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# Strategy Working Group: Discussion paper

*For discussion*

**EITI International Secretariat** Oslo, 3 October 2011

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# STRATEGY WORKING GROUP: DISCUSSION PAPER

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## 1 Executive Summary

While documenting significant successes, the recent evaluation of the EITI<sup>1</sup> questioned whether the EITI is adequately delivering against its Principles. In response, the EITI Board invited stakeholders to comment on the evaluation<sup>2</sup> and on the strategic direction of the EITI for the next 3-5 years.<sup>3</sup> Several stakeholders have submitted proposals, published online.<sup>4</sup> The EITI Strategy Working Group formed in Amsterdam in June tasked the Secretariat with preparing this paper, outlining options for consideration by the Board in Jakarta.

Some stakeholders have emphasized the need for consolidation by improving the quality of EITI Reports and the extent to which they can be used to engage a wide range of audiences in the governance of the extractive industries. Others have offered proposals that would fundamentally alter the objectives and scope of the EITI.

The submissions from Publish What You Pay (International, Australia and Tanzania) and the Revenue Watch Institute call for fundamental change. They advocate, amongst other things, a firmer legal basis for the EITI, contract transparency, disaggregated EITI reporting, and coverage of licensing, in-kind payments, and transit revenues. One of the proposals from the World Bank is that the EITI Criteria are expanded so that EITI reports go beyond reconciliation to verify that the payments and revenues are what they should be. The World Bank has also suggested new EITI Criteria that would require Compliant implementing countries to “develop and implement a strategy of concretely linking and mainstreaming EITI into overarching national processes and related initiatives”. The EITI’s relationship with other links in the value chain was a common theme in several submissions.

The Secretariat foresees considerable resistance to making these ideas mandatory for all implementing countries. First: not all EITI stakeholders are convinced that these reforms are desirable or feasible. Second: a significant number of implementing countries are currently facing challenges in achieving compliance with the existing requirements, which were only recently modified. At the same time, there appears to be broad-based support for encouraging implementing countries to go beyond compliance by undertaking additional work to improve transparency, accountability and stakeholder collaboration. There also appears to be broad-based support for more definitively incentivizing countries to undertake complementary actions agreed by the MSG to realise the broader EITI Principles. Where countries take such steps, these should be recognised.

**Accordingly, the Secretariat suggests in section 7.2 that the Board considers whether a scoring system can be introduced, to a greater extent recognising and incentivizing good performance by implementing countries.** The majority of the current requirements would remain unchanged. The goalposts would remain where they are. The quality assurance requirements would be modified. Validation would be replaced by continuous (annual) assessment. This assessment would examine whether the **minimum requirements**

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<sup>1</sup> Scanteam (2011) Achievements and Strategic Options: Evaluation of the Extractive Industries Transparency Initiative. Final Report. Oslo. May 2011. Source: <http://eiti.org/files/2011-EITI-evaluation-report.pdf>

<sup>2</sup> “Is the EITI working? Have your say on the EITI Evaluation”. EITI Blog. 4 July 2011. <http://eiti.org/blog/eiti-working-have-your-say-eiti-evaluation>

<sup>3</sup> ‘EITI Strategy Working Group’ EITI website. July 2011. <http://eiti.org/about/strategy-working-group>

<sup>4</sup> See: ‘EITI Strategy Working Group’ EITI website. July 2011. <http://eiti.org/about/strategy-working-group>

(currently requirements 1-18) have been met, and **score performance** beyond the meeting of these requirements. The assessment would be carried out by the Secretariat, drawing on EITI reports, annual reports from MSGs, and a quality assurance process that could incorporate elements of peer review. As today, decisions regarding a country's status (and score) would be taken by the Board. The costing and resource implications would need to be further investigated, but it is unlikely that this approach would require a major increase in the Secretariat's budget. This would overall be compensated for with implementing countries having no expenses for validation.

In addition, it is suggested that the Board, in partnership with supporting organisations, **consider the technical assistance required**. This could include support for efforts going beyond the core requirements, for example, piloting EITI reporting that verifies that the payments and revenues are what they should be.

The Secretariat also notes that there has been **little input to this strategic review from implementing country governments**, and that engaging implementing country governments and MSGs is a priority as the merits of these proposals are debated further.

## 2 Introduction

The EITI is still a young standard. It will continue to evolve. The Board agreed in June 2011 to establish a Strategy Working Group (SWG) that would examine options and make recommendations regarding the strategic direction of the EITI for the next 3-5 years. The SWG began by asking the International Secretariat to submit a paper in time for the Jakarta Board Meeting that identifies strategic options and discusses different changes that could be made to the EITI.

This is the paper the Secretariat is submitting to the Board. The views expressed in the paper are not necessarily those of the Secretariat. The Secretariat has incorporated ideas from several sources. Many suggestions have appeared before and some of them were brought together in the Evaluation of the EITI earlier in 2011.

The Secretariat has endeavoured to identify suggestions that stakeholders appear to give high priority, and those that may possibly obtain wide support. Ultimately, a paper by the Secretariat – the executive and only institution not being a stakeholder – of a multi-stakeholder initiative like the EITI has to reflect a judgement call of what options and suggestions to include. If the aim of the Board's review is to strategically consider how the EITI should evolve, then the net should be thrown wide as possible at this stage.

The consensus amongst the EITI's stakeholders has to be explored and taken as far as possible. The paper is based on the assumption that the current stakeholder arrangements and engagement has been critical to the EITI's success and something that should be maintained.

The suggestions in this paper are not detailed proposals for the Board to reject or approve. The suggestions are put forward in recognition that the Board will need to extensively debate, consult and elaborate. Based on initial feedback, the Secretariat foresees that it may be asked to develop suggestions further and into concrete proposals.

## 3 Working group objectives

The objective of the Strategy Working Group (SWG) is to supervise a process that will enable the Board of EITI **to examine options and make recommendations regarding the strategic direction of the EITI for the next 3-5 years**. This work will include reviewing:

- the Principles, Criteria and scope of the EITI;
- the system for assessment (e.g. compliance and/or sliding scale);
- communication and use of EITI reports;
- linkages with other governance reform programmes, and
- technical assistance provision, governance and organisation.

Options related to these five areas are elaborated on below.

## 4 The Principles, Criteria and scope of the EITI

The evaluation and the contributions received from stakeholders reflect on whether the EITI has an appropriate focus and scope. Before exploring this issue, it is useful to review the EITI Principles and Criteria, and to establish the scope of the EITI standard as it stands today. This provides a basis for reviewing the proposals that have been put forward.

### 4.1 Background

When the EITI's Principles, Criteria and scope are considered it is important to bear in mind that these in themselves reflect the evolution of the EITI. When the original group of stakeholders came together they agreed a set of aspirational goals: 'EITI Principles'. Following this, and as stated in EITI Rules: "...there was a need for a mutually agreed set of EITI Criteria for all countries wishing to implement the EITI." A final core building block was added a year later, in 2006, when the Validation Guide was adopted, as it became increasingly clear that there was a need to hold implementing countries to account, to assess (validate) their progress in adhering to the Principles and Criteria. Before validation of EITI implementing countries could begin, it was however necessary to have implementing countries reapply to become EITI candidate countries. As countries had begun implementing the EITI during different stages of its evolution, there was a lack of clarity and uniformity. Beginning with Azerbaijan in 2009, a growing number of countries have become Compliant, with 12 being Compliant as of September 2011.

In 2010, an effort to revise and improve the EITI Rules was undertaken, leading to the approval of 2011 edition of the EITI Rules just before the 5<sup>th</sup> Global Conference in Paris in March 2011. In June 2011, the Board approved transition procedures for the 2011 Rules. It will not be until the end of 2012 that the new Rules will be fully applied.<sup>5</sup> This strategic review is thus taking place before these changes, let alone the results of the most recent changes, have become evident. The timing of the evaluation meant that 2011 EITI Rules revision is hardly considered in the evaluation report.

### 4.2 The EITI Principles

The Scanteam evaluation suggests that the scope of the EITI is too narrow in relation to the Principles: "Today's EITI Standards falls short of the EITI Principles and are limited. Current implementation of the EITI Standard remains based on the EITI Criteria rather than the EITI Principles" (page 48). The report went on to challenge the EITI on whether it had a "theory of change" that explained how the achievement of the Criteria would lead to the

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<sup>5</sup> The requirements regarding regular and timely reporting are being phased in. For some countries this requirement does not apply until later in 2012.

achievement of the Principles.

