveraging active dissemination and outreach efforts and by providing a platform for public debate and informing policy-making. Civil society has played a central role in driving EITI follow-up on reforms and by building its own capacity to improve accountability in the government’s management of the extractive industries. The Board encourages the government and MSG to pursue discussions on transparency in contracts and project-level reporting, and to enhance efforts to improve the transparency of the state-owned enterprises.

The Board recognises Ukraine’s efforts to go beyond the requirements of the EITI Standard related to the engagement of civil society (1.3), beneficial ownership transparency (2.5), distribution of revenues (5.1), social expenditures (6.1) and public debate (7.1). The Board welcomes the government’s commitment to entrench an enabling environment for EITI implementation in sector policies and legislations, and encourages the MSG’s efforts to move towards systematic disclosures of EITI data through government and company systems.

*The Board has determined that Ukraine will have 18 months, i.e. until **<date of Board decision + 18 months>**, before a second Validation to carry out corrective actions regarding the requirements relating to state-participation (2.6), production data (3.2), comprehensiveness*

(4.1), transportation (4.4), SOE transactions (4.5), data quality (4.9), SOE quasi-fiscal expenditures (6.2) and economic contribution (6.3). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Ukraine's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 July 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

Background

The government of Ukraine committed to implement the EITI on 30 September 2009. The Multi-Stakeholder Group was formed on 10 October 2012. The country was accepted as an EITI Candidate on 17 October 2013 at the EITI Board's meeting in Abidjan.

The Validation process commenced on 1 July 2017. In accordance with the Validation procedures, an initial assessment [[English](#) | [Ukrainian](#)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report [[English](#) | [Ukrainian](#)]. Comments from the MSG [[English](#) | [Ukrainian](#)] were received on 17 May 2018. The Independent Validator reviewed the comments, provided response to the MSG and finalised the Validation report [[English](#) | [French](#) | [Ukrainian](#)] on 24 May 2018. According to the Independent Validator, the majority of the MSG's comments on the draft Validation report related to new information in the most recent EITI Report covering 2016, which was published after the commencement of Validation on 22 May 2018. The Validator noted these developments but noted that only the EITI Board had the mandate to take this updated information into account.

The Validation Committee reviewed the case on 26 April and 6 June 2018. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below.

The Committee also agreed to recommend an overall assessment of "meaningful progress" in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

- ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.
- ...
- iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

The Validation Committee agreed to recommend a period of 18 months to undertake the corrective actions. This recommendation takes into account that the challenges identified are relatively significant

and seeks to align the Validation deadline with the timetable for Ukraine's 2016 and 2017 EITI Reports.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Ukraine. Progress in addressing these corrective actions will be assessed in a second Validation commencing on **<date of Board decision + 18 months>**:

1. In accordance with requirement 2.6.a, the MSG should provide a comprehensive overview of state-owned enterprises, including an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party funding. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies in line with requirement 2.6.b.
2. In accordance with Requirement 3.2, the MSG should ensure that future reports disclose the production values for every extractives commodity produced, including crude oil, natural gas and every mineral covered by reports. To strengthen implementation, the MSG may wish to comment on parallel reporting systems for production volumes including regular publication and verification procedures, to ensure consistent, regular and reliable data.
3. In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity and the nature of discrepancies are clearly assessed to support the IA's overall assessment of the comprehensiveness of reconciliation. In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide full disclosure of material revenues from non-material companies, disaggregated by revenue stream.
4. In accordance with Requirement 4.4, the MSG should ensure that the next EITI Report disaggregates the transportation revenues by pipeline/route and by paying company.

5. In accordance with Requirement 4.5, the MSG should engage relevant government entities and SOEs with the view to ensure that the reporting process comprehensively addresses the role of state-owned enterprises (SOEs), including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.
6. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:
 - a. examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his/her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.
 - b. ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
 - c. ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.
7. In accordance with Requirement 6.2, the MSG should clarify a definition of materiality with regards to quasi-fiscal expenditures by SOEs, including SOE subsidiaries and joint ventures. The MSG should ensure disclosure of quasi-fiscal expenditures are in accordance with requirement 6.2. This includes the nature of the subsidy scheme for household utility-payments, and the role of state-owned enterprises. It also includes the financial relationship between the SOE and its subsidiaries, including joint ventures, especially pertaining to coverage of losses. To ensure disclosure is comprehensive, the MSG may wish to define which expenditures are of a quasi-fiscal nature using national laws and regulations.
8. In accordance with Requirement 6.3, the MSG should clarify the public availability of estimates of informal extractives activities, including but not limited to artisanal and small-scale mining.

The government and the MSG are encouraged to consider the other recommendations in the Validator's report and the International Secretariat's initial assessment, and to document the MSG's responses to these recommendations in the next annual progress report.

Supporting company expectations

For decision

For discussion

For information

The Governance and Oversight Committee recommends that the EITI Board agree expectations for companies supporting the EITI.

Supporting documentation

None

Has the EITI competence for any proposed actions been considered?

The EITI Board has competence to “consider general and specific policy issues affecting the EITI Association” ([Article 12.1\(ii\)](#)).

Financial implications of any actions

N/A

Document history

Submitted to the Governance and Oversight Committee	13 May 2018
Discussed by the Governance and Oversight Committee	16 May 2018
Re-submitted to the Governance and Oversight Committee	31 May 2018
Discussed by the Governance and Oversight Committee	6 June 2018
Re-submitted to the Governance and Oversight Committee	11 June 2018
Approved by the Governance and Oversight Committee	11 June 2018
Submitted to the EITI Board	14 June 2018

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1. Summary

The Governance and Oversight Committee recommends that the EITI Board agree expectations for companies supporting the EITI.

2. Background

There has been a longstanding debate about potential requirements for EITI supporting companies. When the EITI was created in the early 2000s, the campaign led by Publish What You Pay (PWYP) was mainly targeted at establishing reporting requirements for companies.

With the adoption of the EITI's Articles of Association¹ and implementing rules, the EITI Board decided that all companies would be required to comply with the EITI Reporting requirements in the countries where they had operations and in accordance with the decisions of the implementing country MSGs². This would apply to all companies operating in the country³. In addition, the category of "EITI Supporting Company" was created. It was anticipated that a Supporting Company would publicly declare support for the EITI and help promote the EITI Standard internationally and in countries of operation. No additional reporting or disclosure of payments would be required for becoming an EITI Supporting Company. Supporting companies were initially asked to publish an annual supporting company form⁴ which was reviewed during Validation, but not taken into account in the assessment. This form was abolished with the 2011 EITI Rules.

In 2013, civil society representatives challenged at the EITI Global Conference in Sydney the EITI on whether time had come to reconsider requirements for supporting companies. This sparked new debates within the EITI Board, however the proposals for supporting company requirements were rejected before the Lima conference on the grounds that such requirements would be difficult to enforce and monitor. Rather, it was agreed that EITI supporting companies would pay a mandatory financial contribution to the

¹ The Articles of Association (§5) defines the "The Constituency of Companies" as: "Companies in the extractive sector that have committed to support the objective of the EITI Association and associations representing these companies".

² EITI Principle 2 states: "We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interests of their national development".

³ EITI Principle 11 states: "We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country".

⁴ See section 7 of <https://eiti.org/sites/default/files/documents/validationguide.pdf>

EITI International Management⁵. Previously, such contribution had been voluntary.

In 2017, the Governance and Oversight Committee decided again to look at the requirements for all the constituencies of the EITI Association, in particular supporting companies and supporting countries. In April 2018, the Committee decided that a paper outlining expectations for supporting companies would be shared with the EITI Board for its meeting in Berlin in June 2018.

3. Draft supporting company expectations

It is proposed that all EITI supporting companies are expected to:

- Publicly declare support for the EITI Principles and, by promoting transparency throughout the extractive industries, help public debate and provide opportunities for sustainable development;

As a guiding principle, supporting companies are expected to publicly disclose taxes and payments. Where companies choose not to, they should state why.

- Ensure comprehensive disclosure of taxes and payments made to all EITI implementing countries.
- In accordance with EITI Beneficial Ownership requirements, publicly disclose beneficial owners and take steps to identify the beneficial owners of direct business partners, including Joint Ventures and contractors. Listed companies will do what is required by applicable regulations and listing requirements
- Engage in rigorous procurement processes, including due diligence in respect to partners and vendors.
- Support the operationalisation of countries' decisions to disclose future licenses and contracts entered into that govern the exploration and exploitation of oil, gas and minerals in accordance with the recommendations in the EITI Standard. Companies recognize that achievement of greater transparency must be set in the context of respect for contracts and laws in accordance with the EITI Principles.
- Companies, working together with governments, to deliver natural resources in a manner that benefits societies and communities
- Ensure that company processes are appropriate to deliver the data required for high standards of accountability.

⁵ <https://eiti.org/BD/2016-25>

Update on the EITI's review of its grievance procedures

For decision

For discussion

For information**Summary**

The EITI is conducting a review of its procedures to address complaints from stakeholders. This paper provides an update on progress and an opportunity to reflect on some of the question arising from this work. The EITI Governance and Oversight Committee and the Secretariat will continue this work.

Supporting documentation

Board decision [2018-3/BC-244](#) Approval of terms of reference for a review of the EITI's grievance procedures

Has the EITI competence for any proposed actions been considered?

Article 12 of the Articles of Association mandates the EITI Board to “consider general and specific policy issues affecting the EITI Association” (i) and “adopt more detailed procedures and rules for the management and operation of the EITI Association...” (x).

Financial implications of any actions

Not assessed

Document history

Submitted to the Governance and Oversight Committee	31 May 2018
Discussed by the Governance and Oversight Committee	6 June 2018
Discussed by the Governance and Oversight Committee	11 June 2018
Submitted to the EITI Board	14 June 2018

UPDATE ON THE EITI'S REVIEW OF ITS GRIEVANCE PROCEDURES

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1. Summary

The EITI is conducting a review of its procedures to address complaints from stakeholders. This paper provides an update on progress and reflects on some of the questions arising from this effort.

2. Progress to date

Following the approval of the terms of reference for a review of the EITI's grievance procedures,¹ the International Secretariat has reviewed existing procedures and practices, consulted Board members, other stakeholders and the EITI's legal counsel. The work of the Secretariat has been assisted by the Harvard Negotiation and Mediation Clinical Programme (HNMCP), with conducted a study of the EITI's grievance procedures in implementing countries during the period January-May 2018. Stakeholder interviews were also carried out as part of HNMCP's work. Both the terms of reference and HNMCP's report are annexed to this paper.

A key role for the EITI Board and its Chair is to develop and ensure the implementation of the EITI's policies. As the executive body of the EITI Association (Article 9.1), the Board "shall act in the best interests of the EITI Association at all times" and "shall exercise the executive powers of the EITI Association" (Article 12.1). In exercising these powers, "Board members shall make every effort to adopt resolutions by consensus" (Article 14.3). For his or her part, the EITI Chair "shall seek to foster collaborative relationships between EITI stakeholders" (Article 11.2(vi)). These provisions suggest that the Board and its Chair have a responsibility to find solutions to possible grievances in a consensual manner and in a way that takes into account the best interest of the EITI Association.

In a complex organisational framework like the EITI, with its many decision-making bodies, ensuring that there are adequate procedures to address an increasing scope of possible concerns

¹ See Board decision [2018-3/BC-244](#).

from stakeholders is complex. The EITI aims to bring together stakeholders with different perspectives. It is both an association under Norwegian law, whose members are governed by the EITI Articles of Association, and a standard that is implemented by countries. Finding adequate procedures requires at a minimum taking into account: the different understandings of grievance among different stakeholders; the relationship between these stakeholders (sometimes antagonistic but united around a common set of principles); and the nature of the interaction between the stakeholders (implementation of the EITI Standard or governance of the EITI Association). It is no wonder that UN Secretary-General's Special Representative for Business and Human Rights John Ruggie refers to the concept of "grievance mechanism" in the Guiding Principles on Business and Human Rights as "a term of art".² Ruggie continues, "The term itself may not always be appropriate or helpful when applied to a specific mechanism, but the criteria for effectiveness remain the same" (see box 1).

"In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

- (a) **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
 - (b) **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
 - (c) **Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
 - (d) **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
 - (e) **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
 - (f) **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights;
 - (g) **A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
- Operational-level mechanisms should also be:
- (h) **Based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances."

Box 1 Criteria for state and non-state non-judicial grievance mechanisms according to the UN Guiding Principles on Business and Human Rights

The Association and the International Management

In navigating the EITI's mechanisms for addressing complaints, we start with the governing document of the Association, the EITI Articles of Association. The Articles include within them, in some detail, the procedures needed for the EITI as an association of its members to address potential concerns in a way that is consistent with these principles. This is discussed in further detail below.

² See UN's Guiding Principles on Business and Human Rights, page 34, available on https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

The Standard and implementation

Moving on to the EITI Standard, the EITI has a number of different channels and mechanisms to address concerns arising from implementation. Multi-stakeholder groups, the EITI Standard itself including the civil society protocol, the EITI Board and its committees, the day-to-day support provided by the International Secretariat and its regular reports to the Board and the independent Validation procedures, all play a role in addressing concerns in implementing countries. HNMCPs study shows that additional work is needed here for the EITI to live up to the criteria in the Guiding Principles. The International Secretariat could do more to raise potential issues to the Board through its regular implementation progress reports (IPRs) and through other means. The Secretariat intervenes frequently in disputes related to implementation and it could do more to inform the Board and alert the Board to challenges to implementation between Board meetings.

As HNMCP's report points out, the role of the Board's Rapid Response Committee could also be better defined. Other measures should be taken to ensure that stakeholders in implementing countries find the EITI's procedures accessible, transparent, predictable, legitimate, and equitable.

Code of conduct and individual behaviour

Lastly, like any other organisation, the EITI needs to ensure that it has procedures in place to address complaints against EITI Office holders. The EITI has a Code of Conduct that sets out what is expected of all of its office holders. Here again, additional work may be needed to ensure that the procedures in place to address possible violations of the Code of Conduct, and the scope of the code itself, live up to the Ruggie Guiding Principles.

As part of this review, and reflecting some of the recommendations made in HNMCP's report, the Secretariat is in the process of taking the following actions:

- The International Secretariat is improving the information available on the EITI website to better explain the EITI's grievance procedures in implementing countries and in the EITI Association. Further actions are however required. In particular the EITI should better explain the role of Validation in systematically identifying, addressing and in follow up on grievances related to the implementation of the EITI Standard.
- A link is being added on the frontpage of the EITI website to assist stakeholders in finding information on how to raise any concerns. This will also be added to the template for the EITI Newsletters and National Secretariat Circulars
- It has been clarified in the [governance section of the website](#) that committees do not take decisions on behalf of the Board. They agree recommendations and assist the Board in taking decisions.
- The EITI is developing an online form for making complaints that will allow stakeholders to request that the grievance be maintained confidential and to submit their grievance in English, French, Russian or Spanish. A WhatsApp business account³ or similar will be considered as an alternative for stakeholders in countries with low internet connectivity. The International Secretariat will continue to work with the Governance and Oversight Committee to find suitable procedures for addressing grievances submitted through these channels.

³ See <https://www.whatsapp.com/business/>.

3. Raising complaints and the concept of grievance

One key finding from this grievance review is that **stakeholders mean different things when they refer to the EITI's grievance procedures**. This hampers coherent discussion and appears to be the source of significant frustration amongst some stakeholders. The term grievance is not found in any of the EITI's governing documents, though there are a number of provisions concerning how stakeholders can raise concerns.

In understanding the EITI's procedures for raising concerns, it is also important to acknowledge how the EITI has evolved. It began with all stakeholders agreeing a set of principles and committing to finding solutions. These principles led to the Articles of Association, the establishment of the EITI Association as an international not-for-profit organisation, the Rules and later the Standard. The EITI Chair and EITI Board members have a responsibility under the Articles of Association to find solutions to possible grievances in a consensual manner and in a way that takes into account the best interests of the EITI Association. As HNMCP points out in its report, stakeholder views differ as to the appropriate role and scope of EITI. Some stakeholders have begun to look at the EITI as an instrument to hold governments, companies and civil society organisations to account even though this was not the original intention, making it increasingly difficult for the EITI to define the scope of certain grievances and leading to problems of "linkage".⁴

All stakeholders agree that it is important for the EITI to have adequate procedures in place to a) **address situations where stakeholders feel that their interests have been treated wrongly or unfairly**, and to b) **seek recourse to a higher body if the problem has not been resolved**. The challenge is to define what constitutes "adequate procedures", determining the scope of the interests that should be guaranteed and from what kind of actions, and agreeing who should be responsible for ensuring that the procedures are followed.

In accordance with the terms of reference for this grievance review (annexed), the International Secretariat has carried out a review of existing mechanisms and a review of current practice. A large part of this took place as part of the process of supporting the Harvard Negotiation and Mediation Clinical Programme (HNMCP) to conduct its own review of the EITI's grievance mechanism. HNMCP's report is annexed and some of its findings are reflected throughout this paper and in the recommendations.

The Secretariat and HNMCP have sought to learn from the experience from other organisations, particularly those involving a wide range of stakeholders. Views appear to differ on the extent to which other multi-stakeholder experiences are transferable to the EITI. An important aspect of the EITI Standard is that it is implemented by governments, often in countries with weak democratic traditions, and that all constituencies play an active role in the implementation of the Standard. For an organisation like the Global Fund to fight Aids, Tuberculosis and Malaria ("the Global Fund") whose primary focus is the allocation of millions of dollars, grievances primarily concern questions about grant decisions, possible conflicts of interests and corruption. There is similarly limited common ground between the EITI and multi-stakeholder initiatives such as the Fair Food Programme, the Roundtable on Sustainable Development or the Worker-Driven Social Responsibility Network, all of which were reviewed by HNMCP and neither of which are implemented by governments.

The EITI's existing grievance mechanisms follow from the EITI Articles of Association, the EITI Standard and the decisions of the EITI Board. The procedures are summarised on the EITI's website and the EITI Board manual, and they are also annexed to this paper. **A guiding principle is that grievances should be raised to the EITI body that is closest to the grievance.** For example, if the grievance concerns a challenge in an implementing country, the national multi-stakeholder group

⁴ HNMCP, p. 51.

should try to find a solution before recourse is sought from the EITI Board. As the governing body of the EITI Association, the EITI Members' Meeting is the highest body of appeal.

Consultations undertaken as part of the HNMCP study suggest that stakeholders may be frustrated by the EITI not “adjudicating” on grievances or securing recourse other than through corrective actions.⁵ It is difficult to see how the EITI could have an independent body to adjudicate on grievances outside of the established procedures of the Standard or the Articles of Association. As the executive body of the EITI Association (Article 9.1), the Board “shall act in the best interests of the EITI Association at all times” and “shall exercise the executive powers of the EITI Association” (Article 12.1). In exercising these powers, “Board members shall make every effort to adopt resolutions by consensus” (Article 14.3). For his or her part, the EITI Chair “shall seek to foster collaborative relationships between EITI stakeholders” (Article 11.2(vi)). **Rather than “independence” and “adjudication”, these provisions suggest that the Board and its Chair have a responsibility to find solutions to possible grievances in a consensual manner and in a way that takes into account the best interest of the EITI Association.** Furthermore, it is clear that any committee created by the Board to address grievances would need to, “as far as is reasonable, reflect the multi-stakeholder nature of the EITI Association” (Article 13.1). As the HNMCP report notes, “Complex policy issues involving deep questions, about what the EITI should be and what it should (and can) do, make it hard to reach consensus at the EITI Board level. As a result, if grievances invoke these deep policy questions, then consensus, and thus a decision, on particularized grievances will be just as hard to reach.”⁶ It would thus appear to be important that the EITI’s grievance procedures focus on ensuring that stakeholders are treated in an equitable manner and in a way that is consistent with the EITI Association.

4. Findings from this review

This grievance review found that some of the concerns that stakeholders have raised over time and shone a light on information gaps. It has sparked important discussions that should assist the EITI in addressing grievances more effectively in the future, and identified areas for improvement.

An **overview of the various mandates for raising complaints** is provided in section 5.1 of this paper. One finding is that **the EITI needs to do more to explain how grievances are addressed when they concern issues of implementation.** The EITI Standard incorporates a system to regularly and systematically identify and address grievances that also includes provisions on appeals and guidance on how to assess the scope of possible grievances. A related finding is that the **EITI needs to better explain the concept of equitable treatment of stakeholders in addressing grievances.** Equity is not the same as impartiality. Both of these points are explained further detail in section 5.2. The **EITI needs to do more to explain the role played by the different EITI bodies in addressing grievances.** In particular there appears to be a misunderstanding about the role of the Rapid Response Committee, which stakeholders appear to see as a decision-making body that serves as some form of court of first instance handling grievances. The EITI needs to better explain that the Board, the Secretariat and the Members' Meeting are the only institutional bodies of the EITI Association. In implementing countries, the EITI body is of course the MSG. This is discussed in section 5.3. Finally, as explained under 5.4, there are a **number of improvements the EITI can do to make it easier for stakeholders to raise grievances and feel confident that these are being addressed in a confidential manner.**

⁵ See for example page 41 in HNMCP’s report.

⁶ HNMCP, page 46.

5. Background

5.1 There is a mismatch between the EITI's existing grievance mechanisms and what some stakeholders understand as grievance

One of the findings of the HNMCP study is that different understandings of the EITI's purpose among stakeholders "make it difficult to define the scope of grievances that fall within the purview of a grievance mechanism and involves questions that go to the core of the EITI".⁷ The report concludes that "there is no shared institutional understanding for what makes a *grievance*" in the EITI.

Grievance for many of the EITI's stakeholders appears to refer to the opportunities that aggrieved citizens have to hold companies and governments to account, primarily for human rights violations. Meanwhile, the EITI's grievance procedures as they are explained on the EITI website focus primarily on how decisions by the EITI's decision-making bodies can be appealed. On its website, the EITI introduces the grievance procedures by explaining that "The EITI takes decisions in many different ways. Different decisions can be appealed in different ways. In the below an overview is provided of how redress can be sought to decisions by different EITI bodies".⁸ These two understandings of grievance are not mutually exclusive, but they do put the focus on different actors (companies/governments vs EITI bodies) and on different kinds of grievances (possible violations of human rights vs decisions on issues that affect the EITI Association and its stakeholders).

The Secretariat's review suggests that, in broad terms, EITI stakeholders can experience that their interests are treated wrongly or unfairly a) as a result of a decision by an EITI body or b) by the actions or inactions of other EITI stakeholders or constituencies.⁹ Similarly, stakeholders can perceive that their interests are affected negatively a) in their condition as members of the EITI Association or b) in their condition as stakeholders within an implementing country. The nature of the grievance will determine the kind of redress that is sought. This is conceptualised in table 1.

⁷ See HNMCP (2018), Review of the Grievance Mechanisms of the Extractive Industries Transparency Initiative, p. 48.

⁸ Ibid.

⁹ Stakeholders can also address violations of the EITI Code of Conduct, which applies to all EITI office holders and seeks to ensure that EITI office holders observe the highest standards of integrity. See <https://eiti.org/document/eiti-association-code-of-conduct>.

	A. Interests are wronged by a decision by an EITI decision-making body	B. Interests are wronged by a stakeholder or group of stakeholders
1. At the international level (EITI Association)	A1. Examples would be decisions by one of the permanent bodies of the EITI Association, such as a Board decision to suspend a country, that the stakeholder(s) affected consider unfair.	B.1. Examples could include activities by EITI Members that go against the EITI Principles or a decision by a constituency to limit stakeholders' membership of the EITI Association or EITI Board.
2. At the national level (implementation)	A2. An example would be a decision by a country's multi-stakeholder group, such as an MSG decision to remove one of its members, that the stakeholder(s) affected consider unfair.	B.2 Examples could include activities by government, industry or civil society against individuals or stakeholder groups such as possible violations of the civil society protocol or a constituency's decision to limit a stakeholder's representation on the MSG.
What kind of recourse is sought?	Appeal of a decision	A decision by an EITI body, including MSGs, that rights the situation.
Procedure	The EITI grievance procedures explain the process for appealing decisions by EITI decision-making bodies, beginning with the multi-stakeholder group (MSG) and concluding with the EITI Members' Meeting, the governing body of the EITI Association under the EITI Articles of Association (Article 7.1). ¹⁰	The procedure will depend on the nature of the grievance and whether it concerns implementation or the EITI Association. Once a decision is made by an EITI body the decision can be appealed through the EITI's grievance procedures (see first column). For decisions made by constituencies at the international level, the EITI Members' Meeting is the immediate higher recourse.
Comment on scope	The scope of the grievance is limited by the nature of the decision being appealed. There is no question about whether the grievance falls within the scope of the EITI because the grievance originates with an action by the EITI or its constituencies.	Depending on the nature of the grievance, a decision needs to be made on whether the grievance falls within the scope of the EITI and by what EITI body should be addressed it.

Table 1: Conceptual mapping of possible grievances

The nature of the grievance has an impact on the kind of recourse that is sought, which in turn impacts the procedure that will be followed. When for example a civil society member being imprisoned by an implementing government, the aggrieved is seeking a decision by an EITI body that will right the situation. Under this kind of grievances (column B), the aggrieved will need to take into account the scope of the Standard or of the Articles of Association and argue that the EITI body in question (MSG, Board or Members' Meeting) has competency to review and ultimately make a decision on the grievance in question. If the stakeholder feels that the decision by the EITI body has not resolved the problem, he or she may appeal the decision (column A). **In the case of implementing countries, the process of deciding competence, reviewing the scope and ultimately turning a grievance from column B into a decision by an EITI body takes place primarily through Validation.** This grievance review suggests that some of the frustration that some stakeholders have had comes from not understanding – or rather, the EITI not sufficiently explaining – this dichotomy and the role of Validation in addressing grievances in implementing countries.

5.2 The EITI needs to do more to explain the role of Validation as a grievance mechanism

As discussed above, it is necessary to distinguish between grievances that result from a stakeholder's membership in the EITI Association and grievances that result from implementation of the EITI Standard. Stakeholders can also have concerns about EITI Office Holders' adherence to the EITI Code of Conduct. **The relevant governing document determines the mandate and procedure for the handling of the grievance.** Under the Articles of our Association, there are procedures for how decisions by the EITI bodies should be appealed (see box 1). Under the EITI Standard, there are procedures for how issues arising from the implementation of the Standard should be addressed,

¹⁰ <https://eiti.org/voicing-concerns>, see also Annex 1.

including the role of Validation. It is only once a decision is made by the EITI Board that, in the event a stakeholder disagrees with the decision, it falls under the process of appeals of the EITI Association.

The EITI is a non-profit association organised under Norwegian law (Article 3 of the Articles of Association). Its permanent institutional bodies are the EITI Members' Meeting, which is held in connection with the EITI Conference, the EITI Board led by the EITI Chair and the EITI Secretariat, led by the EITI Executive Director (Article 4.1). The EITI Board may establish committees "to further specific issues" (Article 13), but these are not institutional bodies under the Articles of Association. The EITI's members organise themselves in three constituencies (countries, industry and civil society) (Article 5.2) and each constituency decides on its rules governing the appointment of its members to the EITI Association (Article 5.3). The governing body of the EITI Association is the EITI Members' Meeting (Article 7.1) which is comprised of the members of the EITI Association (Article 7.2). Members can raise any issues for discussion to the Members' meeting (Article 8.1(iv)). The Articles include provisions on how to appeal decisions by EITI bodies (Articles 5.6, 8.1 (iv)), the EITI Board's faculty to agree its own appeals process (12.1(ix)) and oversight of the Secretariat by the EITI chair (16.1).

Box 2: Articles of Association and appeals by EITI bodies

One of the findings of this grievance review is that the **EITI has not done enough to explain the role of Validation in addressing grievances in implementing countries**. Validation "is an essential feature of the EITI process. It serves to assess performance and promote dialogue and learning at the country level, and **safeguards the integrity of the EITI** by holding implementing countries to the same global standard. It is intended to provide all stakeholders with an **impartial assessment** of whether EITI implementation in a country is in line with the provisions of the EITI Standard. The Validation report, in addition, seeks to identify the impact of the EITI in the country being validated, the implementation of activities encouraged by the EITI Standard, lessons learnt in implementation, as well as **address any concerns stakeholders have expressed** and recommendations for future implementation of the EITI".¹¹ The Validation procedure emphasises stakeholder consultation, incorporates an independent entity (the Independent Validator) and results in a Board decision that can result in corrective actions. Validation is conducted systematically and regularly, and the EITI Standard includes provisions on how Board decisions can be appealed. This is summarised in table 3.

¹¹ <https://eiti.org/validation>.

What system does the EITI have in place to address grievances in implementing countries?	Where is this found?	How is it operationalised?
Establish a framework for ensuring that stakeholders in implementing countries are able to work together.	Requirement 1 in the EITI Standard on MSG oversight.	MSG terms of reference (Requirement 1.4).
Establish a system that regularly reviews progress in implementing countries to identify challenges and possible grievances.	Requirement 8 in the EITI Standard on Validation and supporting Board decisions such as Validation procedures, ¹² the EITI Validation guide ¹³ and the EITI civil society protocol. ¹⁴	Validation primarily, but also through regular Implementation Progress Reports to the EITI Board.
Enable stakeholders to raise grievances to the attention of the EITI Board between Validations.	The EITI has established procedures to enable stakeholders to raise grievances to EITI bodies. ¹⁵ If it is an urgent matter, the Board's deliberations are likely to begin with the Board's Rapid Response Committee being convened.	Requirements 8.6 and 8.7 in the EITI Standard give the Board the power to suspend or delist countries "where it is manifestly clear that a significant aspect of the EITI Principles and Requirements are not adhered to". Requirement 8.4b establishes the Board's right to require a country to undergo a new Validation "where the country has become EITI compliant but concerns are raised about whether its implementation of the EITI has subsequently fallen below the required standard".
Regularly make decisions on grievances in implementing countries.	Requirement 8.3d establishes deadlines for Validations.	The Board regularly makes decisions on countries' progress through Validation.
Establish a system of appeals.	Requirement 8.8 in the EITI Standard.	Implementing countries may petition the EITI Board to review its decisions on their status. EITI Board decisions are final. The country may nevertheless appeal a decision of the EITI Board to the next ordinary Members' Meeting.

