



# THE EITI STANDARD

EITI International Secretariat 11 July 2013

## **The EITI Standard**

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# THE EITI STANDARD



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## FOREWORD



The EITI has evolved over ten years since the first EITI Conference in 2003 at which the EITI Principles were agreed. These Principles, on which the EITI is based, state that the wealth from a country's natural resources should benefit all its citizens and that this will require high standards of transparency and accountability. After the Principles were agreed, rules were drawn up to ensure that all EITI member countries committed to a minimum level of transparency in company reporting of revenues paid and government reporting of receipts.

Much has been achieved in our first ten years, and on the basis of this experience all stakeholders recognise that it is time to develop our Standard in order to better achieve the objectives we set ourselves when the EITI Principles were adopted. Most importantly, we need to progress from a process that encourages the meeting of our Requirements to one that encourages better governance of the extractive sector in each of our member countries.

The EITI Board and our partners have spent two years consulting and working together to improve the EITI Standard. The result is a standard that encourages more relevant, more reliable and more usable information, and better linkage to wider reforms. It is also important that we put in place a minimum standard that is not too onerous for countries facing major reform challenges, but which also encourages continuing improvement whatever the starting point.

The new EITI Standard retains the majority of the requirements of the existing EITI Rules, but has been significantly restructured into a smaller set of requirements with clearer expectations. The need for the EITI to encourage national ownership of reform efforts in order to better serve the interests of the citizens of member countries has been an important principle guiding these revisions. The requirements for national EITI workplans are designed to ensure that EITI reporting is better grounded in national priorities and reforms. In order to make the EITI Reports easier to understand and use, we are introducing a new requirement that the reports must contain basic contextual information about the fiscal regime, contractual framework, production, licensing procedures, revenue allocations and expenditures. It is hoped that this summary will be readable by interested citizens and help to generate more informed national debate.

We have strengthened the requirements for EITI reporting to try to ensure that the data in the EITI Report provides the full picture of the revenues received. In some cases it has also been difficult to establish the reliability of the data. A significant improvement is that it has been agreed that all EITI Reports should show payments by each company rather than aggregated data. With new provisions related to state-owned enterprises and procedures for assuring the reliability of the figures, EITI Reports will contain better and more accurate disclosure of payments and revenues. Finally, the Validation system, which assesses whether countries have implemented the EITI in accordance with our requirements, is now simplified allowing implementing countries to dedicate time and resources to achieving improved governance of the sector.

At the 2009 EITI Global Conference in Doha, the EITI was established as a legal entity and the EITI Members Association was established through the adoption of the EITI Articles

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of Association. Experience has shown that the Articles of Association have worked well, and only minor changes have been necessary.

As with any organisation that seeks to achieve difficult objectives, the requirements for EITI implementation have developed over time and will no doubt be subject to further refinement in the future. The EITI needed to evolve, given what we have learned and in light of other significant developments and complementary initiatives requiring improved transparency in natural resource governance. Key challenges ahead are to ensure that we recognise and learn from countries that exceed the minimum requirements and create incentives for more innovative use of the EITI to the benefit of the countries that implement the EITI.

As the EITI Chair, it is a privilege to lead the sometimes complex but always worthwhile work of this multi-stakeholder process. All partners have worked hard in reaching compromises that support the development of a more effective EITI. I am tremendously grateful to everyone who has been involved. The EITI alone cannot ensure that natural resource wealth benefits all citizens; this requires a broader reform effort. However, the transparency that the EITI drives can help deliver reform. There is still a long way to go until the citizens of resource-rich countries truly see the benefits. I hope and believe that the new EITI Standard will make an important contribution towards realising this aim and bring us further towards delivering on the aspirations laid down in the EITI Principles.

London, 2 May 2013



Clare Short, Chair of the EITI Board

# INTRODUCTION

This EITI Standard consists of two parts: part one *Implementation of the EITI Standard*; and part two *Governance and management*.

For an **overview of what is expected by countries implementing the EITI**, the summary on page 10 should be consulted.

**Part one Implementation of the EITI Standard** includes:

**The EITI Principles**, which were agreed by all stakeholders in 2003. These Principles lay out the general aims and commitments by all stakeholders.

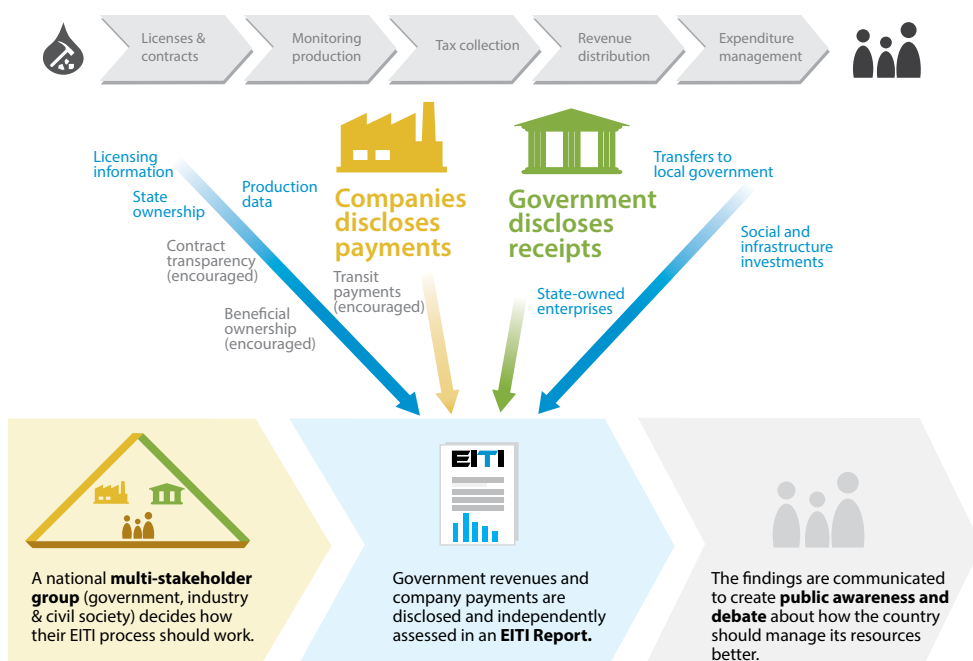
**The EITI Requirements**, which must be adhered to by countries implementing the EITI. The Requirements incorporate and bring together provisions that were previously found in the EITI Criteria, EITI Requirements and the EITI Policy Notes of the 2011 EITI Rules.

**The Validation Guide**, which provides guidance for EITI Validators and implementing countries on Validation. It was first agreed in 2006 and has been significantly revised since.

**The protocol “Participation of civil society”**, which was approved by the EITI Board on 16 February 2011.

**Part two Governance and management** contains a brief introduction on how the EITI is organised. This is followed by the EITI Articles of Association, with the provisions for how the EITI Members’ Association is governed. In 2013 the EITI Board approved the EITI Openness Policy, which is found after the Articles. The draft EITI Constituency Guidelines are also included.

## The EITI Standard





A diverse group of countries, companies and civil society organisations attended the Lancaster House Conference in London (2003) hosted by the UK government. They agreed a Statement of Principles to increase transparency over payments and revenues in the extractive sectors. These became known as the EITI Principles and are the cornerstone of the EITI.

### The EITI Principles

- 1** We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.
- 2** 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** We recognise that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.
- 4** We recognise that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.
- 5** We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
- 6** We recognise that achievement of greater transparency must be set in the context of respect for contracts and laws.
- 7** We recognise the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
- 8** We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.
- 9** We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business.
- 10** We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.
- 11** We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
- 12** In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors and non-governmental organisations.

## 2 REQUIREMENTS FOR EITI IMPLEMENTING COUNTRIES

### How to read this chapter

This chapter sets out the requirements that must be adhered to by countries implementing the EITI. There are two groups of implementing countries: EITI Candidate and EITI Compliant. EITI Candidature is a temporary state which is intended to lead, in a timely fashion, to compliance with the EITI Standard. In order to become an EITI Candidate, countries must demonstrate that they have met requirements 1.1-1.4 through the process outlined below. The detailed provisions that have to be met before applying for EITI Candidature are set out on pages 12-15. In order to become EITI Compliant, implementing countries must demonstrate through Validation that they have met EITI Requirements 1-7. The requirements are summarised in box 1.

The EITI Requirements are minimum requirements and implementing countries are encouraged to go beyond them where stakeholders agree that this is appropriate. Stakeholders are encouraged to consult additional guidance materials on how to best ensure that the requirements are met, available at [www.eiti.org](http://www.eiti.org).

### BOX 1 EITI REQUIREMENTS

The EITI requires:

- 1 Effective oversight by the multi-stakeholder group.
- 2 Timely publication of EITI Reports.
- 3 EITI Reports that include contextual information about the extractive industries.
- 4 The production of comprehensive EITI Reports that include full government disclosure of extractive industry revenues, and disclosure of all material payments to government by oil, gas and mining companies.
- 5 A credible assurance process applying international standards.
- 6 EITI Reports that are comprehensible, actively promoted, publicly accessible, and contribute to public debate.
- 7 The multi-stakeholder group to take steps to act on lessons learned and review the outcomes and impact of EITI implementation.

Each of these requirements are set out in full in this chapter.

### EITI Sign-up

A country intending to implement the EITI is required to undertake a number of steps before applying to become an EITI Candidate. These steps are summarised in box 2.

# REQUIREMENTS FOR EITI IMPLEMENTING COUNTRIES

## BOX 2 SIGN-UP STEPS

- 1.1** The government is required to issue an unequivocal public statement of its intention to implement the EITI.
- 1.2** The government is required to appoint a senior individual to lead on the implementation of the EITI.
- 1.3** 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.
- 1.4** The multi-stakeholder group is required to maintain a current workplan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board.

When the country has completed these steps and wishes to be recognised as an EITI Candidate, the government should submit an EITI Candidature Application to the EITI Board (see box 3).

## BOX 3 APPLYING TO BECOME AN EITI CANDIDATE

When the country has completed the sign-up steps and wishes to be recognised as an EITI Candidate, the government, with the support of the multi-stakeholder group should submit an EITI Candidature Application, using the prescribed application form.<sup>1</sup> The application should describe the activities undertaken to date and provide evidence demonstrating that each of the sign-up steps have been completed. The application should include contact details for government, civil society and private sector stakeholders involved in the EITI.

The EITI Board will review the application and assess whether the sign-up steps have been properly completed. The International Secretariat will contact stakeholders at the national level to ascertain their views on the sign-up process,

and seek comments from supporting governments, international civil society groups, supporting companies, supporting organisations and investors. The International Secretariat will work closely with the senior individual appointed by the government to lead on EITI implementation in order to clarify any outstanding issues. Based on this and any other available information, the EITI Board's Outreach and Candidature Committee will make a recommendation, within a reasonable time period, to the EITI Board on whether a country's application should be accepted. The EITI Board will make the final decision.

The EITI Board prefers to make decisions on admitting an EITI Candidate country during EITI

Board meetings. Where there is a long period between meetings, the EITI Board may consider taking a decision via Board circular.