The Principles are a mixture of agreed values, aspirations and facts. Even an extended EITI scope can never on its own deliver against such a wide set of principles or aspirations, but it might be able to get closer. The reasons for and against the scope of the EITI being widened does not necessarily need to have consequences for the Principles. The Principles can remain aspirational, recognising that it will take more than the EITI alone to ensure that the Principles are being delivered.

### 4.3 The EITI Criteria

The EITI Criteria differ from the Principles in that they communicate a set of minimum criteria for the EITI to be considered implemented. They are not aspirational.

The Criteria have been elaborated on in three different ways; through the Validation Guide, the EITI Policy Notes and through the introduction of the requirements in the 2011 edition of EITI Rules. The Criteria cannot be considered in isolation of these elaborations.

- The **Validation Guide** and associated indicators was agreed to provide a consistent quality assurance mechanism.
- Certain aspects of the Criteria have been further elaborated on by the Board through **EITI Policy Notes**. Most notably, detailed provisions in Policy Note 1 addressed issues around the EITI work plans (Criterion 6). And Policy Note 6 "Participation of Civil Society" elaborates Criterion 5. The consequences for not adhering to the Criteria have been developed in Policy Notes 3 and 5, dealing respectively with Validation deadlines and the temporary suspension and delisting.
- Through the adoption of **EITI Rules 2011 edition**, the EITI requirements were introduced. This change had several important consequences:
  - The requirements for EITI implementing countries were more clearly laid out. The EITI Validation Guide was designed to present indicators for assessing quality assurance. Validation had in effect become the standard and the indicators became the requirements to which implementing countries had to adhere. The requirements were thus designed partly to ensure that the provisions in the standard were addressed more to those implementing the standard, i.e. implementing countries, than those judging it, i.e. the validator.
  - The requirements contained new provisions. These were aimed at providing greater precision to some of the Criteria. For example, Criteria 1 states that EITI reporting should be regular. This is now a requirement with greater specificity.

It is clear that the Criteria cannot be considered in isolation, but has to be considered together with the EITI standard as a whole. The Criteria serve as a platform for the evolution of the EITI. Some stakeholders have argued for additions to the EITI Criteria. Others have emphasized deepening the existing Criteria, or identify ways in which implementing countries optionally can take actions beyond the Criteria.

### 4.4 The EITI Standard (requirements)

As outlined above, the EITI Criteria and the associated requirements currently establish the scope of the EITI Standard. In essence, the EITI Standard focuses on putting in place a process (the multi-stakeholder group (MSG)) that oversees the verification and publication of payments made by companies and revenues from oil, gas, and mining received by governments in the extractive industries. Most of the EITI requirements relate to the EITI process (the MSG) or to the requirements for EITI Reports. In commenting on the evaluation, several stakeholders have commented on the need to **strengthen the multi-stakeholder group that oversees the process in each**

**country and to improve the quality and use of EITI reports.** These issues are reviewed in turn below.

#### 4.4.1 Multi-stakeholder groups: the process and the accountability

For transparency to be practically meaningful, it has to lead to improved accountability. Stakeholder consultation through the multi-stakeholder group (MSG) is therefore central to the EITI standard.

The sign up requirements (1-5) focus on the establishing the EITI process: government commitment and leadership, stakeholder engagement, the formation of the MSG and the development of a workplan. Requirements 6 and 7 focus on stakeholder engagement. Many of the other requirements empower the MSG to make key decisions about the scope of the EITI, the design of reporting templates, the selection of the reconciler, etc. Other important elements of the EITI Rules empower the MSG. Final validation reports must be endorsed by the MSG. A request for voluntary suspension from the EITI or an application for an extension of the validation deadline must be endorsed by the MSG.

The World Bank, Secretariat and others have noted that establishing an effective MSG process is often very challenging. Several countries have experienced difficulties, and even protracted delays and conflict between stakeholder groups. In some countries government commitment to the MSG process is variable. Some MSGs are highly effective; others have a more tenuous existence. Despite this, the experience from more than 23 validations is that countries are rarely found to have not met the requirements regarding the MSG governance, work plans and stakeholder engagement. This contradiction suggest that these requirements should be revised and strengthened or that an approach is developed which better recognizes countries that go beyond the minimum requirements to more fully utilize the MSG to promote stakeholder dialogue, build trust and engage stakeholders outside the MSG.

#### 4.4.2 EITI Reporting: the product and the transparency

##### **Options**

Whilst the 2011 edition of the EITI Rules strengthened the requirements regarding the quality of EITI reporting, they still allow a lot of room for variation. Stakeholders argue that the quality of EITI reports needs to be improved, for example through:

1. Data disaggregated company by company, or project by project;
2. Improved coverage of in-kind payments;
3. Disaggregation and comparison by payment types;
4. Explanation and follow-up (not just identification) of discrepancies;
5. Inclusion and comparison of data with other data sources.

Several stakeholders have also emphasized the need for ensuring that the EITI reports are being better used and in a significant way contribute to public debate.

The 2011 edition of the EITI Rules introduced key provisions that specifically targeted the quality of EITI reports, such as regularity and timeliness (requirement 5(e), definition of materiality (requirement 9), full disclosure (requirements 11, 14 and 15), data quality (requirements 12 and 13), and the comprehensiveness, comprehensibility and availability of the reports (requirement 18). The rules also establish specific requirements about the content of EITI Reports. As noted above, the MSG has a central role in key decisions about the scope of the EITI, the design of reporting templates, the selection of the reconciler, etc.

While disaggregated data is not an EITI requirement, it does, according to RWI, "enable meaningful analysis and

*oversight*". For example, it has provided important information on the scale of individual company operations and their respective contributions to total revenues generated by the extractives sector. Where companies are making payments to different regional or central authorities, disaggregation can help to identify more specifically where there are strengths and weaknesses in the broader management of public finances.

It is likely that users of EITI reports are interested in what kinds of payments are being made to the government and the contribution to total government revenue. A section giving a brief description of the different payment types covered in an EITI Report, including a table or graph illustrating how much each payment type is contributing to overall revenue flows makes this information easy to find and comprehend.

As revenue watch points out, in-kind payments often represent a high percentage of total extractive revenues in petroleum rich countries. EITI Reports in these countries typically only disclose only the volumes received, not their monetized value, and do not differentiate between different in-kind revenue streams (e.g. equity and profit oil). More crucially, few reports provide any information on what the state does with the commodity volumes that it receives (to whom are the commodities sold, at what price and Where do the sale proceeds go?). Exploring these issues is often essential in order to get a comprehensive understanding of resource revenue management.

When reading an EITI Report, many users are interested in understanding the source of the largest discrepancies reported. Providing a detailed explanation of the largest discrepancies and what steps have or will be taken to resolve them will help to inform readers about where problems exist and what steps are being taken to resolve them.

In most countries data on revenue derived from the oil, gas and mining sectors is also published in other sources such as government budget documents, central bank reports, and IMF Article IV and Staff reports. Comparing figures in these sources with EITI Reports can help to determine possible data shortcomings and illustrate the share of revenues from the extractive sectors which is being reported under the EITI process.

Another important challenge is ensuring that the EITI reports are being used and contribute to public debate. Whilst EITI reports might not provide all the answers, they should form a sound basis for legitimate discussion about overall production, tax and royalty levels, contract terms, use of funds, missing revenues, etc.

There are thus cogent arguments for further strengthening the requirements regarding EITI reports. Alternatively, the Board could consider an approach that recognizes countries that go beyond the minimum requirements and take steps to enhance the quality of EITI reporting.