Table 2: Addressing grievances in implementing countries.

Figure 1 shows HNMCP's understanding of how grievances in implementing countries are addressed.

¹² <https://eiti.org/document/eiti-validation-procedures>.

¹³ <https://eiti.org/document/eiti-validation-guide>.

¹⁴ <https://eiti.org/document/eiti-protocol-participation-of-civil-society>.

¹⁵ <https://eiti.org/voicing-concerns>.

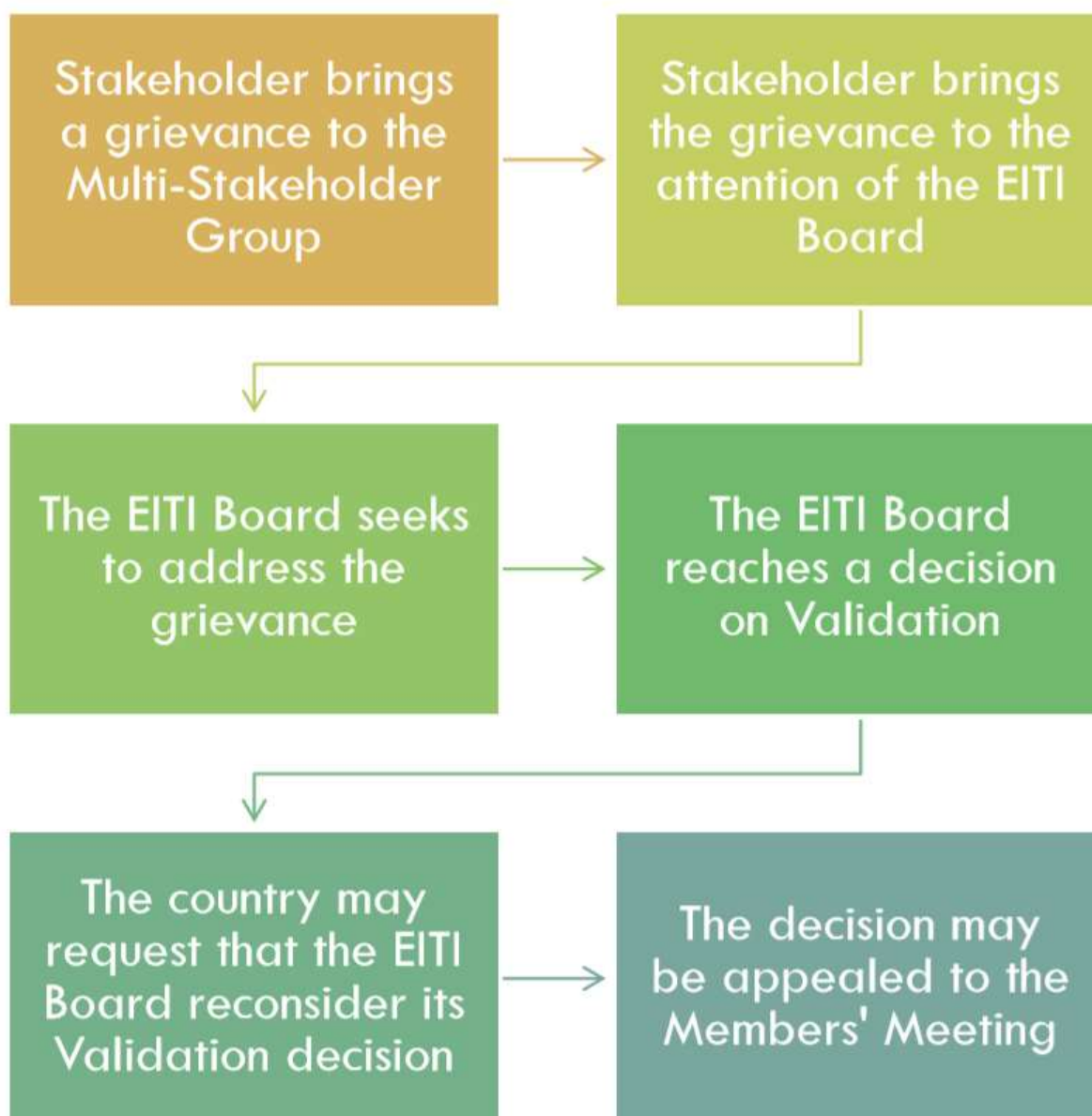


Figure 1: EITI's grievance procedure in implementing countries according to HNMCP p. 26

An important element of Validation as a grievance mechanism is that stakeholders can call on the Board to conduct an early Validation. Requirement 8.3b of the EITI Standard notes that “EITI compliant countries must maintain adherence to the EITI Principles and Requirements in order to retain Compliant status. Where a country has become EITI compliant but concerns are raised about whether its implementation of the EITI has subsequently fallen below the required standard, the EITI Board reserves the right to require the country to undergo a new Validation. Stakeholders may petition the EITI Board if they consider that Compliant status should be reviewed. This request may be mediated through a stakeholder’s constituency representative(s) on the EITI Board. The EITI Board will review the situation and exercise its discretion as to whether to require an earlier Validation. Subject to the findings of that assessment, the EITI Board will determine the country’s status”. A question that arose as a result of this review is whether the ability to request an early Validation is dependent on a country having demonstrated satisfactory progress overall (“compliance”, in Requirement 8.3b). This does not appear to be the case. Requirement 8.6a notes that “where it is manifestly clear that a significant aspect of the EITI Principles and Requirements are not adhered to by an implementing country, the EITI Board will suspend or delist that country... Where the EITI

Board is concerned that adherence to the EITI Principles and Requirements are compromised, it may task the International Secretariat with gathering information about the situation and submitting a report to the EITI Board". The Board also has the right to delist a country if these concerns remain (Requirement 8.7). Nevertheless, one way of highlighting the role of Validation as a grievance mechanism in implementing countries could be to change the wording in Requirement 8.3b: *"Stakeholders may petition the EITI Board if they consider that a country's ~~Compliant~~ status should be reviewed"*.

Consultations undertaken as part of the HNMCP study suggest that stakeholders may be frustrated by the EITI not "adjudicating" on grievances or securing recourse other than through corrective actions.¹⁶ It is difficult to see how the EITI could have an independent body to adjudicate on grievances outside of the established procedures of the Standard or the Articles of Association. As the executive body of the EITI Association (Article 9.1), the Board "shall act in the best interests of the EITI Association at all times" and "shall exercise the executive powers of the EITI Association" (Article 12.1). In exercising these powers, "Board members shall make every effort to adopt resolutions by consensus" (Article 14.3). For his or her part, the EITI Chair "shall seek to foster collaborative relationships between EITI stakeholders" (Article 11.2(vi)). **Rather than "independence" and "adjudication", these provisions suggest that the Board and its Chair have a responsibility to find solutions to possible grievances in a consensual manner and in a way that takes into account the best interest of the EITI Association.** Furthermore, it is clear that any committee created by the Board to address grievances would need to, "as far as is reasonable, reflect the multi-stakeholder nature of the EITI Association" (Article 13.1). As the HNMCP report notes, "Complex policy issues involving deep questions, about what the EITI should be and what it should (and can) do, make it hard to reach consensus at the EITI Board level. As a result, if grievances invoke these deep policy questions, then consensus, and thus a decision, on particularized grievances will be just as hard to reach."¹⁷ It would thus appear to be important that the EITI's grievance procedures focus on ensuring that stakeholders are treated in an equitable manner and in a way that is consistent with the EITI Association.

For these reasons, the EITI should clarify the role that Validation plays in addressing grievances in implementing countries, also between regularly scheduled Validations. The EITI Board may wish to recommend to the Members' Meeting that the wording in the Standard be modified to clarify that the Board can make decisions on a country's status at any time (not just during regularly-scheduled Validations or where a country has achieved satisfactory progress overall).

5.3 The EITI needs to do more to explain the role played by the different EITI bodies in grievance.

This grievance review and in particular the work with HNMCP suggest that the EITI needs to better explain the role of EITI Committees generally and in addressing grievances specifically. Article 13 of the Articles of Association states that "the EITI Board may create committees to further specific issues". The EITI Board manual clarifies that **"Board Committees do not take decisions on behalf of the EITI Board. Committees advise the Board on specific issues**, such as EITI implementation, validation, policy and management".¹⁸ The EITI's current grievance procedures explain that "The executive body of the EITI is the [EITI Board](#). It takes a wide range of decision, related to the implementation of the EITI Standard and to the running of the EITI as an organisation. Anyone wishing the Board to reconsider its decisions or otherwise consider EITI policy or implementation, should communicate this to the Board. This can be done by writing to the Board Chair,

¹⁶ See for example page 41 in HNMCP's report.

¹⁷ HNMCP, page 46.

¹⁸ <https://eiti.org/document/eiti-board-manual>.

(freinfeldt@eiti.org) or the Board Secretary (secretariat@eiti.org). **The Chair may then decide that the Board should address the matter and may ask one of the EITI Board committees to consider the issue before the Board does so.**" The interview questions annexed to the HNMCP study suggest that this point is not clearly understood. In particular there appears to be a misunderstanding of the Board's Rapid Response Committee as a "court of first instance" of sorts for grievances concerning civil society in particular.¹⁹ The role of other committees in addressing grievances is also not understood. Depending on the nature of the grievance, the different committees will address different grievances under different situations. For example, the Validation Committee arguably handles most of the grievances that arise through Validation, identifying issues and recommending corrective actions to the Board. Likewise, the Implementation Committee may play the largest role in recommending courses of action to the EITI Board when there are challenges to implementation in a country. In the same way also, the Rapid Response Committee can be called to address issues that do not concern specific grievances. The RRC is currently being informed of the situation in Liberia because of the rapidly deteriorating situation in the country's implementation of the EITI – not because of a specific grievance against a stakeholder's interests. As the HNMCP has pointed out, however, this misunderstanding may be due to the fact that the RRC does not currently have updated terms of reference online.

The terms of reference of the Rapid Response Committee should be updated and posted online alongside the other committee's terms of reference. The EITI should make it clearer on its website that committees do not make decisions, only recommendations.

5.4 More clarity about grievance procedures is needed to improve their accessibility

HNMCP has made some recommendations that could result in improved accessibility to the EITI's grievance mechanisms. In particular HNMCP has drawn from other MSIs to suggest how the EITI's grievance procedures could be improved to help stakeholders better understand the procedures in place, how their grievances would be addressed by the Board, the timelines in place for addressing the grievances and the confidentiality provisions in place. This governance review carried out by the Secretariat confirms that there is room for improvement. In particular, the grievance procedures could be made more user-friendly by using one mode of communication for all grievances rather than the current system whereby stakeholders need to first assess the nature of their grievance and then decide who it should be sent to. A possible alternative is illustrated schematically in figure 2.

¹⁹ See HNMCP p. 46 for example.

Nature of the complaint (others are possible)	How the complaint is communicated to the EITI	Possible first instance	Possible second instance
Complaint about a decision by the Members' Meeting	Confidential online form. The online form is sent to the Head of Secretariat unless the grievance is against the Secretariat, in which case the grievant can request that it be sent to the EITI Chair directly.	Members' Meeting	N/A
Complaint about a decision by the Board or the Secretariat		EITI Board	EITI Board (in the case of an appeal under Requirement 8.8 in the Standard) or EITI Members' Meeting
Complaint about a possible violation of the code of conduct		Possibly back to the MSG if the MSG has not discussed	EITI Board, see row above
Complaint about implementation		The Constituency Coordinator	Members' Meeting if about constituency organisation, otherwise EITI Board
Complaint about a constituency			

Figure 2: Proposed change to the grievance procedures. All complaints go through one channel.

This grievance review has also highlighted the importance of having clear guidelines for stakeholders to address grievances within their constituency. The Articles of Association are clear in that “each constituency decides upon its rules governing appointments of Members of the EITI Association” (Article 5.3). Constituencies may replace their own members at any time (Article 5.4). Constituencies also nominate their members to the Board (Article 8.1(ii)) and their alternates (Article 9.4). The constituencies are how EITI stakeholders organise themselves as members of the EITI Association (Article 5.2). The Members' Meeting is the governing body of the EITI Association (Article 7.1). The EITI Association leaves it up to the constituencies to govern themselves, and the EITI Board has recommended that constituencies should include procedures in their guidelines to address any possible grievances that may arise between Members' Meetings.

In accordance with the recommendations of the EITI Board to its constituencies agreed in February 2018, the EITI Board should ensure that guidelines for constituencies include provisions on addressing grievances.

The International Secretariat should improve the page on “how to voice a concern”. Besides providing additional background on what constitutes a grievance and the role of Validation (Recommendations 1 and 2), the Secretariat should consider including:

- An online form for stakeholders to voice grievances that allows stakeholders to request that the grievance be maintained confidential and to submit their grievance in English, French, Russian or Spanish. A WhatsApp business account²⁰ or similar will be considered to allow stakeholders in countries with low internet connectivity to also voice their concerns.
- An assurance that all grievances submitted through the online form (or its low-bandwidth alternative) will be answered within one week of receipt. At a minimum the response should include an assessment of the likely

²⁰ See <https://www.whatsapp.com/business/>.

steps that the EITI will take to address the grievance, including what Board committee is likely to be engaged depending on the nature of the grievance; a tentative timeframe for addressing the concern; a commitment to provide an update within two weeks (depending on the nature of the grievance); and a contact person in the Secretariat for any follow-up that may be needed.

- A hyperlink should be added on the frontpage of the EITI website to help stakeholders find information on how to voice their concern. This should also be added to the template for the EITI Newsletters and National Secretariat Circulars.

Annex A: Terms of Reference

Review of the EITI's grievance mechanisms

Approved by the EITI Board on [date]

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1. Background

The concept of “grievance” refers to stakeholders’ ability to seek recourse to a higher body where they consider that they or their interests have been treated wrongly or unfairly.

The EITI takes decisions in many different ways, and different decisions can be appealed in different ways. The EITI distinguishes between the EITI Association, which is governed by the Articles of Association, EITI implementation, which is governed by the EITI Standard, and constituencies, which are governed by their own internal rules. The highest body of the EITI under the Articles of Association is the EITI Members’ Meeting.

The EITI’s governance structure provides stakeholders with a number of ways to address possible grievances or raise concerns. This includes procedures for seeking redress to decisions or actions taken by the EITI Members’ Meeting, by the EITI Board or the International Secretariat. It also includes procedures for seeking redress to decisions or actions in implementing countries and by multi-stakeholder groups (MSGs). Constituencies are encouraged to also have their own grievance mechanisms, and the EITI Board is currently looking at ways to help them develop these. There is also an EITI Code of Conduct that applies to all EITI office holders, and EITI International Secretariat staff have procedures outlined in the EITI International Secretariat Staff manual. The EITI’s existing grievance mechanisms are all available online at <https://eiti.org/voicing-concerns>.

The EITI’s Governance and Oversight Committee (GOC) has as one of its priorities for 2017 to review the EITI’s existing grievance procedures. At the same time, the EITI Board is discussing a number of issues that directly or indirectly reflect or influence stakeholders’ experiences with the EITI’s grievance mechanisms. This includes recent experiences from Validation, common governance challenges that have been raised to the Board’s attention and the findings of an EITI constituency consultation carried out in 2017.

Building on these discussions, the EITI Board seeks to carry out a review of the EITI’s grievance mechanisms.

2. Objectives of the review

The objectives of the review are:

- To assess stakeholder awareness and use of existing grievance mechanisms.
- To identify ways to increase stakeholder awareness of existing grievance mechanisms.
- To evaluate the effectiveness of existing grievance mechanisms.

- To provide feedback to the EITI Board ahead of any possible revisions.

3. Scope of the review and expected deliverables

The review has three phases:

Phase 1 – Review of existing mechanisms

This phase includes the following activities:

- Review existing grievance mechanisms and pertinent presentations by the EITI's Legal Counsel concerning these. This may include an interview with the EITI's Legal Counsel.

Phase 2 – Review of practice

This phase includes the following activities:

- Review the findings of Validations in 2016 and first half of 2017 as concerns Requirement 1.1-1.4 to identify common challenges faced by stakeholders and the extent to which they have made use of existing grievance mechanisms to address these.
- Review existing analysis of the EITI's grievance mechanisms, including MSI Integrity's 2015 report, "Protecting the cornerstone" and the EITI's 2015 Governance review.
- Review the findings of the constituency consultations carried out in Q1 of 2017 and assess views on constituencies' grievance procedures.
- Review past cases brought to the EITI Board's Rapid Response Committee over the last three years. This could include reaching out to those directly affected and gathering their views on how their case was addressed.
- Should it be deemed necessary, a sample of stakeholders could be consulted to identify gaps not addressed by the above. These could be conducted through online webinars.

Phase 3 – Assessment and recommendations

This phase includes the following activities:

- Review how other multi-stakeholder organisations such as the Global Fund to Fight HIV-AIDS, Tuberculosis and Malaria address grievances.
- Present a report that provides an assessment of existing grievance mechanisms, including agree any recommendations to the Board for how to improve them.

4. Review schedule and resources

The assignment is expected to commence on [date], and finish by [commencement date + 3 months].

The proposed schedule is set out below:

Approval of the ToRs by the EITI Board	[date]
Phase 1: Review of existing mechanisms	[date] - [date]
Phase 2: Review of practice	[date] - [date]
=> Update to the GOC	[date]
If necessary, carry out focus group discussions	[date]
Phase 3: Assessment and recommendations	[date] - [date]
=> Draft report and presentation of findings to the GOC	[date]
=> Final report	[date]

It is proposed that the review be carried out by the EITI International Secretariat together with GOC members, including Cielo Magno. It may be decided that a consultant in addition to the EITI legal counsel is necessary, in which case funding needs to be allocated.

Annex1 – Supporting documentation

- EITI Grievance mechanisms (<https://eiti.org/voicing-concerns>)
- Presentation on grievance mechanisms by EITI Legal Counsel Christian Fredrik Michelet
- Board paper 37-3-D on “Common governance challenges in MSGs”
- MSI Integrity, “Protecting the Cornerstone” (<http://www.msi-integrity.org/assessing-eiti-msg-governance/>)
- EITI 2015 Governance Review (<https://eiti.org/sites/default/files/documents/eiti-governance-review-2015.pdf>)
- EITI constituency consultations aggregated results
- Preliminary assessment reports for Validations of the following countries: Mali, Liberia, Tajikistan, Solomon Islands, Sao Tomé and Príncipe, Mauritania, Kyrgyz Republic, Ghana, Timor-Leste, Peru, Nigeria, Mongolia, Azerbaijan (<https://eiti.org/document/validation-schedule-decisions>)

Annex B: EITI grievance procedures - how to voice your concern

Retrieved from <https://eiti.org/voicing-concerns>.

The EITI's [governance](#) structure provides stakeholders with a number of ways to address possible grievances or raise concerns.

The EITI takes decisions in many different ways. Different decisions can be appealed in different ways. In the below an overview is provided of how redress can be sought to decisions by different EITI bodies.

Decisions by the Members' Meeting

The governing body of the EITI is the [Members' Meeting](#), which meets at least once every three years. It takes the most important decisions and significant rights and obligations are associated with being a Member. Anyone wishing the Members' Meeting to reconsider its decisions or otherwise consider EITI policy or implementation, should communicate this to the Chair.

According to Article [8.1.iv](#)) The EITI Members' Meeting shall:

Consider any other matters pursuant to requests from a Member. Such requests shall be submitted in writing to the EITI Chair in time for any such matters to be included in the agenda for the EITI Members' Meeting stated in the summons."

Given the significant role of the Members' Meeting, it is important to determine who the members are. It is the constituencies who appoint the members, but the [Board can terminate membership](#) if a member does not comply with the EITI Articles of Association or if they are considered to have conducted themselves in a way prejudicial to the EITI principles. Any stakeholder whose membership has been terminated by the EITI Board in accordance with [Article 5.5](#) in the Articles of Association can appeal the decision to the EITI Members' Meeting in accordance with [Article 5.6](#) in the Articles of Association.

In summary, any stakeholder can write to the Chair requesting that the Members' Meeting considers a matter. If the Board has terminated someone's membership, this can be appealed to the Members' Meeting.

Decisions by the Board or the Secretariat

The executive body of the EITI is the [EITI Board](#). It takes a wide range of decision, related to the implementation of the EITI Standard and to the running of the EITI as an organisation. Anyone wishing the Board to reconsider its decisions or otherwise consider EITI policy or implementation, should communicate this to the Board. This can be done by writing to the Board Chair, (freinfeldt@eiti.org) or the Board Secretary (secretariat@eiti.org). The Chair may then decide that the Board should address the matter and may ask one of the EITI [Board committees](#) to consider the issue before the Board does so.

For countries implementing the EITI, there are particular provisions set out in the EITI Standard. Countries who disagree with a decision by the EITI Board on their status can appeal the decision in accordance with [requirement 8.8 in the EITI Standard](#):

"The implementing country concerned may petition the EITI Board to review its decision regarding suspension, delisting or the country designation as EITI Candidate or EITI Compliant following Validation. In responding to such petitions, the EITI Board will consider the facts of the case, the need to preserve the integrity of the EITI and the principle of consistent treatment between countries. The EITI Board's decision is final. The country concerned may, prior to the notice periods under Article 8 of the Articles of Association, appeal a decision of the EITI Board to the next ordinary Members' Meeting."

In summary, any stakeholder can write to the Chair also requesting that the Board considers a

matter, action or decision taken by the Board or Secretariat.

Implementation and EITI multi-stakeholder groups

The EITI requires effective multi-stakeholder oversight, including a functioning multi-stakeholder group ([overview to EITI Standard Requirement 1](#)). Issues related to implementation should therefore first be addressed to the multi-stakeholder group.

There are particular provisions related to civil society in the [Protocol: Participation of civil society](#), which forms an integral part of the EITI Standard. The protocol states that the Board through its Rapid Response Committee may be called to investigate particular cases and address alleged breaches ([Section 3 of Protocol: Participation of civil society](#)).

In summary, issues related to EITI implementation in a country should in the first instance be brought to the attention of the multi-stakeholder group of that country.

If there are concerns related to civil society participation, there are particular provisions providing for stakeholders to contact the Board. This is best done by writing to its Chair at (freinfeldt@eiti.org). If it is an urgent matter, the Board's deliberations are likely to begin with the Board's [Rapid Response Committee](#) being convened.

Code of Conduct

The EITI has adopted a Code of Conduct, seeking to ensure that EITI office holders observe the highest standards of integrity. This code applies to all EITI office holders.

Stakeholders who believe there is a violation of the EITI Association [Code of Conduct](#) can address this in accordance with [Article 12 of the code](#):

"EITI Office Holders with a concern related to the interpretation, implementation or potential violation of this Code of Conduct shall bring such issues to the attention to the immediate EITI body. Where matters are brought to the attention of the EITI Board, the Board will consider the circumstances and consider whether action is necessary in accordance with the EITI Principles, the EITI Standard and the Articles of Association. Anybody who is uncomfortable to raise any such concerns with the immediate EITI body may bring their concerns to the attention to the EITI Board through its Governance [and Oversight] Committee and its chair."

The EITI's Draft Constituency Guidelines

[The EITI's Draft Constituency Guidelines](#), which are meant to assist constituencies in the development of their own guidelines, have the following advice for addressing complaints within constituencies:

"If an EITI stakeholder wishes to complain about the processes his/her constituency has followed to agree its representation on the EITI Association or Board, those complaints should firstly be directed towards the members of that constituency. If a satisfactory solution cannot be agreed, a written report should be made to the EITI International Secretariat. Within three weeks of receiving such a report, the Secretariat will investigate the complaint and make a report of its findings to the EITI Board."

EITI Secretariat internal

Should a member of staff have any concerns they do not consider appropriate to address to the Head of the Secretariat, they should contact the Chair. Norwegian law and in particular the Working Environment Act applies. Further details are found in the EITI International Secretariat Staff Manual.

Annex D How to voice your concern as a Board member

This information is annexed to the EITI Board manual

Introduction

The EITI's governance structure provides stakeholders with a number of ways to address possible grievances or raise concerns. The EITI's grievance procedures are publicly available here:

<https://eiti.org/voicing-concerns>.

This annex lays out the steps that Board members can take to voice any concerns that may arise in the course of conducting the Board's business.

Voicing a concern

Voicing a concern about a Board decision

The EITI Board takes all decisions collectively. Any Board member wishing the Board to reconsider its decisions or otherwise consider EITI policy or implementation, should communicate this to the Board. This can be done by writing to the Board Chair, (freinfeldt@eiti.org) or the Board Secretary (secretariat@eiti.org). The Chair may then decide that the Board should address the matter and may ask one of the EITI Board committees to consider the issue before the Board does so.

Voicing a concern about the Secretariat

The Head of Secretariat is responsible for the activities of the Secretariat (Article 16.1 in the Articles of Association). Any Board member wishing to voice a concern about the way in which the Secretariat supports the Board has an opportunity to do so at the regular assessments of the Head of Secretariat's performance. Board members can also write to the Chair with any concerns that they may have about the activities of the Secretariat.

Raising a concern to the Members' Meeting

If a Board member does not feel that his or her concern has been satisfactorily addressed, the concern can be raised to the Members' Meeting, the governing body of the EITI. Anyone wishing the Members' Meeting to reconsider its decisions or otherwise consider EITI policy or implementation, should communicate this to the Chair.

Background

A central tenet of the Board's procedures is that the Board takes all decisions collectively, and the Articles of Association require that Board members make every effort to adopt resolutions by consensus (Article 14.3). It is the responsibility of the EITI Chair under Article 11.2 to "foster collaborative relationships between EITI stakeholders". Board members should therefore let the EITI Chair know if they have concerns about the way in which a Board decision has been reached. The rules and procedures approved by the EITI Members' Meeting or decided by the Board are set out in the [EITI Board Manual](#) for easy reference.

The EITI Board is supported by a Secretariat which is "responsible for the day-to-day running of the EITI Association under the direction of the EITI Board through its Chair" (Article 15.2). The Head of Secretariat is responsible for the activities of the Secretariat and serves as "Secretary to all EITI Board Meetings, EITI Members' Meetings and EITI Conferences" (Articles 16.1 and 16.2). The Head of Secretariat reports to the EITI Board through the Chair (article 16.1). Board members should therefore let the EITI Chair know if they have concerns about the way in which the Secretariat conducts itself. There is an institutionalised way of doing this through the regular reviews of the Head of Secretariat's performance. An introduction to some of the procedures of the Secretariat is available in the EITI Board Manual.

The EITI Chair is elected by – and responds to – the EITI Members' Meeting (Article 11.1). The

Members' Meeting is the governing body of the EITI Association (Article 7.1). It is consequently the highest instance available to EITI stakeholders for raising concerns. According to Article 8.1(iv), the EITI Members' Meeting shall "Consider any other matters pursuant to requests from a Member. Such requests shall be submitted in writing to the EITI Chair in time for any such matters to be included in the agenda for the EITI Members' Meeting stated in the summons." Board members should therefore let the EITI Chair know if they wish to raise a concern to the Members' Meeting.



HNMCP EITI PROJECT

Spring 2018

Review of the Grievance
Mechanisms of the Extractive
Industries Transparency Initiative

Report and Recommendation

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Extractive Industries Transparency Initiative

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HNMCP EITI PROJECT

REVIEW OF THE GRIEVANCE MECHANISMS OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

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I. EXECUTIVE SUMMARY

A. How to use this Report

The report begins with background information on this project and the EITI. It then presents findings that incorporate information from stakeholder interviews and analysis of the EITI’s organizational structures. It concludes by making several recommendations that respond to the presented findings.

The primary goals of the Harvard Negotiation and Mediation Clinical Program is to engage in dispute system design, problem-solving, and conflict management. Underlying this goal is a desire to help clients improve how they handle disputes. Implicit in this desire to help clients improve is an obligation to present information in ways that provoke thought and discussion. As a result, the findings and recommendations in this report are written as observations that are intended to spur action by EITI stakeholders. Our hope is such findings will lead to meaningful discussion at the EITI regarding the current grievance mechanism and how effective dispute resolution can help further its mission.

B. Summary of Findings and Recommendations

The key message from the findings and recommendations below is that stakeholders do not believe that the current system constitutes an effective “grievance mechanism.” The most common concerns involve the opacity of the process, but stakeholders also believe that the current system lacks the capability to efficiently resolve issues that arise at a national level outside of the Validation process. We recommend that the EITI create structures to address grievances in a transparent and consistent manner.

Findings	Recommendations
Finding 1 As the EITI has evolved since its beginnings in 2001, so have the issues that stakeholders wish to address in the EITI context evolved to encompass a wide array of concerns affecting the implementation of the Standard. The concepts of “grievances,” “grievance mechanisms,” and “dispute resolution” at the EITI remain fundamentally unresolved.	The EITI should help MSGs strengthen their dispute resolution capabilities as part of the EITI’s implementation support function. - Develop guidelines for the EITI’s intervention at the national level. - Provide formal training in dispute resolution to MSGs. - Separate the function of implementation support from Validation.