When the EITI Board admits an EITI Candidate, it will also establish deadlines for publishing the first EITI Report and undertaking Validation. An implementing country's first EITI Report must be published within 18 months from the date that the country was admitted as an EITI Candidate. EITI Candidate countries will be required to commence Validation within two and a half years of becoming an EITI Candidate. Further information on deadline policies is available in Requirement 1.6 below.

1. Available from the International Secretariat.

## 1

### EITI REQUIREMENT 1

#### **The EITI requires effective 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 elements of this requirement include: (1.1) government commitment; (1.2) government oversight; (1.3) the establishment of a multi-stakeholder group; and (1.4) an agreed workplan with clear objectives for EITI implementation, and a timetable that is aligned with the deadlines established by the EITI Board (1.6-1.8).

#### **1.1 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.

#### **1.2 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.

#### **1.3 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.**

- a) The government, companies and 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 company and 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 and 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 civil society or company 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.

## REQUIREMENTS FOR EITI IMPLEMENTING COUNTRIES

- 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.
- f) 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. Ensure that senior government officials are represented on the multi-stakeholder group.
  - iv. Consider establishing the legal basis of the group.
- g) 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 workplans, EITI Reports and annual activity reports:**
- iv. The multi-stakeholder group is required to approve annual workplans, the appointment of the Independent Administrator, the Terms of Reference for the Independent Administrator, EITI Reports and annual activity reports.

- v. The multi-stakeholder group should oversee the EITI reporting process and engage in Validation in accordance with chapter 3.

**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 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 1.3 (f).
- 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.

**1.4 The multi-stakeholder group is required to maintain a current workplan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board.**

**The workplan 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 implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process.  
The workplan 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 and data reliability (Requirements 4 and 5).
  - 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.

- d) Identify domestic and external sources of funding and technical assistance where appropriate in order to ensure timely implementation of the agreed workplan.
- 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 workplan, the multi-stakeholder group should consider extending the detail and scope of EITI reporting including addressing issues such as revenue management and expenditure (3.7-3.8), transportation payments (4.1.f), discretionary social expenditures (4.1.e), ad-hoc sub-national transfers (4.2.e), beneficial ownership (3.11) and contracts (3.12). In accordance with Requirement 1.3 (g)(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 (see 1.6), and that takes into account administrative requirements such as procurement processes and funding.

### **1.5 Adapted implementation**

Should the multi-stakeholder group conclude that it faces exceptional circumstances that necessitate deviation from the implementation requirements, it must seek prior EITI Board approval for adapted implementation. The request must be endorsed by the multi-stakeholder group and reflected in the workplan. The request should explain the rationale for the adapted implementation.

The EITI Board will only consider allowing adaptations in exceptional circumstances. In considering such requests, the EITI Board will place a priority on the need for comparable treatment between countries and ensuring that the EITI Principles are upheld, including ensuring that the EITI process is sufficiently inclusive, and that the EITI Report is comprehensive, reliable and will contribute to public debate.

### **1.6 EITI reporting and Validation deadlines**

#### **a) EITI reporting deadlines**

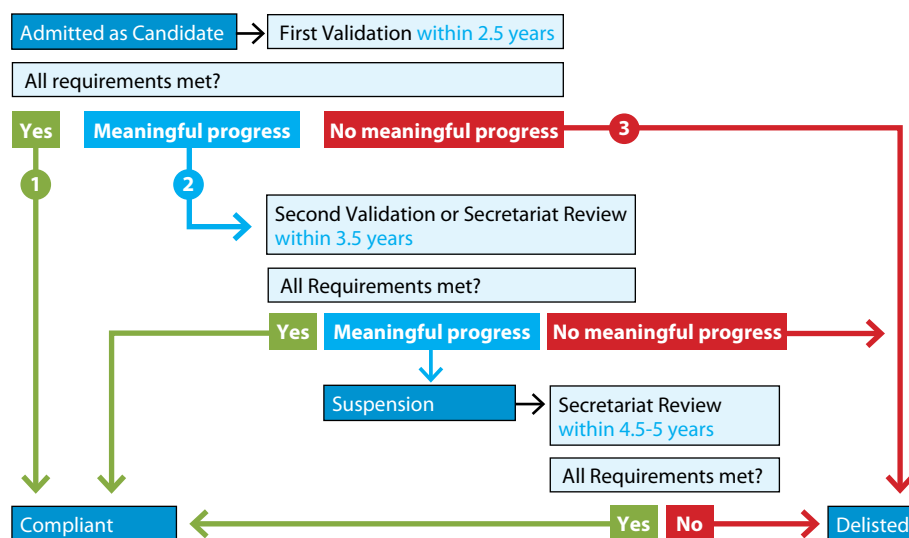
The EITI requires timely publication of EITI Reports (Requirement 2). If the EITI Report is not published by the required deadline, the country will be suspended. The suspension will be lifted if the EITI Board is satisfied that the outstanding EITI Report is published within six months of the deadline. If the outstanding reports are not published within six months of the deadline, the suspension will remain in force until the EITI Board is satisfied that the country has published an EITI Report that covers data no older than the second to last complete accounting period (Requirement 2). If the suspension is in effect for more than one year the EITI Board will delist the country.

# REQUIREMENTS FOR EITI IMPLEMENTING COUNTRIES

## b) EITI Validation deadlines

Implementing countries must undertake Validation regularly in order to determine whether implementation is consistent with the EITI Standard (see chapter 3).

The Validation deadlines are illustrated in figure 1.



EITI Candidate countries are required to commence Validation within two and a half years of becoming an EITI Candidate. Validation will determine whether the country is: (1) EITI Compliant; (2) not EITI Compliant, but has made meaningful progress; or (3) not EITI Compliant, and has not made meaningful progress (see below). A country may hold EITI Candidate status for no more than five years from the date that the country was admitted as an EITI Candidate. If a country has not achieved Compliant status within three and a half years of becoming a Candidate, the country will be designated EITI Candidate country (suspended) while undertaking final corrective actions.

**EITI Compliance:** Where Validation verifies that a country has met all of the requirements the EITI Board will designate that country as EITI Compliant. EITI Compliant countries must maintain adherence to the EITI Principles and Requirements in order to retain Compliant status. EITI Compliant countries are required to undertake Validation every three years.

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 or Secretariat Review. 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 or Secretariat Review. Subject to the findings of that assessment, the EITI Board will determine the country's status.

2. The time it takes for the country to undergo Validation is not counted as part of the maximum candidature period.



## REQUIREMENTS FOR EITI IMPLEMENTING COUNTRIES

The EITI Board reserves the right to designate a previously Compliant country as an EITI Candidate, specifying corrective actions, or to suspend or delist the country. Where a Compliant country has not achieved compliance but made meaningful progress or no meaningful progress in a subsequent Validation, the procedures set out below apply.

**Meaningful progress:** In order for the Board to conclude that a country has made meaningful progress, Validation or a Secretariat Review must demonstrate that the country has at least made meaningful progress in meeting all seven EITI Requirements. In assessing meaningful progress the EITI Board will consider:

- (1) The EITI process, in particular the functioning of the multi-stakeholder group and clear, strong commitment from government.
- (2) The status and quality of EITI reporting, including meaningful progress in meeting the requirements for timely reporting as per Requirement 2 and, where applicable, efforts to address recommendations for improving EITI implementation.

Where the first Validation verifies that an EITI Candidate country has made meaningful progress toward achieving EITI Compliant status but has not met all of the requirements, the country will retain its EITI Candidate status for an additional period of twelve months. The EITI Board will set out the remedial actions that the country is required to undertake during this period in order to achieve compliance. Compliance will be assessed through a second Validation. Where the remedial actions necessary for achieving compliance can be assessed quickly and objectively, the EITI Board will consider whether to commission a Secretariat Review as an alternative to a second Validation.

Where a second Validation or Secretariat Review verifies that a country has made meaningful progress but has not achieved compliance, the EITI Board will suspend the country. The EITI Board will set out the remedial actions that the country is required to undertake in order to achieve compliance. The suspension will be lifted if a Secretariat Review verifies that the remedial actions have been completed and the EITI Board is satisfied that the outstanding EITI Requirements are met. If the suspension is in effect for more than twelve months, the EITI Board will delist the country. In accordance with Requirement 1.7(a), the Board may consider extending the suspension for an additional six months, i.e. a total maximum candidature period of five years, if there has been continuous progress and the outstanding remedial actions are minor and can be undertaken quickly.

**No meaningful progress:** Should the Board find that the Validation or Secretariat Review does not demonstrate that the country has made at least meaningful progress in meeting all seven EITI Requirements, the country will be delisted.

### c) Annual activity reports

Multi-stakeholder groups are required to publish annual activity reports (Requirement 7.2). The report of the previous year's activities must be published by 1 July of the following year. The EITI Board will establish appropriate deadlines for new EITI Candidate countries. If the annual activity report is not published within six months of this deadline, i.e. by 31 December the following year, the country will be suspended until the EITI Board is satisfied that the outstanding activity report has been published.

### d) Extensions

An implementing country may apply for an extension if it is unable to meet any of the deadlines specified in sections (a), (b) and (c) above. The EITI Board will apply the following tests in assessing any extension requests:

1. The request must be made in advance of the deadline and be endorsed by the multi-stakeholder group.
2. The multi-stakeholder group must demonstrate that it has been making meaningful progress towards meeting the deadline and has been delayed due to exceptional circumstances. In assessing meaningful progress the EITI Board will consider:
  - (i) The EITI process, in particular the functioning of the multi-stakeholder group and clear, strong commitment from government.
  - (ii) The status and quality of EITI reporting, including meaningful progress in meeting the requirements for timely reporting as per Requirement 2 and efforts to address recommendations for improving EITI reporting.
3. The exceptional circumstance(s) must be explained in the request from the multi-stakeholder group.
4. No extensions will be granted which would increase the maximum candidature period.

## 1.7 Suspension

### a) Suspension due to breaches of the EITI Principles and Requirements

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. In accordance with Requirement 1.6, this includes cases where a country has not met the requirements for timely EITI reporting, publication of annual activity reports and/or achieving compliance with the EITI Requirements by the deadlines established by the EITI Board. Where the EITI Board is concerned that adherence to the EITI Principles and Requirements is compromised, it may task the International Secretariat with gathering information about the situation and submitting a report to the EITI Board.

Suspension of an implementing country is a temporary mechanism. The EITI Board shall set a time limit of twelve months for the implementing country to address breaches of the EITI Standard. If the matter has not been resolved to the satisfaction of the EITI Board by the deadline, the EITI Board will delist the country. Where suspension follows a second Validation that did not result in compliance, the EITI Board may consider extending the suspension for an additional six months, i.e. until the total maximum candidature period of five years. The EITI Board will only consider extending the suspension in cases where there has been continuous progress and the outstanding remedial actions are minor and can be quickly undertaken.