## 5 Expanding the scope of the EITI Standard to make linkages with other governance reform programmes

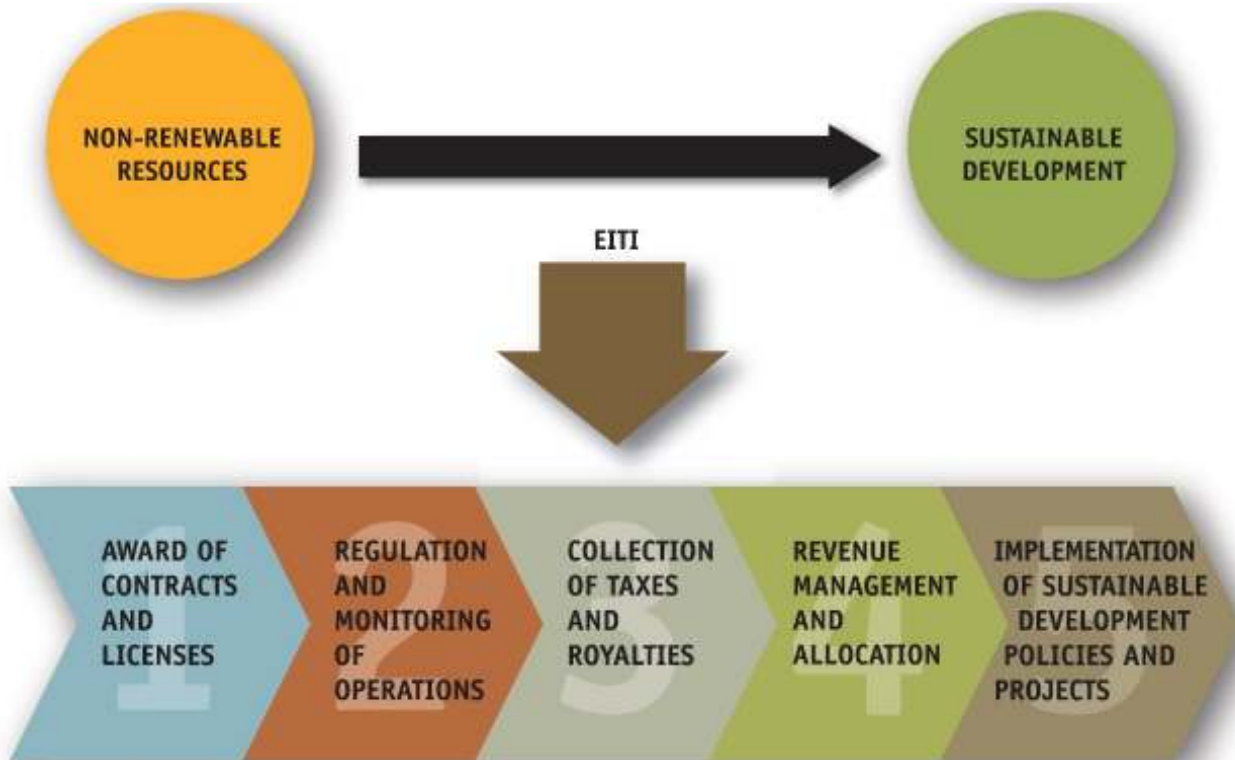
The previous section focused on opportunities to strengthen the EITI standard largely within the current scope of the EITI Criteria and requirements. The evaluation and many of the submissions received advocated for expanding **the scope of the EITI along the extractive industries value chain** and more **clearly linking the EITI to complementary initiatives** that promote transparency and accountability. These issues are reviewed in turn below.

### 5.1 Along the value chain

There are several different representations of the value chain. One of the most popular is drawn from a World Bank

working paper entitled *Extractive Industries Value Chain: A Comprehensive Integrated Approach to Developing Extractive Industries*.<sup>6</sup> It encompasses “awarding contracts and licenses, monitoring operations, enforcing environmental protection and social mitigation requirements, collecting taxes, distributing revenue in a sound manner, and implementing sustainable development policies and projects” (See Figure 1).

**Figure 1 – Extractive Industries Value Chain (World Bank, 2009)**



The World Bank promotes the EITI as a specific intervention related to the collection of taxation and royalties, but notes that:

*The EITI ... does not cover all the challenges that the extractive industries bring to resource rich countries. Public reporting of extractive industries revenue, though extremely valuable, represents only one step in improving sector governance and maximizing development outcomes throughout the extractive industries value chain. How these resources are actually developed and how the revenue generated ultimately is spent will determine a country's success in achieving long-term growth and sustainable development.*

The evaluation makes a similar point:

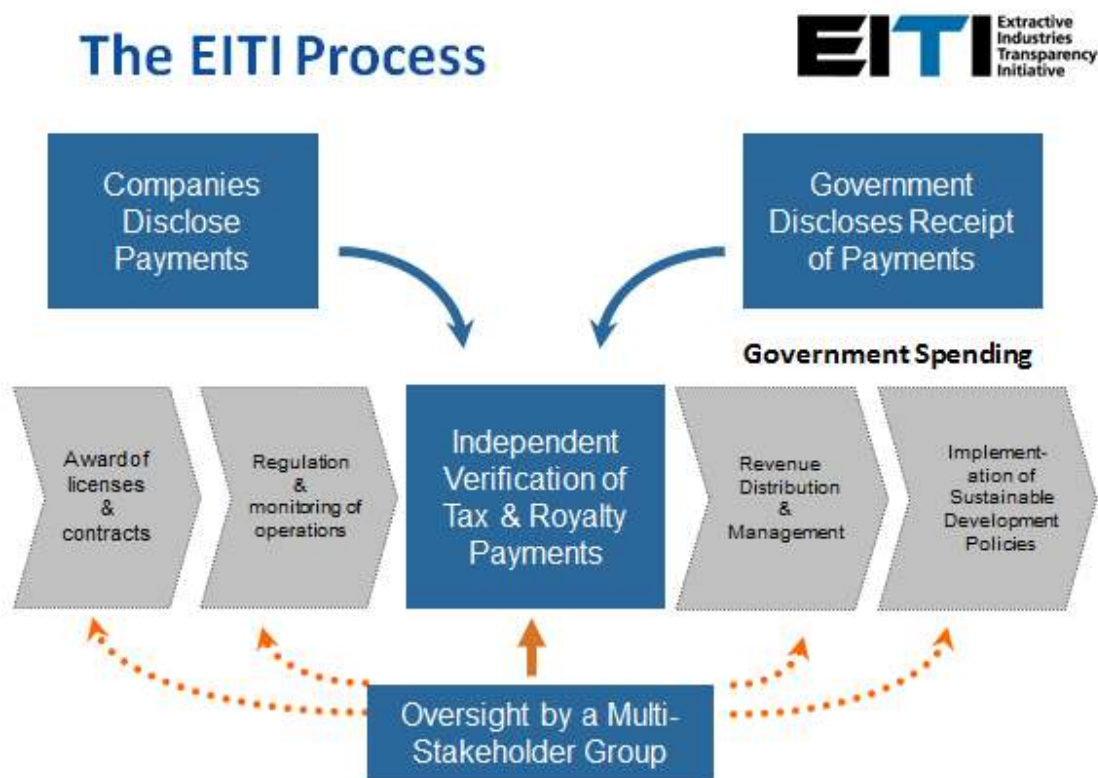
*The EITI Criteria as the basis for verifying compliance fall short of the EITI Principles. They make the current EITI implementation too limited for reaching the objective expressed in the Articles of Association and agreed in the EITI principles. Gradually narrowing the gap between the Principles and the operational Criteria / “Global Standard” is probably fundamental for continued EITI relevance and future impact. (page 4)*

<sup>6</sup> [http://siteresources.worldbank.org/INTOGMC/Resources/ei\\_for\\_development\\_3.pdf](http://siteresources.worldbank.org/INTOGMC/Resources/ei_for_development_3.pdf)

It is important to bear in mind that the opportunity to go beyond core EITI standard has always been foreseen and that implementing countries can adapt and focus their implementation of the EITI on aspects of interest to them. The 2011 edition of the EITI Rules refers to the 2005 London EITI Conference as having declared, that countries “are encouraged to go beyond these minimum requirements (EITI Criteria) where possible” (page 12). At the country level, a higher than minimum scope of EITI has indeed been designed from the start by some (e.g. Nigeria) or is now beginning in some EITI-compliant countries (e.g. Mongolia, Ghana, Timor Leste). The EITI Rules 2011 edition introduced the requirement that “Compliant country 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” (requirement 21).

The Secretariat has attempted to capture the dynamic and open-ended nature of the EITI for over three years by adapting and presenting the World Bank’s value chain diagram to demonstrate that the multi-stakeholder group in most countries has become a basis for wider dialogue about reform (see Figure 2).