Findings	Recommendations
1. There is no shared institutional understanding for what makes a “grievance”. 2. Stakeholders at the national level do not know how to access grievance mechanisms. 3. Concerns in MSGs often appear before Validation, when stakes are high.	
Finding 2 Stakeholders have significant concerns about how the dispute resolution process may limit the ability of the EITI to resolve disputes, even when they agree with <i>substantive</i> outcomes. 1. Dispute resolution in the EITI has often led to positive outcomes, but there are several shortcomings. 2. Shortcomings can be categorized into: a. Informational gaps. b. Procedural gaps; and c. Substantive gaps.	1. The EITI should increase the transparency of the grievance mechanism to address stakeholders’ concerns regarding process. a. Address issues related to the grievance mechanism procedures. b. Keep the parties to the grievance informed. c. Make information concerning the grievance mechanism publicly available. d. Work with MSGs and constituencies to publicize information about the grievance mechanism available at both the international and national levels. 2. The EITI should strengthen its reporting system to be more accessible to all stakeholders, taking into account the level of sophistication of potential complainants and potential needs for anonymity.
Finding 3 The current governance structure of the EITI hinders dispute resolution because of how responsibilities for addressing grievances are allocated – or fail to be allocated – within the organization.	The EITI should consider the benefits of establishing an independent body or a section within an existing body with oversight of the handling of grievances.

Findings	Recommendations
1. There is no independent body to resolve disputes. 2. Consensus is hard to achieve when disputes implicate complex policy issues. 3. The Secretariat is forced to take on an outsized role.	
Finding 4 Ambiguity in the EITI’s continuing purpose makes it difficult to define the scope of grievances that fall within the purview of a grievance mechanism and involves questions that go to the core of the EITI. 1. Ambiguity may be deliberately created to achieve consensus, but has consequences for dispute resolution. 2. The EITI is continuously evolving, but lacks consensus on the relationship between transparency and accountability in its mission. 3. A particularly fundamental set of procedural disputes concerns the “linkage” between alleged violations of the Civil Society Protocol and the EITI’s core mission.	The EITI should address its theory of change as part of the implementation of the preceding recommendations.

II. PROJECT DESCRIPTION

A. Brief Background of HNMCP

The Harvard Negotiation and Mediation Clinical Program (“HNMCP”) is a legal clinic at Harvard Law School. It was founded in 2006 to give students the opportunity to engage with real-world clients while focusing on dispute system design, problem-solving and conflict management.¹ HNMCP’s goal is to train students to creatively and effectively address disputes by honing their dispute systems evaluation and design, conflict analysis, facilitation, stakeholder assessment, consensus building effort, and other skills.²

B. Project Charge and Question Presented

1. Project Charge

In December 2017, the Governance and Oversight Committee of the Extractive Industries Transparency Initiative (“EITI”) recommended a review of the EITI’s grievance procedures. The Terms of Reference for this review describe the “concept of ‘grievance’” as referring to “stakeholders’ ability to seek recourse to a higher body where they consider that they or their interests have been treated wrongly or unfairly.”³ HNMCP has been invited to contribute to the above review on a *pro bono* basis by analyzing the existing grievance mechanisms and making recommendations for improvement.

2. Question Presented

How can the EITI be more effective in addressing concerns regarding compliance with the EITI Standard⁴ within national multi-stakeholder groups (“MSGs”) through a grievance mechanism that follows best practices?

¹ *About Us*, Harvard Negotiation and Mediation Clinical Program. <http://hnmcp.law.harvard.edu/about-us/> (last visited April 5, 2018).

² *Id.*

³ *Review of EITI Grievance Procedures*. The EITI Governance and Oversight Committee. (December 20, 2017). https://eiti.org/sites/default/files/documents/goc_-_grievance_review_board_paper_for_approval.pdf.

⁴ As described in Section III.B.3, the EITI Standard also includes the Articles of Association, the EITI Association Code of Conduct, and other key policies. https://eiti.org/sites/default/files/documents/the_eiti_standard_2016_-_english.pdf.

Given the general nature of the concept of “grievance” as outlined in the Terms of Reference for this report, this assessment has not limited itself solely to Validation or any other particular process, but rather has tried to take a higher-level view of the grievance mechanisms available to stakeholders to address concerns that arise at the national level regarding implementation of the EITI Standard.

C. Methodology

This report is based on four general categories of information:

- 1) Background research on the EITI;
- 2) Stakeholder interviews;
- 3) Theoretical research; and
- 4) Comparative research.

1. Background Research

HNMCP began by reviewing existing information on the EITI. This information included the EITI’s institutional website;⁵ the EITI Association Code of Conduct;⁶ the EITI Standard;⁷ literature regarding the EITI;⁸ documentation and reports regarding validation,⁹ governance¹⁰ and grievance mechanisms;¹¹ as well as previous assessments conducted by consultants and human rights organizations.¹² All these documents are publicly available. HNMCP used this research (i) to direct and generate interview protocols and (ii) to inform its understanding of the EITI’s unique background and challenges.

⁵ See <https://eiti.org/> (last visited May 10, 2018).

⁶ *EITI Association Code of Conduct*. EITI (March 2014). Retrieved from <https://eiti.org/document/eiti-association-code-of-conduct> (last visited May 10, 2018).

⁷ *The EITI Standard 2016*. EITI (February 2016). Retrieved from <https://eiti.org/document/standard> (last visited May 10, 2018).

⁸ Rich, E., & Moberg, J. (2015). *Beyond Governments, Making Collective Governance Work*. Sheffield: Greenleaf Publishing Limited.

⁹ *Validation*. EITI (n.d.). Retrieved from <https://eiti.org/validation> (last visited May 10, 2018).

¹⁰ *Governance*. EITI (n.d.). Retrieved from <https://eiti.org/governance> (last visited May 10, 2018).

¹¹ *EITI grievance procedures - how to voice your concern*. EITI (n.d.). Retrieved from <https://eiti.org/voicing-concerns> (last visited May 10, 2018).

¹² *EITI Accountability and Grievance Mechanisms: Perspectives from Civil Society and Natural Resource Governance Advocates Workshop Report*. MSI Integrity (2016).

2. Stakeholder Interviews

An important source of data for this report was the stakeholder interviews that HNMCP conducted from February through April 2018.¹³ HNMCP conducted interviews with one or more members or representatives from:

- 1) EITI Board representing Civil Society Organizations;
- 2) EITI Board representing Implementing Governments;
- 3) EITI Board representing Supporting Governments;
- 4) EITI Board representing Companies;
- 5) EITI Secretariat;
- 6) Other multi-stakeholder initiatives (MSIs);
- 7) MSI Integrity;
- 8) Publish What You Pay;
- 9) Hivos International.

Various interviewees from the EITI Civil Society, Implementing Government, Supporting Government, and Companies constituencies also serve on the Governance and Oversight Committee and the Rapid Response Committee.

HNMCP conducted the interviews via telephone and videoconference. While most interviews lasted forty minutes to one hour, a few were as short as thirty minutes. In order to encourage full and candid responses, interview responses were kept confidential within HNMCP. Some interviews included follow-ups over email. HNMCP informed interviewees that their comments will not be attributed to them in this report. Instead, interview comments would be attributed to categories of stakeholder groups instead of to individuals.

3. Theoretical and Comparative Research

HNMCP consulted reference texts and articles regarding the principles and theories of dispute system design, multi-stakeholder groups and consensus building.

¹³ See Appendix A: Interview Protocol in the attached Appendices for a sample interview request letter and interview protocol.

In order to understand the current MSI practice, HNMCP also researched the grievance procedures of other MSIs.¹⁴ Examples include:

- 1) Fair Food Program;¹⁵
- 2) The Global Fund;¹⁶
- 3) Roundtable on Sustainable Palm Oil;¹⁷ and
- 4) Worker-Driven Social Responsibility Network.¹⁸

4. Limitations

This report took an inclusive approach to what constitutes a grievance mechanism at the EITI. As it became clear that there were significant conceptual issues to resolve in the definition of the grievance mechanism, and due to the limited time available during the academic semester, this study focused on high-level questions regarding the adequacy of grievance mechanisms to address concerns raised about the EITI process at the national level and was unable to provide an evaluation of how existing mechanisms work from the grassroots perspective.

As a follow-up to this report, we believe it could be valuable for the EITI to conduct some more fine-grained audits of Validations within a representative sample of member countries (to account for, e.g., regional variations, differences in income and legal infrastructure, cultural practices, and the specific industries present in a country), which would require more on-the-ground investigation than this study could do. The purpose of such an audit would be to identify how concerns are raised and addressed during the lifecycle of a Validation, including interviewing stakeholders from all constituencies on the ground who would be most directly affected.

¹⁴ These other MSIs operate within different contexts and with different configurations of stakeholders. The review of other MSIs is neither meant to endorse nor to criticize their practices, but rather to identify points of comparison to identify trends and generate possible options.

¹⁵ See <http://www.fairfoodprogram.org> (last visited April 5, 2018).

¹⁶ See <https://www.theglobalfund.org> (last visited April 5, 2018).

¹⁷ See <https://rspo.org/about> (last visited April 5, 2018).

¹⁸ See <https://wsr-network.org> (last visited April 5, 2018).

III. THE EITI AND THE EXISTING GRIEVANCE MECHANISMS

A. Multi-Stakeholder Governance

In today's increasingly globalized world, collective action problems are pervasive.¹⁹ A collective action problem occurs when individual stakeholders fail to work together toward a mutually beneficial goal. The failure is often caused because stakeholders can obtain short-term rewards by acting individually, rather than collectively.²⁰ As Mancur Olson observed in 1965, "unless the number of individuals in a group is quite small, or unless there is coercion or some other special device to make individuals act in their common interest, *rational self-interested individuals will not act to achieve their common or group interest.*"²¹ For example, someone bribing a government for an oil license may benefit in the short-term while the collective may suffer as a result in the long-term.

Beginning with Olson in 1965, it has been believed that collective action problems could only be overcome through the use of coercion or other devices employing selective incentives.²² At the national level, this can be done through government intervention. At the international level, collective action problems have been tackled through the negotiations of treaties, use of international law to force governments to act, and self-regulation by public-private partnerships.²³

Multi-stakeholder initiatives ("MSIs")²⁴ have developed as a result of the desire to combat collective action problems by finding opportunities to align the interests of various stakeholders. Collective governance, in turn, is the "formal engagement of representatives of government, civil society and companies in decision-making and in public policy discussions."²⁵ By bringing together

¹⁹ Yashar, D. J. (2002). Review Article Globalization and Collective Action. *Comparative Politics*, Vol. 34 No. 3, 355-375.

²⁰ Dowding, K. (March 7, 2013). *Collective action problem*. Retrieved from Encyclopaedia Britannica: <https://www.britannica.com/topic/collective-action-problem-1917157>.

²¹ Olson, M. (1965). *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge: Harvard University Press.

²² *Id.*

²³ Rich, E., & Moberg, J. (2015).

²⁴ This report uses the term multi-stakeholder initiative ("MSI") when referring to the general organizational form. The term multi-stakeholder group ("MSG") is reserved for the national multi-stakeholder fora within the EITI.

²⁵ Rich, E., & Moberg, J. (2015).

stakeholders and creating consensus around a common goal, MSIs encourage the collective action necessary to overcome the self-interest described by Olson.

B. The General Background of the EITI

1. The EITI Purpose and History

The EITI is an MSI comprising government, companies, and civil society organizations focused on implementing a global standard for good governance of oil, gas, and mineral resources.²⁶

The EITI was founded upon a belief that the natural resource wealth of a country should benefit that country's citizens, in order to combat the "resource curse."²⁷ The phrase "resource curse" is used to describe a phenomenon in which, counterintuitively, economies with abundant natural resources have tended "to have higher rates of conflict and authoritarianism, and lower rates of economic stability and economic growth"²⁸ than economies without such natural resources, often because of a collective action problem.²⁹ In the late 1990s groups such as Publish What You Pay ("PWYP"), among others, sought to fight this resource curse. Specifically, in 1999 PWYP campaigned for companies operating in countries, such as Angola, to adopt a policy of full transparency of payments.³⁰

In 2001, responding to increasing pressure to combat this resource curse, British Petroleum ("BP") made public the signature bonuses of US\$111 million it paid to the Angolan government for an offshore license.³¹ A signature bonus is a onetime fee for the assignment of a license. In response, the Angolan government chastised BP³² by sending letters to BP's then-CEO as well as making several threats.³³

²⁶ Who we are. EITI (n.d.). Retrieved from <https://eiti.org/who-we-are> (last visited May 10, 2018).

²⁷ The history of the EITI that follows largely tracks the EITI's own narrative of its history and is not intended to be a definitive history of natural resource governance or multi-stakeholder governance. See <https://eiti.org/history>.

²⁸ Natural Resource Governance Institute, "The Resource Curse" (March 2015) https://resourcegovernance.org/sites/default/files/nrgi_Resource-Curse.pdf.

²⁹ Sachs, J. D., & Warner, A. M. (1997). *Natural Resource Abundance and Economic Growth*. Cambridge: Harvard University.

³⁰ Global Witness. (December 1, 1999). *A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets*. Retrieved from <https://www.globalwitness.org/documents/17682/a%20crude%20awakening.pdf>.

³¹ Mouawad, J. (March 20, 2007). *Nowadays, Angola is Oil's Topic A*. Retrieved from <https://www.nytimes.com/2007/03/20/business/worldbusiness/20angola.html>.

³² *Id.*

³³ Rich, E., & Moberg, J. (2015).

This backlash was used by companies to argue that a unilateral approach on their part, as was requested by PWYP in 1999, was ineffective. Instead companies began pushing towards reporting by governments to reduce conflicts with countries and avoid risk to contracts.³⁴ Companies also wanted a global disclosure effort to ensure a level playing field across the extractive sector to avoid the kinds of collective action problems described above.³⁵

In 2002, then-UK Prime Minister Tony Blair outlined the idea for the EITI in a published speech. Subsequently, the UK Department for International Development (“DFID”) convened representatives from civil society, industry, and government for the purpose of creating a reporting standard.³⁶ In June 2003, these representatives agreed upon a Statement of Principles to increase transparency of payments and revenues in the extractive sector.³⁷

At G8 summits in 2003 and 2004, participating countries strongly encouraged transparency in the extractive industry. As a result, the International Monetary Fund (“IMF”) and the World Bank were tasked with providing technical support to governments wishing to adopt transparency standards. Out of this mandate, the World Bank established and began administering a Multi-Donor Trust Fund for the EITI.³⁸

Between 2002 and 2006, the EITI was being run by the DFID. During this period, countries began preparing reconciliation reports, which are detailed accountings of transactions made between government and companies, and an EITI Validation Guide was published. This early Validation Guide outlined which indicators, derived from a set of principles known as the EITI Rules, implementing countries had to meet to become EITI compliant.

With the EITI growing into an organization that promoted a disclosure standard implemented by individual countries, the DFID no longer had the capacity to run the organization. In 2005, the EITI stakeholders agreed that the EITI should have its own governance structure to fulfill this new objective.³⁹ Thus, a structure including a board, a secretariat body, and a members’ conference to

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *The EITI Principles*. EITI. (2016). Retrieved from <http://eiti.org/eiti/principles> (last visited May 10, 2018).

³⁸ Rich, E., & Moberg, J. (2015).

³⁹ The governing structure is laid out separately in the “EITI Organizational Structure” section below.

appoint the EITI Board every two years was created. As the EITI grew into a full organization, the EITI Rules, which were at the time more like guiding principles, left important issues open, such as the timeline for a country to comply with the Rules. As a result, in 2009 and again in 2011, the EITI Board issued new versions of the EITI Rules providing “requirements” that addressed steps to be followed by implementing countries.

In 2011, the EITI commissioned an evaluation by the independent consultants Scanteam, who found that the EITI was disconnected from larger public-sector reform processes and institutions. Essentially, while the EITI was innovating in areas like auditing, little societal impact could be discerned.⁴⁰ Collective action was still a problem.

In an effort to address the Scanteam’s finding, the EITI Board undertook an extensive strategy review and launched the EITI Standard in 2013 at the global conference in Sydney. This new Standard sought to create more understandable reports for stakeholders, make the EITI more relevant in each country by requiring countries to agree to a workplan with objectives for the EITI within the country, create more accurate disclosures, recognize countries going beyond the minimum requirements, and create a clearer set of rules for stakeholders to understand how the extractives sector is managed.⁴¹

As of 2018, the EITI has become a global standard with over 50 implementing countries.⁴² The EITI has moved far beyond focusing on revenue transparency. Instead, EITI has created space in countries to discuss previously politically risky subjects like beneficial ownership, commodity trading, or fraud.⁴³ The EITI has shifted from a narrow view of *transparency* to become an organization promoting *accountability*, on the understanding that transparency alone is insufficient to combat the resource curse. As the EITI has refined the understanding of its mission, tensions within the organization have developed between visions of more expansive and narrower mandates, as concerns latent within the organizational mission have come to the fore. For example, the protection of civil society necessarily implicates human rights concerns, even as the current structure of the EITI leaves it unclear

⁴⁰ Scanteam. (May 2011). *Achievements and Strategic Options, Evaluation of the Extractive Industries Transparency Initiative*. Retrieved from https://eiti.org/sites/default/files/migrated_files/2011-EITI-evaluation-report.pdf.

⁴¹ Rich, E., & Moberg, J. (2015).

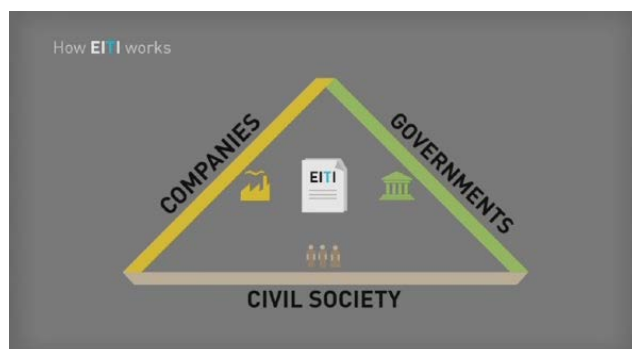
⁴² *Who we are*. EITI. (n.d.). Retrieved from <https://eiti.org/who-we-are> (last visited May 10, 2018).

⁴³ Rich, E., & Moberg, J. (2015).

how to address such concerns. Similarly, the environmental consequences of extractive activities are tied to the economics of the industry, but may not be explicitly named within the EITI framework.

The EITI is built on the belief that effective multi-stakeholder oversight requires four elements: 1) a formalized institution created by government; 2) the inclusion of government, civil society, and companies; 3) decision-making; and 4) public policy discussion.⁴⁴ The formalized institution created by government is important because government has the unique ability to create the legal environment that the national MSGs function in.

Without the government involved, a multi-stakeholder group becomes a collective action initiative looking to propose changes for which government action is needed. It substitutes discussion for collective action. A **formalized institution** created by the government is essential to ensuring all bodies (civil society, companies, and government) have a right to be at the table. The requirement



for a formalized self-governing forum is a critical element to protecting civil society space.⁴⁵ Second, **Government, civil society, and companies must all be present** to hold each other accountable. With at least three constituencies, one can always challenge the relationship of the other two. In particular, given the organizing concern with reconciling

payments between companies and governments, the watchdog role of civil society is of central importance to the idea of the EITI.⁴⁶ Third, the MSG must engage in **decision making**. Without decisions by the MSG, multi-stakeholder governance would become mere multi-stakeholder *advising*. Instead of creating something with consequences, like the EITI Standard, if no decisions are made the MSG would simply be recommending action. Recommending actions may be valuable, but making actual decisions goes one step further. The final element, **public policy discussion**, is

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ There may, of course, be situations in which the voice of companies is necessary to challenge the relationship between governments and civil society, and even conceivably situations in which government must challenge the relationship between companies and civil society. However, the guiding concern of the EITI asks civil society to assume a particularly important role challenging the other two constituencies.

important because it creates an environment in which government is strengthened through complementary advice given by civil society and company experts. While public policy will ultimately be made by government, policy discussion among all three groups leads to better policy.⁴⁷

With the MSG framework in place, the EITI seeks to achieve high levels of transparency and accountability in the oil, gas, and mineral resources sector. The EITI's transparency goal is for information on extractive resource use to be disclosed to stakeholders, and to be reconciled with payments received for extraction rights. Accountability takes transparency one step further. The EITI's accountability goals are to ensure that the information that is disclosed is reflected and used fairly, accurately and comprehensively, to inform public debate.⁴⁸ This includes such steps as understanding the value chain within the extractives industries and understanding the policymaking processes that inform the licensing of extractives projects.

To reach these goals, countries commit to implement the EITI Standard. The EITI Standard provides a framework for stakeholders to have the necessary information to improve how the sector is governed, and a process to help stakeholders engage meaningfully in its management. The information disclosed pursuant to the Standard is used by reformers, policy makers, investors, governments, civil society actors, academics, journalists, and others to understand the extractive industry. The EITI looks to create a space for stakeholders to suggest reforms that strengthen transparency and accountability within the extractives sector.

⁴⁷ Rich, E., & Moberg, J. (2015).

⁴⁸ *Id.*

2. The EITI Organizational Structure

EITI AT THE INTERNATIONAL LEVEL:

- The governing body of the EITI is the Members' Meeting, which meets every three years in connection with the EITI Conference. Pursuant to Article 6(4) of the EITI Articles of Association, the EITI Conference shall:
 - i) Provide an important and visible platform for debate, advocacy, continued fund raising, and inclusion of new EITI stakeholders;
 - ii) Review progress based on the activity report for the period since the preceding ordinary Members' Meeting;
 - iii) Provide suggestions to the EITI Board as to the activities of the EITI Association until the next ordinary Members' Meeting;
 - iv) Mobilise and sustain high level coordination, political commitment and momentum to achieve the objective of the EITI Association; and
 - v) Provide an informal communication channel for those EITI stakeholders who are not formally represented elsewhere in the governance structure of the EITI Association.

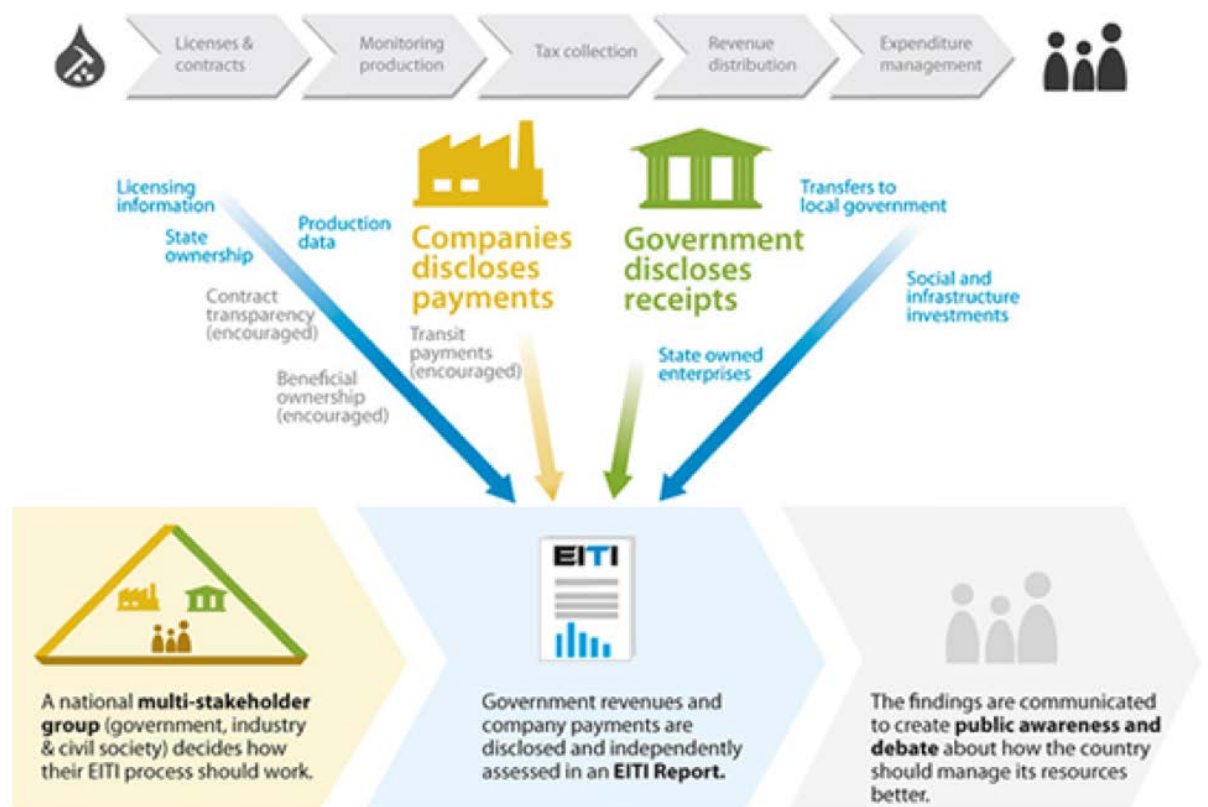
Pursuant to Article 8 of the EITI Articles of Association, the duties of the Members' Meeting include the following:

- i) Approve the activities report, the accounts and the activity plan of the EITI Board;
- ii) Elect the Members, and Alternates for each Member, of the EITI Board, on nomination from the Constituencies;
- iii) Elect the EITI Chair, on proposal of the EITI Board; and
- iv) Consider any other matters pursuant to requests from a Member. Such requests shall be submitted in writing to the EITI Chair in time for any such matters to be included in the agenda for the EITI Members' Meeting stated in the summons.

- The EITI's main governing body is the EITI Board. It consists of 21 members and their alternates that represent implementing countries, supporting countries, civil society organizations, industry, and institutional investors. The responsibilities of the EITI Board are carried out through committees formed pursuant to Article 13 of the EITI Articles of Association. Pursuant to Article 12 of the EITI Articles of Association, the responsibilities of the EITI Board include the following:
 - i) Consider general and specific policy issues affecting the EITI Association;
 - ii) Agree on the work plans and budget of the EITI Association;
 - iii) Agree on the arrangements for the EITI Conferences and the EITI Members' Meetings;
 - iv) Present (through the EITI Chair) the activity report and the activity plan to the EITI Conference and obtain approval of the same from the EITI Members' Meeting;
 - v) Present (through the EITI Chair) the annual accounts and the audit reports for the accounting periods since the last ordinary EITI Members' Meeting;
 - vi) Engage the Head of the Secretariat;
 - vii) Oversee and direct (through the EITI Chair) the work of the EITI Secretariat;
 - viii) Ensure that the multi-stakeholder nature of the EITI Association is maintained and fully reflected in the EITI Association at all levels, including in its Committees;
 - ix) Establish its procedures regarding the validation process, including complaints, resolving disagreements, the question of de-listing a country and appeal procedures;
 - x) Adopt more detailed procedures and rules for the management and operation of the EITI Association including the contents of country work plans and company work plans, the validation process, the management of funds, payments for projects, goods and services, auditing and reporting and the approval of projects;
 - xi) Recommend a candidate for the EITI Chair prior to each ordinary EITI Members' Meeting; and
 - xii) Adopt a code of conduct.

- The EITI's administrative body is the International Secretariat. Pursuant to Article 1.5 of the EITI Articles of Association, the Secretariat is responsible for the day-to-day running of the EITI Association under the direction of the EITI Board through its Chair. Its roles include: outreach and advocacy, communicating and sharing lessons learned with stakeholder, providing technical advice, oversight of the Validation process, and highlighting results in countries through means such as publishing on the EITI website.

EITI AT THE NATIONAL LEVEL:



- Each implementing country creates its own national MSG (consisting of government, companies, and civil society) and decides how the EITI process should work in their country and how the EITI Standard should be implemented.
- The national MSG ensures that key information about the governance of the sector is reported regularly.
- The national MSG also makes recommendations for improving sector governance within the country.

3. The EITI Standard

The 2016 Standard is composed of two parts:

- Part I of the Standard addresses implementation of the EITI Standard. This section headings within this part of the Standard are as follows:
 - The EITI Principles;
 - EITI sign up;
 - Requirements for EITI implementing countries (which is the largest part of the Standard by a sizeable margin);
 - Overview of Validation;
 - Protocol: Participation of civil society (the “Civil Society Protocol”); and
 - Open data policy.
- Part II of the Standard addresses the governance and management of the International EITI. The section headings within this part of the Standard are as follows:
 - The Articles of Association;
 - EITI Openness policy;
 - EITI Constituency guidelines; and
 - EITI Association code of conduct.

Many issues regarding the implementation of the requirements contained within the Standard are addressed during the Validation process, which is described below. Validation provides an opportunity to systematically collect information regarding the EITI mechanisms within a given implementing country, hold discussions among EITI stakeholders, and determine the extent to which a given country is making progress in achieving transparent and accountable natural resource governance, as measured against the EITI Standard. The substantive challenges faced by implementing countries often relate to EITI Requirement 1: Oversight by the multi-stakeholder group, and the Civil Society Protocol. EITI Requirement 1 calls for multi-stakeholder groups that involve “the government, companies, and the full, independent, active and effective participation of civil society.”

EITI REQUIREMENT 1

Oversight by the multi-stakeholder group.

Overview: The EITI requires effective multi-stakeholder oversight, including a functioning multi-stakeholder group that involves the government, companies, and the full, independent, active and effective participation of civil society. The key requirements related to multi-stakeholder oversight include: (1.1) government engagement; (1.2) industry engagement; (1.3) civil society engagement; (1.4) the establishment and functioning of a multi-stakeholder group; and (1.5) an agreed work plan with clear objectives for EITI implementation, and a timetable that is aligned with the deadlines established by the EITI Board.

