

Written submission to the Commission on Security and Cooperation in Europe ahead of the Commission's hearing on 14 May on the subject of revenue transparency and human rights.

EITI Background and current status

1. The Extractive Industries Transparency Initiative (the EITI) is a reporting standard that compares, reconciles, what companies pay in taxes and royalties to governments with, in turn, what governments receive in taxes and royalties from the companies. The EITI is implemented by the government and is overseen by a multi-stakeholder group (MSG) in the country, consisting of representatives from government, companies and civil society.

As of May 2009, 26 countries in Asia, Europe, Latin America and Africa are implementing the EITI. Azerbaijan and Kazakhstan are implementing the EITI. The EITI is overseen by a Board consisting of representatives from implementing countries, such as Azerbaijan and Nigeria; supporting countries, such as Norway and the United States; supporting companies, such as Chevron and Shell; and supporting civil society organisations, such as Global Witness and the Revenue Watch Institute. The Board has an independent chair, currently Peter Eigen, founder of Transparency International.

The EITI has been supported in a range of international fora, including by the G8 and the African Union. In 2008, the UN General Assembly unanimously passed a resolution supporting the EITI. Most countries implementing the EITI obtain technical assistance from a fund managed by the World Bank, with the support of the United States.

EITI, accountability and human rights

2. The disclosure of payments and revenues in the extractives sector provides important information for the public to better understand how publicly-owned natural resources are being managed and what level of wealth they are generating. Through improved knowledge and understanding, and through active dissemination of the information in an accessible way, citizens and affected communities can make informed judgements and inputs into the management of what are, after all, their resources.

From the implementation of the EITI around world, we are seeing practically and concretely how increased transparency is leading towards improved accountability. By reducing the opportunities for corruption and empowering citizens to question how

natural resources are being managed, the EITI contributes to improved standards of governance. The EITI is giving the citizens a right to know some basic information about their government's most important commercial dealings. It is giving them a voice they didn't have.

The role of civil society is integral to the process. Their engagement and participation is an absolute requirement of the EITI and is assessed in Validation – the EITI's quality assurance mechanism. There have been cases in EITI implementing countries in which civil society activities have claimed that they have been harassed, suppressed, intimidated and even wrongly imprisoned. If these accusations were to be upheld and prevented a participatory EITI process, then this would be a clear breach of the EITI principles and the country would be asked to leave the EITI family. This has not come to pass since the stakeholders at both the national and the international level have intervened at the early warning signs and the issues have been resolved.

In other countries, the EITI has created a forum for nascent civil society, often excluded for many years, to re-engage with the political process and have space to voice their interests.

The power of the EITI to advance human rights is therefore not just in its rules, but in its convening power and ability to create a safe space for open debate.

Further background

3. When a country extracts natural resources, the development in the country has too often been hampered. This paradox has been referred to as "the resource curse" or "the paradox of plenty". The EITI coalition evolved earlier this decade as international civil society organizations campaigned under the banner of "Publish What You Pay". Governments of resource-rich countries recognised the potential benefits of the EITI and of increased transparency. They recognise that transparency and the EITI can lead to less corruption and misuse, reduce mistrust and conflict and create a more attractive investment climate. Companies supporting the EITI recognise that it is in their interest to contribute towards good governance in the countries where they operate.

The role of institutional investors in encouraging companies to support the EITI has and continues to be highly significant. Around 80 institutional investors, including many of the world's largest pension funds, have signed a statement supporting the initiative and have actively encouraged the companies in which they invest to participate in the EITI.

4. The EITI is becoming a global standard for transparency and accountability in the extractive industries. At the heart of the EITI process is the multi-stakeholder group (MSG). It is this group that determines the scope and activities covered by the EITI. A

well functioning multi-stakeholder process will enhance three key elements of the EITI process:

- **Transparency:** Boosting transparency between companies and governments is achieved through the EITI reporting process which publicly discloses payments and revenues generated by the extractives sector. EITI Reports are produced by independent firms and receive final approval from the country's multi-stakeholder group (MSG), ensuring that the process is legitimate, independent and participatory. Since 2005, 26 EITI Reports have been produced by countries implementing the EITI. A good example of boosting transparency comes from Kazakhstan, where the country's 2005 EITI Report included data from just 39 oil-producing companies compared to the 67 oil-producing companies reporting in their second EITI Report published in March 2009.
- **Trust:** Natural resources are too often, a cause of tension, hostility and distrust. Communities often believe that governments and companies are in collusion to keep them out of the benefits of the resources. A primary function of the MSG is to create a forum where all stakeholders have an equal footing from which to express their interests and concerns. The participatory process of the MSG allows for different stakeholders to engage with one another, boost understanding and reduce marginalisation. As the elements of a country's EITI programme are subject to the approval of the MSG, cooperation and consensus building become necessities of operation.
- **Country-led process:** though the EITI process is robust, it is also flexible to be shaped to be appropriate to different countries circumstances. There are 26 countries implementing the EITI and there are 26 different models – some just undertake the 'core' EITI methodology; others provide more detailed information; others cover forestry and fishing; and some cover sub-national payments.