Figure 2 – The EITI Process in the “Value Chain”



### The EITI provides a Forum for dialogue and a Platform for broader reforms

The evaluation and many of the submissions received advocate expanding the scope of the EITI along the value chain. Broadly speaking, there are two types of proposals. The first is to **broaden the scope of the EITI Criteria and/or the EITI Requirements** so that other links in the value become part of the EITI minimum standard. The second option is **retain the current focus, while recognising, encouraging, and incentivizing countries to undertake additional work to improve transparency, accountability and stakeholder collaboration along the value chain.**

The submissions from Publish What You Pay and the Revenue Watch Institute call for fundamental change. They advocate a firmer legal basis for the EITI, contract transparency, disaggregated EITI reporting, covering licensing, in-kind payments and transit revenues. Changes of this nature would require additional EITI Criteria and/or new

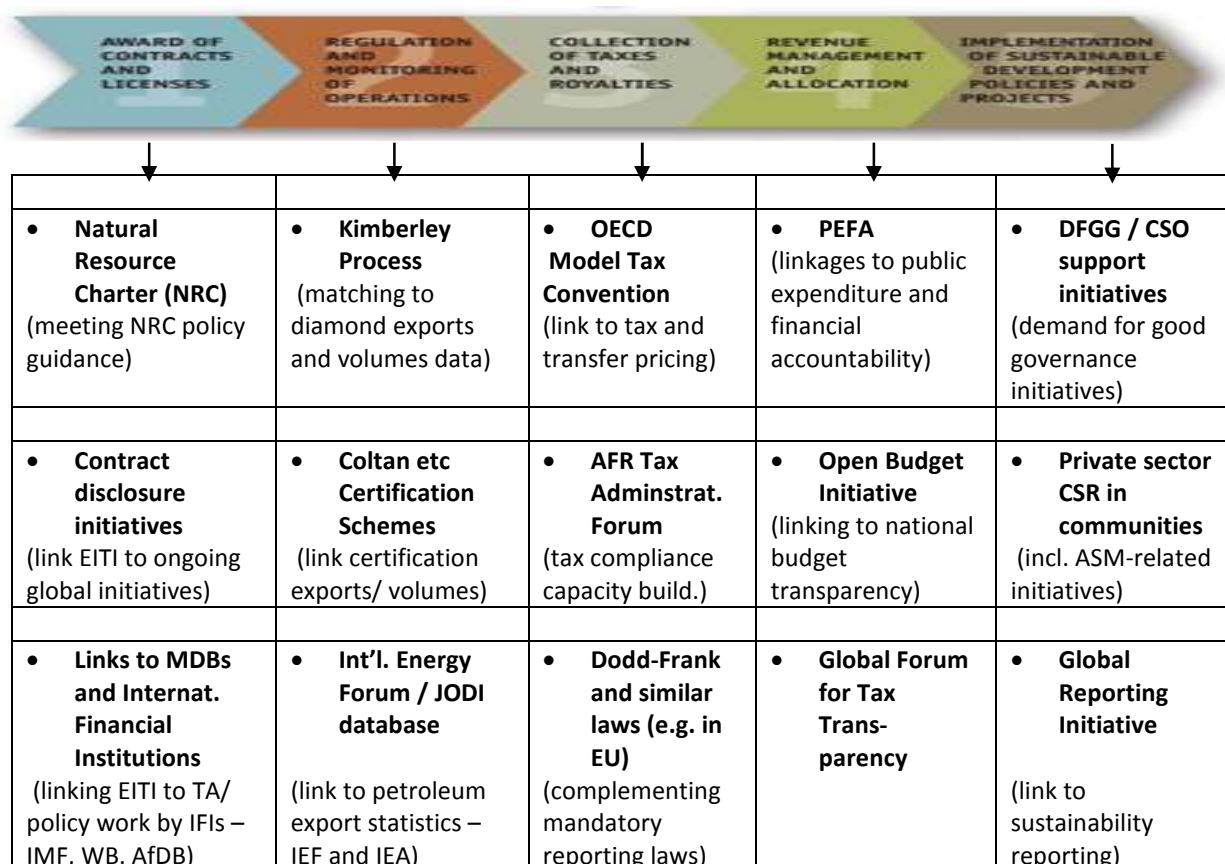
EITI Requirements.

The submission from the World Bank argues for the EITI Criteria to be expanded so that EITI reports go beyond reconciling payments and revenues to verify that the payments and revenues are what they should be. In addition, the World Bank proposes new EITI Criteria that would require compliant implementing countries to “develop and implement a strategy of concretely linking and mainstreaming EITI into overarching national processes and related initiatives”. The EITI’s relationship with other links in the value chain was a common theme in several submissions.

## 5.2 Linkages with other governance reform programmes

The submission from the World Bank in particular makes the case for more clearly linking the EITI to complementary initiatives that promote transparency and accountability. The World Bank suggests additional EITI Criteria that would require compliant implementing countries to “develop and implement a strategy of concretely linking and mainstreaming EITI into overarching national processes and related initiatives”. The Bank argues “it would be the country and MSWG to choose their specific follow-up priorities, sequence of linkages and specific reform actions, according to national circumstances and political economy”. The EITI Board would enforce this requirement as an integral part of the EITI cycle by “requiring public reporting of these follow-up plans for linkage actions and mainstreaming, judging the degree of effort (but not outcomes) in the implementation of this own follow-on strategy, and recognizing and showcasing best practice”. Figure 3, below, sets out some of the linkage possibilities.

**Figure 3 - Examples of potential systematic linkages of global EITI with related global initiatives (World Bank, 2011)**



<b>Examples of cross-cutting global linkage possibilities (which cut across the EI value chain):</b>
<i>Legal frameworks for EITI and follow-up actions:</i>
<ul style="list-style-type: none"> <li>• regional treaties or similar for EITI, transparency and good governance of EI resources</li> <li>• regional institutions (properly mandated and resourced) e.g. peer review mechanisms to enforce</li> <li>• “access to information” legislation in countries</li> </ul>
<i>Global standards and codes – and similar initiatives:</i>
<ul style="list-style-type: none"> <li>• Africa Mining Vision (AU) / related regional initiatives for governance of EI resources</li> <li>• ICMM Sustainable Development Framework</li> <li>• Natural Resource Charter</li> <li>• Construction Sector Transparency Initiative (CoST) – especially for EI plant construction projects</li> <li>• International Financial Reporting Standards (for EI sectors / public sector financial statements)</li> <li>• G20 working group on Tax and Development.</li> </ul>
<i>Anti-corruption and financial resources:</i>
<ul style="list-style-type: none"> <li>• Transparency International</li> <li>• Financial Action Task Force (FATF) and related Anti Money Laundering (AML) initiatives</li> <li>• G20 working group on anti-corruption Tax and Development / OECD Anti-Bribery Working Group</li> </ul>
<i>Foreign and domestic investment in sector:</i>
<ul style="list-style-type: none"> <li>• “Doing Business” Index – annual indicators</li> </ul>

### 5.3 Discussion

In the Secretariat’s view, it would be difficult to expand the EITI Criteria or significantly change the EITI requirements. First: not all EITI stakeholders are convinced that such changes are desirable or feasible. Second: a significant number of implementing countries are currently facing challenges in achieving compliance with the existing requirements, which were only recently modified. Any major changes to the rules would require a new set of transitional arrangements and extended deadlines.

However there appears to be broad-based support for encouraging implementing countries to go beyond compliance by undertaking additional work to improve transparency, accountability and stakeholder collaboration. It is possible to address the quality of the EITI process and reporting, and to promote linkages to complementary initiatives that promote transparency and accountability without changing the minimum requirements. This could be achieved through replacing the “pass/fail” validation model with a scored quality assurance system that rewards best practice and innovation. The options for quality assurance and measuring progress are taken up in the next section.

## 6 The system for quality assurance/assessment (e.g. compliance and/or sliding scale)

The evaluation noted: “the two dimensions of EITI as a global standard – the standard itself, and how it is certified (the validation) – require Board attention in the period to come” (page 4). The previous section explored options for modifying the EITI standard (with reference to the Principles, Criteria and Requirements). This section explores options for assessing whether countries adhere that that standard. The current system is based on assessing 18 requirements as met or unmet. The evaluation and several other stakeholders have recommended a more sophisticated system. In section 7 a scoring system that would enable continuous assessment is considered. Some background and reflections on the current approach is first required.