In particular, Requirement 1.3 and the associated Civil Society Protocol create challenging disputes because it is difficult to objectively measure civil society engagement under this requirement and because EITI stakeholders are themselves divided as to the meaning of certain terms of this requirement. As has been described, the effective participation of civil society remains a vital check on the relationships between government and industry within a given country. Disputes regarding issues involving civil society therefore assume great importance for EITI stakeholders.

EITI Requirement 1. Oversight by the multi-stakeholder group.

1.3 Civil society engagement.

In accordance with the civil society protocol:

- a) Civil society must be fully, actively and effectively engaged in the EITI process.
- b) The government must ensure that there is an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of civil society substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected.
- c) The government must ensure that there are no obstacles to civil society participation in the EITI process.
- d) The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI.
- e) Stakeholders, including but not limited to members of the multi-stakeholder group must:
 - i. Be able to speak freely on transparency and natural resource governance issues.
 - ii. Be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate.
 - iii. Have the right to communicate and cooperate with each other.
 - iv. Be able to operate freely and express opinions about the EITI without restraint, coercion or reprisal.

4. Validation

Validation is the process for safeguarding the integrity of the EITI by holding implementing countries to the same global standard. Validation assesses performance and promotes dialogue and learning at the country level. It is the Board's assessment of whether implementation in a country is in line with the provisions of the EITI Standard.

When a country becomes an implementing country of the EITI, it is given a Validation deadline. An implementing country must publish its first EITI report within 18 months of being accepted as an implementing country. Validation is required to commence within two and a half years of a country being accepted as an implementing country within the EITI.

Validation is a four-part procedure:

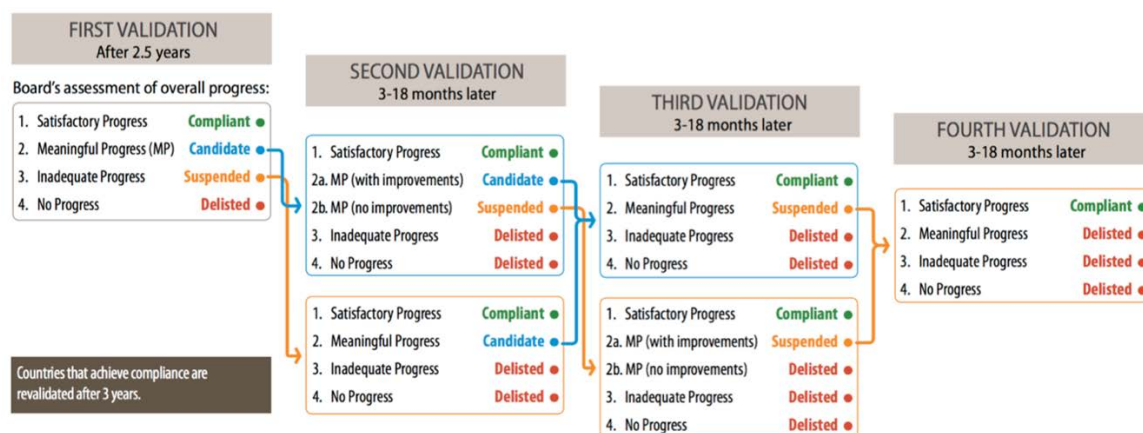
1. The National MSG is encouraged to undertake a self-assessment to self-assess compliance with the EITI Standard.
2. The International Secretariat conducts initial data collection and stakeholder consultation. The Secretariat prepares a report making an initial assessment of progress against requirements in the EITI Standard. Such Validation reports may also include recognition of an MSG's achievements beyond what is required under the EITI Standard.
3. The EITI Board appoints an Independent Validator who assesses whether the Secretariat's initial assessment has properly been conducted. The Validator reports to the EITI Board via the Validation Committee.
4. The EITI Board makes a final determination on whether the requirements are met. The implementing country may petition the EITI Board to review its decision, and may appeal such decisions to the Members' Meeting.⁴⁹

Consequences from Validation:

- Validation against the Standard results in an assessment of satisfactory, meaningful, inadequate, or no progress.⁵⁰

⁴⁹ Some stakeholders found this process of requesting review of Validation decisions or appealing such decisions to constitute the principal grievance mechanism relating to implementation. As indicated elsewhere in this report, this analysis is not limited to such processes.

⁵⁰ *Validation*. EITI (n.d.). Retrieved from eiti.org/validation (last visited May 10, 2018).



- Stakeholders may petition the EITI Board to request a review of a country's compliant status.
- When concerns have been raised regarding the implementation of the EITI Standard within a country deemed compliant, the EITI Board reserves the right to require the country to undergo a new Validation process.

C. The EITI in the Context of Public International Law

Understanding the legal underpinnings of the EITI is foundational to understanding how and why the EITI operates the way it does. This can be understood by the “form follows function” mantra. The EITI functions to bring stakeholders from three distinct constituencies together, and the form of the EITI facilitates that function.⁵¹ The EITI's current form is that of a non-treaty association with a Standard implemented by national governments. This form of organization has consequences for dispute resolution, highlighted in Finding 2 and Chapter V, Section E (Disputes involving Requirement 1.3 of the EITI Standard) of this report.

1. Non-treaty Organization

The EITI is a non-treaty organization. As a result, participation in the EITI does not create independent legal obligations to meet the requirements under the Standard. There are incentives (in the form of access to funding streams) and pressures (from civil society groups such as PWYP) for member countries to comply with the EITI Standard. However, neither membership within the EITI

⁵¹ This observation may be helpful in framing discussions around both the EITI's current structure (including the grievance mechanism) and functions going forward, as pushes for changes in structure underline a desire for a change in function.

nor the text of the EITI Standard create legally enforceable rights or obligations between participating parties.⁵² Participation is voluntary.

Treaties are one principal source of international law. Countries are legally bound to the treaties that they sign and ratify under international law.⁵³ International law creates a *pacta sunt servanda* (Latin for “agreements must be kept”) amongst treaty signatories. In the context of these international agreements, “every treaty in force is binding upon parties to it and must be performed by them in good faith.”⁵⁴ In the United States, for example, the government has tailored its actions specifically to comply with international law.⁵⁵ No such obligation results from becoming an implementing country at the EITI.⁵⁶

A question the EITI may want to address, but which is beyond the scope of this report, is whether the state practice of countries complying with the EITI Standard in a deliberate manner contributes to the creation of customary international law. Customary international law is a “general practice accepted as law” which is determined by looking to the general practice of the states and what states have accepted as law.⁵⁷

Even though participation is voluntary, other international law—such as human rights law—continues to apply to EITI members. In particular, the UN Guiding Principles on Business and Human Rights (the “Guiding Principles”) are by now a familiar reference point for many EITI stakeholders.⁵⁸ Whether or not individual stakeholders believe that the EITI is an MSI “based on respect for human

⁵² The organization itself is created under Norwegian law. This report does not analyze consequences flowing from being organized under Norwegian law, but instead looks to the legal relation between stakeholders.

⁵³ Congressional Research Service Library of Congress. (January 2001). *Treaties and other international agreements: the role of the United States Senate*. Retrieved from <https://www.gpo.gov/fdsys/pkg/CPRT-106SPRT66922/pdf/CPRT-106SPRT66922.pdf>

⁵⁴ *Vienna Convention on the law of treaties concluded at Vienna on 23 May 1969*. (May 23, 1969). Retrieved from <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

⁵⁵ See generally *Medellin v. Texas*, 552 U.S. 491 (2008).

⁵⁶ The question of how binding international law itself is, while important, falls beyond the scope of this report. However, many of the reasons nations comply with international law (self-interest and reputation) may motivate involvement in the EITI. As a result, though the EITI does not create treaty-based obligations, members’ compliance with the EITI Standard may be subject to similar incentives as compliance with a treaty.

⁵⁷ Dinstein, Y. (2004). *The Conduct of Hostilities under the Law of International Armed Conflict*. Cambridge: Cambridge University Press.

⁵⁸ United Nations Guiding Principles on Business and Human Rights (2011). Retrieved from http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

rights-related standards” under Principle 30 of the Guiding Principles, the text of Principles 25–31 provide definitions of “grievances” and “grievance mechanisms” that influence how stakeholders understand the grievance mechanisms within the EITI.⁵⁹ Moreover, this body of international law has overlap with the EITI Standard in areas such as Requirement 1.3, even if member countries’ compliance with international law is not enforceable by the EITI. This tension is discussed more thoroughly in Chapter IV, Section D of this report.

2. Implementation by National Government

Just because the EITI is a non-treaty organization does not mean there are no legal implications. Instead, because implementation occurs at the national level and through acts of government, there can be national level law around the EITI.⁶⁰ For example, in Nigeria the national level MSG, the Nigerian Extractive Industries Transparency Initiative (“NEITI”), was created through the NEITI Act of 2007 “in the context of the comprehensive socio-economic reform program embarked upon by the Federal Government of Nigeria during the second term of the Obasanjo administration...”⁶¹ As the NEITI itself explains: “Besides being an integral part of the global EITI, NEITI is a Federal Government of Nigeria Agency established by law, monitored, supervised by the Office of the President of Nigeria through the Office of the Secretary to the Government of the Federation. It is an autonomous, self-accounting body which by law, reports to the President and the National Assembly. It is a body corporate with perpetual succession.”⁶² As a result, rights and obligations exist for NEITI, and therefore the EITI, stakeholders in Nigeria under securities law, administrative law, or criminal law. Implementing countries may also organize their MSGs in other ways, with varying degrees of legal formality.

⁵⁹ Principle 25 states: “a grievance is understood to be a perceived injustice evoking an individual’s or a group’s sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities. The term grievance mechanism is used to indicate any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought.” *Id.*

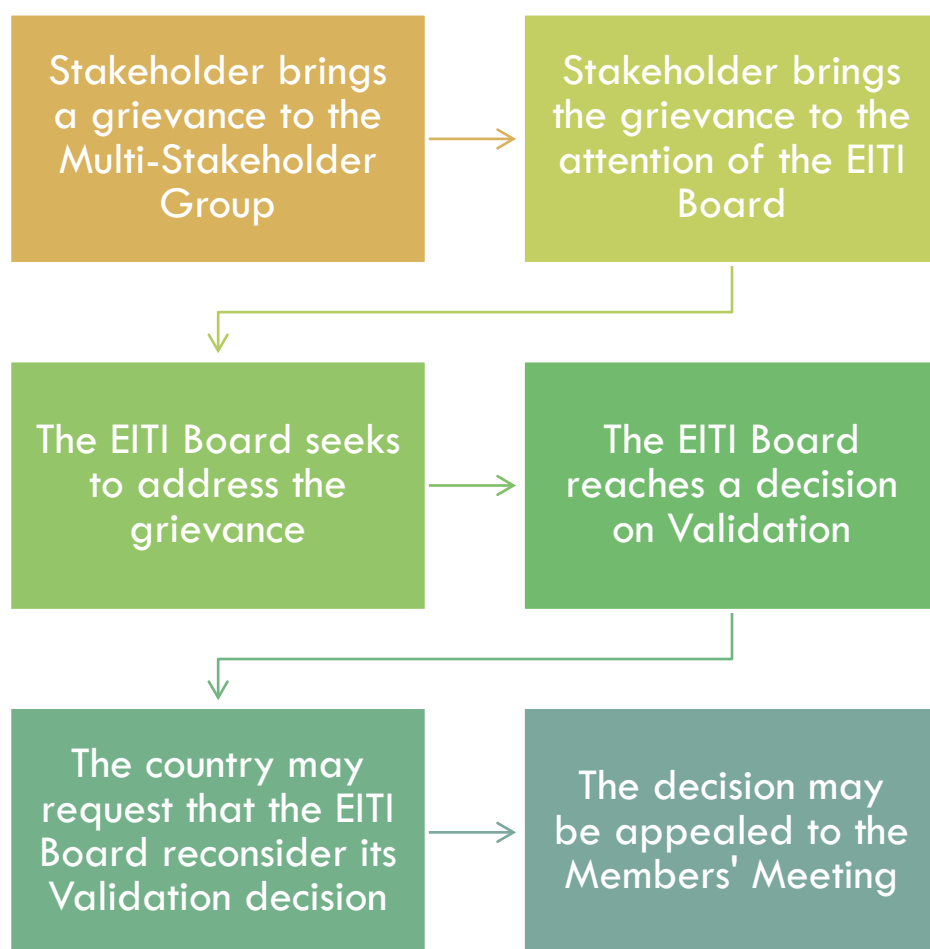
⁶⁰ EITI International Secretariat. (2016). *Validation of Nigeria Report on initial data collection and stakeholder consultation by the EITI International Secretariat.*

⁶¹ Nigeria Extractive Industries Transparency Initiative. (2016). *Brief History of NEITI.* Retrieved from NEITI: <http://www.neiti.gov.ng/index.php/aboutus/brief-history-of-neiti>

⁶² Nigeria Extractive Industries Transparency Initiative. (2016).

D. Current Grievance Mechanism

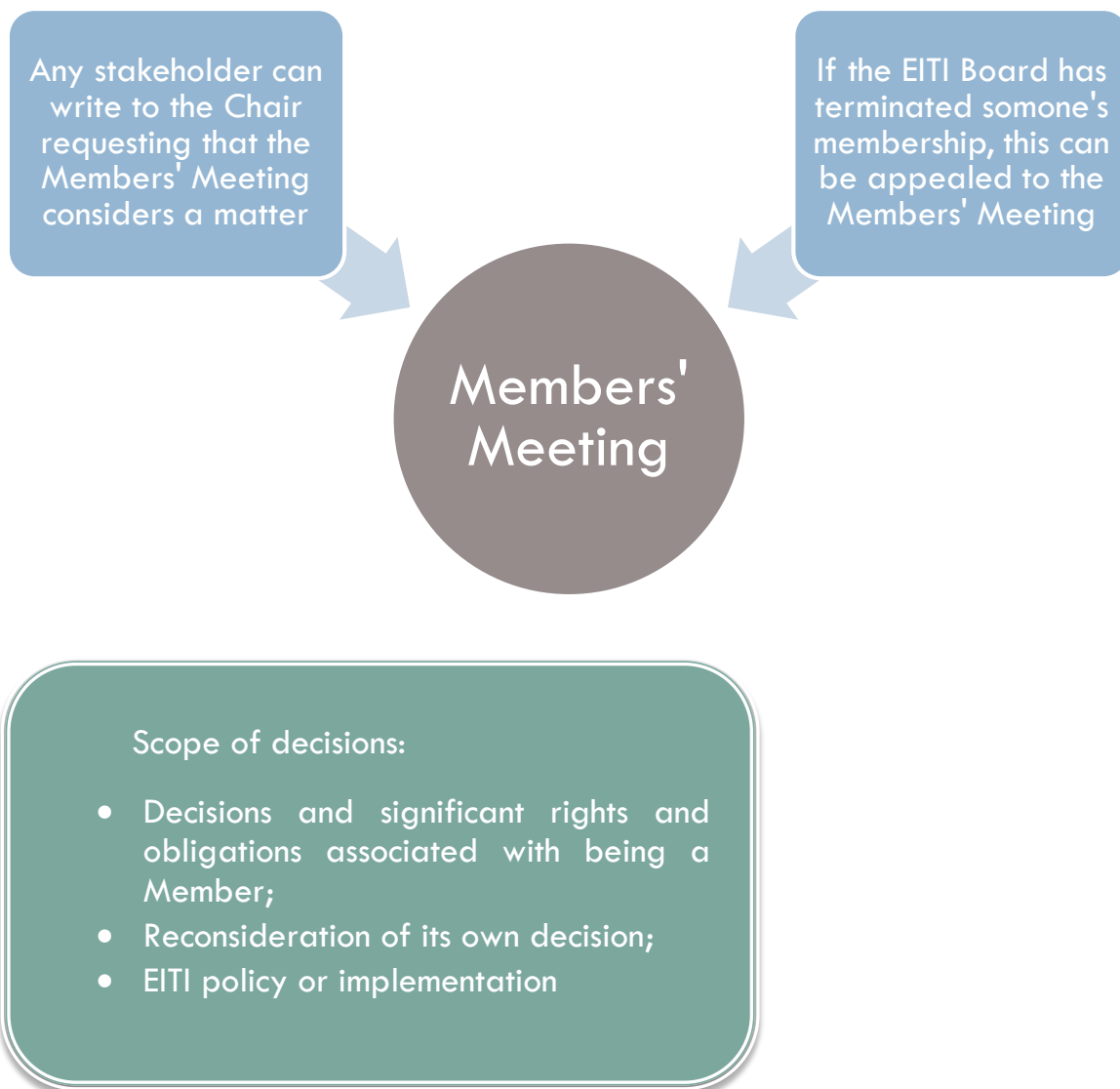
The EITI's concept of "grievance" refers to stakeholders' ability to seek recourse in case they consider that they or their interests have been treated wrongly or unfairly under the EITI Standard. The "EITI grievance procedures - how to voice your concern" page on the EITI website does not expressly define what grievances mean in the EITI context, but rather provides an overview "of how redress can be sought to decisions by different EITI bodies."⁶³ In general, matters may be raised before the national MSG, or the EITI Board, or the Members' Meeting, as appropriate, with certain possibilities for appeal to higher bodies. A process for addressing an issue that might impact a Validation decision, for example, may occur as follows:



⁶³ *EITI Grievance procedures – how to voice your concern*. EITI (n.d.). Retrieved from <https://eiti.org/voicing-concerns> (last visited May 10, 2018).

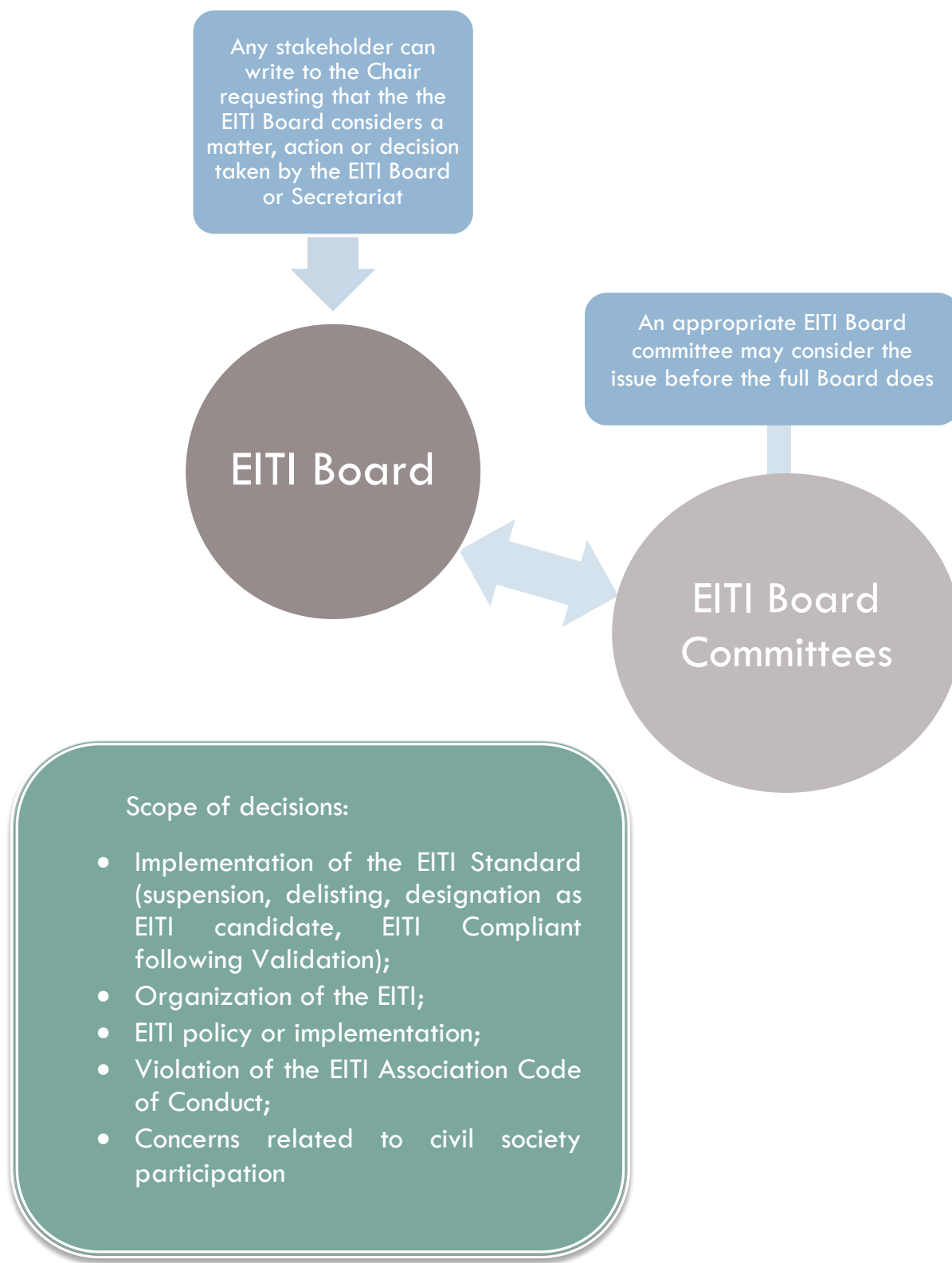
According to the information on the EITI's website,⁶⁴ the scope of decisions of the bodies involved in the grievance process and grievances are meant to be addressed as follows:

1. Members' Meeting

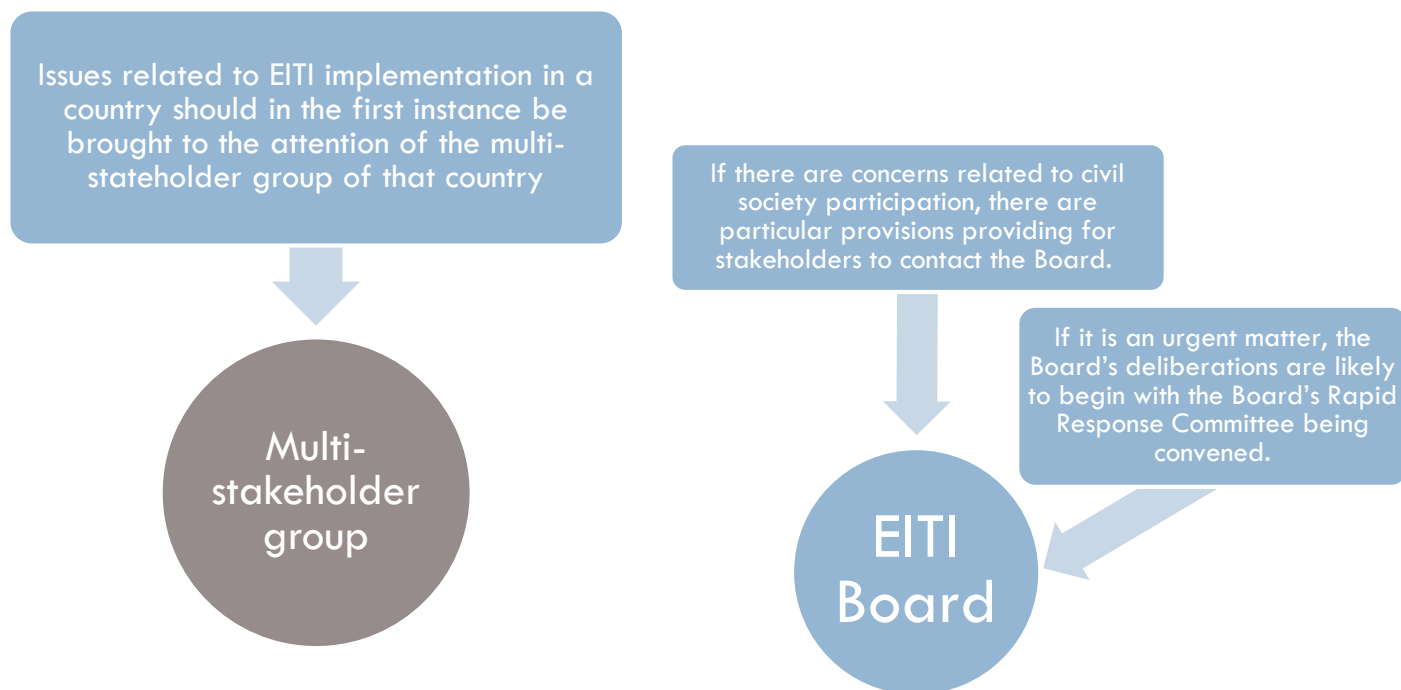


⁶⁴ *Id.*

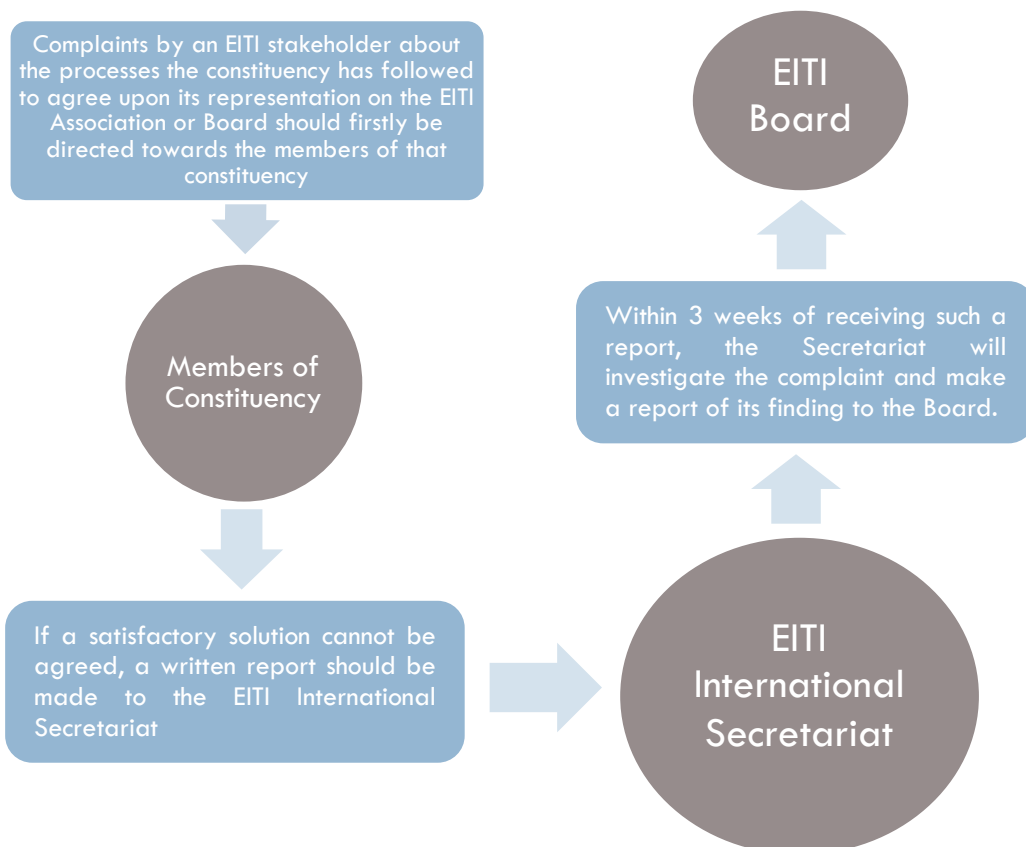
2. The EITI Board



3. Implementation and Multi-Stakeholder Groups



4. Members of Constituency



IV. FINDINGS

The findings address the following issues:

- 1) Defining “Grievances”;
- 2) Assessing processes for dispute resolution;
- 3) Institutional structures affecting the grievance mechanism; and
- 4) Conceptual tensions affecting the grievance mechanism.

Each of the four subsections below details one of these issues in narrative form.

A. Defining “Grievances”

Finding #1:

As the EITI has evolved since its beginnings in 2001, so have the issues that stakeholders wish to address in the EITI context evolved to encompass a wide array of concerns affecting the implementation of the Standard. The concepts of “grievances,” “grievance mechanisms,” and “dispute resolution” at the EITI remain fundamentally unresolved.

1) THERE IS NO SHARED INSTITUTIONAL UNDERSTANDING FOR WHAT MAKES A “GRIEVANCE”

As the EITI has become more institutionalized and countries have begun to rely on the EITI more and more—or, as Moberg and Rich have said, “everyone was trying to hang everything on it”⁶⁵—the organization has become a forum for raising particularized issues regarding natural resource governance. The EITI has long outgrown being simply about assessing implementing countries against the Standard. However, the way that the EITI views “grievances” has not changed in the same way. Stakeholders’ understandings of what constitute “grievances” differ in important ways from that of the EITI.