### **b) Suspension due to political instability or conflict**

The EITI Board may decide to suspend countries in cases where political instability or conflict manifestly prevents the country from adhering to a significant aspect of the EITI Principles and requirements. Countries that are experiencing exceptional political instability or conflict may also voluntarily apply to be suspended. In this situation, the government should lodge an application for voluntary suspension with the EITI Board. The government's application should note the views of the multi-stakeholder group.

Where countries are suspended due to political instability or conflict, the period that the country is suspended will not be counted as part of the maximum candidature period. The EITI Board will monitor and review the situation on a regular basis.

### **c) Lifting the suspension**

The government may apply to have the suspension lifted at any time. The application should document the steps agreed by stakeholders to re-start the EITI implementation and Validation process, and the workplan to achieve compliance. If the EITI Board is satisfied that the reasons for suspension have been addressed, the suspension will be lifted. Upon lifting a suspension, the EITI Board will consider setting new reporting and Validation deadlines as appropriate. At all stages in the process, the EITI Board shall ensure its concerns and decisions are clearly communicated to the implementing country.

Suspended countries will be considered an EITI Candidate country (suspended) or an EITI Compliant country (suspended) for the period of suspension, with their suspended status clearly indicated on the EITI website and elsewhere.

## **1.8 Delisting**

Delisting, i.e. revoking a country's status as an EITI implementing country, will occur if:

- (1) In accordance with Requirement 1.7(a), an implementing country has been subject to suspension, and the matter has not been resolved to the satisfaction of the EITI Board by the agreed deadline.

- (2) In accordance with Requirement 1.6(b), the EITI Board concludes that a country has not made meaningful progress in implementing the EITI.

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 reserves the right to delist the country. A delisted country may reapply for admission as an EITI Candidate at any time. The EITI Board will apply the agreed procedures with respect to assessing EITI Candidate applications. It will also assess previous experience in EITI implementation, including previous barriers to effective implementation, and the implementation of corrective measures.

### 1.9 Appeals

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.

## 2

### EITI REQUIREMENT 2

#### The EITI requires timely publication of EITI Reports.

**Overview** – EITI Reports are most useful and relevant when published regularly and contain timely data. Requirement 2 establishes deadlines for timely EITI Reporting.

- 2.1 Implementing countries are required to produce their first EITI Report within 18 months of being admitted as an EITI Candidate. Thereafter, implementing countries are expected to produce EITI Reports on an annual basis.
- 2.2 EITI Reports must cover data no older than the second to last complete accounting period, e.g. an EITI Report published in calendar/financial year 2014 must be based on data no later than calendar/financial year 2012. Multi-stakeholder groups are encouraged to explore opportunities to publish EITI Reports as soon as practically possible. In the event that EITI reporting is significantly delayed, the multi-stakeholder group should take steps to ensure that EITI Reports are issued for the intervening reporting periods so that every year is subject to reporting.
- 2.3 The multi-stakeholder group is required to agree the accounting period covered by the EITI Report.

## 3

### EITI REQUIREMENT 3

#### **The EITI requires EITI Reports that include contextual information about the extractive industries.**

**Overview** – In order for EITI Reports to be comprehensible and useful to the public, they must be accompanied by publicly available contextual information about the extractive industries. This information should include a summary description of the legal framework and fiscal regime (3.2); together with an overview of: the extractive industries (3.3); the extractive industries' contribution to the economy (3.4); production data (3.5); state participation in the extractive industries (3.6); revenue allocations and the sustainability of revenues (3.7 -3.8), license registers and license allocations (3.9-3.10); and, any applicable provisions related to beneficial ownership (3.11) and contracts (3.12). The multi-stakeholder group should agree on who prepares the contextual information for the EITI Report (3.1).

#### **3.1 Compiling contextual information**

The multi-stakeholder group should agree the procedures and responsibilities for the preparation of the contextual information for the EITI Report. The information should be clearly sourced.

#### **3.2 The EITI Report must describe the legal framework and fiscal regime governing the extractive industries.**

- a) This information must include a summary description of the fiscal regime, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies.
- b) Where the government is undertaking reforms, the multi-stakeholder group is encouraged to ensure that these are documented in the EITI Report.

#### **3.3 The EITI Report should provide an overview of the extractive industries, including any significant exploration activities.**

#### **3.4 The EITI Report must disclose, when available, information about the contribution of the extractive industries to the economy for the fiscal year covered by the EITI Report.**

This information is expected to include:

- a) Size of the extractive industries in absolute terms and as a percentage of GDP, including an estimate of informal sector activity.
- b) Total government revenues generated by the extractive industries (including taxes, royalties, bonuses, fees, and other payments) in absolute terms and as a percentage of total government revenues.
- c) Exports from the extractive industries in absolute terms and as a percentage of total exports.

- d) Employment in the extractive industries in absolute terms and as a percentage of the total employment.
- e) Key regions/areas where production is concentrated.

### **3.5 The EITI Report must disclose production data for the fiscal year covered by the EITI Report, including:**

- a) Total production volumes and the value of production by commodity, and, when relevant, by state/region.
- b) Total export volumes and the value of exports by commodity, and, when relevant, by state/region of origin.

### **3.6 Where state participation in the extractive industries gives rise to material revenue payments, the EITI Report must include:**

- a) An explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs), e.g. the rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing.
- b) Disclosures from SOE(s) on their quasi-fiscal expenditures such as payments for social services, public infrastructure, fuel subsidies and national debt servicing. The multi-stakeholder group is required to 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.
- c) Disclosures from the government and SOE(s) of their level of beneficial ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. This information should include details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g. full-paid equity, free equity, carried interest. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues. Where the government and SOE(s) have provided loans or loan guarantees to mining, oil and gas companies operating within the country, details on these transactions should be disclosed in the EITI Report.

### **3.7 The EITI Report must describe the distribution of revenues from the extractive industries.**

- a) The EITI Report should indicate 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, e.g. sovereign wealth and development funds, sub-national governments, state-owned enterprises, and other extra-budgetary entities.

- b) Multi-stakeholder groups are encouraged to reference national revenue classification systems, and international standards such as the IMF Government Finance Statistics Manual.

### **3.8 The multi-stakeholder group is encouraged to include further information on revenue management and expenditures in the EITI Report, including:**

- a) A description of any extractive revenues earmarked for specific programmes or geographic regions. This should include a description of the methods for ensuring accountability and efficiency in their use.
- b) A description of the country's budget and audit processes and links to the publicly available information on budgeting, expenditures and audit reports.
- c) Timely information from the government that will further public understanding and debate around issues of revenue sustainability and resource dependence. This may include the assumptions underpinning forthcoming years in the budget cycle and relating to projected production, commodity prices and revenue forecasts arising from the extractive industries and the proportion of future fiscal revenues expected to come from the extractive sector.

### **3.9 Register of licenses**

- a) The term license in this context refers to any license, lease, title, permit, or concession by which the government confers on a company(ies) or individual(s) rights to explore or exploit oil, gas and/or mineral resources.
- b) Implementing countries are required to maintain a publicly available register or cadastre system(s) with the following timely and comprehensive information regarding each of the licenses pertaining to companies covered in the EITI Report:
  - i. License holder(s).
  - ii. Coordinates of the license area.
  - iii. Date of application, date of award and duration of the license.
  - iv. In the case of production licenses, the commodity being produced.

It is expected that the license register or cadastre includes information about licenses held by all entities, including companies and individuals or groups that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold. 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.

- c) Where the information set out in 3.9(b) is already publicly available, it is sufficient to include a reference or link in the EITI Report. Where such registers or cadastres do not exist or are incomplete, the EITI Report should disclose any gaps in the publicly available information and document efforts to

strengthen these systems. In the interim, the EITI Report itself should include the information set out in 3.9(b) above.

### 3.10 Allocation of licenses

- a) Implementing countries are required to disclose information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report, including: a description of the process for transferring or awarding the license; the technical and financial criteria used; information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; and any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards.
- b) Where licenses are awarded through a bidding process during the accounting period covered by the EITI Report, the government is required to disclose the list of applicants and the bid criteria.
- c) Where the requisite information set out in 3.10(a) and 3.10(b) above is already publicly available, it is sufficient to include a reference or link in the EITI Report.
- d) The multi-stakeholder group may wish to include additional information on the allocation of licenses in the EITI Report, including commentary on the efficiency and effectiveness of these systems.

### 3.11 Beneficial ownership

- a) It is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate or invest in extractive assets, including the identity(ies) of their beneficial owner(s) and the level of ownership. Where this information is already publicly available, e.g. through filing to corporate regulators and stock exchanges, the EITI Report should include guidance on how to access this information.
- b) Where such registers do not exist or are incomplete, it is recommended that implementing countries request companies participating in the EITI process provide this information for inclusion in the EITI Report.<sup>3</sup>
- c) It is required that the government and/or state-owned enterprises disclose their level of beneficial ownership in oil, gas and mining companies operating within the country, and any changes in the level of ownership during the accounting period covered by the EITI Report (Requirement 3.6(c)).
- d) Definition of beneficial ownership:
  - i. A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.

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3. At the 22nd EITI Board meeting, it was agreed that the EITI will in the future require disclosure of beneficial ownership. Subject to successful piloting, the EITI Board will develop detailed provisions with a view to make this a requirement from 1 January 2016.



- ii. Where the multi-stakeholder group addresses beneficial ownership, the multi-stakeholder group should agree an appropriate definition of the term beneficial owner. The definition should be aligned with 3.11(d)(i) above and take international norms and relevant national laws into account.
- iii. Publicly listed companies, including wholly-owned subsidiaries, are not required to disclose information on their beneficial owner(s).
- iv. In the case of joint ventures, each entity within the venture should disclose its beneficial owner(s), unless it is publicly listed or is a wholly-owned subsidiary as per 3.11(d)(iii). Each entity is responsible for the accuracy of the information provided.

### 3.12 Contracts

- 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 3.12(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 3.12(c)(i) or the execution thereof.
  - iii. The full text of any alteration or amendment to the documents described in 3.12(c)(i) and 3.12(c)(ii).
- d) The term license in 3.12(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 3.12(d)(i) or the execution thereof.
  - iii. The full text of any alteration or amendment to the documents described in 3.12(d)(i) and 3.12(d)(ii).

## 4

### EITI REQUIREMENT 4

**The EITI requires the production of comprehensive EITI Reports that include full government disclosure of extractive industry revenues and disclosure of all material payments to government by oil, gas and mining companies.**

**Overview** – An understanding of company payments and government revenues can inform public debate about the governance of the extractive industries. The EITI requires a comprehensive reconciliation of company payments and government revenues from the extractive industries. Requirement 4 outlines the steps that the multi-stakeholder group needs to consider in order to ensure that the EITI Report provides a complete account of these payments and revenues. Section 4.1 sets out the requirements related to the types of payments and revenues to be covered in the EITI Report. Section 4.2 specifies which companies and government entities, including state-owned enterprises, should be required to report.