### 6.1 The current assessment (validation) model

The previous section outlined the hierarchy of EITI principles, criteria and requirements. Another central feature of the EITI process is validation – the mechanism that the Board uses to verify that implementing countries. The

evaluator and several stakeholders have commented on the need to revise and restructure the system for assessing the effectiveness of EITI implementation. The main recommendation of the evaluation was “for EITI to consider a Standard that covers a greater part of the value chain in the sector, combined with a flexible rating scheme that would grade actual performance rather than giving a Yes/No value” (p1).

Validation is an essential feature of the EITI process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the EITI Principles and Criteria. The Validation Report should also document lessons learned, as well as any concerns stakeholders have expressed, and recommendations for future implementation of the EITI.

Validation is undertaken by a validator selected by the multi-stakeholder group in the country being validated, from a list of suitable organisations or individuals pre-approved by the EITI Board. The implementing country contracts the validator, through a procurement process with guidance from the International EITI International Secretariat. This procedure has been developed to reinforce country ownership of the Validation process, while ensuring that the EITI Board, with the support of the EITI International Secretariat, exercises its mandate as the custodian of the EITI principles, criteria and Validation methodology.

Validation is a consultative process. The validator meets with the multi-stakeholder group, the organisation contracted to reconcile the figures disclosed by companies and the government and other key stakeholders (including companies and civil society organisations not represented in the multi-stakeholder group).

The validator assesses whether the EITI requirements are “met” or “unmet”. Where validation verifies that a country has fully implemented EITI (i.e., has met all of the EITI requirements), the Board will designate that country as EITI Compliant. Validation is financed by implementing countries, and the validator’s report must be approved by the country multi-stakeholder group before submission to the EITI Board. The EITI Board makes the final decisions on whether the country has achieved compliance. If compliance is not achieved, a second validation is required within 12 months. Countries that achieve Compliance must be revalidated within 5 years. Additional information regarding the validation model is set out in the EITI Rules, particularly chapters 4. The procedures relating to deadlines are set out in policy note #3.

## 6.2 Strengths and weaknesses of the validation model

23 countries have completed validation, and a further 4 validation processes are underway. The procedure appears to be working satisfactorily, although there are several opportunities to improve the efficiency and effectiveness of the process.

One advantage of the current system is that it is relatively straight-forward. There are a core set of requirements that must be met. Countries that meet these requirements are recognised as compliant. Countries that do not achieve this standard with a fixed period are delisted. There are however several problems with the current approach:

- Validation is slow. It typically takes at least six months from initiating the process to a Board decision on compliance.
- Validation is expensive. Each validation costs between USD 50,000 to in excess of USD 125,000. (27 validations @ USD 75k = USD 2.025 million).
- The quality of validation reports varies widely. In some cases validation reports have provided high quality and detailed analysis of the strengths and weaknesses of EITI implementation. In other cases validation reports have conspicuously avoided a detailed treatment of the most challenging aspects of EITI implementation.

- The validator is contracted by the implementing country government and is therefore incentivized to offer a positive assessment. The MSG is required to sign off on the final validation report, but stakeholders have often reported that they often feel to sign off on these reports, even if they disagree with the validator's assessment, so as not to undermine the process. As noted in the evaluation, this has placed a heavy burden on the EITI Board (and its Validation Committee) to provide adequate quality assurance.
- The validation process was originally envisaged as a learning process whereby stakeholders could measure progress and explore opportunities for improvement. In practice, validation is often seen as a "pass or fail" test.
- Validation is insufficiently consultative. Consultation during validation has typically been limited to stakeholders represented on the MSG.
- Implementing countries are frustrated with the outcomes, particularly where the Board has disagreed with the validator's assessment.
- The Validation deadlines have been effective in catalysing more rapid and better progress, but have sometimes become more important than the quality of the process.

Another weakness of the current approach, as highlighted in the evaluation, is that it does not recognise countries that have made progress in implementing the EITI, but have not yet met all of the requirements. Indeed, under the current rules, the Board is obliged to delist a country that meets every requirement but one by the end of the maximum candidacy period. Furthermore, the current system also does not recognise countries that have exceeded the EITI requirements, and linked the EITI to complementary transparency and accountability mechanisms.

The evaluation includes a detailed assessment of the validation model. The evaluators conclude: "**EITI's validation scheme appears too rigid along a series of important verification dimensions and may wish to consider a more dynamic and development-oriented ratings scheme.**" The EITI Validation approach encourages "just in time, just sufficient" performance by Candidate countries rather than incentives for constant improvement and encouragement towards extended value-chain monitoring. It also sets some standards, such as for public accounts audits that many countries for years will not formally be able to fulfil. The EITI may wish to consider a more flexible rating approach that provides a more objective assessment of degree of fulfilment of "good practice" or international standards on key indicators.

## 7 Keeping the minimum requirements, with a framework for going beyond

### 7.1 Exploring alternative assessment models to incentivize through assessment

Table 1 below sets out a series of questions that need to be considered when exploring scoring and ranking proposal. A number of options are listed, and the current approach (as described above) is underlined.

**Table 1 – Options for ranking /scoring of EITI implementing countries.**

Key questions	Options <u>Current approach underlined</u>	Comments
<b>Which countries are ranked?</b>	<ul style="list-style-type: none"> <li>• All countries</li> <li>• Resource rich countries</li> <li>• <u>Implementing countries</u><sup>1</sup></li> <li>• EITI countries that have issued an EITI report</li> </ul>	Should non-compliant countries be listed in a separate 'division' to compliant countries?

<p><b>What is assessed?</b></p>	<ul style="list-style-type: none"> <li>• EITI countries that have issued 2 EITI reports</li> <li>• EITI Compliant countries</li> <li>• Countries “opt in” to the ranking</li> </ul> <ul style="list-style-type: none"> <li>• Progress in meeting requirements over time</li> <li>• <u>Compliance with the 18 requirements</u></li> <li>• Key aspects of EITI implementation<sup>2</sup></li> <li>• Efforts to exceed the EITI requirements</li> <li>• Linkages to other reforms/initiatives</li> <li>• Outcomes (contribution to public debate)<sup>3</sup></li> <li>• Impact (development, investment, corruption)<sup>3</sup></li> </ul>	<p>The assessment criteria need to be clearly communicated in advance.</p> <p>Potential to recognize countries that exceed to the EITI requirements.</p>
<p><b>When is the ranking conducted?</b></p>	<ul style="list-style-type: none"> <li>• Ad hoc/on request</li> <li>• <u>Board sets deadline for each country</u><sup>1</sup></li> <li>• Biannually</li> <li>• Annually</li> <li>• Biennial (linked to the EITI Conference?)</li> </ul>	<p>Cost implications</p> <p>An annual flagship report could boost EITI’s profile.</p>
<p><b>How are the results of the assessment expressed?</b></p>	<ul style="list-style-type: none"> <li>• <u>Candidate or Compliant</u></li> <li>• Adding new categories (e.g., “reporting”)</li> <li>• An EITI ranking or index</li> <li>• A score / scorecard</li> </ul>	<p>The current binary model is simple, but blunt. Scoring / ranking systems may be complicated and difficult to apply / explain.</p>
<p><b>Who does the ranking?</b></p>	<ul style="list-style-type: none"> <li>• Self-assessment</li> <li>• Board accredited validators</li> <li>• <u>The Board, based on validation reports</u><sup>4</sup></li> <li>• The International Secretariat</li> <li>• Peer review</li> </ul>	<p>Need to consider consistency, conflicts of interest, quality assurance, country ownership and cost.</p>
<p><b>Who pays?</b></p>	<ul style="list-style-type: none"> <li>• <u>Implementing countries</u></li> <li>• The International Secretariat</li> </ul>	<p>Financing validation considered a demonstration of political commitment. Countries with limited financial resources should focus on self-financing EITI Reports.</p>

<sup>1</sup> Countries are required to conduct a validation with 2.5 years of becoming a candidate. If compliance is not achieved, a second validation is required within 12 months. Countries that achieve Compliance must be revalidated within 5 years.

<sup>2</sup> For example: 1) MSG governance, 2) reporting; 3) communications and dissemination.

<sup>3</sup> There are a wide variety of outcome- and impact- related indicators that could be assessed.

<sup>4</sup> MSGs approve final validation reports.