Currently, the EITI uses the term “grievance” in a very broad manner. The Terms of Reference for this review define “grievance” as “stakeholders’ ability to seek recourse to a higher body where

⁶⁵ Rich, E., & Moberg, J. (2015).

they consider that they or their interests have been treated wrongly or unfairly,”⁶⁶ while the publicly-available page on the EITI website regarding grievance procedures states that “The EITI takes decisions in many different ways. Different decisions can be appealed in different ways. ... an overview is provided of how redress can be sought to decisions by different EITI bodies.”⁶⁷ Both texts refer to grievances principally in the context of addressing decisions that have *already* been made by an EITI body. In contrast, another definition for grievance, taken from an American legal dictionary, is “[a]n injury, injustice, or wrong that potentially gives ground for a complaint <a petition for a redress of grievance>,”⁶⁸ consistent with the definition offered by the Guiding Principles: “a perceived injustice evoking an individual’s or a group’s sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities.”⁶⁹ In this second definition,⁷⁰ a grievance exists when there is a perceived injustice, independent of how it is being resolved (and independent of whether the injustice in question results from a violation of *law*). Interviewees tended to think of grievances along the lines of this second definition—as any disputes arising between members of the EITI or of EITI constituencies, and sometimes even involving parties outside of the EITI. Some examples of issues that were described as “grievances” include, but are not limited to:

- Disagreements concerning who is a member of a national MSG;
- Concerns regarding the structure of national MSGs (including the independence of civil society members and political interference in the MSG process);
- Disagreements about the accuracy of information posted on a national-level website, or whether such information should be removed entirely;
- Alleged harassment of individuals (including, but not limited to, detention and censorship), either by state organs or by private security;

⁶⁶ *Review of EITI Grievance Procedures*. The EITI Governance and Oversight Committee. (December 20, 2017). https://eiti.org/sites/default/files/documents/goc_-_grievance_review_board_paper_for_approval.pdf.

⁶⁷ *EITI Grievance procedures – how to voice your concern*. EITI (n.d.). Retrieved from <https://eiti.org/voicing-concerns> (last visited May 10, 2018).

⁶⁸ Garner, B. A. (2014). *Black’s Law Dictionary*. St. Paul: West Publishing Co.

⁶⁹ Principle 25, United Nations Guiding Principles on Business and Human Rights (2011). Retrieved from http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

⁷⁰ This report will occasionally refer to “grievances in the general sense.” This term references the definition from Black’s Law Dictionary and the Guiding Principles for defining the concept of “grievance” more broadly, and without limiting it to appeals.

- Concerns regarding whether national laws adequately meet the EITI Standard;
- Questions of interpreting the EITI Standard and associated documents, including:
 - What constitutes self-censorship within national civil society and
 - What constitutes the requisite “linkage” between a potential grievance and the EITI’s operations;
- Alleged financial improprieties, including misuse of funds earmarked for EITI purposes;
- Alleged violations of the EITI Code of Conduct; and
- Concerns regarding the responsiveness of EITI Board members to constituents in various countries.

For the few stakeholders that know of the EITI’s stated grievance mechanisms, the use of the term “grievance” creates confusion as to what kinds of issues can and should be brought to the EITI’s attention—and how. Instead of the ability to file a complaint with the International EITI, stakeholders currently engage in what appears to be the same process for addressing any issue at the EITI: bring it to the appropriate body, possibly only after one of the organs of the EITI has already taken action or rendered a decision. Stakeholders are instructed that the national MSG is often the first point of contact for concerns regarding implementation, and are presumably aware that Validation is the key process through which concerns regarding progress on implementation are addressed (though nowhere does the definition of “grievance” or the EITI’s outline of the grievance procedures limit these concepts to issues regarding Validation—indeed, it is precisely because Validation is such a central component of the EITI framework that the separate language of “grievance mechanism” is understood by virtually all non-Secretariat stakeholders to mean some *other* processes). However it raises the question for stakeholders of whether there is room within the EITI to address “grievances” in the general sense outside of the Validation process and, if so, how.

The advantages to the process outlined on the EITI’s grievance procedures website is that resolving “grievances” becomes a creative endeavor that balances the interests of all the stakeholders at the EITI within the limits set by the Standard. For example, when multiple stakeholders have disputed who should participate within a national MSG, the EITI has intervened to help resolve such a dispute. The major procedural disadvantages are outlined in the next finding. The major substantive disadvantage of this process is that stakeholders may not be able to seek redress for particularized

“grievances” in the general sense. Yes, stakeholders can raise such issues—either during Validation or by separately bringing them to the attention of the EITI Board. However, once raised to the EITI Board, such “grievances” are handled like another agenda item, rather than as perceived injustices that give grounds to the underlying complaint and call for prompt action.

Another implication to defining “grievance” on the basis of procedure rather than on the basis of perceived injustices is that almost anything can fit under the grievance umbrella. This broad usage of grievance is an obstacle to implementing an effective way to deal with any particular dispute relating to the EITI. Essentially, any dispute can almost immediately implicate “all of the EITI.” In other words, interviewees described how attempts to voice concerns regarding particularized instances of perceived injustice almost always quickly evolved to talking about the core tensions inherent in MSGs and the EITI described later in this report. Within this structure, the current flexible but ill-defined approach to grievances may seem like the only viable solution: if all grievances are treated alike and necessarily implicate the relationship among the various EITI bodies, then the mechanism for dealing with grievances must be flexible enough to address any issue, within each body of the organization. Time spent thinking through how different types of grievances may be addressed can pay off in terms of consistent and efficient dispute resolution, and in terms of clarifying the ambiguities and tensions within the EITI’s mission.

As a result of the lack of clarity regarding what constitutes a grievance or a grievance mechanism, even when stakeholders know *how* to access the international EITI’s grievance mechanisms (as described on the EITI website) after exhausting possibilities for resolution within a national MSG, they usually do not do so because they are unsure *when* to engage it. Furthermore, due to a lack of specified redress, or remedy, stakeholders are unaware what the outcomes *could* be. This lack of awareness may dissuade stakeholders from raising concerns, and thereby limits the EITI’s ability to learn of issues occurring on the ground.

This is not to say that the EITI is unaware of issues happening within implementing countries. Interviewees revealed that the international EITI often intervenes without ever receiving a formal complaint. The intervention occurs because the EITI becomes aware of a dispute through contacts on the ground within a country. In many cases this may occur within the context of periodic implementation reports.

As a result, the way the EITI functionally responds to grievances in implementing countries is centered on Validation: the EITI becomes aware of disputes or broader concerns through contacts within national MSGs or within regular reports, and then decides whether and how to intervene, with an eye towards assisting the country to come into compliance with the EITI Standard. A different view of grievances, in the general sense, would mean a more decentralized approach, with disputants raising particularized instances of perceived injustices to the EITI. From the perspective of the Secretariat, all concerns regarding implementation ultimately flow into the Validation process; from the perspective of some stakeholders at the national level, this is indicative of tautology: all concerns *taken up by the International EITI regarding implementation* may well be addressed in Validation, but other concerns fail to be taken up and thereby fail to be addressed. It is how those *other* concerns can be raised through a grievance mechanism that is at the heart of these Findings.

2) *STAKEHOLDERS AT THE NATIONAL LEVEL DON'T KNOW HOW TO ACCESS GRIEVANCE MECHANISMS*

During interviews, many stakeholders were unaware that the EITI had a grievance mechanism at all. As one interviewee put it: “Frankly, I was unaware the EITI has a grievance mechanism.” The result is the Validation-centric approach to grievances explained above: stakeholders at the national level provide information to the EITI regarding potential issues. However, stakeholders do not know how, when, or why to engage the EITI’s grievance mechanisms for issues that do not obviously fall within the Validation process.

Beyond the debate about what a grievance is, informational gaps at the national MSG level prevent stakeholders from accessing the EITI’s grievance mechanisms in an effective and timely manner. This is explored more fully in the “Informational Gaps” section below but has other implications for implementation of the EITI Standard.

3) *CONCERNS IN MSGS OFTEN APPEAR BEFORE VALIDATION, WHEN STAKES ARE HIGH*

Many concerns only surface when stakes are highest: right before decisions regarding Validation are made. While the lengthy Validation process can identify issues with implementation in a timely manner, there remain a few critical moments in the process when concerns take on heightened urgency and are escalated and resolved. This timing may be caused by groups

strategically vying for more influence within a political organization by using an upcoming Validation to their advantage. Alternatively, the organizational pressure created by preparing for Validation may surface issues that could remain unaddressed before, or force resolution of issues that had been deadlocked. Either way, in the absence of clearly-defined reporting mechanisms, interviewees expressed concern that important disputes surface only late in the process, potentially undermining the EITI's ability to resolve those disputes as effectively as possible.

Recommendations relating to Finding 1 can be found in Chapter V, Section C of this report.

B. Assessing Processes for Dispute Resolution

Finding #2:

Stakeholders have significant concerns about how the dispute resolution process may limit the ability of the EITI to resolve disputes, even when they agree with substantive outcomes.

1) NATURE OF DISPUTE RESOLUTION REGARDING IMPLEMENTING COUNTRIES OF THE EITI

Currently, the structure of the EITI encourages dispute resolution at the national MSG level in the first instance. The EITI Standard is used to address concerns with the state of natural resource governance at the national level,⁷¹ and so it is the national multi-stakeholder groups that decide how the EITI process in their countries should work and how disputes regarding the EITI process should be resolved.⁷² While the EITI Standard does not prescribe any specific process for dispute resolution, MSGs that lack the ability to effectively resolve disputes (such as deciding who chairs the national EITI Board or who represents civil society) may not be able to effectively implement the EITI Standard. This can have an effect on a country's ability to demonstrate satisfactory progress in Validation.

In summary, issues related to EITI implementation in a country should in the first instance be brought to the attention of the multi-stakeholder group of that country.

This quote is taken from the EITI's grievance procedures page and is an example of the EITI encouraging dispute resolution at the national MSG level first. <https://eiti.org/voicing-concerns>

In many instances the MSG is able to resolve disputes among stakeholders at the national level. For example, some disputes have involved correcting the publication of incorrect information, or correcting a description of certain fees paid within a country. However, when the national MSG is unable to resolve disputes internally, the dispute resolution mechanisms of the EITI may be engaged. This can be seen in the cases of Nigeria, Norway, Iraq, Azerbaijan, and most recently Liberia. In those situations, members of the Secretariat or the EITI Board have attempted to help the

⁷¹ How we work. EITI (n.d.). Retrieved from <https://eiti.org/about/how-we-work> (last visited May 10, 2018).

⁷² *Id.*

national MSG overcome whatever obstacle it is facing. Stakeholders have indicated that in many instances these have achieved good outcomes.

There are also instances in which it may not be appropriate to bring an issue before the national MSG in the first instance, if there are conflicts of interest or if a complaint is about the national MSG. In those cases, it is important that there be clear procedures to get the issue before the international EITI. It is important to note that the ability of a national MSG to effectively resolve disputes is related to the availability of dispute resolution mechanisms at the international level; a national MSG that knows that disputes may be referred to the international level may have a stronger incentive to create a robust and credible dispute resolution mechanism of its own. While some stakeholders expressed concern that too many disputes may be referred to the international EITI rather than being addressed at the national level, the dispute resolution mechanism could be structured in a way that encourages resolution at the national level when appropriate and feasible.

The EITI Secretariat or the EITI Board, acting through the RRC, often functions somewhat like a third-party mediator when intervening in disputes within implementing countries, and it is flexible in its approach. The Secretariat in particular sees itself as the custodian of the Standard. With that role, the EITI will often act as a knowledgeable voice giving parties to the dispute a realistic view of whether a particular action is likely to comply with the EITI Standard, while ultimate responsibility for such determination rests with the EITI Board. The EITI will then often attempt to make sure this realistic view is imparted to the stakeholders to help frame the ensuing discussion. As has been mentioned, this kind of assistance most often occurs within the context of Validation.

Stakeholders have emphasized that procedural flexibility is a critical aspect to the EITI's current ability to effectively resolve disputes. The reasons for this preference are two-fold: 1. No two countries are alike and no two disputes are alike. A successful approach taken in Nigeria may not transfer to Norway. 2. The EITI fundamentally works by providing a space for discussion and building consensus. As will be described further in the Recommendations, an effective mechanism should therefore maintain the capability to address disputes in different ways—with an improved process for strengthening the transparency and consistency of the mechanism. Flexibility is also necessary for designing appropriate remedies. The decision to become an implementing member of the EITI does not create legal obligations on its own and decisions by the international EITI do not have *legally* binding consequences for implementing countries. For example, some stakeholders

expressed concerns that a dispute resolution mechanism might create unfounded expectations that the EITI Board could force a national government to change its laws. The EITI Board cannot do that—but that does not mean that the EITI is unable to create effective remedies (as other stakeholders fear): it *can* give an assessment on how those laws mesh with the EITI Standard, it *can* facilitate discussions with national stakeholders, it *can* refer matters to national authorities, etc.

Even though many stakeholders have indicated that this approach can often resolve disputes satisfactorily on substance (though, as has been indicated, with important gaps), there are shortcomings that stakeholders have voiced concerns about.

2) SHORTCOMINGS

Shortcomings in the EITI's grievance mechanism related to the implementation of the EITI Standard can be organized into three general (and somewhat overlapping) categories: informational gaps, procedural gaps, and substantive gaps. Informational gaps represent areas in which knowledge is simply missing or inaccessible. Procedural gaps are areas where stakeholders expressed a strong desire for the EITI to create some more formal structure on top of its current processes to address grievances outside of the Validation context. Substantive gaps represent areas where the EITI's current grievance mechanisms, as outlined above, have no clear remedy.⁷³

INFORMATIONAL GAPS

Interviews with stakeholders revealed that there were several informational gaps preventing the EITI from having a more effective grievance process:

- 1) Many interviewees do not know when or how the EITI would be prepared to intervene, or how a national MSG could request support from the international EITI if necessary, outside of the context of identifying implementation issues with an eye towards Validation. Many issues come to light and are addressed within the context of Validation, but stakeholders believed other issues would arise in other contexts—in particular, “grievances” in the general sense.

⁷³ As will become clearer with the recommendations sections, these gaps become increasingly more difficult for the EITI to fill, with informational gaps being the easiest and substantive gaps being the most difficult. However, even if some substantive gaps may never be filled, it may still prove helpful to be aware that they exist.

As a result, issues that arguably should come to the attention of the EITI may do so in an ineffective or slow manner. This can make resolution of such grievances more difficult as time passes. Alternatively, even if particularized “grievances” in the general sense are brought to the EITI’s attention in an informal manner, such as by simply talking to members of the Secretariat, there is no mechanism (outside of Validation) for the EITI to effectively track them and thus create a method for evaluating how the EITI addresses them. It is difficult to say how many grievances are or are not being raised to the EITI given the lack of any clear definitions of what constitute grievances. An ability to self-evaluate is critical for the EITI’s ability to continue improving how it handles grievances.⁷⁴ This, of course, first requires a working definition of what constitutes a grievance.

- a) Even though there is a page explaining how to voice concerns, many interviewees either did not know this page existed or thought it provided only superficial information about EITI’s grievance mechanism and lacked specific information on how, when, and by whom a grievance would be handled. This is demonstrated by interviews revealing that it is usually stakeholders internal to the international EITI, rather than a member of a national MSG, that bring issues to the attention of the international EITI bodies. Even Board members actively involved in disputes that have been brought to the EITI Board level felt that they were left in the dark regarding the timing of dispute resolutions, or how and by whom decisions would be made. There was even some concern that issues raised to the EITI Board level were being suppressed by not being given sufficient airtime during meetings or by being resolved in ways that did not include all stakeholders.
- b) While there are terms of reference published on the EITI website for the RRC, interviewees were generally unaware of how, when, or why matters are referred to the RRC.⁷⁵

⁷⁴ Costantino, C. A., & Merchant, C. S. (1996). *Designing Conflict Management Systems*. San Francisco: Jossey-Bass Publishers.

⁷⁵ *Board Committees*. EITI (n.d.). Retrieved from <https://eiti.org/about/board-committees#rapid-response-committee> (last visited May 10, 2018).

Rapid Response Committee

Role

The Rapid Response Committee was set up at the 4th EITI Board Meeting in Accra on 22 February 2008, to “develop a proposed framework for EITI rapid responses to political developments”.

This Committee has proven to fulfill an important function in monitoring events that could put EITI stakeholders or process in EITI implementing countries at risk, and to make recommendations to the Board for possible responses.

The RRC’s description is lacking when compared to the descriptions of other committees, which include hyperlinked Terms of Reference. For example:

Finance Committee

Role

The Finance Committee shall advise the EITI Board on strategic issues relating to the financing of the EITI International Management (Board and Secretariat). These include advising on the securing of funding to the levels agreed by the EITI Board when approving EITI Secretariat workplans and budgets, financial reporting, investment of liquidity and accepting of financial operations. It should from time to time review the funding principles adopted by the Board.

The Committee is also tasked with reviewing the EITI’s expenditure, including ensuring that it understands what the Secretariat uses its funds for, whether the Secretariat have appropriate decision-making processes for taking decisions with financial implications and whether it considers that the Secretariat makes effective and appropriate use of its funding.

The Terms of Reference of this committee are available [here](#).

Next meeting and how to observe

The next call of the EITI Finance Committee will take place on Thursday 26 April at 15:00-16:00 CET. Contact the Committee secretary for call-in information. The following draft agenda has been proposed for discussion:

- Approval of the agenda and meeting minutes from FC #23
- Q1 2018 Financial update
- Recruitment update
- Date of next meeting
- Any other business

Stakeholders wishing to observe this committee meeting should contact Brynjar Wiersholm (bwiersholm@eiti.org) no later than three working days in advance of the meeting. The next committee conference call is scheduled for Thursday 24 May at 15:00-16:00 CET.

- 2) Outside of the Validation framework, there is currently no formalized or regular evaluation mechanism for tracking grievances (in the general sense) brought to the attention of the international EITI or how successfully and efficiently they are resolved. Assuming that the EITI wishes to address such grievances, and that such grievances are not resolved solely within the context of Validation, the ability to evaluate is critical for a grievance mechanism to improve. Currently, it appears to be the case that stakeholder concerns are raised through several channels—some

described as complaints, some included in periodic reports, etc.—making it very difficult to identify specific problems. Without an ability to evaluate meaningfully, it is hard to clarify goals of the mechanism and measure progress toward and achievement of those goals.⁷⁶ Essentially, without an ability to evaluate, it is hard for the EITI to know if grievances are being addressed in a satisfactory manner or if there is a need to change approaches.

PROCEDURAL GAPS

- 1) Since the Secretariat and Board members are also heavily involved in the Validation process, interviewees expressed a concern regarding the lack of independence when the Board or Secretariat engage in dispute resolution. The concern comes from the fact that information shared with the Secretariat or Board may end up being fed into the Validation process. As one interviewee explained it: “The validator is bringing to the Validation not information gleaned from [the] validation process, but from an exchange of ideas.” That is, the crucial role of the Secretariat and the Board in administering the Validation process has left some stakeholders uncertain about the degree of independence of the independent validators.
- 2) Many interviewees expressed concerns that there are no whistleblower or anonymity protections. The current grievance mechanism requires a complainant to write to the Chair. As a result, there is no guarantee of anonymity, even when it may be important. Presumably, someone could request their complaint to be anonymous, though it is unclear when or how that request could be implemented within the current framework.
- 3) There is currently no formalized procedure for grievances beyond the page on the EITI website that has been described above. While there is a suggested contact for drawing the attention of different decision making bodies (Members’ Meeting, the EITI Board, or the Secretariat), there is no process by which a grievance may be formally filed, taken in, and guaranteed to be addressed:⁷⁷

⁷⁶ Costantino, C. A., & Merchant, C. S. (1996).

⁷⁷ *EITI grievance procedures - how to voice your concern*. EITI (n.d.). Retrieved from <https://eiti.org/voicing-concerns> (last visited May 10, 2018).

In summary, any stakeholder can write to the Chair also requesting that the Board considers a matter, action or decision taken by the Board or Secretariat.

If there are concerns related to civil society participation, there are particular provisions providing for stakeholders to contact the Board. This is best done by writing to its Chair at (freinfeldt@eiti.org). If it is an urgent matter, the Board's deliberations are likely to begin with the Board's [Rapid Response Committee](#) being convened.

Interviewees expressed concern that without a more clearly spelled-out process, grievances could easily be dismissed by the bodies to which they are referred. As one interviewee explained, since the agenda of any Board meeting is created by the Chair and grievances are submitted to the Chair, the Chair ends up acting as a gatekeeper for grievances. Interviewees expressed concern that there were no defined criteria for what grievances would be considered, how they would be viewed by the Chair, or what the Chair would do with grievances. Essentially, interviewees felt that the existing process was not much of a grievance process, but rather, just a way to *try* getting concerns to the EITI Board with no actual safeguards, clarity, or guarantees.

These concerns echo some core ideas in the literature on dispute systems design. William Ury, Jeanne Brett, and Stephen Goldberg proposed three broad approaches to resolving disputes: (i) reconciling parties' underlying interests ("interest-based methods"); (ii) seeking resolution on the basis of rules and principles ("rights-based methods"); and (iii) determining who is more powerful ("power-based methods").⁷⁸

Within this tripartite framework, interest-based dispute resolution processes are often preferable because they are less costly, can follow more versatile processes, and can achieve better substantive outcomes than either rights-based or power-based methods, by encouraging mutual-gain solutions and preserving the relationship between parties. However, interest-based methods—such as negotiation at the level of the EITI Board—may not always be optimal or effective; furthermore, their success depends upon having rights- or power-based mechanisms when no mutually agreeable resolution is available.⁷⁹ These rights-based and power-based methods can then loop back to inform an interest-based process. The power-based mechanisms

⁷⁸ William L. Ury et al., *Getting Disputes Resolved*. 3-19 (1988).

⁷⁹ Roche, W., & Teague, P., Conflict Management Systems. In *The Oxford Handbook of Conflict Management in Organizations*. Oxford University Press. (2014).

at the EITI include threats from countries to walk from the initiative, or attempts from various stakeholders to challenge its credibility. What is missing is an effective *rights-based* mechanism at the EITI that can address specific grievances on the basis of accepted neutral principles when interest-based discussions fail. Validation is one such process, in that it uses the EITI Standard as an objective measure. But because it is targeted toward national compliance with the EITI Standard, Validation is too blunt an instrument to resolve the grievances that stakeholders within implementing countries experience on a day-to-day basis.

SUBSTANTIVE GAPS

- 1) The EITI currently has very limited remedies in place to satisfy a complaining party, due in part to the limited nature of the EITI under public international law. Grievances are resolved by negotiating a remedy, having no remedial action taken because of a lack of consensus, or by a stakeholder leaving the EITI voluntarily or being found to have made inadequate progress. This means that for certain grievances, such as those involving questions of national law within an implementing country, there may be no resolution possible.

Some stakeholders questioned whether the EITI could resolve disputes at all, given that the EITI is not an organization based in treaty law. Although the EITI's authority certainly has limits, it can still address a range of disputes and craft a range of remedies. The precise nature of the available remedies will depend on the form of the dispute resolution mechanism—with the determinations of a country's status in the Validation process being one such example. Other possible remedies include agreements among stakeholders (which may be reached through facilitated dialogues or mediation, for example), and recommendations to stakeholders (including to national governments).

Recommendations relating to Finding 2 can be found Chapter V, Sections A and B of this report.

C. Institutional Structures affecting the Grievance Mechanism

Finding #3:

The current governance structure of the EITI hinders dispute resolution because of how responsibilities for addressing grievances are allocated – or fail to be allocated – within the organization.

1) NO INDEPENDENT BODY TO RESOLVE DISPUTES

Disputes not resolved at the national MSG level may be addressed by either the EITI Board directly or the Secretariat (with the EITI Board having the final say). As a result, the EITI has no independent body for resolving disputes⁸⁰ that are more adjudicatory in nature:

- While the EITI Board is designed to bring together representatives from all constituencies, the EITI Board is not a neutral body for *resolving disputes*. This is because disputes at the EITI usually implicate interests of all three constituency groups. Thus, Board members remain interested parties insofar as they are also members of the constituencies affected by the grievance (and, of course, they may also be directly involved in a grievance). As a result, it can be a meaningful body for raising, discussing, and resolving disputes, but it is not an “independent” body in the sense of being disinterested.
- The Secretariat also faces potential conflicts when acting to resolve disputes. It acts as the “custodian of the Standard.” This implies a strong commitment to upholding and promoting the EITI Standard. Such a role is critical to EITI’s success when implementing the Standard. However, taking such a role will often mean taking a view on what the Standard means and how to best implement it. Furthermore, the Secretariat is heavily involved in implementation. Because of this role, interviewees have expressed some concern about a body that administers implementation support also being tasked with helping them resolve disputes (and, of course, members of the Secretariat may also be directly involved in a grievance).

⁸⁰ This Finding uses the term “dispute” and “dispute resolution” to refer to matters that may be more susceptible to resolution through structured processes whereby independent arbiters may engage in fact-finding and consider arguments regarding shared standards that give rise to rights and obligations.

More fundamentally, the EITI Board and the Secretariat play certain roles with respect to the interpretation of the EITI Standard: the EITI Board sets the policies of the EITI while the Secretariat actively supports implementing those policies. The implementation of policy requires the Secretariat to make interpretations while conducting crucial tasks like setting Board agendas. At the same time, both the EITI Board and the Secretariat are currently being called upon to resolve grievances brought by the EITI members.

Therefore, the institutional bodies of the EITI that are charged with designing policy and implementing it are also attempting to resolve disputes that arise as a result of those policy decisions and implementation. What is left unresolved is who gets to decide what the EITI does and means. The 2015 “Review of International Governance and Oversight” (“2015 Governance Review”) found that many stakeholders felt the EITI Board and the Secretariat were both trying to answer this question simultaneously:⁸¹

The EITI Board acts as the ‘legislature’ of the organization – a broad range of constituencies are represented, and the EITI Board is responsible for considering, debating and passing or rejecting EITI policy (or ‘laws and regulations’). The Chair (and Committee Chairs and Vice Chairs) help to supervise and direct the work of the organization as a whole. The Secretariat acts as the Executive of the organization – i.e. it carries out the work program set agreed by the EITI Board, and is responsible for implementing the policy of the organization. Finally, EITI Validators in effect act as audit bodies – i.e. they are there to ensure that countries implementing the EITI are actually doing what they say they are doing, albeit only every couple of years.

To continue this highly imperfect analogy, the missing function in this mix is that of some form of judiciary – i.e. when there is a dispute over what the ‘law’ of EITI actually means, who considers and adjudicates that dispute, especially if it occurs when a validation is not due for some time? In the first instance the EITI Board should undoubtedly be responsible for the interpretation of the Standard, but the EITI Board does not appear to have any procedure for reviewing its own decisions if they are challenged.

⁸¹ Darby, S., Bickham, E., Simanjuntak, F., & Negbalee, W. (2015). *Review of International Oversight*.

Not having an independent body has consequences for dispute resolution. At the EITI Board level, the multi-stakeholder nature of creating the EITI's policy will lead to difficulty in making determinations and taking action in response to specific grievances.⁸² Since getting Board consensus can be a daunting task, the Secretariat is often called upon to help resolve disputes instead.⁸³ However, the Secretariat is built for supporting implementation based on Board consensus, not providing or creating remedies to a dispute. As a result, the Secretariat may not be able or willing to make decisions on what the EITI is or should be. Therefore, the Secretariat is left to give implementation guidance, but cannot create remedies for grievances other than facilitating *informed* discussion.⁸⁴ Any steps that the Secretariat takes beyond these limits are open to challenge from Board members as overstepping its role.

2) *CONSENSUS IS HARD TO ACHIEVE WHEN DISPUTES IMPLICATE COMPLEX POLICY ISSUES*

When the EITI is called into resolve disputes, consensus may be impossible to achieve. As discussed earlier in this report, interviewees often responded to questions regarding how disputes, such as those involving alleged violations of the Civil Society Protocol, should be handled by immediately engaging with overarching policy questions involving “all of the EITI.” As a result, with the current grievance mechanisms in place, any grievance will quickly implicate high level policy considerations.

Complex policy issues involving deep questions, about what the EITI should be and what it should (and can) do, make it hard to reach consensus at the EITI Board level. As a result, if grievances invoke these deep policy questions, then consensus, and thus a decision, on particularized grievances will be just as hard to reach. This is particularly important when a grievance is time-sensitive, as is the case with many grievances involving the Civil Society Protocol.

⁸² The consensus nature of the EITI is explored more fully in Section 2 of this Finding: “Consensus is Hard to Achieve When Disputed Implicate Complex Policy Issues.”

⁸³ Interviewees expressed that the Secretariat can take action more decisively and quickly than the Board.

⁸⁴ This is not to suggest that the Secretariat's dispute resolution role is currently ineffective. On the contrary, because of the immense expertise in the Secretariat, providing guidance on the Standard to disputing parties can help test assumptions and bring those disputing parties closer to compromise. What this finding does suggest, is that the Secretariat may not want to go beyond providing such guidance because it is not structurally set up to provide remedies in disputes. Thus, reliance on the Secretariat for dispute resolution can only go so far.

3) *THE SECRETARIAT IS FORCED TO TAKE ON AN OUTSIZED ROLE*

Since there is no independent body for resolving disputes and because consensus can be difficult to achieve at the EITI Board level, the Secretariat is put in the position of wearing two hats: that of “Custodian of the Standard” when providing implementation support and that of mediator when disputes arise. For example, stakeholders acknowledged the difficulty of engaging with implementing countries that are not making sufficient progress toward implementation. In such cases, the Secretariat may experience a tension between upholding the integrity of the Standard and continuing to engage with the country in question.

This bifurcation of the Secretariat has most likely developed out of the necessity for action. When disputes arise, and an actor external to the national MSG is required to intervene, the Secretariat is most able to jump into action. Often, the Secretariat is then able to aid in dispute resolution because of the expertise the body has in all things EITI. However, even though helpful and maybe necessary, the concerns about independence of the Secretariat discussed above persist. Additionally, because of the Validation-centric process described earlier, grievance resolution at the EITI may currently depend on initiative taken by members of the Secretariat during the Validation process, rather than on a grievance mechanism that is more free-standing. Stakeholders appreciate the significant work that the Secretariat does, while many remain unclear on the parameters of its role in dispute resolution.

Recommendations relating to Finding 3 can be found Chapter V, Section D of this report.