#### 4.1 Defining the taxes and revenues to be covered in the EITI Report

- a) In advance of the reporting process, the multi-stakeholder group is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds. Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI Report. A description of each revenue stream, related materiality definitions and thresholds should be included in the EITI Report. In establishing materiality definitions and thresholds, the multi-stakeholder group should consider the size of the revenue streams relative to total revenues. The multi-stakeholder group should document the options considered and the rationale for establishing the definitions and thresholds.
- b) The following revenue streams should be included:
  - i. The host government's production entitlement (such as profit oil).
  - ii. National state-owned enterprise production entitlement.
  - iii. Profits taxes.
  - iv. Royalties.
  - v. Dividends.
  - vi. Bonuses, such as signature, discovery and production bonuses.
  - vii. Licence fees, rental fees, entry fees and other considerations for licences and/or concessions.
  - viii. Any other significant payments and material benefit to government.

Any revenue streams or benefits should only be excluded where they are not applicable or where the multi-stakeholder group agrees that their omission will not materially affect the comprehensiveness of the EITI Report.

- c) **Sale of the state's share of production or other revenues collected in-kind:** Where the sale of the state's share of production or other revenues collected in-kind is material, the government, including state-owned enterprises, are required to disclose the volumes sold and revenues received. The published data must be disaggregated to levels commensurate with the reporting of other payments and revenue streams (Requirement 5.2.e). Reporting could also break down disclosures by the type of product, price, market and sale volume. Where practically feasible, the multi-stakeholder group is encouraged to task the Independent Administrator with reconciling the volumes sold and revenues received by including the buying companies in the reporting process.
- d) **Infrastructure provisions and barter arrangements:** The multi-stakeholder group and the Independent Administrator are required to consider whether there are any agreements, or sets of agreements involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities. To be able to do so, the multi-stakeholder group and the Independent Administrator need to 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. Where the multi-stakeholder group concludes that these agreements are material, the multi-stakeholder group and the Independent Administrator are required to ensure that the EITI Report addresses these agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Where reconciliation of key transactions is not feasible, the multi-stakeholder group should agree an approach for unilateral disclosure by the parties to the agreement(s) to be included in the EITI Report.
- e) **Social expenditures:** Where material social expenditures by companies are mandated by law or the contract with the government that governs the extractive investment, the EITI Report must disclose and, where possible, reconcile these transactions.
- i. Where such benefits are provided in-kind, it is required that the EITI Report discloses the nature and the deemed value of the in-kind transaction. Where the beneficiary of the mandated social expenditure is a third party, i.e. not a government agency, it is required that the name and function of the beneficiary be disclosed.
  - ii. Where reconciliation is not feasible, the EITI Report should include unilateral company and/or government disclosures of these transactions.
  - iii. Where the multi-stakeholder group agrees that discretionary social expenditures and transfers are material, the multi-stakeholder group is encouraged to develop a reporting process with a view to achieving transparency commensurate with the disclosure of other payments and revenue streams to government entities. Where reconciliation of key

transactions is not possible, e.g. where company payments are in-kind or to a non-governmental third party, the multi-stakeholder group may wish to agree an approach for voluntary unilateral company and/or government disclosures to be included in the EITI Report.

- f) **Transportation:** Where revenues from the transportation of oil, gas and minerals constitute one of the largest revenue streams in the extractive sector, the government and state-owned enterprises (SOEs) are expected to disclose the revenues received. The published data must be disaggregated to levels commensurate with the reporting of other payments and revenue streams (Requirement 5.2.e). The EITI Report could include:
- i. A description of the transportation arrangements including: the product; transportation route(s); and the relevant companies and government entities, including SOE(s), involved in transportation.
  - ii. Definitions of the relevant transportation taxes, tariffs or other relevant payments, and the methodologies used to calculate them.
  - iii. Disclosure of tariff rates and volume of the transported commodities.
  - iv. Disclosure of revenues received by government entities a SOE(s), in relation to transportation of oil, gas and minerals.
  - v. Where practicable, the multi-stakeholder group is encouraged to task the Independent Administrator with reconciling material payments and revenues associated with the transportation of oil, gas and minerals.

#### 4.2 Defining which companies and government entities are required to report

- a) The EITI Report must provide a comprehensive reconciliation of government revenues and company payments, including payments to and from state owned enterprises, in accordance with the agreed scope (Requirement 4.1). All companies making material payments to the government are required to comprehensively disclose these payments in accordance with the agreed scope. An entity should only be exempted from reporting if it can be demonstrated that its payments and revenues are not material. All government entities receiving material revenues are required to comprehensively disclose these revenues in accordance with the agreed scope.
- b) Unless there are significant practical barriers, the government is additionally required to provide, in 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. Where this data is not available, the Independent Administrator should draw on any relevant data and estimates from other sources in order to provide a comprehensive account of the total government revenues.
- c) **State-owned enterprises (SOEs):** The multi-stakeholder group must ensure that the reporting process comprehensively addresses the role of SOEs,

including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.

- d) **Sub-national payments:** It is required that the multi-stakeholder group establish whether direct payments, within the scope of the agreed benefit streams, from companies to sub-national government entities are material. Where material, the multi-stakeholder group is required to ensure that company payments to sub-national government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.
- e) **Sub-national transfers:** Where transfers between national and sub-national government entities are related to revenues generated by the extractive industries and are mandated by a national constitution, statute or other revenue sharing mechanism, the multi-stakeholder group is required to ensure that material transfers are disclosed in the EITI Reports. The EITI Report should disclose the revenue sharing formula, if any, as well as 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 sub-national entity. The multi-stakeholder group is encouraged to reconcile these transfers. The multi-stakeholder group is encouraged to ensure that any material discretionary or ad-hoc transfers are also disclosed and where possible reconciled in the EITI Report. Where there are constitutional or significant practical barriers to the participation of sub-national government entities, the multi-stakeholder group may seek adapted implementation in accordance with Requirement 1.5.

### 5

#### EITI REQUIREMENT 5

**The EITI requires a credible assurance process applying international standards.**

**Overview** – Requirement 5 seeks to ensure a credible EITI reporting process so that the EITI Report contains reliable data. The EITI seeks to build on existing audit and assurance systems in government and industry and to promote adherence to international practice and standards. The multi-stakeholder group is required to appoint an Independent Administrator to reconcile the data submitted by companies and government entities (5.1). Section 5.2 outlines the issues that the multi-stakeholder group and the Independent Administrator need to consider in agreeing the Terms of Reference for the reconciliation. This includes the assurances that need to be provided by the reporting entities. Section 5.3 empowers the Independent Administrator to assess the comprehensiveness and reliability of the data and to make recommendations for the future. The EITI Report must be endorsed by the multi-stakeholder group (5.4).

## 5.1 Appointment of the Independent Administrator

The reconciliation of company payments and government revenues must be undertaken by an Independent Administrator applying international professional standards. The Independent Administrator must be perceived by the multi-stakeholder group to be credible, trustworthy and technically competent. The multi-stakeholder group should endorse the appointment of the Independent Administrator.

## 5.2 Agreement of Independent Administrator's Terms of Reference

The multi-stakeholder group and the Independent Administrator are required to agree Terms of Reference in accordance with the 'agreed upon procedure for EITI Reports'<sup>4</sup> and based on the standard Terms of Reference endorsed by the EITI Board. Should the multi-stakeholder group wish to adapt or deviate from these agreed upon procedures, approval from the EITI Board must be sought in advance (Requirement 1.5).

In agreeing the Terms of Reference, the multi-stakeholder group and the Independent Administrator are required to:

- a) **Agree the reporting templates for the EITI Report** in accordance with the scope of the EITI Report (see Requirement 4).
- b) **Review audit and assurance practices.** The multi-stakeholder group, in consultation with the Independent Administrator, is required to examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, including the relevant laws and regulations, any reforms that are planned or underway, and whether these procedures are in line with international standards.<sup>5</sup> It is recommended that the EITI Report includes a summary of the findings.
- c) **Agree on the assurances to be provided by reporting entities to the Independent Administrator.** The Terms of Reference must outline what information should be provided to the Independent Administrator by the participating companies and government entities to assure the credibility of the data. The multi-stakeholder group and the Independent Administrator should document the options considered and the rationale for the assurances to be provided. Where deemed necessary by the Independent Administrator and the multi-stakeholder group, assurances may include:
  - i. Sign-off from a senior company or government official from each reporting entity attesting that the completed reporting form is a complete and accurate record.

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4. The 'agreed upon procedure for EITI Reports' and the standard Terms of Reference are available from the International Secretariat.

5. For companies: the International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB). For public entities: the International Standards of Supreme Audit Institutions (ISSAI) issued by the International Organization of Supreme Audit Institutions (INTOSAI).

- ii. A confirmation letter from the companies' external auditor that confirms that the information they have submitted is comprehensive and consistent with their audited financial statements. The multi-stakeholder group may wish to phase in any such procedure so that the confirmation letter may be integrated into the usual work programme of the company's auditor. Where some companies are not required by law to have an external auditor and therefore cannot provide such assurance, this should be clearly identified, and any reforms that are planned or underway should be noted.
- iii. Where relevant and practicable, government reporting entities may be requested to obtain a certification of the accuracy of the government's disclosures from their external auditor or equivalent.
- d) **Agree appropriate provisions** relating to safeguarding confidential information.
- e) The multi-stakeholder group is required to **agree the level of disaggregation** for the publication of data. It is required that EITI data is presented by individual company, government entity and revenue stream. Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements.

### 5.3 Assessment and recommendations from the Independent Administrator

- a) In accordance with the Terms of Reference, the Independent Administrator should prepare an EITI Report that comprehensively reconciles the information disclosed by the reporting entities, identifying any discrepancies.
- b) The Independent Administrator should produce electronic data files that can be published together with the EITI Report. Summary data from each EITI Report should be submitted electronically to the International Secretariat according to the standardised reporting format provided by the International Secretariat.
- c) The EITI Report should include an assessment from the Independent Administrator on the comprehensiveness and reliability of the data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided. Based on the government's disclosure of total revenues as per Requirement 4.2(b), the Independent Administrator should indicate the coverage of the reconciliation exercise.
- d) The assessment should include 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 of the report.
- e) It is required that the EITI Report documents whether the participating companies and government entities had their financial statements audited

in the financial year(s) covered by the EITI Report. Any gaps or weaknesses must be disclosed. Where audited financial statements are publicly available, it is recommended that the EITI Report advises readers on how to access this information.

- f) The Independent Administrator may wish to make recommendations for strengthening the reporting process in the future, including any recommendations regarding audit practices and reforms needed to bring them in line with international standards. Where previous EITI Reports have recommended corrective actions and reforms, the Independent Administrator should comment on the progress in implementing those measures.

#### **5.4 The multi-stakeholder group should endorse the EITI Report prior to its publication.**

## 6

### **EITI REQUIREMENT 6**

#### **The EITI requires EITI Reports that are comprehensible, actively promoted, publicly accessible, and contribute to public debate.**

**Overview** – Regular disclosure of natural resource revenue streams and payments from extractive companies is of little practical use without public awareness, understanding of what the figures mean, and public debate about how resource revenues can be used effectively. Requirement 6 ensures that stakeholders are engaged in dialogue about natural resource revenue management.