The potential for peer review warrants further investigation. Many similar processes, such the OECD aid agencies and the New Partnership for Africa’s Development (NEPAD), have benefitted from peer review in order to maintain standards, improve performance, build capacity, develop best practice, and provide credibility. As in-country experience and implementation of the EITI becomes stronger and deeper, there may well be significant

opportunities also for the EITI to involve elements of peer review realising some of these benefits. At the same time, there are risks that the assessment process is politicised, or too closely tied to the credibility of individual reviewers. There are also capacity constraints, language barriers and significant costs, particularly if in-country work is required. There are also many different types of peer review: open peer review, multi-country panels, full review or thematic reviews, etc. It is also important to note that implementing countries are already well represented on the EITI Board, and that Board decisions can already be considered as a form of peer review.

The evaluator suggested a ratings system based on a broader set of issues along the value chain, and a more sophisticated scoring system (see Annex B). Another example of a scoring system is Ghana's Oil Boom "Readiness Report Card" (see Box 1). In anticipation of Ghana's commercial production of oil, Ghanaian civil society groups produced a report in April 2011 on the country's readiness to deal with the challenges and meet the expectations of joining the league of oil producing nations. This effectively scores the country's oil sector against 14 indicators, of which ten relate to government efforts. The full report<sup>7</sup> provides extensive explanation of the scores and the methodology used, as well as an overall narrative. This provides an important insight into how civil society organisations in some countries are seeking to compare the wider issues of extractive sector management and encourage improvement.

### Box 1 - Ghana Oil Boom: A Readiness Report Card

<b>PERFORMANCE TABLE</b>		<b>KEY:</b>	
		Grade	Score
		A	1
		B	0.9 - 0.6
		C	0.5
		D	0.4 - 0.1
		E	0
			Explanation
			Excellent
			Good
			Fair
			Poor
			Fail
<b>STAKEHOLDER SCORE GRADE</b>			
<b>Government of Ghana</b>	<b>0.5</b>	<b>C</b>	
1. Transparency	0.7	B	
2. Independent Regulation of the Sector / Role of GNPC	0.4	D	
3. Licensing and Contracts	0.3	D	
4. Citizen Participation / Public Oversight	0.7	B	
5. Petroleum Revenue Collection	0.5	C	
6. Oil Revenue Management / Oil Funds	0.7	B	
7. Linking Oil Revenue Spending to Development Planning	0.5	C	
8. Budget Openness and Public Financial Management	0.5	C	
9. Social and Environmental Issues	0.4	D	
10. Local Content	0.3	D	
<b>11. Parliament of Ghana</b>	<b>0.5</b>	<b>C</b>	
<b>12. Ghana's Donor Partners</b>	<b>0.5</b>	<b>C</b>	
<b>13. Oil and Gas Companies</b>	<b>0.5</b>	<b>C</b>	
<b>14. Civil Society</b>	<b>0.5</b>	<b>C</b>	

The Secretariat notes the following key issues in exploring alternative assessment models:

- 1. Drop validation and compliance, or complement them?** One option would be to retain the concept of

<sup>7</sup> <http://www.oxfamamerica.org/files/ghana-oil-readiness-report-card.pdf>

Compliance and the validation model, but to complement this with a scoring or ranking system (e.g., by ranking or scoring any country that has issued an EITI report). Alternatively the ranking system could replace the current system based on candidacy, compliance and delisting.

2. **“Moving the goalposts”**. It is important to note that the assessment system could be modified without any changes to the Principles, Criteria and Requirements.

3. **Suspension and delisting**. There are currently five ways in which a country can be suspended and delisted:

- 1) voluntary suspension (see policy note #5);
- 2) temporary suspension due to breaches of the Principles and Criteria (see policy note #5);
- 3) failing to publish regular and timely EITI reports;
- 4) failing to meet the validation deadlines; and
- 5) failing to achieve Compliance within the maximum candidacy period.

Changes to the assessment system are unlikely to require modifications to 1-3 above. Depending on the scope of the changes to the assessment system, modification to elements 4 and 5 may be needed.

4. **Implementing country ownership**. The current model emphasizes MSG ownership of the validation process. Country-led procurement is entirely appropriate given that implementing countries pay for validation. Paying for validation has been considered a demonstration of political commitment. In the Secretariat’s view this should be revisited. Implementing countries should dedicate their (typically limited) financial resources toward self-financing EITI reporting and EITI communications. Regular, high quality, and well communicated EITI reports are the best demonstration of political commitment.

5. **Retaining deadlines for reporting, while scheduling validation in advance**. The board recently agreed requirements and deadlines for regular and timely EITI reporting. These could be retained. If the Board or Secretariat managed the validation process, the assessment schedule could be fixed whether the country is ready or not. The question of suspension and delisting would therefore focus on whether a country has made adequate progress, not whether a validation deadline was met.

## 7.2 EITI scoring

**It is suggested that the EITI should maintain the core requirements as the minimum EITI standard (see element 1 below). The challenge for the EITI is to ensure compliance with these core requirements while incentivizing and recognising countries that also take other actions to realise the broader EITI Principles.**

The following has been taken into account in the proposal from the Secretariat elaborated below.

1. The Principles are appropriate.
2. It is possible to have a more ambitious standard without changing the EITI Criteria or the requirements.
3. A scoring system can more clearly recognise countries that extend EITI implementation beyond the EITI Criteria in accordance with the EITI Principles.
4. Noting 1-3, there are opportunities to develop an assessment system that is more regular, rigorous and comprehensive, making appropriate use of progress reports prepared by MSGs, and peer review while retaining Board oversight to ensuring quality, consistency and credibility.

5. This approach should address the quality and use of EITI reports. This can be done without changing the minimum requirements with a scoring that rewards innovation and excellence
6. This approach should also address the quality of the multi-stakeholder process.

The Secretariat suggests that the Board considers whether a scoring system can be introduced that recognises highly quality EITI processes and reports, and complementary actions agreed by the MSG to realise the broader EITI Principles.

Drawing in particular on the World Bank's proposal, two dimensions to go beyond the minimum standard have been identified:

- **Strengthening the EITI – a better effort to deliver against the Criteria and associated requirements.** Under this heading it is envisaged that countries implementing the EITI would be encouraged to work towards higher quality EITI processes and reports. This would imply better MSG and stakeholder engagement, a greater emphasis on report dissemination and utilising the findings to stimulate informed debate.
- **Strengthening the EITI – a better effort to link to associated governance efforts.** Under this heading it is envisaged that countries implementing the EITI would be encouraged to a greater extent to link implementation with other governance efforts.

Drawing on the above, it is suggested that the scoring system has three elements:

- **1<sup>st</sup> element – have the EITI requirements been met?** – Essentially the current requirements 1-18, met or unmet, with a clear indication of whether the country has achieved compliance.
- **2<sup>nd</sup> element – scoring of EITI performance.** For each of the requirements 1-18, countries would be awarded points for achievements that exceed the minimum requirements. For example, for requirement 9, countries would obtain points for meeting the minimum requirements. They would also receive points for setting ambitious materiality thresholds, for covering social payments, barter agreements, subnational payments, and disaggregation. At requirement 18, extra points could be awarded for providing relevant context in EITI reports, such as data on overall contribution to public revenue, and for widespread and innovative efforts to disseminate findings to local communities.
- **3<sup>rd</sup> element – scoring on wider governance reform** – for other related governance efforts, a country would be able to obtain points. Issues might include licensing, contracting, regulation, citizen participation, public oversight, revenue collection, revenue management, linking revenue spending to development planning, budget openness and public financial management, social and environmental issues, local content, etc. A concrete example would be where countries go beyond the EITI requirements to use the EITI Reports to verify and audit that the payments and revenues received are consistent with the regulatory / contractual obligations.

There are, of course, many ways in which the scoring could be cut between these three elements. A simple model might be that the three elements are scored equally. An alternative methodology would be to grant different weights on these elements, and indeed on different requirements or reforms. If the Board considers that a scoring system is feasible and desirable in principle, further work would be undertaken to assess different scoring methods.