D. Conceptual Tensions affecting the Grievance Mechanism

Finding #4:

Ambiguity in the EITI's continuing purpose makes it difficult to define the scope of grievances that fall within the purview of a grievance mechanism and involves questions that go to the core of the EITI.

1) AMBIGUITY MAY BE DELIBERATELY CREATED TO ACHIEVE CONSENSUS, BUT HAS CONSEQUENCES FOR DISPUTE RESOLUTION

Ambiguity can be used as an effective tool for reaching consensus. In contract drafting, negotiation parties will often leave terms deliberately ambiguous in order to reach an agreement that would otherwise fall through.⁸⁵ At the EITI, an organization built around creating consensus, ambiguity in the wording of the Standard or other governing documents may similarly be used to get some collective action rather than none.

However, ambiguity makes resolving disputes difficult and enforcement challenging, even as it makes the creation of disputes inevitable. In the contracts example, the contracting parties may hope no dispute will arise in their relationship that would invoke challenges to an ambiguous contractual clause. However, when a dispute concerning ambiguous language does arise, both parties will have differing perceptions of what the clause means and what it is meant to do. Since there is a gap in understanding between the two parties, resolving the dispute between them requires either difficult negotiations, lawsuits, or abandonment of the contract.

In the EITI context, ambiguity may have similar consequences. When a dispute arises, the ambiguity in the terms the argument arises under will make it difficult for parties to reach a common understanding. For example, consider Requirement 1.2 on company engagement from the Standard:⁸⁶

⁸⁵ Kaplow, L., & Shavell, S. (April 21, 2009). *Seminar in Law and Economics*. Retrieved from http://www.law.harvard.edu/programs/corp_gov/papers/2009spring-Speakers_04-21_Triantis.pdf.

⁸⁶ EITI International Secretariat. (May 24, 2016). *The EITI Standard 2016*.

1.2 Company engagement.

- a) Companies must be fully, actively and effectively engaged in the EITI process.
- b) The government must ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected.
- c) The government must ensure that there are no obstacles to company participation in the EITI process.

The requirement that companies be fully, actively, and effectively engaged in the EITI process is phrased in a way that is most likely acceptable to all three constituencies. However, it leaves ambiguity: what does it mean to be fully, actively and effectively engaged? Several stakeholders indicated a desire to have more clarity on questions such as these, with dispute resolution being one way of identifying the parameters of such language, which may ultimately be codified in subsequent revisions of the EITI Standard. However, others voiced concern that resolving these ambiguities would make the EITI too rigid.

2) *THE EITI IS CONTINUOUSLY EVOLVING, BUT LACKS CONSENSUS ON THE RELATIONSHIP BETWEEN TRANSPARENCY AND ACCOUNTABILITY IN ITS MISSION*

As noted in the History and Purpose section of this report, the EITI has come a long way from simply promoting transparency. As Rich and Moberg announce in *Beyond Governments*: “The debate [within the EITI has] clearly shifted and transparency [is] no longer an aspiration. It [is] an expectation. And through collective governance, it [is] beginning to lead to accountability.”⁸⁷ The EITI Principles similarly speak of both transparency and accountability as part of the EITI’s mission.⁸⁸ The ongoing evolution of the EITI has resulted in the following challenges:

- Different members of the EITI have different views on what the purpose of the EITI is and should be, as regards the distinction between “transparency” and “accountability.”

⁸⁷ Rich, E., & Moberg, J. (2015).

⁸⁸ See, e.g., Principle 5 of the EITI Principles: “We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.”

- Stakeholders frequently emphasized the EITI’s role as an organization committed to helping societies hold countries to account for natural resource governance, where accountability is defined to include such measures as helping curb corruption in government, protecting civil society as a vital check on such corruption, and shedding light on the value chain within the extractives industries.
- At the same time, stakeholders acknowledged that others viewed the EITI strictly as a forum for bringing stakeholders to the same table to engage in policy discussion about transparency in the extractives industry, where transparency focuses on disclosure and is understood to be a narrower concept than accountability.
- According to those stakeholders, the hard work needed to accomplish even the narrower task of achieving transparency has meant that questions of accountability were not always given as much priority as organizational rhetoric would suggest.
- A common concern voiced in interviews and in the 2015 Governance Review is the lack of a cohesive theory of change for the EITI. This lack of a cohesive theory of change includes confusion regarding the extent to which transparency *requires* accountability, versus accountability *being predicated upon* first achieving transparency, versus each being necessary for the fulfillment of the other. For example, the EITI Principles speak of transparency and accountability in the same breath, while the Civil Society Protocol describes transparency as *leading to* accountability. The terms are not defined anywhere in the EITI Standard (except insofar as the EITI Standard is itself the benchmark for what transparency means⁸⁹).
- The EITI website itself makes no definite statement on these differing views,⁹⁰ illustrating the lack of a coherent theory of change:

⁸⁹ See Article 2 of the EITI Articles of Association: “The objective of the EITI Association is to make the EITI Principles and the EITI requirements the internationally accepted standard for transparency in the oil, gas and mining sectors, recognising that strengthened transparency of natural resource revenues can reduce corruption, and the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries.”

⁹⁰ See <https://eiti.org/about/how-we-work#consequences> (last visited May 10, 2018).

Is an EITI implementing country free of corruption?

Even if a country is found making satisfactory or meaningful progress, it does not indicate whether there is corruption in the country or not. It simply means that the country has put into practice significant aspects of all EITI Requirements and thus has sufficient mechanisms of public disclosure of natural resources.

Countries use the EITI as a tool to identify and address weaknesses in the management of their natural resources. It is not a silver bullet to solve all corruption issues in the country, but it might help.

- This ambiguity in the relationship between transparency and accountability in EITI's continuing purpose makes it difficult to define the scope of grievances that concern EITI operations and what a grievance mechanism is intended to achieve, particularly with respect to disputes concerning Requirement 1.3 (though by no means limited to such disputes).
 - The stakeholders who emphasize the centrality of the civil society sector in holding government and industry to account highlight the need for a grievance mechanism that protects those who will hold countries accountable for natural resource governance.
 - Those who view the EITI principally as a multi-stakeholder forum that allows stakeholders to communicate and share information through transparent reporting are concerned that formal processes might hinder the expansion of a dialogue-based process at the EITI.

3) A PARTICULARLY FUNDAMENTAL SET OF DISPUTES CONCERNS THE "LINKAGE" BETWEEN ALLEGED VIOLATIONS OF THE CIVIL SOCIETY PROTOCOL AND THE EITI'S CORE MISSION

The broad scope of Requirement 1.3 of the EITI Standard is essential to ensuring space exists for civil society to engage with the EITI. However, it has been difficult to define what counts as "civil space allowing for policy discussion on extractives", let alone what "civil space" more broadly means—which is what led to the drafting of the Civil Society Protocol. Stakeholders have confirmed that these are necessary to create the space needed for civil society to be effectively engaged within a given country. There are two complications, which speak to the challenges in raising grievances related to specific incidents and to the challenges of assessing the overall climate within a member country. These complications can chill the willingness of stakeholders to report concerns.

The first complication reiterates a point that was at the heart of the first and second Finding: there is no clear way for individuals who believe that they have been subjected to improper behavior to raise a complaint. The text of the Civil Society Protocol directs those raising "ad hoc allegations or reports of potential or actual restrictions on civil society representatives" to the

national MSG, in the first instance, or to the EITI Board, as needed.⁹¹ Many stakeholders have indicated that civil society representatives who do not have formal positions with the EITI are unlikely to know about the text of the Civil Society Protocol. These stakeholders have also explained that even stakeholders who are aware of the Civil Society Protocol find the process through which complaints may be addressed to be unclear, as has been described in the earlier Findings.

The Civil Society Protocol distinguishes such ad hoc reviews from the more formal reviews carried out during candidature assessments and Validation—which create a different set of concerns. In particular, some stakeholders identified ambiguous terms within the Civil Society Protocol, such as the difficulty of identifying instances of self-censorship.⁹² On a more structural level—addressing the jurisdiction of a grievance mechanism—a few stakeholders raised concerns that the evaluation of the legal environment in which civil society organizations operate may implicate deep-seated legal or administrative concerns which may be difficult to address.⁹³ This was described as the challenge of ensuring that complaints are adequately “linked” to the EITI process, as the text of Section 2.2 of the Civil Society Protocol indicates. Stakeholders described disagreements about whether or not there is “linkage”⁹⁴ and that such disagreements, in at least some instances, are resolved through informal discussion rather than through a formal process. The existence of this linkage question raises a number of concerns for stakeholders: some fear that issues may be linked too easily to the Civil Society Protocol, opening up the EITI to a broad variety of disputes; others fear instead that issues that should be of concern to the EITI instead are not found to be sufficiently linked to it. The extent to which either of these concerns are warranted is unclear, as there is no registry for decisions concerning which issues are or are not deemed to be linked to the EITI’s mission, let alone what happens to issues following such determination.

Recommendations relating to Finding 4 can be found Chapter V, Section E of this report.

⁹¹ See Civil Society Protocol, Section 3 (Ad hoc restrictions on civil society representatives)

⁹² See Civil Society Protocol, Section 2.1 (Expression).

⁹³ See Civil Society Protocol, Section 2.2 (Operation)

⁹⁴ One stakeholder used the word “leakage”; given the similarity between the words, we assume that these were intended to describe the same phenomenon.

V. RECOMMENDATIONS

This section constitutes HNMCP's recommendations for enhancing the effectiveness of existing grievance mechanisms.

The recommendations address the following issues:

- 1) The transparency of the grievance mechanism;
- 2) The system for reporting grievances;
- 3) Strengthening dispute resolution as part of the EITI's implementation support function;
- 4) Governance of the EITI and its dispute resolution function;
- 5) Addressing the EITI's Theory of Change.

Each of the five subsections below details one of these issues in narrative form.

A. Transparency of the Grievance Mechanism

Recommendation #1:
The EITI should increase the transparency of the grievance mechanism to address stakeholders' concerns regarding process.

Recommendation 1 is related to Finding 2, which can be found in Chapter IV, Section B of this report.

As mentioned in our second finding with regard to the problem of informational gaps, we noticed that there is a general sense of confusion regarding what the grievance mechanism is and is not, including a lack of information about how to file a complaint (and under what circumstances the EITI would be receptive to receiving such complaints), the subsequent decision-making process, and the procedural rights that would apply to parties to a grievance.

The information currently publicly available regarding the EITI's grievance mechanism (<https://eiti.org/voicing-concerns>) does not clearly address the scope and mandate of each of the EITI organs involved in the grievance mechanism, the avenues for filing complaints and requesting anonymity and information on the decision-making process. The EITI considers that the Validation process addresses some of these issues, but that process is not described as part of the grievance procedures. Conceptually, grievances may fall outside of the scope of Validation (as Section 3 of

the Civil Society Protocol foresees), and grievances may continue to occur in a country that has demonstrated broad compliance with the EITI Standard.

When a grievance mechanism lacks transparency, the following situations may occur:

- 1) Stakeholders may find the grievance mechanisms untrustworthy, unreliable, ineffective and inaccessible;
- 2) The grievance mechanism may be underutilized, as the stakeholders do not know how to file complaints or fear retaliation.

By contrast, where the potential users of the grievance mechanism have knowledge of relevant issues, such as their procedural rights and avenues for recourse, they are more likely to engage as a partner in dialogue and make use of the grievance mechanism at an early stage and before problems escalate and entrench.⁹⁵

HNMCPEITI recommends that the EITI increase the transparency of the grievance mechanism to address stakeholders' concerns regarding the process by:

- 1) Addressing issues such as (i) clarity of the process, (ii) transparency of outcomes, (iii) rights of those facing complaints, (iv) processes for disputes that are more rights-based, (v) independence of actors involved in the dispute resolution, (vi) ability to appeal decisions or send the decision to another forum;
- 2) Keeping the parties to the grievance informed of the process as it advances;
- 3) Making the above information concerning the grievance mechanism publicly available; and
- 4) Working with national MSGs to publicize information about the grievance mechanisms available at both the international and national levels.

Each of the two subsections below details one of these elements in narrative form.

⁹⁵ Rees, C., & John F. Kennedy School of Government. Corporate Social Responsibility Initiative. (2008). *Rights-compatible Grievance Mechanisms: A Guidance Tool for Companies and their Stakeholders* (Corporate Social Responsibility Initiative working paper; no. 41) (p. 20). Cambridge, MA: Corporate Social Responsibility Initiative, Harvard University, John F. Kennedy School of Government.

1. Address issues related to the grievance mechanism procedures

An effective grievance mechanism has the following characteristics:

- 1) **Accessibility:** a grievance mechanism should be well known to all stakeholders. If stakeholders are not aware of a grievance mechanism, they will not use it.
- 2) **Predictability:** a grievance mechanism should have clear and known procedures, with timeframes for each stage of the process.
- 3) **Transparency:** a grievance mechanism should be transparent. This includes keeping parties informed of its progress as well as the mechanism's activities and outcomes.
- 4) **Equitability:** a grievance mechanism should provide stakeholders with information on their rights.

Some other MSIs have drafted publicly available documents addressing the objectives and the procedures of their grievance mechanisms (as is more fully described below), as well as the roles of the bodies involved in dispute resolution. This information is not currently available in the EITI website, except for the information contained on the "Voicing Concerns" page.

HNMCPEITI recommends that the EITI address the following issues so as to enhance the accessibility, predictability, transparency and equitability of the grievance mechanism:

1) Objectives of the grievance mechanism

a. The concept of grievance

In Annex A of the Terms of Reference of the "Review of EITI Grievance Procedures", the concept of "grievance" is defined as "stakeholders' ability to seek recourse to a higher body where they consider that they or their interests have been treated wrongly or unfairly". As has been described in the first Finding, this language is particular to the EITI and runs counter to stakeholder expectations. In the absence of a clear concept of "grievance" within the EITI, stakeholders' understandings of grievances are shaped by more common definitions of grievances as instances of perceived injustices.

The EITI could consider clarifying its concept of "grievances" by including the types of grievances that may arise under the EITI grievance mechanisms (e.g. misconduct by

members of the EITI Board, violation of the EITI Standard, etc.). In particular, given that implementation of the EITI Standard is an ongoing process that feeds into Validation, the EITI should clarify how concerns raised in the implementation and Validation processes are addressed through those processes, and how stakeholders can raise concerns that may not easily fall within those existing processes.

b. The objectives of the grievance mechanism

The EITI could consider explaining what the grievance mechanisms mean to achieve.

For instance, the Roundtable on Sustainable Palm Oil (“RSPO”) explains that its grievance process aims to fulfil the following: “1. Providing a focal point for official complaints against RSPO members; 2. Providing a clear transparent and impartial process to duly meet and address grievances against RSPO members; 3. Gives [sic] a chance for actions or initiatives that may enhance future dealings between parties.”

In the case of the EITI, the Validation process is the focal point for handling many concerns regarding implementation. It is unclear whether Validation is meant to encompass all questions involving the interpretation of the EITI Standard and potential violations of the substantive requirements set out by the EITI Standard, or whether other grievance mechanisms are intended to address those concerns. Even countries that have been found to be in compliance with the EITI Standard may continue to experience instances of perceived violations of the EITI Standard for which stakeholders may wish to obtain redress, and it is unclear how such issues could be addressed by the EITI short of calling for a new Validation.

2) Clarity of the process

a. Who will receive the grievances and who decides?

As explained in the section below, the HNMCP recommends that the EITI may consider establishing a body at the international level to receive grievances that are not appropriate for resolution at the national level. Such body may also have the decision-making power to address grievances. The EITI may wish to consider some degree of coordination between grievance mechanisms at the international level and

those within MSGs, so that records relating to such grievances may effectively be sent to the appropriate body.

In any case, the EITI should consider describing the (i) scope and mandate of decision-making entities, (ii) decision-making power of such entities, (iii) decision-making process of the entities involved in the grievance mechanism, (iv) the relationship among the different entities, and also (v) any applicable conflict of interest provisions.

b. Who should report grievances and what should be reported?

The EITI could consider explaining who could make use of the grievance mechanisms, addressing questions such as whether a person or entity from a non-member country can make complaints. For example, the Validation process only occurs in implementing countries. If a stakeholder within a supporting country wishes to raise a concern, how might he or she do so? If a stakeholder within a non-EITI country believes that he or she is being affected by events within an implementing country, how might he or she raise the issue, and under what conditions might it be appropriate for the EITI to address such issues?

c. How to file a complaint?

The process for filing a complaint should also be explained. As further described below, HNMCPEITI recommends that the EITI adopt various modalities for the filing of complaints. The EITI could also consider explaining the level of detail required in a complaint.

d. What happens after a complaint is made?

HNMCPEITI recommends that the EITI explain (i) the process through which grievances may be resolved; (ii) the decision-making levels; (iii) escalation path; and (iv) the estimated time frame for each stage of the process and resolutions.

Grievances may be divided into several categories.

- Policy-level grievances, including those regarding the interpretation of the EITI Standard and other EITI documents, may need to be addressed by the

EITI Board, perhaps first by one of its committees. More technical matters of interpretation could potentially be addressed by a different body.

- Grievances related to EITI process may involve processes that apply to multiple EITI Board Committees and the Secretariat, and could benefit from being addressed uniformly.
- Grievances that turn on factual disputes may not need to be addressed by the international EITI save in cases where there are conflicts of interest or fears of retribution or harassment, or for particularly complex matters. Independent fact finders may be appropriate in these instances.
- Grievances requiring urgent resolution, such as when life or liberty are at stake, may need a separate channel in order to be expedited.

Typically, the process of a grievance procedure can be well explained in a process map.

Regarding this issue, for instance, the Global Fund to Fight AIDS, Tuberculosis and Malaria (“Global Fund”) answers in the following manner:

All reports to the OIG (Office of the Inspector General) are acknowledged within one day of receipt wherever possible and all reports are reviewed by OIG staff.

To determine whether a matter falls within the Charter of the OIG, an initial screening will be made, resulting in a determination of the most appropriate action. This may lead to an investigation by the OIG, or a referral of the matter, for example to national authorities for prosecution in the event of a breach of national criminal laws. Alternatively, where appropriate, the matter may be communicated for management action to other areas of the Global Fund if there is no apparent conflict of interest with that area and if confidentiality can be maintained.

Issues of misconduct by Global Fund staff may fall within the responsibility of the Global Fund's Human Resources Department. In such cases the OIG will refer the matter to the Head of HR for assessment and action. (...)

Investigations are conducted by the OIG and the Global Fund's Human Resources Department in a diligent, complete, focused and objective manner (...).

e. Who to contact to follow-up regarding the complaint?

The EITI could consider assigning a particular body with which complainants may follow-up regarding the complaint. The contact information of such body should be publicized on the EITI website outlining the grievance mechanisms.

In fact, according to the "Guidelines for the Design of Integrated Conflict Management System within Organizations," one characteristic of an effective integrated conflict management system is that complainants "can readily identify and access a knowledgeable person whom they trust for advice about the conflict management system."⁹⁶

Within the particular context of Validation, these concerns may be minimized by the existence of the structured process. However, it is unclear who stakeholders should contact regarding any complaints that fall outside the scope of Validation.

3) Transparency about the process as it advances, and especially the outcome

The EITI should also consider enhancing the transparency about the process of the grievance mechanism by communicating to the complainant:

- a. when the grievance is registered;
- b. when a proposal for a course of action is made;
- c. when an outcome is agreed.

⁹⁶ Society of Professionals in Dispute Resolution. (2001). Designing integrated conflict management systems: Guidelines for practitioners and decision makers in organizations (Cornell Studies in Conflict and Dispute Resolution. No. 4).

Parties to a complaint should also be able to follow-up with the process of the grievance mechanism as it advances. One way may be contacting a specific body within the EITI to follow-up regarding the complaint. Another way may be publication of information regarding: (i) the grievance mechanism's activities and (ii) a case registry with information such as the parties, nature of the complaint, status of ongoing disputes and resolutions of closed disputes.

As many (though not all) complaints are likely to be handled in the first instance within national MSGs, the EITI can consider assisting MSGs to maintain these kinds of records, with the goal of achieving transparency and consistency of processes and outcomes.

The documentation that is created through the Validation process gives a helpful summary of what information is considered within the context of any given country, as well as information about how the process is carried out. Validation does not produce a full record that is publicly available regarding all complaints or concerns that are raised, and such a record may not be appropriate for this process, which may involve sensitive negotiations concerning political questions within a given country. The concerns about transparency described in this recommendation are principally directed at grievances that exist outside of the Validation process.

4) **Procedural rights**

According to the "Guidelines for the Design of Integrated Conflict Management System within Organizations", "any system should be designed and administered so that it is perceived as legitimate, inviting, and accessible (...)."97

One way to enhance the legitimacy of a dispute management system is the clear definition of procedural rights.

The EITI could consider including in its grievance mechanisms procedural rights with regard to: (i) assurances of confidentiality and anonymity (e.g. whistle-blowing protection; the EITI's response in the case of retaliation); (ii) rights of those facing complaints (e.g. rights

⁹⁷ *Id.*

of representation); and (iii) the ability to appeal decisions or send to another forum, such as in instances of conflicts of interest or where there is a fear of retaliation. The “Voicing Concerns” page of the EITI website gives an overview of how decisions may be appealed; EITI should consider providing further information regarding how appeals will be determined—for example, do they involve a *de novo* review of the initial dispute, or look for error on the part of the initial decision-maker, etc.?

Addressing the above issues may involve substantial revisions of the existing EITI grievance process. However, they are elements essential to an effective grievance mechanism, and clarity on these issues will significantly improve the stakeholders’ perception of the EITI grievance mechanisms as well as enhance their awareness of the procedure. This need not require abandoning the flexibility of the EITI’s current dispute resolution mechanism; it would, however, require designing a *structure* within which this flexibility could be exercised in a transparent and consistent manner. This process should involve the participation of a broad range of stakeholders, ranging from those within each constituency operating on the ground-level, to EITI Board and Secretariat members.

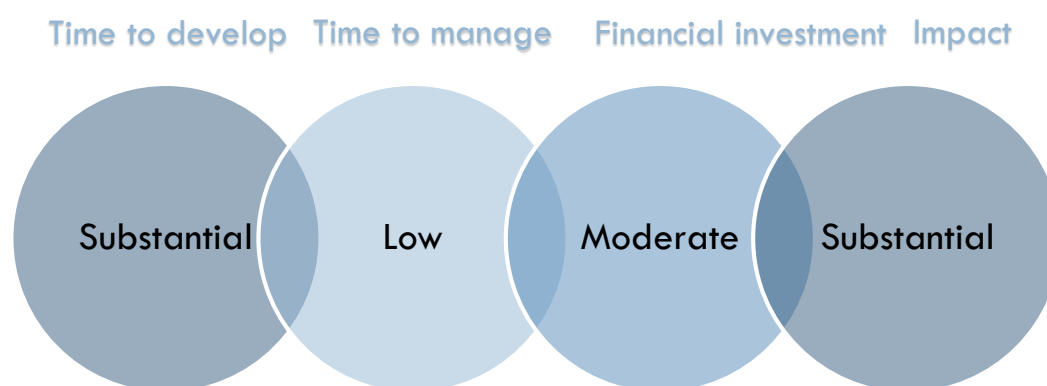


FIGURE 1 Address issues related to the grievance mechanism

2. Keep the parties to the grievance informed

The following information should be communicated to the parties promptly:

a. Registration of the complaint

When a grievance is registered, its receipt should be acknowledged to the complainant, preferably in writing. The EITI should consider setting a standard deadline in the grievance

mechanism for such purpose. The EITI could consider making the registration of grievances public. This applies whether or not a concern is raised as part of the Validation process.

b. Proposal for a course of action

The immediate parties to the grievance should be informed once the EITI has conducted the fact-finding and identified a proposed course of action (such as the implementation of a specific remedy or some form of dialogue-based process involving the parties at issue).

The EITI should consider setting a standard deadline by which the parties are informed of the proposed course of action (such as 30 or 60 days), or, if more time for fact-finding is required, receive an update of the process. Deadlines should be tailored to the complexity and urgency of the matter.

c. Outcome

The parties to the grievance should be promptly informed of the outcome. The outcome should also be made public.

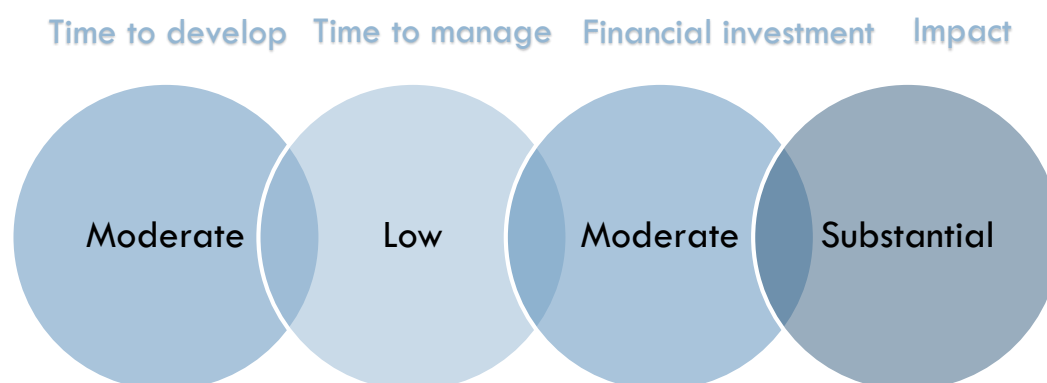


FIGURE 2 Keep the parties to the grievance informed

3. Make information concerning the grievance mechanism publicly available

A grievance mechanism will not be used if its existence or functioning is not known to those who may potentially utilize such a system. The mechanism and how it works should therefore be actively publicized to all potential users of the mechanism.⁹⁸

It is also important to maintain the transparency of the process as it advances, especially communicating the outcomes of a grievance mechanism. In fact, stakeholders typically gain trust in the process and outcomes of a grievance mechanism when it is perceived as legitimate and effective. Hence, an adequate level of transparency is important to a grievance mechanism.

Once the EITI has addressed the issues referred to in the above subsection, it is important to make such information publicly accessible, in all appropriate languages.

More precisely, to enhance transparency and awareness of the grievance mechanism, HNMCPEITI recommends that the EITI consider developing and making available the following documents:

- a) Terms of reference, by-laws or processes describing the RRC;
- b) A case registry with a map of process and information regarding (i) the resolutions of closed disputes and (ii) the status of on-going disputes, which may be limited to those being handled outside of the Validation process;
- c) A document detailing (i) the procedural steps of the grievance mechanism; (ii) roles of each of the EITI bodies involved in the grievance mechanism; and (iii) the procedural rights.

a) TERMS OF REFERENCE OF THE RRC

The information currently available on the EITI website concerning the RRC is very limited when compared with other organs of the EITI. For example, terms of reference comparable to those of other Board committees are not publicly available.

⁹⁸ Rees, C., *supra* note 76, p. 22.

The minutes of the 4th EITI Board Meeting explain that the RRC was designed to react with “rapid response to political developments” in cases when “civil society or other stakeholders in candidate countries are excluded from playing a fully active role in monitoring revenue transparency”.⁹⁹

Given the important role of the RRC regarding concerns related to civil society, which is specifically indicated on the EITI’s grievance procedures website, we consider it especially important to clarify the RRC’s mandate and its decision-making process. **HNMCP recommends that the EITI make the terms of reference of the RRC publicly available.** The purpose is to clarify the process of filing a complaint with the RRC and its role and mandate in the grievance mechanism process, as well as increasing the awareness of the RRC mechanism.

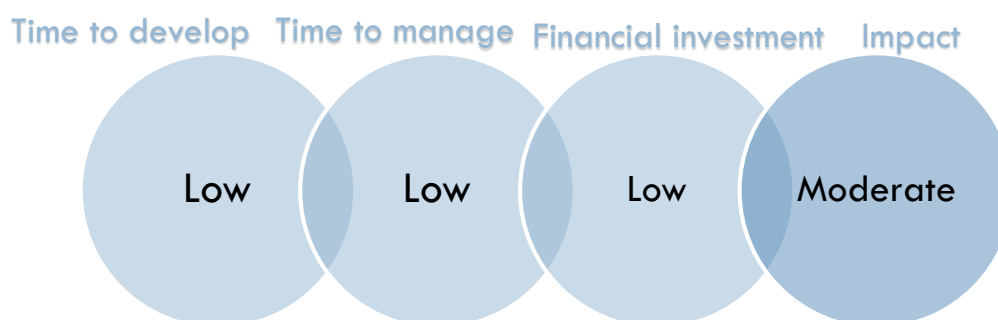


FIGURE 3 Terms of reference of the RRC

b) CASE REGISTRY

To enhance the transparency of the grievance process, **HNMCP recommends that the EITI consider developing and making a case registry publicly available on the EITI website**, which may include the following information:

- 1) the parties;
- 2) the nature of the complaint;
- 3) status of ongoing disputes;
- 4) resolutions of closed disputes.

⁹⁹ See https://eiti.org/sites/default/files/documents/boardmeeting_004_minutes.pdf.

The nature of this case registry will depend on how the EITI chooses to understand the nature of “grievances” that it is equipped to resolve. It may be neither feasible nor desirable to make this information publicly available for all complaints that arise within the Validation process, for example, given that many issues are politically sensitive rather than involving the interpretation of the EITI Standard. However, some complaints may fall outside of the Validation process: for example, a stakeholder may wish to file a complaint regarding the actions taken by their EITI Board member, who may be also be a prominent actor in the national context; or a stakeholder may wish to file a complaint regarding bullying behavior that may not rise to the level of violating a requirement under the EITI Standard. Should the EITI wish to resolve these kinds of complaints, a registry can make these resolutions available to inform the public.