#### **6.1 The multi-stakeholder group must ensure that the EITI Report is comprehensible, actively promoted, publicly accessible and contributes to public debate.** Key audiences should include government, parliamentarians, civil society, companies and the media. The multi-stakeholder group is required to:

- a) Produce paper copies of the EITI Report, and ensure that they are widely distributed. Where the report contains extensive data, e.g. voluminous files, the multi-stakeholder group is encouraged to make this available online.
- b) Make the EITI Report available online and publicise its availability.
- c) Ensure that the EITI Report is comprehensible, including by ensuring that it is written in a clear, accessible style and in appropriate languages.
- d) 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.

#### **6.2 The multi-stakeholder group is encouraged to make EITI Reports machine readable, and to code or tag EITI Reports and data files so that the information can be compared with other publicly available data.** As per Requirement 3.7(b), the multi-stakeholder group is encouraged to reference national revenue classification systems, and international standards such as the IMF Government Finance Statistics Manual. The multi-stakeholder group is encouraged to:



- a) Produce brief summary reports, with clear and balanced analysis of the information, ensuring that the authorship of different elements of the EITI Report is clearly stated.
- b) Summarise and compare the share of each revenue stream to the total amount of revenue that accrues to each respective level of government.
- c) Where legally and technically feasible, consider automated online disclosure of extractive revenues and payments by governments and companies on a continuous basis. This may include cases where extractive revenue data is already published regularly by government or where national taxation systems are trending towards online tax assessments and payments. Such continuous government reporting could be viewed as interim reporting, and as an integral feature of the national EITI process which is captured by the reconciled EITI Report issued annually.
- d) Undertake capacity-building efforts, especially with civil society and through civil society organisations, to increase awareness of the process, improve understanding of the information and data from the reports, and encourage use of the information by citizens, the media, and others.

## 7

### EITI REQUIREMENT 7

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#### **The EITI requires the multi-stakeholder group to take steps to act on lessons learnt and review the outcomes and impact of EITI implementation.**

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**Overview** – EITI Reports lead to the fulfilment of the EITI Principles by contributing to wider public debate. It is also vital that lessons learnt during implementation are acted upon, that discrepancies identified in EITI Reports are explained and, if necessary, addressed, and that EITI implementation is on a stable, sustainable footing.

**7.1 The multi-stakeholder group is required to take steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies; and to consider recommendations for improvement from the Independent Administrator.**

**7.2 The multi-stakeholder group is required to review the outcomes and impact of EITI implementation on natural resource governance.**

- a) The multi-stakeholder group is required to publish annual activity reports.<sup>6</sup>  
The annual activity reports must include:

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6. A standard template is available from the International Secretariat.

## REQUIREMENTS FOR EITI IMPLEMENTING COUNTRIES

- i. A summary of EITI activities undertaken in the previous year.
  - ii. An assessment of progress with meeting and maintaining compliance with each EITI requirement, and any steps taken to exceed the requirements. This should include any actions undertaken to address issues such as revenue management and expenditure (3.7-3.8), transportation payments (4.1.f), discretionary social expenditures (4.1.e), ad-hoc sub-national transfers (4.2.e), beneficial ownership (3.11) and contracts (3.12).
  - iii. An overview of the multi-stakeholder group's responses to and progress made in addressing the recommendations from reconciliation and Validation in accordance with Requirement 7.1.a. The multi-stakeholder group is encouraged to list each recommendation and the corresponding activities that have been undertaken to address the recommendations.
  - iv. An assessment of progress with achieving the objectives set out in its workplan (Requirement 1.4), including the impact and outcomes of the stated objectives.
  - v. A narrative account of efforts to strengthen EITI implementation, including any actions to extend the detail and scope of EITI reporting or to increase engagement with stakeholders.
- b) All stakeholders should be able to participate in the production of the annual activity report and reviewing the impact of EITI implementation. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the multi-stakeholder group, should be able to provide feedback on the EITI process and have their views reflected in the annual activity report.
  - c) The multi-stakeholder group is required to submit a Validation Report in accordance with the deadlines established by the EITI Board (Requirement 1.6).

## 3 THE VALIDATION GUIDE

This chapter is concerned with EITI Validation. The purpose of Validation is to assess compliance with the EITI Requirements set out in chapter 2.

### 3.1 An overview of Validation

Validation is an essential feature of the EITI process. It serves to assess performance and promotes dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global standard.

Validation is an external, independent evaluation mechanism, undertaken by a Validator procured by the International Secretariat. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the EITI Standard. The Validation report will also address the impact of the EITI, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI.

Given the multi-stakeholder nature of the EITI and the importance of dialogue, the Validation procedure emphasises stakeholder consultation. The multi-stakeholder group plays a central role in ensuring that the Validation process is thorough and comprehensive. EITI stakeholders have an opportunity throughout the process to comment on the effectiveness of EITI implementation, to provide opinions on the fulfilment of the EITI Requirements, and to make suggestions for strengthening the process. In addition to consulting with stakeholders, the Validator must carefully analyse the EITI Reports and meet with the Independent Administrator to discuss the strengths and weaknesses of the reporting process.

As noted in chapter 2, there are two groups of implementing countries: EITI Candidate and EITI Compliant. EITI Candidate status is for a finite period that leads, in a timely fashion, to the achievement of EITI Compliant status. These countries are required to commence Validation within two and a half years of becoming an EITI Candidate. Where Validation verifies that a country has met all of the EITI Requirements, the Board will designate the country as EITI Compliant. EITI Compliant countries will be required to undertake Validation every three years thereafter. If EITI Compliant status is not achieved, the country may in some circumstances retain its status as an EITI Candidate country for an additional period (see Requirement 1.6).

In all decisions on Validation, the EITI Board will give priority to the need for comparable treatment between countries and protecting the integrity of the EITI. The EITI Board's Validation Committee will review and comment on all draft and final Validation Reports. Validation will not be considered complete until the Validation Committee considers that the final Validation Report is comprehensive and provides an adequate basis for establishing the country's compliance with the EITI Requirements. Further information about Validation deadlines, rules and procedures for determining a country's status following Validation is available in chapter 2, Requirements 1.6-1.7.

## 3.2 Steps in the Validation process

- 1. The International Secretariat informs the multi-stakeholder group about the schedule for Validation.** Every implementing country is required to undergo Validation in accordance with the schedule agreed by the EITI Board. The International Secretariat will oversee the process in consultation with the multi-stakeholder group, including agreeing a timetable for completing the Validation process.
- 2. Procurement of a Validator.** The International Secretariat will procure the Validator. Section 3.3 sets out the procedure.
- 3. Validation.** The Validator assesses adherence to the EITI Standard by assessing compliance with the seven EITI Requirements (see section 3.4). Validation is a consultative process. The Validator should meet with the multi-stakeholder group, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on the multi-stakeholder group. The Validator is required to consult available documentation, including:
  - The EITI work plan and other planning documents such as budgets and communication plans.
  - The multi-stakeholder group's Terms of Reference, and minutes from multi-stakeholder group meetings.
  - EITI Reports, and supplementary information such as summary reports and scoping studies.
  - Communication materials.
  - Annual activity reports.
  - Any other information of relevance to Validation.
- 4. Draft Validation Report.** The Validator will produce a draft Validation Report, using the standard template available from the International Secretariat. This will include:
  - An introduction that addresses:
    - The key features of the extractive industries in the country.
    - Overall progress in implementing the EITI workplan.
    - A summary of engagement by government, civil society organisations and industry.
  - A comprehensive and detailed assessment by the Validator of the country's compliance with each requirement, taking into account stakeholder views. This should include a table summarising the Validator's findings.
  - The Validator's judgement on whether the country has satisfied all of the EITI Requirements.

- A narrative report that addresses:
  - The impact of the EITI, including progress against the national priorities for the extractive industries as identified in the multi-stakeholder group's work plan. Any obstacles to the impact of the EITI should also be noted.
  - The sustainability of the process.
  - Any innovations and actions being undertaken by the multi-stakeholder group that exceed the EITI Requirements, e.g. good practice as well as efforts to deepen and widen the scope of the EITI upstream or downstream, or to other sectors.
  - Conclusions, lessons learnt and recommendations for increasing the wider impact of the EITI process.

The Validators may also wish to comment on opportunities to clarify and strengthen the EITI Standard and Validation procedures.

5. **The Validator produces a draft Validation Report.** The draft Validation Report must be submitted to the multi-stakeholder group and the EITI Board's Validation Committee. The review by the Validation Committee will seek to ensure that the Validation Report is comprehensive and provides an adequate basis for establishing the country's compliance with the EITI Requirements. The multi-stakeholder group will also be invited to provide detailed comments. The Validator's final report should comprehensively address the comments from the Validation Committee and the multi-stakeholder group.
6. **The Validator produces a final Validation Report.** The Validator's final report will be submitted to the Validation Committee. The multi-stakeholder group will also be invited to provide detailed comments. The Validator's final report and any comments provided by the multi-stakeholder group will be published on [www.eiti.org](http://www.eiti.org).
7. **The EITI Board analyses the final Validation Report** and decides on the status of the implementing country (see chapter 2, Requirements 1.6 – 1.7). The Board may make recommendations for increasing the wider impact of the EITI. In the event that the final Validation Report does not provide sufficiently detailed information regarding compliance with the EITI Requirements, the EITI Board may task the Validator with providing supplementary information.
8. **Appeals.** Any disagreements between the government, the multi-stakeholder group or the EITI Board over the Validation Report should first be dealt with by the Validator working with these groups. If the disagreement can be resolved, the Validator should make the appropriate amendments in the Validation Report. If a disagreement cannot be resolved, it should be noted in the Validation Report. Serious disagreements with regard to the Validation process should be presented to the EITI Board, who will try to resolve them. The EITI Board has the authority to reject complaints that they consider to be trivial, vexatious or unfounded (see chapter 2, Requirement 1.8).

## 3.3 Procurement of the Validator

The International Secretariat will oversee the procurement of the Validator. The following section presents the key steps in the process.

**1. The International Secretariat will inform the multi-stakeholder group of the initiation of the Validation process, and prepare the Terms of Reference for Validation.**

The Terms of Reference will set out:

- a) Validation objectives and deliverables.
- b) A timetable for Validation.
- c) The Validation process, including procedures for reviewing and commenting on draft and final Validation Reports.
- d) The role and responsibilities of the multi-stakeholder group, including the documents to be provided by the multi-stakeholder group to the Validator prior to the commencement of Validation.

**2. The International Secretariat will procure an EITI Validator** from a list of accredited organisations pre-approved by the EITI Board through a competitive bidding process. The International Secretariat will assess the technical and financial proposals in accordance with the selection criteria set out in the standard terms of reference for Validators. In conducting its review, the International Secretariat shall have regard to, inter alia:

- a) The treatment of conflicts of interest.
- b) The adequacy of the proposals vis-à-vis the objective of Validation and the Validation methodology.
- c) Opportunities for partnership with local firms.
- d) The coherence of the Validator's technical and financial proposals.

The EITI Board reserves the right to revise the procurement procedures and the list of accredited Validators at any time.