**In broad terms, and recognising the need for MSG participation, consistency and transparency, the scoring process could be undertaken as follows:**

1. All EITI implementing countries would report annually on their efforts to meet (and exceed) the EITI requirements. MSGs would also be able to identify relevant innovations and linkages linked to the broader EITI Principles. These reports would be endorsed by the multi-stakeholder group and published. Note: this extends the concept of annual reports for Compliant countries as set out in requirement 21.
2. The Secretariat would then review the EITI reports and the annual reports from MSGs, requesting additional information and clarifications as needed. The Secretariat would then score each country in accordance with the agreed guidelines. This approach would be overseen by a Board Committee (replacing the Validation Committee), and include elements of peer review.
3. The results from the assessment would be published on an annual basis. In addition to the “score” and the underlying detailed assessment, the results could include specific guidance to countries on aspects of the process that need to be improved, and recommendations on other options to consider based on international best practice (as illustrated in the highest scoring countries).

An important issue to consider is when would a country first join the rankings: at candidacy, at publication of first report, at compliance, or on request? One model might be that compliant and candidate countries are all scored by the same methodology but in separate divisions.

The costing and resource implications would need to be further investigated, but it is unlikely that this approach would require a major increase in the Secretariat’s budget.

## 8 Technical assistance provision, governance and organisation

Following the discussion of the need for improved incentivizing and quality assurance in this paper, this chapter addresses what can be done differently to further improve implementation. It considers two aspects of what may be defined as an enabling environment for the EITI: technical assistance provision and the governance of the EITI itself.

### 8.1 Technical assistance provision

Most countries implementing the EITI require financial and technical assistance. A number of different actors are involved in this provision of support. The international community’s main vehicle for this support is the World Bank-administered EITI Multi-Donor Trust Fund. Some bilateral development agencies, most notably DFID and GIZ, provide direct support to a number of implementing countries.

In the early days of the EITI International Secretariat, it was envisaged that the EITI itself would not provide technical assistance to implementing countries. It was considered that it would focus on validation oversight, policy and governance aspects. The MoU between the EITI and the World Bank also states “The MDTF Work Program is expected to be the principal source of implementation support for countries seeking to follow EITI Principles and Criteria. The EITI Secretariat is expected to be responsible for country interactions specifically related to EITI validation”.

It is often difficult to determine what kind and how much technical assistance a country may require for effective implementation. Equally, it is difficult to establish how the required level of support. Even if technical and financial assistance is requested by the government, such requests are often developed in collaboration with the multi-stakeholder group and the potential development partner, i.e. the World Bank in the case of the EITI. The World Bank’s ability to provide technical and financial assistance is in turn a consequence of internal resource allocations and the extent to which supporting countries are providing funds, through the trust fund. The quality of the World Bank’s technical and financial support of the EITI has been the focus of several evaluations.

It is not always clear where the line can be drawn between technical assistance and for example guidance on the EITI Rules. In terms of support for implementing countries, the EITI Articles of Association simply state that the Secretariat shall be responsible for the day-to-day running of the EITI Association under the direction of the EITI Board... (Article 16). In fulfilling its tasks, the Secretariat has in recent year's work plans, which are approved by the Board, concluded that its first priority is to continue to strengthen EITI implementation and effectiveness in implementing countries.

**This paper is not the place for a more extensive consideration of technical and financial assistance.**

**Some key questions are however raised:**

- **Are current levels of technical and financial assistance adequate or is a lack of resources a major impediment against good implementation?**
- **Support from the World Bank has often been perceived to be slow to materialise – is this slowness significantly contributing to weak implementation and is enough done to improve the situation?**
- **Should more be done to ensure that other development partners provide technical assistance?**
- **What is the reasonable expectation of the secretariat in relation to supporting implementation?**

**Regardless of how these questions are answered, the Secretariat suggests that they are serious and require further consideration.**

## **8.2 Governance**

The mandate of this review has not been understood to extend to a thorough description and review of the governance of the EITI. However, in the following some brief reflections are made on the extent to which the current governance arrangements are serving implementation well.

None of the submissions that stakeholder have been provided have commented on governance aspects of the EITI. It is assumed that this is either because they concluded that governance issues of the EITI itself are largely irrelevant to implementation or that the current governance arrangements are on the whole appropriate.

The current division within the constituency of countries into implementing and supporting countries is confusing for many stakeholders. Some countries considering implementing the EITI have suggested that they will only do so the day there is only one category of countries. This leads to the question of whether the category of supporting countries could be redefined or possibly altogether eliminated. Any moves in that direction might help give implementing countries a higher degree of ownership of the EITI and it might make outreach, particularly to large growing economies, easier.

Supporting countries have played a critically important role in the creation and evolution of the EITI. Their political and financial leadership is likely to be hugely important for years to come. Recent efforts to have disclosure requirements for companies where they are listed, reinforces the need to consider the role of supporting countries – often homes to large extractive companies – together with in-country efforts such as the EITI.

**Should the constituency of countries to a larger extent be made up of implementing countries? If the relationship between the EITI and the management committee of the World Bank MDTF was closer, supporting could potentially exercise influence through this relationship.**

## Annex A – SWG terms of reference

### 1 Objective

The objective of the Strategy Working Group (SWG) is to supervise a process that will enable the Board of EITI **to examine options and make recommendations regarding the strategic direction of the EITI for the next 3-5 years**. This work will include reviewing:

- the Principles, Criteria and scope of the EITI;
- the system for assessment (e.g. compliance and/or sliding scale);
- communication and use of EITI reports;
- linkages with other governance reform programmes, and
- technical assistance provision, governance and organisation.

These five areas are further elaborated on below. In the first instance, the SWG will focus on enabling the Board to consider broad, strategic opportunities and challenges. The Board may then wish to consider the clarity and coherence of the EITI Rules and associated guidance materials (i.e., possible changes to the EITI requirements).

This work should take into account:

- the findings from the *Evaluation of the Extractive Industries Transparency Initiative*<sup>8</sup>;
- the rules revision process and associated working groups (on outcome indicators, CSO participation, rules revision, and incentivising compliant countries); and
- the outcomes from the Board retreat in Amsterdam in June 2011.

The SWG is not a decision-making body. It will invite, collate and review suggestions from interested stakeholders and prepare options and proposals for consideration by the EITI Board.

### 2 Background

In Amsterdam the EITI Board agreed that there was a need to carefully consider the EITI's strategic options and decided to establish a Strategy Working Group. In establishing the SWG, the Board noted:

1. The EITI Rules revision process and the associated work by the four working groups. A number of strategic challenges and opportunities were identified (see Board Papers 13-7, 13-8, 13-9, 13-10 and 17-5 Annex A).
2. The EITI independent evaluation, which raised some important findings, suggested some options, and made recommendations (see Board Paper 17-8-A).

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<sup>8</sup> Scanteam (2011) Achievements and Strategic Options: Evaluation of the Extractive Industries Transparency Initiative. Final Report. Oslo. May 2011. Source: <http://eiti.org/files/2011-EITI-evaluation-report.pdf>

3. The Board retreat in Amsterdam in June 2011, which canvased a broad range of challenges and opportunities for the EITI in meeting its objectives.

### 3 Approach and timeline

Given the broad scope of the terms of reference, the SWG will initially strive to identify possible options to place before the Board, before considering recommendations likely to be agreed by the Board and, in some cases, the Members' Meeting.

The SWG will initially task the Secretariat with preparing an options paper for consideration by the Board, initially in Jakarta. This paper should collate ideas put forward by SWG members, the evaluator, and comments on the evaluation from stakeholders<sup>9</sup>. There should be further efforts to engage implementing countries and their multi-stakeholder groups. In considering proposals for reform put forward by stakeholders, the paper should also identifying challenges, opportunities and possible recommendations.

Following the meeting in Jakarta, it is foreseen that the SWG will discuss and develop more concrete recommendations for consideration by the Board. The areas identified under point 2, above, have been elaborated on below.

#### 3.1 Scope, Principles & Criteria

When countries commit to implement the EITI, they commit to the Principles and Criteria<sup>10</sup>. The Principles express a global aspiration for the prudent use of natural resource wealth. The Criteria are a more focussed set of standards that countries must be fulfil in order to achieve EITI Compliant status. The Criteria focus on the reconciliation of tax payments and receipts in the upstream oil, gas and mining sectors. Implementing countries have the option of extending EITI implementation along the "value chain", and to other sectors (e.g., Liberia covers forestry). Some stakeholders have argued that the EITI should have a broader scope. Others stress that EITI's focus is central to its success. The evaluator noted: "There is recognition that the scope of the EITI Criteria and the applied global standard are too narrow to achieve the higher level goals" (p39). The first main recommendation of the evaluation was "for the EITI to consider a Standard that covers a greater part of the value chain in the sector" (p1). It is proposed that the SWG considers options for extending the scope of the EITI, which may imply modification to the Principles and Criteria.