At a minimum, the EITI may wish to work with national MSGs to assist them in implementing some kind of case registry at the national level, given that this is where many issues are likely to be addressed. It is possible that a given country may experience many similar grievances, and a case registry can inform stakeholders about how such issues are treated and can help create a consistent and transparent process. Information should be easily accessible from the various registries, to promote consistency and create opportunities for learning.

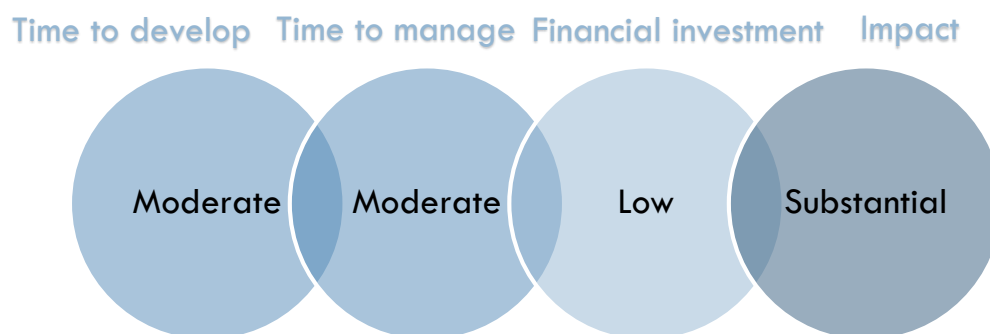


FIGURE 4 Case registry

c) *DOCUMENT DETAILING THE GRIEVANCE MECHANISM PROCEDURE AND PROCEDURAL RIGHTS*

The EITI may have its own internal guidance on particular steps to be taken once a grievance is registered. However, all steps relevant to external parties should be public, such as:

- contact details for points of access to the grievance mechanism;
- how to register a grievance;

- the various stage of the mechanism;
- timelines;
- the entities and decision-makers involved in the grievance mechanism;
- points at which stakeholders can expect to receive communications on progress.

HNMCPEITI recommends that the EITI develop and make available a document addressing each of the items referred in pages 55 to 61 of this report.

HNMCPEITI also recommends that the EITI consider adopting a procedural map detailing the step-by-step process grievances proceed through.

The promotion of this information should be an on-going effort to ensure that the grievance mechanism is known to all stakeholders.

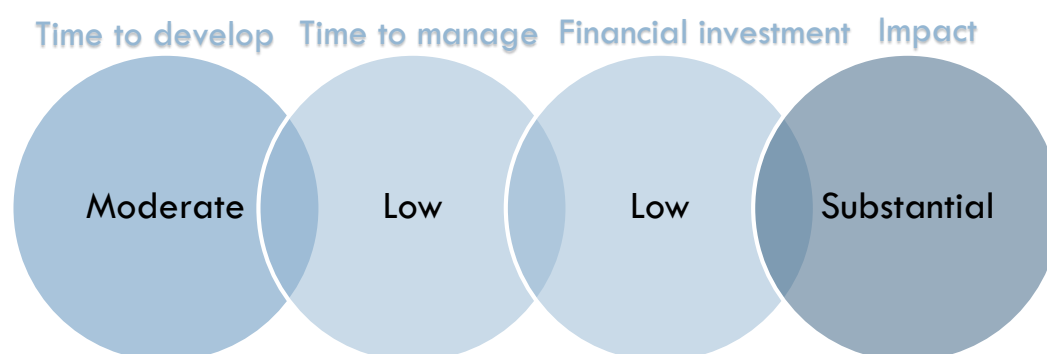


FIGURE 5 Document detailing the procedural steps and rights of the grievance mechanism

4. Work with MSGs and constituencies to publicize information about the grievance mechanisms available at both the international and national levels

A grievance mechanism should be available to all stakeholders and should reflect that disputes are likely to be addressed primarily at the national level but may also implicate the international EITI when necessary. In our assessment, some stakeholders mentioned that they are unfamiliar with the procedure and methods for raising complaints with the EITI.

MSGs can play an important role in ensuring that information regarding grievance mechanism reaches its potential users. HNMCPEITI recommends that the EITI work with MSGs to publicize information about the EITI grievance mechanism and the MSG's own grievance procedures, as well

as information about the EITI and the national MSG more generally. MSGs are more likely to know the relevant stakeholders and may have access to distribution networks, such as email directories or directories of physical mailing addresses. They may also know when material will need to be translated into a local language to ensure widespread publicity. The EITI may also wish to work in parallel with the constituencies to publicize information, as some stakeholders (such as those in supporting countries) may be outside the MSG framework, or may be more closely plugged into their constituency's network.

B. Reporting System

Recommendation #2:

The EITI should strengthen its reporting system to be more accessible to all stakeholders, taking into account the level of sophistication of potential complainants and potential needs for anonymity.

Recommendation 2 is related to Finding 2, which can be found in Chapter IV, Section B of this report.

In the current grievance mechanism system at the international level, as outlined on the EITI website, a complaint is generally made through written communication to the Chair of the EITI Board. The existing reporting system has the following shortcomings:

- 1) **May not be accessible to all stakeholders:** taking into account the level of sophistication of potential complainants, not all stakeholders may feel comfortable voicing their concerns directly to the Chair of the EITI Board in writing. In fact, some stakeholders with a grievance may feel too intimidated to lodge a complaint directly with the Chair of the EITI Board;
- 2) **Protection of anonymity is unavailable:** in the current reporting system, a potential complainant does not seem to have the option to remain anonymous. The existing system also does not address concerns regarding safety, without which reporting may be hindered;
- 3) **No requirement as to the content of the complaint:** the current system does not address which details a complaint should include, which may make the system less efficient than desired;
- 4) **Email is not specific to grievances:** under the current grievance system, a potential complainant should raise a concern by emailing the EITI Chair. This may be manageable when such complaints are limited in number, but this limits the ability of the EITI to expand the range of “grievances” within its mandate. Not having a reporting system specifically destined for receiving complaints may make the grievance system less efficient and systematic, particularly if the EITI chooses to expand its grievance mechanism in line with the other recommendations in this report.

HNMCPEITI recommends that the EITI strengthen its reporting system to be more accessible to all stakeholders. An effective integrated conflict management system provides multiple access points, at least one of which should be independent of the management (such as a hotline service).¹⁰⁰ The reporting system should be perceived as legitimate, inviting, and accessible to all stakeholders, who should be able to enter the system through many access points. The availability of multiple access points has the advantage of reducing barriers to entering the system and encouraging stakeholders to address problems at an early stage and in a constructive way.¹⁰¹ An effective reporting system also protects the privacy of the disputants and assures confidentiality of the conflict management processes.

It is important to mention that those who provide the points of access to the grievance mechanism should have skills in dispute handling.¹⁰²

A more accessible reporting system should consist of two primary elements:

- 1) Multiple access points;
- 2) Assurance of confidentiality and anonymity.

Each of the two subsections below details one of these elements in narrative form.

1. Multiple access points

A grievance procedure always begins with the initial step of raising concerns or grievances. HNMCPEITI recommends that EITI adopt a reporting system with various modalities, which may include:

- 1) Email;
- 2) Online complaint form;
- 3) Hotline;
- 4) Raising directly with an EITI Board Member or the entity responsible for the grievance mechanism.

¹⁰⁰ Rees, C., *supra* note 76, p. 21.

¹⁰¹ See *supra* note 77.

¹⁰² Rees, C., *supra* note 76, p. 21.

In our assessment of comparable MSIs, we noticed that the Fair Food Program has a 24/7 hotline to receive complaints, while the reporting system of the Global Fund includes (i) a third-party reporting service and (ii) direct contact to its Office of the Inspector General. The reporting system of the Global Fund can be better described in the figure below:

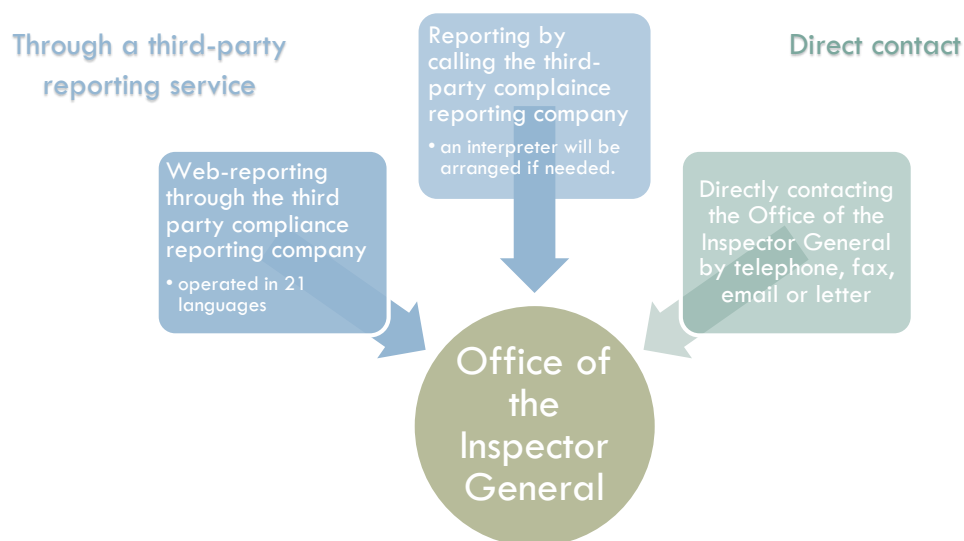


FIGURE 6 Web-reporting system of the grievance mechanism of the Global Fund

Under the grievance system of the Global Fund, if a complainant chooses to make a complaint through the third-party reporting service, the service will provide the details of the report to the Office of the Inspector General. The complainant will also be able to choose between (i) providing contact information or (ii) maintaining anonymity:

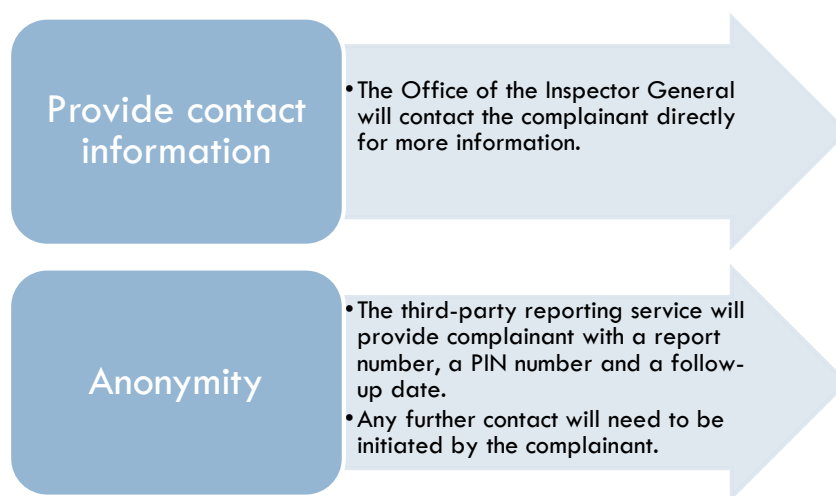


FIGURE 7 Web-reporting system of the grievance mechanism of the Global Fund

α) *NEW E-MAIL FOR RECEIVING COMPLAINTS*

We will discuss below whether the EITI could benefit from creating an independent organ to handle grievance mechanisms. But even in the absence of an independent organ, HNMCP recommends that the EITI create an email specifically for receiving complaints. The purpose of having an email dedicated for receiving complaints is two-fold:

- 1) **Enhance efficiency:** having an email specifically created for receiving complaints can enhance efficiency in the handling of grievances, as complaints will be separated from emails regarding other matters, which will be particularly important if clarification of the grievance process leads to increased use;
- 2) **Enhance appearance of independence:** having a dedicated grievance email can also enhance the appearance of independence and credibility of the grievance mechanism system.

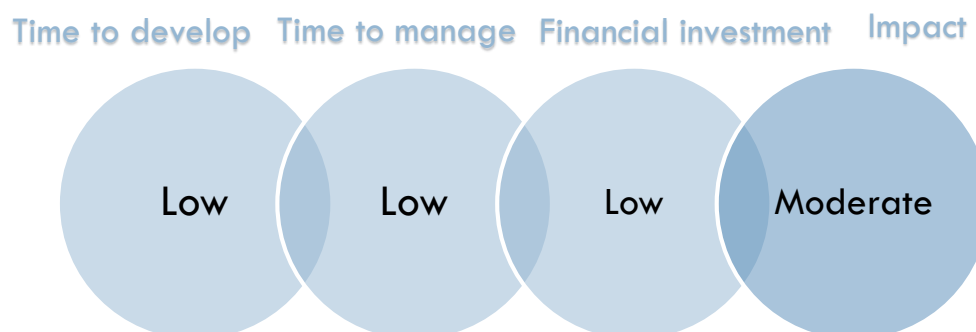


FIGURE 8 New e-mail for receiving complaints

b) ONLINE COMPLAINT FORM

A web-reporting system may have the following advantages:

- 1) **Reporting may be more accessible:** a web-reporting system may be available in languages other than English, which makes filing complaints more accessible;
- 2) **Enhance efficiency:** an online complaint form outlines beforehand the information that a potential complainant should include in the complaint, which reduces the need for other potentially time-consuming communication asking for additional information and also facilitates the “triage” process through which complaints can be directed to the appropriate body for resolution;
- 3) **Protection of anonymity:** a web-reporting system typically has the possibility for allowing a complaint to choose to maintain anonymity;
- 4) **Easier to build database:** the program of a web-reporting system can be configured to generate databases to support the logging and archiving of documents.

The online complaint form for registering a grievance should be clear and simple.¹⁰³

However, engaging the service of a third-party compliance reporting company may be costly, more so than developing and managing an in-house online complaint system.

If the EITI decides to develop a web-reporting system, HNMCP recommends that the online complaint form include the information detailed in the checklist on page 73 of this report.

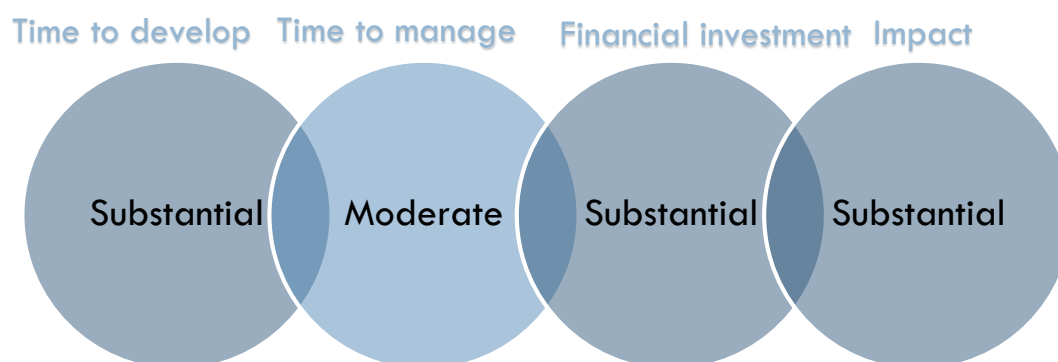


FIGURE 9 Online reporting system

¹⁰³ Rees, C., *supra* note 76, p. 22.

CHECKLIST: INFORMATION TO BE INCLUDED IN AN ONLINE COMPLAINT FORM

Identification

- ✓ What EITI implementing/supporting country are you based in (drop down menu)?
- ✓ With which sector do you identify? (optional)
Drop down menu:
 - Government
 - Industry
 - Civil Society
 - Others, please specify _____

Grievance

- ✓ Briefly describe the matter of the grievance
- ✓ Elaborate your response above, please be as specific as possible and include details such as:
 - Where and when did the reported events occur;
 - Who are the people involved and who has knowledge about the matters you are reporting;
 - How the individual, organization or company committed the alleged matter;
 - What facts do you believe require investigation and why are you reporting the matter;
 - All documents and references to other sources that support the complaint.

Actions already taken

- ✓ Selection the actions you have taken in response to your concerns:
 - Contacted a member of your country's MSG
 - Contacted the EITI National Secretariat
 - Contacted a member of the EITI Board
 - Contacted the EITI International Secretariat
 - Contacted a national government agency
 - Contacted a local government unit
 - Contacted an EITI stakeholder: government/ civil society/ company
 - Contacted local media
 - Others, please specify _____

c) *HOTLINE*

As mentioned above, both the grievance mechanism of the Fair Food Program and the Global Fund have a hotline for potential complainants to report problematic behavior. A hotline for reporting has the following advantages:

- 1) **Filing complaints may be more accessible:** some less technologically adept stakeholders may prefer making complaints by telephone rather than email;
- 2) **Protection of anonymity:** a hotline may also permit a potential complainant to maintain anonymity.

However, maintaining a hotline may be costly, especially taking into account the costs of supporting multiple languages at the EITI.

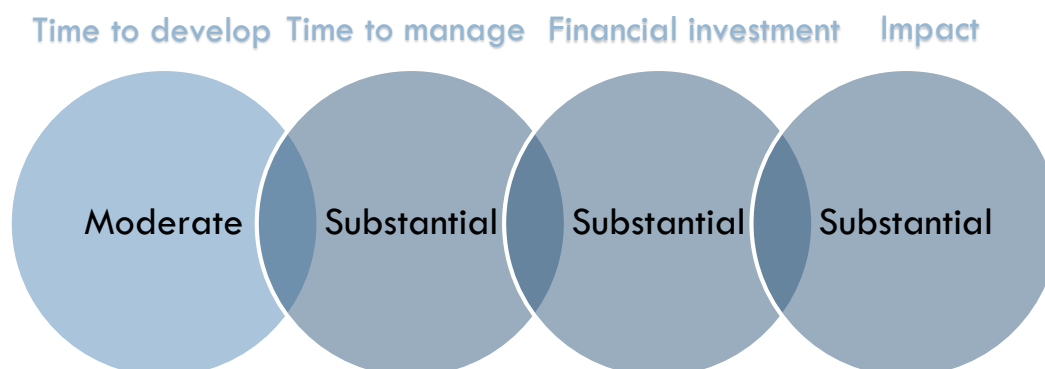


FIGURE 10 Complaint hotline

d) *RAISE DIRECTLY WITH AN EITI BOARD MEMBER OR THE ENTITY RESPONSIBLE FOR GRIEVANCE MECHANISM*

The reporting system of the current grievance system consists of written communication to the Chair of the EITI Board. However, many grievances are brought to the attention of the EITI by being raised by individual Board members. HNMCPEITI recommends that the EITI update its webpage to provide contact information of Board members in addition to the Chair or the entity responsible for the grievance mechanism in its website. Aside from the e-mail, the EITI could consider including a (i) telephone number, (ii) fax number and (iii) mailing address where grievances may be directed.

Furthermore, the EITI should continue thinking about how Board members interact with stakeholders within their constituency. It can be challenging for some Board members to be proactively involved with the stakeholders within their constituency, as many perform their EITI duties as a supplement to other, full-time jobs. Nevertheless, stakeholders emphasized the importance of having access to Board members. Stakeholders have described ongoing initiatives within some constituencies to address such concerns, and it could be valuable for the EITI to work with each constituency to ensure that stakeholders at the national level understand how their interests can be represented at the EITI Board level and to ensure that EITI Board members are adequately trained to support their constituents.

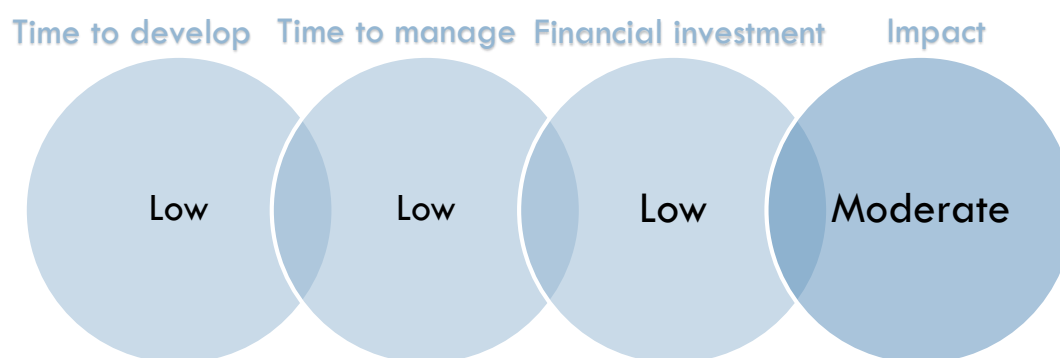


FIGURE 11 Update the EITI website with additional contact information

2. Assurance of confidentiality and anonymity

The current grievance system does not address the issue of confidentiality and anonymity. In some circumstances, a complainant may wish to remain anonymous due to fear of retaliation. Therefore, assurance of confidentiality and anonymity is very important in a grievance mechanism, as the fear of retaliation may hinder stakeholders from voicing their concerns.

In our assessment of other MSIs, we observed that the grievance mechanism of the Global Fund expressly addresses the issue of confidentiality and anonymity. It provides a potential complainant with the option to treat the complaint as either confidential or anonymous:

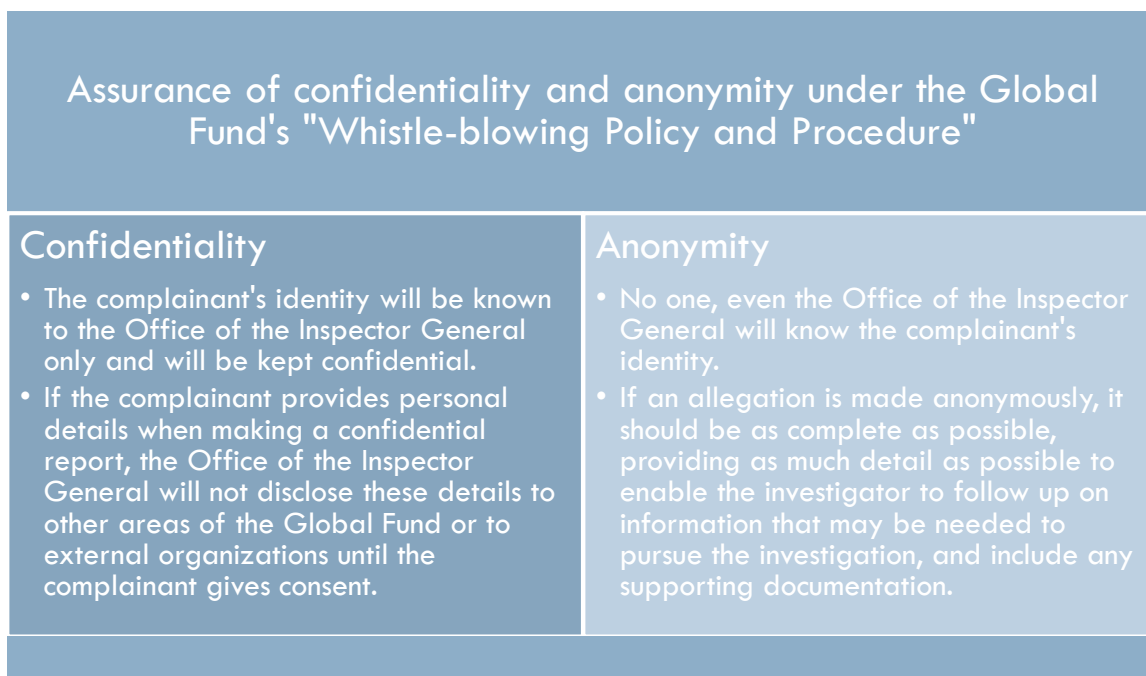


FIGURE 12 Grievance mechanism of the Global Fund

HNMCPEITI recommends that the EITI provide potential complainants with the option to treat the complaint as confidential or anonymous.

Sometimes an anonymous complaint system may be misused. To avoid the misuse of the system, if a complainant chooses to treat the complaint anonymously, he or she should provide as much information as possible to substantiate the claim, including supporting documentation. The entity that receives anonymous complaints could also consider adopting a more rigorous screening process for this kind of complaints before conducting the investigation and fact-finding process.

C. The EITI's Implementation Support Function

Recommendation #3:

The EITI should help MSGs strengthen their dispute resolution capabilities as part of the EITI's implementation support function.

Recommendation 3 is related to Finding 1, which can be found in Chapter IV, Section A of this report.

The EITI monitors how national MSGs progress toward compliance with the EITI Standard through the Validation process. Some stakeholders found that this mechanism is not entirely satisfactory as a means of addressing instances of perceived injustice, due to the typical timing of the EITI's interventions in this process, the manner in which it intervenes, and its role.

While the EITI's role in Validation is important for monitoring MSGs' compliance with the EITI Standard, its implementation support function is equally important. In its function of implementation support, the EITI helps the MSGs implement the EITI Standard rather than evaluating the MSGs' compliance with the EITI Standard.

An effective dispute resolution system is crucial to the successful implementation of the EITI Standard. **HNMCPEITI recommends that as part of the EITI's implementation support function the EITI should (i) help strengthen the dispute resolution capacities of MSGs, and (ii) proactively engage MSGs to identify disputes on issues encompassed by the EITI Standard.**

HNMCPEITI recommends that the EITI consider the following concrete actions:

- 1) Develop guidelines for the EITI's intervention at the national level;
- 2) Provide formal training in dispute resolution to MSGs;
- 3) Separate the function of implementation support from Validation.

1. Develop guidelines for the EITI's intervention at the national level

One of the issues that some stakeholders found unsatisfactory in the Validation process is that many disputes remain unresolved until Validation (with the exception of the Board addressing certain crises through the RRC). There are times when this gives an MSG time to resolve an issue on its own, without needing the involvement of the international EITI. There are other times when

stakeholders believe that issues are addressed later than they might have been. In either situation, it may make sense to develop clear procedures for which issues (if any) should not be addressed by an MSG in the first instance, when an MSG may be able to resolve an issue with the facilitation of the EITI Secretariat or the EITI Board, and when an MSG may require more active intervention. **HNMCPEITI recommends that the EITI develop and adopt guidelines for MSGs to identify disputes on issues encompassed by the EITI Standard and request the EITI to intervene as part of its implementation support function. Such guidelines should clarify the responsibilities of MSGs, the Secretariat, and the EITI Board.**

2. Provide formal training in dispute resolution to MSGs

Since an effective dispute resolution is crucial to the successful implementation of the EITI Standard, the MSGs should have access to training that teaches the skills of conflict management and dispute resolution.

HNMCPEITI recommends that the EITI provide a training program for MSGs, the objective of which is to enhance the capacity of MSGs for handling disputes effectively and constructively.

3. Separate the function of implementation support from Validation

The EITI International Secretariat has the function of supporting countries in implementing the EITI Standard. As described on the EITI website,¹⁰⁴ its role specifically includes (i) outreach and advocacy, (ii) communicating and sharing lessons learned with stakeholders, and (iii) providing technical advice.

At the same time, the role of the international EITI Secretariat also includes administration of the Validation process. In fact, under the current Validation process, the international EITI Secretariat is responsible for collecting data and consulting with the national MSGs and other key stakeholders to assess compliance with the EITI Standard. The Secretariat then prepares a report that is submitted to the validator.¹⁰⁵

¹⁰⁴ <https://eiti.org/about/secretariat>

¹⁰⁵ <https://eiti.org/validation>

The international EITI Secretariat has a fundamental role in implementation support. As has been described above, this implementation support function should include a focus on assisting national MSGs in developing the capability to effectively resolve disputes and proactively identify which disputes require intervention from the EITI. It also plays a role in the Validation process. The dual role of the Secretariat may have the less desirable effect of discouraging national MSGs from voluntarily raising issues that might impact Validation to the Secretariat for recommendations in implementation. By way of analogy, many regulatory bodies separate enforcement and compliance support functions, so that regulated entities can feel comfortable asking questions of the regulator about how to achieve compliance while knowing that these questions will not become the basis for bringing an enforcement action. While the analogy is imperfect because the EITI does not bring enforcement actions, stakeholders nevertheless expressed concerns about the consequences of providing information to the EITI, given that this information could lead to adverse outcomes in Validation or in other disputes.

Given the above, **HNMCP recommends that the EITI consider separating the function of implementation support from the role of Validation. The EITI could consider establishing an independent body or section within the Secretariat to take on the role of administration of the Validation process.**

D. Governance of the EITI

Recommendation #4:
The EITI should consider the benefits of establishing an independent body or a section within an existing body with oversight of the handling of grievances.

Recommendation 4 is related to Finding 3, which can be found in Chapter IV, Section C of this report.

Some stakeholders mentioned that the governance of the EITI complicates its dispute resolution function. Specifically the EITI does not have an independent body to resolve disputes among stakeholders.

According to the “Guidelines for the Design of Integrated Conflict Management System within Organizations”, the “impartiality of neutrals” is one of the principles that is critical to the fairness of the conflict management system as a whole.¹⁰⁶ In fact, an equitable conflict management outcome is one that is “consistent with the judgement of a reasonable person who does not have a vested interest in a particular outcome.”¹⁰⁷

All other MSIs that we assessed have an independent body to resolve disputes. While the particular contexts of other MSIs may be quite different, each has a unit or units tasked with addressing grievances. For instance, in the grievance mechanism of the Global Fund, the complaints are made to the Office of the Inspector General. The function of this officer is described as follows:

The Office of the Inspector General of the Global Fund (“OIG”)

- The OIG is an independent unit of the Global Fund, reporting directly to the Board of the Global Fund through its Audit and Ethics Committee;
- The OIG provides the Global Fund with independent and objective assurance over the design and effectiveness of controls or processes in place to manage the key risks impacting the Global Fund’s programs and operations;
- The OIG provides appropriate mechanisms for whistle-blowers to report all irregularities relating to Global Fund activities.
- The OIG ensures all reports by whistle-blowers are reviewed and properly followed-up by OIG or referred to the appropriate entity.