**3. The International Secretariat will develop a shortlist of potential Validation teams and present a recommendation to the multi-stakeholder group.**

The multi-stakeholder group will be invited to give their consent to the proposed Validator. Where the multi-stakeholder group disagrees with the International Secretariat's recommendation, it must set out its objections. The International Secretariat will then consider whether to appoint one of the other shortlisted Validators.

**4. The Validation contract** shall be between the International Secretariat and the approved Validator. The contract will further clarify the Validator's responsibilities and obligations to the EITI Board and the International Secretariat. It will include guidance on, inter alia:

- Ensuring strong communication and efficient information exchange between the International Secretariat, the multi-stakeholder group and the Validator throughout the Validation process.
- Reporting any difficulties or irregularities encountered in the Validation process.
- Dispute resolution mechanisms.

Stakeholders wishing to raise concerns regarding the procurement of the Validator, the Terms of Reference or the contract may contact the International Secretariat, which will refer complaints to the EITI Board as appropriate.

### 3.4 The Validation methodology

In accordance with the standard Terms of Reference for Validators, approved by the EITI Board and available from the International Secretariat, and based on an analysis of relevant documents and drawing on feedback from stakeholders, the Validator is required to assess a country's compliance with the seven EITI Requirements.

**Each requirement should be assessed as “met” or “unmet”.** While some of the requirements lend themselves to an objective assessment, others are more complex, inter-linked and may require subjective judgement by the Validator. In assessing the requirements, the Validator must assign one of the following designations to each requirement:

**Requirement met:** EITI implementation meets the required standard, i.e. the threshold for compliance.

**Requirement unmet with meaningful progress:** Some progress in EITI implementation, but further action required for the requirement to be considered met.

**Requirement unmet with limited progress:** Little evidence of progress toward compliance. Considerable additional actions required for the requirement to be considered met.

Specific guidance on assessing each requirement in accordance with this scale is provided in the standard Terms of Reference for Validators. For each requirement, the rationale underpinning the Validator's assessment should be clearly stated, and the Validator should cite key documentary evidence and stakeholder views. Where the country has made meaningful or limited progress but has not fully met the requirements, the Validator should make recommendations on remedial actions needed to achieve compliance. Where the country has met the requirement, the Validator should make recommendations for further improving implementation where appropriate, taking stakeholder views into account.

## 4 PROTOCOL: PARTICIPATION OF CIVIL SOCIETY

*Approved by the EITI Board on 16 February 2011.*

This Protocol contains recommendations on civil society engagement in the EITI, building on lessons emerging from national level implementation. Implementing and applicant countries have committed to uphold the EITI Requirements, including by ensuring the active involvement of civil society. Therefore, the EITI Board sees within its role to ensure that requirements regarding civil society participation are met.

**EITI Principle 2** affirms 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”.

**EITI Principle 12** stipulates that “all stakeholders have important and relevant contributions to make to advance the EITI Principles and standards”.

**EITI Criterion 5** requires that “civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate”.

**EITI Requirement 6** instructs the government “...to ensure that civil society is fully, independently, actively and effectively engaged in the process”.

### The role of civil society

These Principles and Criteria underline the centrality of the **free, full, independent, active and effective participation of civil society** [hereinafter participation of civil society]. Civil society organisations are central players in public debates about EITI and transparency related issues. These efforts are important and complementary to those by other stakeholders. While some countries may have signed on to the EITI with limited civil society involvement, due consideration should be paid to the fact that participation of civil society is critical at all stages of the EITI process.

In implementing countries, governments, companies and civil society are collaborating together to shape the EITI process through the multi-stakeholder group. The multi-stakeholder group mirrors the structure of the EITI Board, whereby all relevant stakeholders play a key role in determining how the EITI should be governed.

### Lessons learnt

The EITI has encountered a range of obstacles and constraints affecting civil society engagement in the EITI, including actions that have restricted public debate about revenue transparency and the use to which resource revenues are put.

The EITI Board has sought to address these challenges by providing a range of responses, including establishing a Rapid Response Committee to deal with cases of threatened or actual harassment of civil society representatives.

In addition, the EITI Board established a Working Group on Civil Society Participation to provide further guidance on civil society engagement in the EITI.

In several cases, governments have argued that restrictions on civil society organisations were not linked to their involvement in the EITI. This is what has been referred to as the



linkage dilemma, meaning that it can be difficult to define to what extent certain actions by stakeholders and limitations to them were directly linked to and have hampered the implementation of the EITI. Yet, as noted, space for civil society engagement is a necessary ingredient for the EITI process to work.

Fundamental concerns raised to date have included the following:<sup>7</sup>

- Harassment and intimidation of civil society representatives participating in the implementation of the EITI.
- Denials of travel permits sought by civil society representatives to attend related meetings.
- Legal, administrative, procedural and other obstacles to the registration and operation of independent civil society.
- Impediments to the free selection of civil society representation.
- The inclusion among the “civil society” representatives of members of parliament from the ruling party or other political parties aligned with the government, in contravention of the basic principle reflected in Requirement 6.
- Resource and capacity constraints.

So far, the EITI Board has often dealt with issues relating to the participation of civil society representatives in implementing countries without trying to pass judgment on the details of a case. Instead, the EITI Board, through its Rapid Response Committee has generally taken the following approach:

- Reasserting the importance of compliance to the Principles, Criteria and Rules of the EITI.
- Making it clear that these Principles, Criteria and Rules may not have been adhered to.

Specific actions by the EITI Board have ranged from quiet and public diplomacy to country visits and recommendations for voluntary suspension from the EITI, with due regard to the fact that the responsibility for implementing the EITI always rests with national governments, in collaboration with the multi-stakeholder group. Actions by the EITI Board have generally strengthened the implementation of the EITI, and should be regarded as complementary to other EITI stakeholders’ efforts.

### **Strengthening civil society participation**

As a custodian of the EITI Principles and Criteria, the EITI Board places importance on ensuring that civil society organisations can play an active role in the design, monitoring, and evaluation of the EITI, alongside other key stakeholders.

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7. A list of individual cases that have been addressed by the EITI Board is available in a Secretariat Paper titled *Review of Obstacles and Constraints to Civil Society Participation*.

## **Government commitment to work with civil society**

The EITI Criteria require national governments to commit to work with civil society on EITI implementation. Countries should address at an early stage obstacles to civil society engagement in the implementation process. In particular, they must ensure that adequate conditions exist for the participation of civil society organisations.

Issues of concern can include legal or regulatory impediments to civil society's ability to participate freely and actively in the implementation of the EITI, and whether or not civil society representatives substantively involved in the EITI process enjoy internationally-recognised fundamental rights outlined in the Universal Declaration of Human Rights.

## **Involvement in the national multi-stakeholder group**

Civil society stakeholders have reported difficulties in some in-country processes in determining how civil society groups are represented. Allowing civil society to self-appoint its own representatives on the multi-stakeholder group, and ensuring they are operationally, and in policy terms, independent from government, companies, and the parliament is crucial to guarantee that the interests of civil society stakeholders are taken into consideration.

## **Addressing capacity needs**

Capacity development for civil society may be necessary to ensure it can take on an active implementing role. Due consideration should be paid to mitigating the impacts of technical and financial constraints on adequate civil society participation, including through facilitating their access to training and resources on matters relevant to participation in the EITI.

## **Security of civil society representatives involved in the EITI**

While allegations or reports of potential or actual harassment of civil society representatives in EITI implementing countries need to be primarily addressed by the national multi-stakeholder group, the EITI Board may be called to investigate particular cases and address breaches of the EITI Criteria and Principles as appropriate.

# PART II

## GOVERNANCE AND MANAGEMENT

The EITI has evolved from an idea into a standard with detailed rules and procedures which provides a platform for wider debate and reform. The governance and management of the EITI itself has also evolved. The EITI is governed by a not-for-profit members association under Norwegian law. It is the EITI Association's articles that provide the governing framework for the EITI.

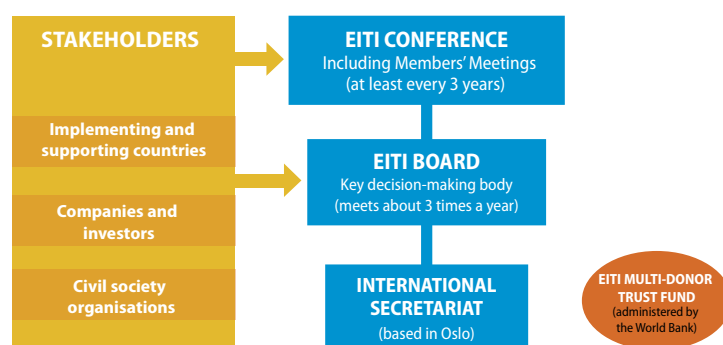
The EITI arranges a Global Conference at least every three years, in order to provide an international forum for EITI stakeholders to further the objectives of the EITI. Alongside these Conferences, a smaller Members' Meeting with the three constituency groups (implementing and supporting), companies (including institutional investors) and civil society organisations, takes place with the votes of three constituencies equally balanced. A main task of the Members' Meeting is to appoint the EITI Board. All implementing and supporting countries are entitled to be members of the EITI Association. It is up to the other constituencies to agree among themselves their membership of the Association and who they wish to nominate to the EITI Board. Between these Conferences and the Members' Meetings, the EITI Board oversees the activities of EITI. This will be through three to four Board meetings a year plus frequent Board circulars containing proposals for approval, and several Board committees. The EITI Board has 20 members, with the different constituencies being entitled to representation. The Chair should be independent.

The EITI International Secretariat is responsible for the day-to-day running of the EITI Association. A considerable amount of technical assistance is provided to countries implementing the EITI. Much of this is provided by the World Bank, through its EITI Multi-Donor Trust Fund. There is a Memorandum of Understanding between the EITI and the World Bank.

There are many other providers of technical assistance to EITI processes.

This section contains the main documents concerning the governance of the EITI at the international level:

- Articles of Association.
- Use of the EITI's name and logo.
- Openness Policy, adopted in 2013, which sets out how the EITI itself should be transparent.
- Updated draft Constituency Guidelines, with guidance to the various constituencies on how they organise themselves.



## 5 ARTICLES OF ASSOCIATION

### ARTICLE 1 NAME

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- 1) The name of the association shall be “The Association for the Extractive Industries Transparency Initiative (EITI)” (hereinafter referred to as “the EITI Association”).

### ARTICLE 2 BACKGROUND AND OBJECTIVE

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- 1) The EITI Association is an international multi-stakeholder initiative with participation of representatives from governments and their agencies; oil, gas and mining companies; asset management companies and pension funds (hereinafter referred to as “Institutional Investors”) and local civil society groups and international non-governmental organisations.
- 2) 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.

### ARTICLE 3 LEGAL PERSON, LIMITED LIABILITY

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- 1) The EITI Association is a non-profit association organised under Norwegian law (“forening”).
- 2) The Members of the EITI Association shall not be responsible, individually or collectively, for any of the EITI Association’s debts, liabilities or obligations.

