

Annex E: Proposed changes related to environment and energy transition

For decision

For discussion

For information

Summary

The working group on changes to the EITI Requirements has discussed a set of proposed changes related to environment and energy transition for the Committee's further deliberation. It is suggested that the Implementation Committee considers the proposals and makes a recommendation to the Board on which proposals discuss in Kyiv.

Proposed changes related to environment and energy transition

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1 Background

The EITI Principles¹ emphasise that natural resource wealth should be an engine for sustainable economic growth. Although the EITI Standard does not directly require disclosures of environmental policies, management and practises, at least 28 countries have decided to cover these aspects as part of their EITI reporting². Considering this fact and overall growing demand for information on environmental impact and risks, the EITI work plan for 2019³ outlines plans to conduct consultations with relevant stakeholders in order to further investigate the linkages between the EITI's and environmental policies as well as analyse whether and how environmental reporting can complement existing EITI disclosures. In light of the current discussion on revisions to the EITI Requirements, this paper outlines some proposals for how the EITI can address the ongoing discussion on sustainable management of resources and demands for transparency environmental reporting. The proposals are likely to require further consultations with the EITI constituencies.

Members of the EITI working group on changes to the EITI Requirements have raised different views on the extent to which the EITI should be encouraging or requiring disclosures related to environment or climate change. The proposals put forward have been supported by arguments on the need to respond to increasing calls by international civil society groups for the EITI to do more work on environmental aspects. Concerns raised by include adding reporting burden for implementing countries and industry, the need to better understand the full scope of any potential changes and avoid duplicating efforts with existing reporting frameworks and forums. The working group may wish to consider discussing the proposals made or share these with the Implementation Committee for further consideration.

¹ EITI International Secretariat (2016). The EITI Principles. Available [here](#).

² EITI International Secretariat (2017). Coverage of environmental information in EITI reporting. Available [here](#).

³ EITI International Secretariat (2018). International Secretariat 2019 work plan. Available [here](#).

2 Suggested changes to EITI Requirements related to environment

Proposal 1: Revising Requirement 6.1 on social expenditures to include social and environmental expenditures

The EITI Standard requires disclosure of all “significant payments and material benefit to government” (Requirement 4.1)⁴. The review of coverage of environmental reporting shows that 22 implementing countries have disclosed environmental payments made by extractives companies to the government or to dedicated funds, 15 of which reconcile the payments. These types of payments have included mining rehabilitation fees, fees for waste, water use and pollution and CO₂ and NO_x emissions, gas flaring, payment for environmental licenses and general contributions into environmental protection agencies. These flows are typically treated in the same way as any other revenue stream, with disclosures by companies and government agencies and reconciliation by the Independent Administrator. The size of these revenues tends to be small in comparison to total revenues. Flows are collected both from mining and oil and gas sectors although it appears to be more common in mining.

To reflect this emerging practice in EITI countries, Requirement 6.1 could be revised to read:

“6.1 Social and environmental expenditures by extractive companies.

a) Where material social **and environmental** expenditures by companies are mandated by law, ~~or the contract or license granted~~ with the government that governs the extractive investment **or environmental impact instrument**, implementing countries must disclose and, where possible, reconcile these transactions. **These expenses and payments include social and environmental expenses such as payments for social services, public infrastructure, payments to communities for compensation and remediation, etc. outside of the national budgetary process.** Where such benefits are provided in kind, it is required that implementing countries disclose 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. Where reconciliation is not feasible, countries should provide unilateral company and/or government disclosures of these transactions.

b) Where the multi-stakeholder group agrees that discretionary social **and environmental** expenditures **and payments**, and **its** 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.”

This requirement may be expanded to also cover any material payments and expenditures such as fines and payments related to remediation, compensation, etc. Further work would need to be undertaken to understand the potential scope and materiality of such expenditures by oil, gas and mining companies in implementing countries.

An option could be to *encourage* such disclosures by reporting companies and/or to pilot such disclosures.

⁴ Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI Report.

Proposal 2: Including a provision encouraging implementing countries to disclose contextual information related to environmental monitoring under Requirement 6

Requirement 6 on “Social and economic spending” covers disclosures of information related to social expenditures and the impact of the extractive sector on the economy. The requirement is aimed at helping stakeholders assess whether the extractive sector is leading to the desirable social and economic impacts and outcomes.

The review of coverage of environment in EITI provided examples from Kyrgyz Republic, Colombia, Ukraine and Liberia which have included information about environmental regulations and instruments in the contextual information provided in their EITI Reports. These examples have demonstrated that ensuring that EITI Reports reference existing regulations and other relevant standards in the national context can help increase comprehensiveness of EITI Reports without creating additional disclosure burdens. MSGs wishing to go further could also provide information on environmental impact assessments, water and energy use, administrative and sanctioning monitoring processes, environmental liabilities and rehabilitation, and overview and detail of agreements between extractive companies and affected communities.

To respond to increasing demands for information related to environmental monitoring, it is proposed that a provision encouraging disclosures related to legal and administrative procedures for environmental monitoring and rehabilitation, and actual practice could be added under Requirement 6:

“6.X Monitoring of socio-environmental impact.