¹⁰⁶ See *supra* note 77.

¹⁰⁷ Budd, J., & Colvin, A., The Goals and Assumptions of Conflict Management in Organizations. In *The Oxford Handbook of Conflict Management in Organizations*. Oxford University Press (2014).

The RSPO also has an independent body for resolving grievances: the Grievance Panel. The function of this entity is described below:

The Grievance Panel of the RSPO

- The purpose of the Grievance Panel is to preside and deliberate on grievances that are brought to RSPO and provide detailed recommendations;
- RSPO's existing 5-member Arbitration Panel will form the core Grievance Panel. Additional RSPO Ordinary or Affiliate Members may be called upon to participate in the Grievance Panel as deemed appropriate by the core Grievance Panel.
- The tasks of the Grievance Panel are:
 - Decide on the legitimacy on any given grievance complaint made against RSPO members;
 - Deliberate and decide on the course of action to be taken to address grievances made.

HNMCPEITI recommends that the EITI consider the benefits of establishing an independent body or a section within an existing body to which all grievances would be filed. In this latter case, the EITI should clarify the special role of such body in its terms of reference and mention this in its website regarding the grievance mechanism. Having a separate department or entity that has the specific role of receiving grievances has the advantage of clarifying the grievance process as well as enhancing the credibility, effectiveness and efficiency of the grievance mechanisms.

This entity should play a significant role in overseeing the handling of the grievances. It can either work as a "triage" center for receiving complaints and direct them to the appropriate body for resolution (the Board through the most relevant committee (e.g., Implementation, Validation, Governance and Oversight, Rapid Response, etc.), the Secretariat, or the Members' Meeting) or as an independent decision-maker for the resolution of grievances. The decision to vest an independent body with the authority to make binding decisions should be given careful consideration so that its scope of authority is clear vis-à-vis the EITI Board's more general authority. Subsequent roles for this entity could include (i) acting as one point of access for grievances and (ii) monitoring the implementation of agreed settlements. The entity should be composed of individuals with appropriate training in stakeholder engagement and dispute resolution.

When considering the establishment of such independent body, the EITI should especially consider the following aspects:

- Composition of the independent body, including:

- Experts and/or
 - Multi-stakeholder representation;
- Accountability structure;
- Conflict of interest;
- Mandate and powers, including:
 - Fact-finding; and/or
 - Making recommendations; and/or
 - Independent and complete decision-making power;
- Decision-making process.

While the details of how such a body would be constituted are beyond the scope of this report, the process of designing this body should involve the participation of a broad range of stakeholders from all constituencies in order to increase the likelihood that it is responsive to stakeholder needs. Careful thought should be given to how its decision-making authority will sit alongside that of the other EITI organs.

E. The EITI's Theory of Change

Recommendation #5:
The EITI should address its theory of change as part of the implementation of the preceding recommendations.

Recommendation 5 is related to Finding 4, which can be found in Chapter IV, Section D of this report.

As has been noted, stakeholders have repeatedly described the EITI as lacking a coherent theory of change. This lack of a theory of change underlies much of this report. That is, implementing the previous recommendations will require the EITI to ascertain what “accountability” means in this particular context and how the EITI can help stakeholders hold EITI members to account. The EITI should squarely address its theory of change in parallel with the implementation of the other recommendations. Given the deep questions involved, it may not be possible to reach agreement on what this theory of change is. Full agreement is not necessary. However, articulating fundamental premises as part of the process of implementing these recommendations will help guide interpretation and permit stakeholders to anticipate how grievances will be resolved.

One particular manifestation of this question appears in the discussion of the “linkage” problem regarding whether or not any given dispute was sufficiently tied to the EITI's operations. Given the recurring nature of this problem and the significance that stakeholders give this particular problem in defining what falls within the EITI's ambit, any dispute resolution mechanism should be able to provide transparent and consistent decisions on this fundamental question.

APPENDIX A

A. Sample Introductory Email

Dear Mr. (...),

My name is Leon Peschel and I work together with Fatima Dermawan and Andrew Mamo at the Harvard Negotiation and Mediation Clinical Program at Harvard Law School. We are currently conducting an assessment of the Extractive Industries Transparency Initiative's ("EITI") grievance mechanism at the request of the EITI. Part of our assessment includes talking to a wide array of stakeholders in order to form a complete picture of the current situation as well as explore potential solutions. With this goal in mind, we think it would be helpful to set up a time to talk with you.

We are available next week on:

- Tuesday between 9:00AM and 4:00PM EST
- Wednesday between 9:00AM and 1:00PM
- Thursday between 3:00PM and 4:30PM EST
- Friday between 3:00PM and 6:00PM EST

Please let us know if any of the above times are convenient for you.

Sincerely,

-Leon

B. Guiding Questions

1. Introduction

- Personal introductions.
- Brief overview of HNMCP.
- Description of HNMCP project
 - We are conducting an assessment of EITI's grievance mechanism and will then make recommendations based on our assessment. We are independent from the EITI, but are going to provide a final written report with findings and suggestions to the EITI Secretariat.
- We are sensitive to confidentiality and take it seriously. Therefore:
 - Individual interviewees will not be identified in the final report, but their comments may be categorized by stakeholder group and shared anonymously.
 - So, for example, we may quote examples you give us, but will not attribute the quote to you.
- Do you have any questions for us?

2. Background Questions

- Tell us a little more about yourself:
 - How long have you been affiliated with EITI and in what capacity?

3. EITI Grievance Mechanism

- Before we get into any specific questions, could you give us your assessment of the effectiveness of EITI's handling of grievances?
- What kind of disputes or grievances do you think should be able to reach the EITI?
- What happens when people have a dispute and file a complaint through the grievance page?
 - Has there been other examples to your knowledge?
- Another example of how EITI handles grievances we see often in examples such as Azerbaijan and Nigeria, is the EITI secretariat entering into the country when implementation of the Standards hits road blocks. Would you be able to provide us some insight as to how and when the Secretariat is deployed?

- One part of the grievance process is the potential for the rapid response committee to be deployed. Would you be able to give us a little more insight on how that happens? What is the rapid response committee usually tasked with doing once deployed?

4. **Testing Options**

- So, we're talking with the same framework, when we at the clinic talk about dispute systems, we think of them in terms of three categories: interest based, rights based, and power based. *Give example of each with EITI hypothetical* We're trying to help the EITI in each of these three categories.
- Starting with interest-based dispute resolution:
 - Are you aware if the rapid response committee or the secretariat has any formal dispute resolution training on facilitating negotiations or mediations?
 - How well do you think interests are represented on the EITI board at the international level?
 - How well equipped do you think board members are to handle disputes that may be brought to the EITI Board?
 - Would you be able to give us an assessment on how transparent the interest based processes are?
- Rights based:
 - Do you think EITI has any rights-based dispute resolution process?
 - Do you think it is in EITI's interest to have a rights-based process?
 - How open do you think the EITI Board is towards creating a rights-based process?
 - What obstacles do you see in the way of changing the EITI's grievance mechanisms?
 - How would feel about bringing in impartial mediators to resolve help resolve conflicts? If you think that mediators or other third parties would make sense, how might they be used effectively?
- Power based:
 - Do you think EITI has other means of pushing transparency and accountability other than threatening with delisting?
 - Do you think countries should have a better recourse to solving disputes other than threatening to leave?

5. EITI Purpose

- How do you believe EITI should handle countries that struggle with validation due to grievances, particularly those involving Section 1.3 on civil society engagement?

6. Closing

- Are there others we should be talking to?
- What are the interests and concerns of those individuals as you see them?
- Before we end this interview, is there anything more that you would like to add?
- Thank you for your time and your valuable contribution to the process. If necessary, would you be willing to talk to us again?

Board Paper 40-8

Berlin, 28-29 June 2018

Submitted by: Finance Committee

on: 14 June 2018

For decision

For discussion

For information

Financial updates, including Accounts January-March 2018 and Q2 forecast

Summary:

The outturn for January – March 2018 was positive with revenue at USD 2.0m and expenditure at USD 1.4m. The surplus of USD 0.5m was slightly better than forecasted and the same level as in 2017.

Project-specific funding was received for Beneficial Ownership training, Commodity Trading, Mainstreaming and work on state-owned enterprises.

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Supporting documentation (available via www.eiti.org/internal/specific link)

Has the EITI competence for any proposed actions been considered?

The EITI Board is mandated in the articles to oversee the accounts of the EITI International Management.

Financial implications of any actions

There are no financial implications of this request for the EITI International Management, other than the administrative processing.
There are no costs expected outside the agreed budget.

Document history

Submitted to the Finance Committee	19 April 2018
Discussed by the Finance Committee	26 April 2018
Approval by the Finance Committee	11 June 2018
Submitted to the EITI Board	14 June 2018

ACCOUNTS JANUARY-MARCH 2018

1 Summary

The Finance Committee submits the accounts for the first three months of 2018. The Committee wishes to highlight the following:

- Revenue came in at USD 2.0m. This was USD 0.1m higher than in Q1 2017 with project-specific funding being at similar levels compared to the previous year.
- Expenditure in Q1 was USD 1.4m. The main expenditure item – staff salaries and costs - will modestly increase with the addition of two to three new staff in the second half of the year.
- The Secretariat has in earlier years received most of its funding in the first half of the year. This means that a significant funding challenge remains to reach the budget of USD 6.0m in 2018.

In the first three months of 2018, the EITI International Management's **revenue** was USD 2.0m and its **expenditure** was USD 1.4m resulting in a surplus of USD 0.5m. These figures included USD 0.5m project-specific revenue which was similar to the same period last year. Fixed costs at the Secretariat remain at around USD 0.4m per month. The Secretariat continues to fundraise.

From 1 January to 31 March 2018, the bank account balance changed from USD 3.2m to USD 3.1m despite the surplus due to revenue for 2018 received late in 2017. The reserve fund agreed by the Board in 2015¹ to cater for fluctuations in the exchange rate and uncertainties in some major funding streams, remained untouched.

Key activities with significant financial cost in the period up to 31 March 2018 included:

- Support to EITI implementation including in-country visits in DRC, Guinea, Kazakhstan, Kyrgyzstan, Mali, Mauritania, Mongolia, Myanmar, Nigeria, Peru and Tanzania.
- Validation data gathering missions to the Afghanistan, Colombia and the Seychelles.
- Support to the EITI Board, including the 39th EITI Board Meeting held in Oslo.

The forecast for the first half of the year shows **revenue** at USD 3.6m and **expenditure** at USD 2.6m. A multi-year agreement with Sweden for core activities is expected to be signed in Q2. The USD has fallen by 5% in the period and has had a small effect on the financial figures. A continued fall in the USD will have a negative long-term impact.

The financial status of the EITI International Secretariat for the first three months compared with previous year's figures and the 2018 Q2 forecast is briefly summarised in table 1 below.

¹ The reserve was agreed in 2016 to be held at NOK 4.8m. With the closing exchange rate used for the Q1 2018 figures, this equates to USD 617,000.

Table 1: Summary figures January-March 2018**EITI Financial Report 2018**All figures in **USD thousands**

	Actual Q1- 2018	Actual Q1- 2017	Forecast Ytd Q2- 2018	Budget 2018	Full year 2017
Main figures					
<i>average rate NOK/USD</i>	7,84	8,44	8,00	8,00	8,26
Revenue	1 974	1 892	3 844	6 000	6 731
Expenditure	1 439	1 295	2 615	6 000	5 541
Net interest income	-	-	-	-	6
Net result	534	597	1 228	-	1 196
<i>closing rate NOK/USD</i>	7,78	8,58	8,00	8,00	8,21
Equity* 01.01.	1 799	566	1 799	1 799	566
Equity end of period. (incl. currency translation)	2 334	1 163	3 028	1 799	1 799
<i>Bank balance at end of period (including reserve)</i>	<i>3 130</i>	<i>1 070</i>	<i>3 700</i>	<i>2 500</i>	<i>3 197</i>
<i>Reserve account balance at end of period</i>	<i>617</i>	<i>559</i>	<i>600</i>	<i>600</i>	<i>585</i>

*Equity is the net of assets and liabilities and represents the amount that is carried over to the next period.

2 Revenue: January-March 2018

Supporting countries have been unable to agree to a required contribution. That and the continued reliance on project-specific funding means that revenue is still somewhat unpredictable.

The EITI received USD 2.0m in the first three months of 2018. Revenues in Q1 were solid from both supporting countries and companies with 20 supporters in total. These figures included USD 0.5m project-specific revenue for Beneficial Ownership, Commodity Trading, Mainstreaming and work on state-owned enterprises received in 2017 (see table 5 for more detail).

Table 2 breaks down the contributions by type of stakeholder.

Table 2: Revenue: January-March 2018 by constituency**EITI Financial Report 2018**All figures in **USD thousands**

Result Report	Q1-2018	Q1-2017	Ytd Q2-2018	Full year 2018	Full year 2017
	Actual	Actual	Forecast	Budget	Actual
<u>Implementing countries</u>					
Implementing countries	10	35	40	200	105
<u>International development partners, including donors, NGO's and foundations</u>					
Supporting governments and IFI's	1 437	1 258	2 587	3 785	4 685
NGO's and foundations	0	0	0	50	-
<u>Private sector</u>					
Oil and Gas	439	435	579	1 000	1 130
Mining and Minerals	67	148	607	850	716
Financial Institutions	10	0	20	100	20
Non-extractives	11	15	11	15	74
<u>Financial Income</u>					
Net interest income	0	-	-	-	6
Total Revenues	1 974	1 892	3 844	6 000	6 737

Table 3 below sets out the revenue of the EITI International Secretariat in the period January–March 2018. The first column of table 3 shows the amount received and the currency it was received in. The second column shows the actual amount received in NOK. The third column shows the amount received based on the average exchange rate in the first three months of 2018 (1USD = 7.84 NOK)² for presenting the figures in USD.

² Average Rate for 01.01.-31.03 2018: 1USD=7,84 NOK

Source Central Bank of Norway = http://www.norges-bank.no/en/Statistics/exchange_rates/currency/USD/

Table 3: January-March 2018 Revenue by supporter

EITI REVENUE JAN-MAR 2018 (per 31 March)			
Name	Amount in Currency	Amount received in NOK	Amount received in USD
Implementing Countries			
Government of Papua New Guinea	USD 10 000	77 232	9 851
Total revenue from Implementing countries		77 232	9 851
International Development Partners & IFI's, including donors, NGO's and Foundations			
Government of Australia (2017-2018)	AUD 350 000	2 228 113	284 198
Government of Denmark (2017-2018)	DKK 2 000 000	2 533 500	323 151
Government of Finland (2017-2019)	EUR 183 333	1 711 807	218 343
DFID - UK	GBP 75 000	786 850	100 364
DFID - UK (project funding)	GBP 360 000	4 008 320	511 265
Total revenue from International Development Partners & IFI's		11 268 590	1 437 320
Financial Institutions			
Førsta AP Fonden	USD 9 950	76 446	9 751
Total revenue from Financial Institutions		76 446	9 751
Companies			
Oil & Gas			
BP International	USD 60 000	466 130	59 455
Chevron	USD 60 000	457 532	58 359
Conoco Phillips	USD 60 000	458 344	58 462
Kosmos Energy	USD 20 000	153 650	19 598
Philia	USD 20 000	152 851	19 496
Statoil	USD 60 000	501 328	63 945
Staatsolie Surinam	USD 20 000	156 971	20 022
Total	USD 60 000	458 750	58 514
Trafigura	USD 60 000	481 842	61 459
Tullow	USD 20 000	154 106	19 656
Total revenue from Oil & Gas		3 441 504	438 967
Mineral & Mining			
Base Titanium Ltd	USD 15 000	116 481	14 857
Kinross Gold	USD 40 000	295 524	37 694
Sherritt Int Finance Ltd	USD 15 000	117 193	14 948
Total revenue from Mineral & Mining		529 198	67 500
Non-extractive companies			
KFW Bankengruppe	USD 10 000	82 332	10 502
Total from non-extractive companies		82 332	10 502
Total revenue Q1 2018 including project-specific funding		15 475 302	1 973 891

2.1 Potential revenue for 2018

Whilst funding for Q2 is likely to come in close to forecast, fundraising in second half of the year will remain challenging. According to existing contracts, funds from the Governments of the UK-DFID, Norway and Switzerland amounting to approximately USD 0.9m will come in Q2. A further USD 0.7m is expected from companies including the contribution from ICMM. Continued funding efforts are being undertaken, including processes with Canada, France and the United States. Table 4 includes an overview of potential revenue in 2018 where we have received indications of support though some of these remain uncertain. Further revenue from other contributors is expected in 2018 but dialogue is less advanced.

Table 4: Potential Revenue: Q2-Q4 2018

EITI REVENUE 2018 - potential contributions			
Name	Amount in Currency	Amount received in NOK	Comments
Implementing Countries			
Government of Armenia	USD 10 000	77 800	Contribution received in April
Government of Côte d'Ivoire	USD 10 000	77 800	The same amount was received in 2017.
Government of DRC	USD 10 000	77 800	Indication of funding in April
Government of Guinea	USD 10 000	77 800	The same amount was received in 2017.
Government of Malawi	USD 10 000	77 800	The same amount was received in 2017.
Government of Mongolia	USD 10 000	77 800	The same amount was received in 2017.
Government of Tajikistan	USD 10 000	77 800	The same amount was received in 2017.
Government of Timor Leste	USD 10 000	77 800	The same amount was received in 2017.
Government of Chad	USD 10 000	77 800	The same amount was received in 2017.
Government of Togo	USD 10 000	77 800	The same amount was received in 2017.
Total revenue from Implementing countries		778 000	-
International Development Partners & IFI's, including donors, NGO's and Foundations			
Government of Belgium (2017-2020)	EUR 100 000	985 000	Contracted
Government of Canada	CAD 100 000	850 000	Contracted
Government of Denmark - Project Specific B.O.)	DKK 1 000 000	160 668	Contracted
European Commission (2016-2018)	EUR 375 000	2 541 642	Contracted
EBRD - Beneficial Ownership	EUR 100 000	950 000	Contracted - amount depends on project delivery
Government of France	EUR 60 000	570 000	To be agreed
Government of Germany (2017-2018)	EUR 190 000	1 805 000	Contracted
Government of the Netherlands (2017-2020)	USD 250 000	2 375 000	Contracted
Government of Norway (2017-2019)	NOK 3 200 000	3 200 000	Contribution received in April
Government of Sweden	SEK 2 500 000	2 450 000	New multi-year agreement being discussed.
Government of Switzerland (SECO - Commodity trading)	CHF 62 500	500 000	Contribution received in April
Government of Switzerland (SECO)	CHF 250 000	1 945 000	Contribution received in May
DFID - UK Q2+Q3	GBP 150 000	1 650 000	Contribution received in April
DFID - UK - project specific	GBP 125 000	1 375 000	Contribution received in April
DFID - UK Q4	GBP 75 000	2 475 000	Contracted
DFID - UK - project specific	GBP 250 000	3 562 500	Contracted
US	USD 250 000	1 945 000	To be agreed
Total revenue from International Development Partners & IFI's		29 339 810	-
Financial Institutions			
Nordea AB	USD 20 000	155 600	Invoice sent
Total revenue from Financial Institutions		155 600	-

Companies			
Oil & Gas			
Cairn	USD 20 000	155 600	Funding letters sent in December. Follow up to be done in May/June.
Eni Spa	USD 60 000	466 800	Funding letters sent in December. Follow up to be done in May/June.
Exxon Mobile	USD 60 000	466 800	Contribution received in April
Far Ltd	USD 20 000	155 600	Funding letters sent in December. Follow up to be done in May/June.
Galp Energia	USD 10 000	77 800	Funding letters sent in December. Follow up to be done in May/June.
Gunvor	USD 50 000	389 000	Contribution received in April
Hess Corp.	USD 60 000	466 800	Funding letters sent in December. Follow up to be done in May/June.
Inpex Corp.	USD 60 000	466 800	Funding letters sent in December. Follow up to be done in May/June.
Lundin Petroleum	USD 40 000	311 200	Funding letters sent in December. Follow up to be done in May/June.
Noble Energy	USD 40 000	311 200	Funding letters sent in December. Follow up to be done in May/June.
Oil Search PNG	USD 40 000	311 200	Funding letters sent in December. Follow up to be done in May/June.
Petrobras	USD 60 000	466 800	Funding letters sent in December. Follow up to be done in May/June.
Petroleus Mexicanos	USD 60 000	466 800	Funding letters sent in December. Follow up to be done in May/June.
Shell International	USD 60 000	466 800	Funding letters sent in December. Follow up to be done in May/June.
Woodside Energy	USD 60 000	466 800	Funding letters sent in December. Follow up to be done in May/June.
Total revenue from Oil & Gas		5 446 000	-
Mineral & Mining			
Advanced Metallurgical Group (AMG)	USD 15 000	116 700	Funding letters sent in December. Follow up to be done in May/June.
Arcelor Mittal	USD 15 000	116 700	Funding letters sent in December. Follow up to be done in May/June.
BHP Billiton - project specific ?	USD 625 000	4 862 500	Proposal of USD 1,25million for 2018-2019
Centerra Gold Inc.	USD 15 000	116 700	Funding letters sent in December. Follow up to be done in May/June.
Dundee Precious Metals	USD 15 000	116 700	Funding letters sent in December. Follow up to be done in May/June.
Eramet	USD 15 000	116 700	Funding letters sent in December. Follow up to be done in May/June.
Freeport McMo Ran	USD 50 000	389 000	Funding letters sent in December. Follow up to be done in May/June.
Hudbay Minerals Inc.	USD 15 000	116 700	Funding letters sent in December. Follow up to be done in May/June.
ICMM	GBP 374 000	3 740 000	New MOU for 2019-2021 tba
Southern Peru Copper	USD 15 000	116 700	Contribution received in May
Total revenue from Mineral & Mining		9 808 400	
Non-extractive companies			
Volkswagen AG	USD 15 000	466 800	Contribution received in May
Total from non-extractive companies		466 800	-
Expected revenue Apr-Dec 2018 including project-specific funding		45 994 610	
Total in USD		5 911 904	

2.2 Project-specific funding: January-March 2018

As noted above, a number of parties chose to provide project-specific funding to a host of events and activities in the 2018 workplan. In Q1 2018 project-specific funding (received in 2017) was received for the following projects:

- GBP 360,000 from DFID towards extractives beneficial ownership, commodity trading, mainstreaming and state-owned enterprise activities.
- USD 5,000 from Statoil towards the beneficial ownership activities in 2017.

Table 5: Project-specific revenue as at 31 March 2018

Project-specific funding - Q1-2018			
Name	Amount paid	Amount received in NOK	Amount received in USD
DFID - UK (Benef. Own., Comm. Tr., Mainstreaming, SOE st.	GBP 360 000	4 008 320	511 265
Statoil - Beneficial ownership	USD 5 000	38 888	4 960
Total revenue for specific projects		4 047 208	516 226

Table 6: Potential project-specific revenue as at 31 March 2018

Potential Project-specific funding - Q2-Q4-2018			
Name	Amount in currency	Estimate in NOK	Comment
BHP Billiton - Beneficial ownership	USD 625 000	11 268 590	Proposal sent.
EBRD - Beneficial ownership	EUR 100 000	950 000	Contracted
DFID - UK - project specific	GBP 375 000	3 562 500	Contracted
Total revenue for specific projects		15 781 090	-
	in USD	2 012 894	

3 Expenditure: January-March 2018

Total expenditure in the first three months of 2018 was USD 1.4m. This was approximately in line with the budget. As before, approximately half of the total budgeted expenditure went to **salaries**. Planned recruitment was started in Q1 with posts likely to be filled in Q3.

- **Implementation costs** at USD 0.4m were broadly made up of USD 0.3m in salary related costs and the rest in travel and translation costs.
- The costs of the **Board meetings** of USD 0.2m was made up of USD 0.05m in salary costs, USD 0.05m in translation and interpretation and USD 0.1m in travel costs.
- **Communication costs** of USD 0.1m mainly related to salary costs and some costs related to updates and improvements to the EITI website, translation and interpretation and general communication costs.
- The increase in **training costs** to USD 0.2m reflected project specific funded training on beneficial ownership costs with the main costs being travel, consultancy costs and translations.
- **Validation costs** of USD 0.35m reflects the ongoing validations, with USD 0.25m in salary costs and USD 0.1m in translation, consultants and travel costs.

Table 7: Expenditure January-March 2018**EITI Financial Report 2018**All figures in **USD thousands**

Result Report	Q1-2018	Q1-2017	Ytd Q2-2018	Full year 2018	Full year 2017
	Actual	Actual	Forecast	Budget	Actual
Costs by function					
Implementation	388	250	699	1 430	1 549
Outreach	19	20	34	70	63
Board meetings	172	223	350	780	772
Communications	100	109	179	500	432
Chair's support	33	41	75	185	165
Training	117	199	275	750	658
Stakeholder rel./Int. advocacy	30	35	54	135	141
Management & Admin	231	175	400	800	766
Global conference					
Validation	350	242	550	1 350	995
Total Costs by function	1 439	1 295	2 615	6 000	5 544
Costs by type					
Salary	811	682	1 460	3 075	2 746
Other staff expenses	17	17	35	100	82
Office expenses	157	128	283	450	542
Travel and accomodation	217	281	410	1 300	1 370
Translation & Interpretation	121	86	219	575	461
Project consultants	99	72	178	400	287
Other expenses	17	30	31	100	52
Total Costs by type	1 439	1 295	2 615	6 000	5 541
Net result	534	597	1 229	-	1 196

4 Balance Sheet and Cashflow statement as per 31 March 2018

As a consequence of using the accruals principle for the accounts, a balance sheet and a cashflow statement is presented to give a comprehensive financial overview.

“Other receivables” of USD 0.1m consist of prepaid costs for insurance and rent. “Public duties payable” of USD 0.1m consist of employer’s tax and staff salary tax. “Other short-term liabilities” of USD 0.5m consist of holiday pay³ of USD 0.3m and USD 0.2m received in 2017 for core activities. The “currency translation” gain is a result of converting the equity in NOK to USD at a lower rate on 31 March 2018 compared to on 31 December 2017.

As a result of the surplus in Q1 2018, total equity has increased to USD 2.4m.

³ The Norwegian system for holiday pay entails accruing approximately one month of salary and paying it out in the following year.

Table 7: Balance Sheet as per 31 March 2018

EITI Financial Report 2018

All figures in USD thousands

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8,21

Balance Sheet Report	31.03.2018	31.12.2017
ASSETS		
Office equipment, machinery, etc	33	32
Total fixed assets	33	32
Accounts receivable	-	366
Other receivables	12	24
Total receivables	12	390
Bank deposits, cash	3 130	3 197
Total current assets	3 142	3 587
Total Assets	3 175	3 619
EQUITY AND LIABILITIES		
Other equity	1 799	566
This periods result	534	1 196
Currency translation	102	37
Total equity	2 435	1 799
Accounts payable	131	-
Public duties payable	126	219
Other short term liabilities	482	1 601
Total current liabilities	739	1 819
Total Equity and Liabilities	3 175	3 619

The cashflow statement reflects a positive cashflow effect from 2017 contributions received in 2018 and negative cashflow effects from 2018 contributions received in 2017.

Table 8: Cashflow Statement 31 March 2018

EITI Financial Report 2018All figures in **USD thousands**

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Cashflow statement	31.03.2018
<u>Cashflow from operating activities</u>	
Increase (decrease) in result/net assets	534
(Increase) decrease in :	
Depreciation	-
Accrued Revenue	383
Prepaid Expenses	14
Increase (decrease) in:	
Accrued expenses	(72)
Public duties payable	26
Deferred Revenue	(1 125)
Other (Currency effect)	173
Net cash provided from operating activities	(67)
<u>Cashflow from investing activities</u>	
Aquisition of property and equipment	-
Net increase in cash and cash equivalents	(67)
Cash and cash equivalents, beginning of year	3 197
Cash and cash equivalents, end of period	3 130

5 April-June activities and 2018 Outlook

The main activities foreseen in the second quarter of 2018 include:

1. Three validations in Ethiopia, Guatemala and Papua New Guinea. The costs are expected to be around USD 65,000 per validation including Secretariat costs and presently funded by core funding.
2. Commodity trading transparency pilots in Albania, Ghana and Nigeria - funded by DFID and SECO.
3. Board meeting in Berlin.
4. Finalise recruitment process for new staff. Staff are unlikely to be in place before Q3. Depending on the final agreed package (salary, schooling, relocation) for the candidates, the additional cost of new staff would be between USD 60k to 100k per quarter. These costs are included in the workplan and budget for 2018. More than 300 applicants have applied for the four positions advertised.

Please see below an overview of forecasted liquidity for the first quarter 2018:

Cash balance 24 May:	USD 3.5 m (including reserve)
Project specific expenditure:	USD - 0.1m
Secretariat costs May-June	USD - 0.4m
Expected contributions up to 30 June	USD 0.7m
Cash balance 30 June	USD 3.7m (including reserve)

The result for Q2 2018 is forecasted to be positive with revenues of USD 1.9 and costs of USD 1.2m including project specific activities. USD 1.2m in contributions have been received as of 24 May. It should, however, be noted, that the Secretariat tends to receive a good part of its annual funding in the first half of the year whilst the expenditure is fairly flat throughout the year.

Board members

Moses Kulaba (Chair)
Carlos Aranda
José Cardoso
Chris Davy
Dominic Emery
Oleksiy Orlovsky