Validation: the EITI's quality assurance mechanism

5. Within two years of becoming an EITI Candidate country, a country is required to complete the process of Validation. Validation is a standardised aspect of the EITI methodology that serves as the EITI's quality assurance mechanism. Validation is not an audit. It does not repeat the disclosure and reconciliation work that is carried out to produce EITI Reports. Validation has broader objectives as it evaluates EITI implementation in consultation with stakeholders, verifies achievements with reference to the EITI global standard, and identifies opportunities to strengthen the EITI process going forward. The EITI Board uses the Validation Report to determine if a country has fulfilled the requirements to be granted EITI Compliant country status. Countries that demonstrate their compliance with EITI (or demonstrate substantive progress toward achieving this goal) will receive international recognition for their efforts and achievements. If Validation is not completed, or if the Validation shows that there has been no meaningful progress toward achieving EITI Compliance, the EITI Board will

revoke that country's Candidate status. Validation thereby ensures that "free riders" do not undermine the EITI.

The Validation process is undertaken at the country level, overseen by the multi-stakeholder group (MSG). The implementing country appoints, procures and pays for the Validation. This ensures that there is strong implementing country ownership of the process. At the same time, the EITI Board requires that the work be carried out by one of seven accredited firms. This approach ensures that the work is carried out to a consistently high standard across all countries. The Validator's final report is submitted to the national government, the MSG and the EITI Board for approval.

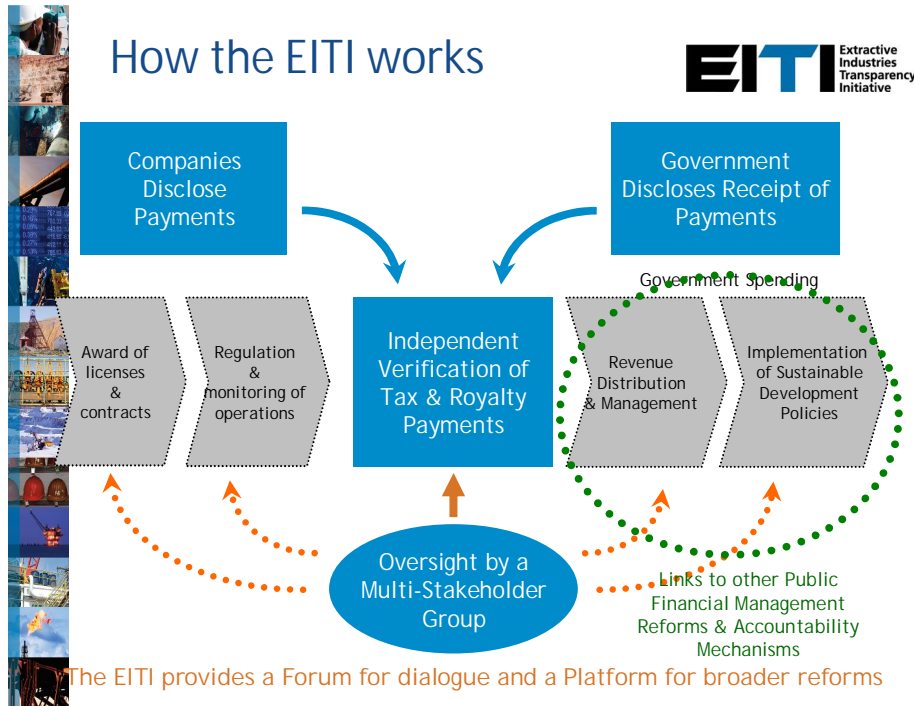
In February 2009 Azerbaijan became the first EITI country to attain Compliant status. Azerbaijan was an EITI pioneer and the first country to begin implementing the EITI when the initiative was still in its infancy in 2004. Out of the 26 countries implementing the EITI, 21 face a 9th March 2010 deadline to complete Validation.

The EITI and the Government of the United States

6. The United States is a supporter of the EITI. It has encouraged and supported resource-rich countries to implement the EITI.

It will be challenging for many of the EITI implementing countries to meet the Validation deadline. Continued political encouragement and support of these government's efforts will remain valuable.

Deepened support of the EITI is surely a way of giving concrete meaning to President Obama's pledge that "government should be transparent, government should be participatory, and government should be collaborative". The citizens of many resource-rich countries need help with getting their governments to implement the EITI. In many of the already implementing the initiative, the stakeholders need help to ensure that there is an ever deeper quest for transparency and better informed dialogue.



The EITI rests on two fundamental and linked elements:

- 1) transparency between companies and the government, as illustrated with the three blue boxes; and
- 2) accountability between government and citizens, as illustrated with the blue oval (the multi-stakeholder group).

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