#### 3.2 Assessment system (compliance and/or sliding scale)

EITI Compliance requires that a country meets 21 requirements as set out in the EITI Rules<sup>11</sup>. Through the validation process, the requirements are assessed as "met" or "unmet". Some stakeholders have argued for a more sophisticated assessment procedure, one that would provide a more nuanced assessment of progress, and recognition of innovative activities that exceed the EITI's requirements. Is the EITI as a standard sufficiently aspirational, with implementing countries incentivised to continue improving implementation? The main recommendation of the evaluation was "for EITI to consider a Standard that covers a greater part of the value chain in the sector, combined with a flexible rating scheme that would grade actual performance rather than

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<sup>9</sup> <http://eiti.org/blog/eiti-working-have-your-say-eiti-evaluation>

<sup>10</sup> <http://eiti.org/eiti/principles>

<sup>11</sup> [http://eiti.org/files/EITI\\_Rules\\_Validations\\_April2011.pdf](http://eiti.org/files/EITI_Rules_Validations_April2011.pdf)

giving a Yes/No value" (p1). The SWG may wish to consider various grading and assessment options. Should implementing countries become "compliant"?

### 3.3 Communication and use of EITI reports

The EITI Rules set out the requirements for EITI reporting and dissemination. EITI reports must be "publicly accessible, comprehensive and comprehensible". In practice, the quality of EITI reports has varied widely. The validation process assesses whether the EITI's requirements have been met. However, there is often a significant delay between EITI reporting and validation. There is no systematic process to review reports when they are published. Developing such a process could help MSG address deficiencies quickly. There are also opportunities to consolidate EITI data into a consistent and comparable format.

### 3.4 Linkages with other governance reform programmes

While documenting important achievements, the evaluation of the EITI highlighted "little impact at societal level". The evaluation argued that "If the Standard were more in line with its own Principles and if it had more focus on strategic partnerships beyond the sector, EITI would be more likely to reach its objectives" (p 1). The SWG may wish to consider the potential for the EITI to link to other governance reform programmes, taking note of how implementing countries have addressed this issue.

### 3.5 Technical assistance provision, governance and organisation

The evaluation and Board retreat raised a number of issues relating to Board governance, including implementing country ownership, strengthening support to implementing countries and the mandate, management and financing of the International Secretariat.

## 4 SWG Composition

The SWG shall comprise representatives of all of the EITI's stakeholders. The current membership is as follows:

Clare Short (Chair)

#### Countries

##### Implementing

1. Mr Abdoul Aziz ASKIA, Permanent Secretary, EITI Niger
2. Mr Shahmar MOVSUMOV, Executive Director, State Oil Fund, Azerbaijan
3. Mr Alfredo PIRES, Secretary of State for Natural Resources, Timor Leste

##### Supporting

4. Ms Mora JOHNSON, Senior Advisor, Department of Foreign Affairs and International Trade, Canada
5. Mr Francisco BATALLER-MARTIN, DG Development and Co-operation – EuropeAid, European Commission
6. Mr Jannick SAEGERT, German Federal Ministry of Economic Cooperation and Development
7. Mr Jelte VAN WIEREN, Head Good Governance Division, Ministry of Foreign Affairs, the Netherlands

#### Civil Society Organisations

8. Mr Sabit BAGIROV, Center for Economic and Political Research, Azerbaijan

9. Mr Ali IDRISSE, Réseau pour la Transparence et l'Analyse Budgétaire/PWYP, Niger
10. Mr Diarmid O'SULLIVAN, Global Witness, United Kingdom
11. Ms Hannah OWUSU-KORANTENG, Wacam, Ghana

Supporting Companies and Investors

12. Mr Edward BICKHAM, Advisor, International Council on Mining and Metals
13. Mr Stuart BROOKS, Manager, International Relations, Chevron
14. Mr Guillermo GARCIA, Head of Revenue Transparency, ExxonMobil
15. Ms Elodie GRANT GOODEY, Head of Societal Issues and Relationship, BP
16. Dr R. Anthony HODGE, President, International Council on Mining and Metals)
17. Ms Julie McDOWELL, Head of SRI, Standard Life Investments
18. Ms Julie VALLAT, Legal Counsel, Compliance and CSR, Total

World Bank

19. Anwar Ravat
20. Javier Aguilar

**The SWG will be supported by the EITI International Secretariat to fulfil its terms of reference.**

## Annex B – Evaluator’s findings on a Flexible Rating Scheme

### Box 5.10: Flexible Rating Scheme may Address Weaknesses in EITI Validation

Instead of an absolute list of criteria that must be fulfilled – today no more than such a list of criteria need to be fulfilled! – an EITI ratings scheme could encompass “the desired universe” and let each country decide how many of these dimensions it wishes to be rated on. Following PEFA’s budget cycle logic, this “desired universe” could be the value chain from concession to export, but where revenue payments could be given an important weighting in the overall scheme and should be based on the EITI Principles. If a country does not wish to be rated on its concession/contracting performance, it will score a “0” for all the world to see.

Rather than binary values (“Yes/No”) on each dimension, there could be a defined list of ratings, such as with PEFA. For the current requirement of public accounts audits, a maximum value of “5” could be given to countries that adhere to IPSAS accrual accounting standards, a “4” for IPSAS cash accounting, a “2” for a statement by the national audit body stating the accounts are in accordance with Generally Accepted Accounting Practices (GAAP) etc. The decomposed ratings would show where the country is performing well and where it needs to improve.

Such a ratings scheme allows for flexible expansions if EITI agrees that its standards should be modified by including new dimensions<sup>12</sup>. Such a ratings scheme also makes it simple for EITI to create “virtual strategic partnerships” in complementary fields. It can point to ratings schemes that track the value-chain downstream through public finance management assessments; it can report such ratings alongside its own to show how petroleum sector performance is compared with how public finance management is seen; or it can in fact aggregate several such indexes into its own system as long as the ratings systems are methodologically compatible. This opens up the EITI certification scheme to external linkages, both showing how EITI contributes to and perhaps can be seen as part of other systems, but also helps EITI define the boundaries for its own activities and thus helps it clarify where it does not need to engage<sup>13</sup>.

Such a ratings scheme can be based on the questionnaire approach used in other systems<sup>14</sup>. A full validation/audit can be carried out for example every three years, and in the intervening two years a partial audit of for example the five poorest indicators or the sub-set of indicators that the government prefers can be done. This allows for a constant update of the scorings, and in particular gives a country an annual chance to upgrade in those areas where additional effort will yield the highest payoff in terms of ratings improvements.

Such a ratings scheme would move EITI away from a one-level certificate to a system of perhaps five classes of performance, each one defined by upper and lower values on the ratings system. No country would presumably ever score a perfect 100, so all countries would have incentives year-on-year to improve performance. The system would also be providing capital and risk assessment markets useful data on where performance has improved, why, and where remaining weaknesses are, and what needs to be done to address them.

Source: Scanteam (2011) Achievements and Strategic Options: Evaluation of the Extractive Industries Transparency Initiative. Final Report. Oslo. May 2011. Source: <http://eiti.org/files/2011-EITI-evaluation-report.pdf>. Pages 51-52

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<sup>12</sup> If a ratings scheme for the “value chain” today sums to 100 and EITI later on, in line with ISEAL Alliance standards, wishes to add in environmental and social standards (in the mining/extraction operations), these could be given a weight of 10 each. The old rating scheme would thus be reduced to a maximum of 80 points. If a country scored 80 out of 100 in the old scheme, in the new one these points would now count as 64 (80 \* 80%). Added to this would be whatever the country scored in the environment dimension and the social dimension.

<sup>13</sup> Nigeria’s NEITI has tracking of revenue allocations and expenditures as part of its mandate. It would make NEITI’s task a lot simpler if this can be monitored for example through a PEFA or Open Budget Index instead of NEITI itself having to establish and monitor a public finance management system – a near-impossible task.

<sup>14</sup> The Revenue Watch Institute’s handbook “Drilling Down: The Civil Society Guide to Extractive Industry Revenues and the EITI” contains sets of very good questions for EITI’s validation requirements, for example.