### ARTICLE 4 ORGANISATION

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- 1) The permanent institutional bodies of the EITI Association are:
  - i) The EITI Members’ Meeting, which is held in connection with the EITI Conference;
  - ii) The EITI Board led by the EITI Chair;
  - iii) The EITI Secretariat led by the Head of Secretariat;
- 2) The EITI Board may establish committees in accordance with Article 14;
- 3) The EITI Association’s organisation operates transparently.

### ARTICLE 5 MEMBERSHIP AND CONSTITUENCIES

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- 1) A Member of the EITI Association is a personal representative of a country (meaning state), company, organisation or legal entity that is appointed by a Constituency as set out in Articles 5 (2) and (3).
- 2) The Members are organised in three Constituencies which are:
  - i) The Constituency of Countries, which comprise:
    - a) Implementing Countries, meaning states, that have been classified by the EITI Board as either Candidate Countries or Compliant Countries; and

# ARTICLES OF ASSOCIATION

- b) Supporting Countries, meaning states or union of states, that support the objective of the EITI Association.
  - ii) The Constituency of Companies, which comprise:
    - a) Companies in the extractive sector that have committed to support the objective of the EITI Association and associations representing these companies; and
    - b) Institutional Investors that have committed to support the objective of the EITI Association.
  - iii) The Constituency of Civil Society Organisations, which comprise non-governmental organisations, global action networks or coalitions that support the objective of the EITI Association.
- 3) Each Constituency decides on its rules governing appointments of Members of the EITI Association. The Membership shall be limited to the following:
  - i) From the Constituency of Countries, up to one representative from each Implementing Country and each Supporting Country (or their unions);
  - ii) From the Constituency of Companies, up to one representative from each company and associations representing them, and a maximum of five representatives from Institutional Investors;
  - iii) From the Constituency of Civil Society Organisations, up to one representative from each Civil Society Organisations.
- 4) A Constituency may replace any of its own appointed Members at any time. The Constituency shall inform the EITI Secretariat of its Members at any time.
- 5) The EITI Board may terminate any Member's Membership of the EITI Association if:
  - i) The Member, or the country or other entity the Member represents, does not comply with these Articles of Association; or
  - ii) The Member, or the country or other entity the Member represents, has conducted his/her/its affairs in a way considered prejudicial or contrary to the EITI Principles.
- 6) A resolution by the EITI Board in accordance with Article 5 (5) may be appealed by any Member to the Members' Meeting for final decision.

## **ARTICLE 6 SUBSCRIPTION FEE**

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- 1) There is no subscription fee for Members.

## **ARTICLE 7 THE EITI CONFERENCE**

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- 1) An EITI Conference shall be held at least every three years in order to provide a forum for EITI stakeholders, being all with an interest in the EITI Association, to further the objective of the EITI Association and to express their views on the policies and strategies of the EITI Association. The EITI Chair shall act as chairman for the Conference. The EITI Conference is a non-governing body of the EITI Association.
- 2) The EITI Members, the EITI Board and the EITI Secretariat have the right to attend or be represented at the EITI Conference. Other EITI stakeholders should also

# ARTICLES OF ASSOCIATION

be invited, in each case, to the extent that it is reasonably practical to make arrangements in order to do so as decided by the EITI Board.

- 3) The EITI Conference shall be summoned by the EITI Board on the EITI website and by written notice to the Members and Constituencies with at least four weeks notice. The written notice shall include the agenda of the EITI Conference.
- 4) 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.
- 5) Views on the issues set out in Article 7 (4) above may be expressed in a non-binding Statement of Outcomes which shall be agreed upon by the EITI Conference and communicated to the EITI Members' Meeting and the EITI Board. The EITI Conference shall make every effort to adopt resolutions by consensus. Taking account of the view of the EITI stakeholders, the EITI Chair may decide that a vote is required. Every EITI stakeholder, except the Members of the EITI Board in this capacity and the Secretariat, has one vote. Resolutions of the EITI Conference are adopted by simple majority of those present and voting.

## **ARTICLE 8 THE EITI MEMBERS' MEETING**

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- 1) The governing body of the EITI Association is the EITI Members' Meeting.
- 2) The EITI Members' Meeting is comprised of the Members of the EITI Association.
- 3) The ordinary EITI Members' Meeting shall be held at least every three years in connection with the EITI Conference. The ordinary EITI Members' Meeting shall be summoned by the EITI Board to the Members with at least four weeks written notice.
- 4) An Extraordinary Members' Meeting may be summoned by the EITI Board to the Members with at least three weeks written notice. The EITI Board shall ensure that an Extraordinary Members' Meeting shall be held within four weeks of the receipt by the EITI Chair of a request to hold an Extraordinary Members' Meeting.
- 5) Members who wish to take part in an EITI Members' Meeting, must give notice to the EITI Secretariat by the date stated in the summons. A Member may be represented in the EITI Members' Meeting by written proxy. The proxy may also include specific voting instructions.

A duly signed proxy must be received by the EITI Secretariat by the date stated in the summons.

# ARTICLES OF ASSOCIATION

- 6) The EITI Chair shall act as chairman for the EITI Members' Meeting.
- 7) The quorum of a Members' Meeting shall be a minimum of half of the, Members, and must include at least one third of the Members from each Constituency.
- 8) The Members' Meeting shall make every effort to adopt resolutions by consensus. If a vote is required, resolutions are adopted by qualified majority requiring the support of at least two thirds of the total votes cast and must include the support of at least one third of the votes cast by the Members representing each Constituency. The total number of votes for the Members of each Constituency shall be equal and be determined as follows:
  - i) Members from the Constituency of Countries shall have one vote each; and
  - ii) The votes for Members from the Constituency of Companies and the Constituency of Civil Society Organisations shall be determined by dividing the total of Country votes by the number of Members of the Company and Civil Society Constituencies respectively.
  - iii) The EITI Chair shall announce the number of votes for each Member from the different Constituencies prior to voting.

## **ARTICLE 9 THE FUNCTIONS OF THE EITI MEMBERS' MEETING**

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- 1) The EITI Members' Meeting shall:
  - 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.

## **ARTICLE 10 THE EITI BOARD**

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- 1) The executive body of the EITI Association is the EITI Board, elected by the EITI Members' Meeting and operating under the guidance from the EITI Members' Meeting.
- 2) In order to reflect the multi-stakeholder nature of the EITI Association, the EITI Board shall consist of 20 EITI Board Members ("Board Members") and shall be made up as follows:
  - i) A Chair;
  - ii) 8 Board Members being Members of the EITI Association from the Constituency of Countries, of which a maximum of 3 Board Members should represent Supporting Countries and the remainder should represent Implementing Countries. When possible, Implementing Countries should be represented by at least 3 Compliant Countries.
  - iii) 6 Board Members being Members of the EITI Association from the Constituency of Companies, of which a maximum of 1 should represent Institutional Investors.

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- iv) 5 Board Members being Members of the EITI Association from the Constituency of Civil Society Organisations.
- 3) All Board Members retire with effect from the conclusion of the ordinary EITI Members' Meeting held subsequent to their nomination, but shall be eligible for re-nomination at that EITI Members' Meeting.
- 4) The Constituencies may nominate, and the EITI Members' Meeting may elect, one alternate Board Member (an "Alternate") for each Board Member that the Constituency has nominated. An Alternate may deputise for the Board Member. If there is no Alternate, the relevant Constituency shall nominate a new Board Member and Alternate.
- 5) If a Board Member is absent from a Board Meeting, that Board Member's Alternate may attend, participate in discussions, vote and generally perform all the functions of that Board Member in the Board Meeting.
- 6) In the case of a vacancy on the EITI Board between two EITI Members' Meetings, this vacancy shall be filled by the resigning Board Member's Alternate, with the concerned Constituency nominating a new Alternate to be elected by the Board. Alternatively, the concerned Constituency may nominate a new Board Member to be elected by the Board.
- 7) The EITI Association shall obtain liability insurance for Board Members. The terms and conditions should be approved by the EITI Board.
- 8) The EITI Board may decide that a Board Member representing an implementing country that is suspended during the tenure may keep the status as a Board Member, but refrain from engaging in Board activities during the period of suspension. Should the suspension be in force for more than a year, the EITI Board may decide that the Board membership should be terminated.

### ARTICLE 11 EITI OBSERVERS

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- 1) Representatives from relevant international organisations, such as the World Bank, the International Monetary Fund and other relevant stakeholders, should be invited by the EITI Board to attend EITI Board Meetings and Members' Meetings as observers, when this can be practically accommodated. They have no voting rights, but may be invited to express their views on specific matters. The EITI Board may decide that certain items should be discussed without observers present.

### ARTICLE 12 THE EITI CHAIR

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- 1) The EITI Chair shall be elected at the ordinary EITI Members' Meeting. The EITI Board shall, prior to each ordinary EITI Members' Meeting, recommend a candidate for the EITI Chair for the period following that EITI Members' Meeting. The term of an EITI Chair's may be renewed once.
- 2) The EITI Chair shall:
  - i) Act as chairman of the EITI Members' Meeting;



# ARTICLES OF ASSOCIATION

- ii) Act as chairman of the EITI Board Meeting;
  - iii) Present the EITI Board report to the EITI Conference and the EITI Members' Meeting;
  - iv) Represent the EITI Board in external matters;
  - v) Follow-up with the EITI Secretariat regarding the implementation of the resolutions of the EITI Board; and
  - vi) Seek to foster collaborative relationships between EITI stakeholders.
- 3) If the EITI Chair is unable to preside over a Board Meeting, the Board Members present may appoint another Board Member to chair that Meeting.

## **ARTICLE 13 FUNCTIONS OF THE EITI BOARD**

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- 1) The EITI Board shall act in the best interests of the EITI Association at all times. The EITI Board shall exercise the executive powers of the EITI Association subject to the resolutions of the EITI Members' Meeting, including the following key functions:
- 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.

## **ARTICLE 14 COMMITTEES OF THE EITI BOARD**

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- 1) The EITI Board may create committees to further specific issues. Any such committee should include two or more Board Members or their Alternates, and its composition should, as far as is reasonable, reflect the multi-stakeholder nature of the EITI Association. The terms on which any such committee shall operate should be recorded in the Minute Book.

## **ARTICLE 15 EITI BOARD OPERATIONS AND PROCEEDINGS**

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- 1) The EITI Board should meet at least twice a year. If the circumstances so necessitate, EITI Board Meetings can be held by telephone conference. At least one EITI Board Meeting per year shall be in person.
- 2) A Board Meeting shall be convened by written notification from the EITI Chair with at least 14 days notice. Any shorter period of notice requires the written consent of all Board Members.
- 3) Board Members shall make every effort to adopt resolutions by consensus. Taking account of the view of the Board Members, the EITI Chair may decide that a vote is required. Every Member of the EITI Board has one vote. Voting can be done by written proxy.
- 4) No resolution may be made by a Board Meeting unless a quorum is present at the time of passing the resolution. At least two-thirds of the Board Members, with at least two Board Members from the Constituency of Countries (one Implementing Country and one Supporting Country), one Board Member from the Constituency of Civil Society Organisations and one Board Member from the Constituency of Companies, establish a quorum.
- 5) If a vote is required, resolutions are adopted by a qualified majority requiring 13 votes to be cast in favour of the resolution, and must include the support of at least one third of the votes of the Board Members from each Constituency.
- 6) A Board Member shall not vote in respect of any matter or arrangement in which he or she is directly interested, or if there are any other special circumstances which are apt to impair confidence in his or her impartiality. A Board Member shall declare such interests in writing to the EITI Board as soon as possible after he or she becomes aware of the same. A Board Member shall not be counted in the quorum present when any resolution is made about a matter which that Board Member is not entitled to vote upon.
- 7) The EITI Board may establish procedures regarding decision-making processes outside Board Meetings. Any decisions taken outside Board Meetings in accordance with such procedures should be recorded in the Minutes of the Board Meeting following when the decision was taken.
- 8) The EITI Association can be committed externally by the joint signature of all Board Members. The EITI Board may elect the Chair alone, or two or several Board Members to carry the right of signature, of which any two can sign jointly.

## **ARTICLE 16 THE EITI SECRETARIAT**

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- 1) The EITI Secretariat (“the Secretariat”) shall consist of the Head of Secretariat and other necessary staff. The members of the Secretariat shall be either contracted directly or seconded by EITI Members.
- 2) The Secretariat shall be responsible for the day-to-day running of the EITI Association under the direction of the EITI Board through its Chair.
- 3) The Secretariat shall keep an updated Members’ Registry at all times.
- 4) The Secretariat shall keep a record of these Articles of Association and any amendments thereto.
- 5) The Secretariat shall keep Minutes of all EITI Board Meetings, Members’ Meetings and meetings of the EITI Conference in a Minute Book. All such Minutes shall be published on the EITI website. Such Minutes shall record the names of those present, the resolutions made at the meetings and, where appropriate, the reasons for the resolutions.

## **ARTICLE 17 THE HEAD OF THE EITI SECRETARIAT**

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- 1) The Secretariat shall be led by a full-time Head of Secretariat who will manage the day-to-day running of the EITI Association, including the selection of necessary staff, oversee development of the EITI Association and provide support to the EITI Board. The Head of Secretariat shall report to EITI Board through the Chair and be responsible for the activities of the Secretariat.
- 2) The Head of Secretariat, or his appointee from the Secretariat, shall serve as Secretary to all EITI Board Meetings, EITI Members’ Meetings and EITI Conferences.

## **ARTICLE 18 FUNDING**

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- 1) The EITI Association is a non-profit association. Its funds consist of voluntary contributions from EITI Members and grants from bilateral and multilateral donors, international financial institutions and other agencies, organisations and entities.
- 2) The EITI Association may also operate through voluntary contributions in kind.

## **ARTICLE 19 EITI ACCOUNTS, FUND MANAGEMENT AND PAYMENTS**

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- 1) The EITI Association holds a separate bank account in its own name, the “EITI International Management Account”. The EITI International Management Account can be used for any activity falling within the objectives of the EITI Association and the work plans approved by the EITI Board. The funds may be applied to administration and governance costs, country-specific activities and multi-country activities.

## ARTICLES OF ASSOCIATION

- 2) The EITI Board shall appoint an external, independent auditor to annually audit the EITI International Management Account, and to present a written audit report to the EITI Board.

The EITI Board shall develop reporting and auditing arrangements with respect to the EITI International Management Account which shall be set forth in the supplementary operating rules and procedures of the EITI Association.

### ARTICLE 20 AMENDMENTS

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- 1) These Articles of Association may be amended by the EITI Members' Meeting convened and held, pursuant to Article 8 by approval of at least two-thirds of the Members present.

A proposal for an amendment shall be communicated in writing to all EITI Members four weeks in advance of the relevant resolution.

### ARTICLE 21 REVIEW

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- 1) A review of the governance arrangements of the EITI Association should be undertaken by the EITI Board within two years of the constitution of the Association.

### ARTICLE 22 WITHDRAWAL AND DISSOLUTION

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- 1) Any Member may withdraw from the EITI Association at any time. Such withdrawal shall become effective upon receipt of a written notification of withdrawal by the Head of Secretariat.
- 2) The EITI Association may be dissolved by the Members' Meeting in accordance with the provisions of Article 8. A proposal for dissolution shall be communicated in writing to all EITI Members four weeks in advance of the relevant resolution.
- 3) In the event of a dissolution, the assets of the EITI Association shall be applied to similar objectives to those of the EITI Association and as determined by the EITI Board subject to the approval of the EITI Members' Meeting.

### ARTICLE 23 ENTRY INTO FORCE

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- 1) These Articles of Association shall enter into force upon the constitution of the EITI Association.

### ANNEX A The EITI Principles

As per section 1 in this publication.

### ANNEX B Use of the EITI's name and logo

The EITI's name and logo are property of the EITI. As a general rule, use of the EITI name, i.e. EITI or Extractive Industries Transparency Initiative, by-products or translations, and logo or local derivatives, is encouraged and permitted under the limitations specified at <http://www.eiti.org/about/logopolicy>.

## 6 EITI OPENNESS POLICY

1. **The documents of the EITI are public, except as otherwise provided below.**

2. Documents disclosed to the EITI on any matter concerning operational and/or business matters, which for **competition reasons** are important to keep secret in the interests of the person whom the information concerns, are exempted from access.

For example, a business secret would normally be exempted if disclosure has the potential of influencing the competitive position of the company in question.

3. Documents revealing information received from a **third party are exempted from access if disclosure is likely to influence legitimate interests of that third party.**

For example, access to documents will not be granted if the personal security of the third party and/or his family and/or any person closely connected to the third party in question may be endangered. Further, the protection of personal privacy will also qualify as legitimate interest and thus be exempted.

4. EITI **internal working documents** are exempted from access.

For example, documents from the International Secretariat to the EITI Board and its Committees are normally considered internal documents and thus exempted. This exception applies if the International Secretariat, in the course of its preparation of a matter to the EITI Board, has prepared or commissioned an analysis or a report or the similar from an external source. In contrast, final minutes from the EITI Board meetings as well as committees and working group meetings are not internal documents. E-mails between EITI colleagues are normally considered to be internal working documents.

5. **Personal** information related to staff of the EITI is exempted from access.

For example, documents on evaluations made in connection with recruitment and dismissal, and/or documents regarding assessments of staff performance and/or personal information about for example staff members' health are exempted from access. On the other hand, all contracts, salaries, compensation and expense accounting are public.

# 7 DRAFT EITI CONSTITUENCY GUIDELINES

EITI International Secretariat, 26 April 2013

## Background

The report of the International Advisory Group, as adopted by the Oslo Conference in October 2006 agreed that a 20 person Board would be established at Oslo to serve until the next EITI Conference. The Board consists of:

- The Chair.
- Representatives of implementing countries.
- Representatives of donors.
- Representatives of NGOs.
- Companies.
- One investor.

Everyone other than the Chair is invited to have an alternate. It was agreed that each of the constituencies would determine how they wish to agree nominations.

A proposal for the legal incorporation of the EITI Board and Secretariat was considered by an EITI Members' Meeting in Doha in February 2009. The proposal drew extensively on the report of the International Advisory Group. It was suggested that the different stakeholders are represented in the same way as is the case today.

According to the IAG Report 'Each of the constituencies should agree how they wish to be represented on the proposed Board. This requires prior consideration by each constituency of how they define those eligible (i) to be selected as representatives; and (ii) to be involved in the selection process'.

## Guidelines

Recognising the important principle that the EITI's various constituencies have the right to determine their own internal processes, this document offers some guidelines of the internal working of constituency processes.

The constituencies are defined in the EITI Articles of Association, which also determine the size of the constituencies' membership on the association and the number of seats on the EITI Board. (Much of the inspiration and language in these guidelines has been taken from the Global Fund to Fight AIDS, Tuberculosis and Malaria's guidelines on constituency processes.)

Some of the EITI constituencies, not least the company constituency, are informally sub-divided. Currently, for example, mining companies organise themselves relatively independently from the oil and gas companies. The following principles should apply to the processes applied by these sub-sets:

- The processes the different constituencies follow should be open and transparent.
- Information on the processes should be made available on the EITI website, including a contact person for any stakeholder wishing to be involved.
- The process should be flexible and open to new members. The constituencies should bear in mind the need to balance the need for continuity against the need for renewal and broadening of the ownership of the EITI.

- Recognising the important role the Board has for the EITI, countries and organisations are encouraged to be represented at senior level.

The constituencies are urged to bear in mind how important it is that the EITI Association and Board are representative of all of the EITI's stakeholders. It is, for example, expected that countries from different regions, companies, and civil society organisations with strong links to different regions, are represented. While it may not be possible to determine that an international body such as the EITI Board be gender balanced, the constituency groups are encouraged to ensure that both genders are adequately represented.

Specifically, for the various constituency groups:

## Countries

### **EITI Member Association**

All implementing and supporting countries are entitled to become members of the Association.

### **The EITI Board**

- **Implementing countries:** Board members might be selected from the governments of those countries who are 'demonstrably implementing EITI' i.e. invite representatives from countries that have produced at least one EITI Report within the last twelve months (this wording was drawn from 5th IAG meeting minutes). As far as possible, the representation should also reflect both a geographical and sectoral distribution. A system of sub-constituencies might be considered to ensure that all implementing countries' views are represented.
- **Supporting Countries:** Board members should be selected from the government of those countries who are demonstrably giving financial, political, or technical support to EITI implementation. The supporting countries should consider a sub-constituency approach which will engage other supporting countries as they join the EITI family. It is hoped that some emerging economies might join this group over the next two years.

## **Civil Society Organisations**

### **EITI Member Association**

All civil society organisations are entitled to become members of the Association.

### **The EITI Board**

Board members should be selected from those who have actively supported EITI implementation – either at the international level or in-country.

The Publish What You Pay Coalition has conducted a consultation with their members about how selection for this constituency will be managed. Those civil society representatives interested in being represented on the EITI Association or Board are encouraged to contact the Publish What You Pay coalition.

## **Companies**

### **EITI Member Association**

All companies supporting the EITI and up to five institutional investors are entitled to become members of the Association.

### **The EITI Board**

There are four broad categories of companies represented in the EITI company constituency: oil and gas companies, mining companies, state-owned enterprises and institutional investors.

These companies and investors are encouraged to liaise with each other to agree representation for the Association and for the appointment of the next Board.

The Secretariat remains available to facilitate all nomination processes.

## **Grievances**

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.









The **EITI** (Extractive Industries Transparency Initiative) **Standard** is an international standard that ensures transparency around countries' oil, gas and mineral resources. It is developed and overseen by a coalition of governments, companies, civil society, investors and international organisations. All these groups are represented in the EITI Board which is supported by the EITI International Secretariat. The EITI Standard has robust yet flexible methodology, which countries adopt to address the specific issues they are facing. When implemented, the EITI ensures more transparency in how the country's natural resources are governed, and full disclosure of government revenue from its extractive sectors.