Implementing countries are encouraged to disclose the following information related to monitoring of the environmental impact of the extractive industries:

- a) An overview of relevant legal provisions, administrative rules as well as actual practice related to environmental monitoring and protection applying to extractive investments in the country. This could include information on environmental impact assessments, certification schemes, licences and rights granted to oil, gas and mining companies, as well as information on the roles and responsibilities of relevant government agencies in implementing the rules and regulations. It could further include information on any reforms that are planned or underway.
- b) Information on regular environmental monitoring procedures, administrative and sanctioning processes of governments, as well as environmental liabilities, environmental rehabilitation and remediation programs.
- c) Use of water or energy and related payments to the government, in absolute terms and disaggregated by company and project.
- d) Information about the populations and communities affected by material extractives projects, the agreements between the extractive companies and these communities, as well as the economic commitments arising from these agreements.

Proposal 3: Including a provision encouraging links to existing disclosures on climate risks and energy transition

Requirement 3 of the EITI Standard currently covers exploration, production and export data seeking to enable stakeholders to understand the potential of the sector. Given the ongoing global discussion about climate risks and the need to transition to renewable and more sustainable energy sources, stakeholders in many EITI countries are raising questions about potential shifts in exploration and production. In addition, initiatives such as the Task Force on Climate-related Financial Disclosures have been created to bring more transparency about climate risks of different projects, which offers the opportunity to cross-reference such existing disclosures as part of an EITI report's contextual information

a. Encouraging countries to refer to existing disclosures related to climate risks and energy transition

Several frameworks have been already developed in order to provide an overview of existing climate risks and energy transition trends. United Nations Framework Convention on Climate Change (UNFCCC), the G20 or similar fora. In addition, a number of countries are already including energy transition aspect in their annual reporting process.

Recognising the increasing demand for this information, a provision could be added to Requirement 3 to encourage implementing countries and companies to provide a link to relevant contextual and financial information related to climate risk estimations and global energy transition:

“Implementing countries are encouraged to provide links to existing information on climate risks related to the extractive industries. This may include climate risk assessments in line with international commitments and details on fiscal incentives and subsidies provided to the extractive industry.

Companies are encouraged to disclose or provide links to any international commitments, climate risk assessments or other relevant information on risks associated with global energy transitions where available.

The multi-stakeholder group is encouraged to consider additional disclosures related to climate change and energy transition that can inform public debate about the governance of the extractive industries.”

Some challenges with this proposal include that the metrics within the UNFCCC framework are still unclear. Further consultation will be required on the scope of existing disclosures and added value of improving accessibility to such reports.

b. Encouraging countries to provide information about changes, policies and trends in exploration, production and export of the main commodities

The energy transition process is expected to have an impact on exploration and production activities, related to some of main minerals (for example, cobalt) used for production renewable sources of energy.

Disclosure of this information could help to increase understanding the potential of the sector. Therefore, a provision could be added to Requirement 3 could encourage implementing countries and companies to disclose information on the trends in exploration, production and export of the main commodities:

Implementing countries are encouraged to provide information on changes and trends in exploration, production and export of the key commodities. Where significant increases in production of certain commodities needed for energy transitions are observed, implementing countries are encouraged to comment on this in their disclosures.

Such information is already implicitly encouraged under Requirement 5.3.c, which refers to “timely information from the government that will further public understanding and debate around issues of revenue sustainability and resource dependence”, including the assumptions underpinning forthcoming years in the budget cycle and relating to projected future production. This provision would however make this encouragement more explicit.

Proposal 4: No changes to the EITI Requirements and scaling up of guidance and support for environmental reporting

The review of environmental reporting in EITI highlighted that an increasing number of implementing countries (now more than half) have some form of reporting on environmental issues in response to local concerns. There are several good-practice examples from countries such as Colombia, Ethiopia, Germany and the Philippines of dedicated chapters or studies focusing on environmental aspects.

An option could be for the Board to agree to scale up its guidance and support for implementing countries and MSGs that take an interest in environmental issues, highlighting areas along the value chain already being covered by the EITI Requirements that relate to environmental management:

- **Legal and fiscal frameworks (Requirements 2.1, 2.2, 2.3 and 2.4):** The review found that at least 23 countries covered aspects related to environment as part of the contextual information on legislation and licensing requirements in the EITI Report. This included details on reference to relevant legislation, environmental policy, requirements related to environment protection as part of the license allocation process, references to environmental impact assessments obligations, and commentary on actual practices against the legal framework.
- **Environmental payments and expenditures (Requirements 4.1, 5.1 and 6.1):** Disclosures of any material payments by extractives companies to the government, including revenue streams related to environmental policy and management, is already covered by Requirement 4.1. The review also found that some countries have included information on the management of environmental and rehabilitation funds, such as the use of proceeds from fees and penalties paid according to environmental regulations as part of information on revenue distribution (Requirement 5.1). Some MSGs may also decide to highlight environmental-related contributions within wider social contributions (Requirement 6.1).
- **Revenue management and expenditures (Requirement 5.3).** This requirement encourages disclosures of timely information that will further public understanding and debate around issues of revenue sustainability and resource dependence. Climate change risks are likely to be included in the assumptions underpinning projected production, commodity prices and revenue forecasts arising from the extractive industries.

Such guidance could also draw on good practices from EITI reporting related to disclosures of fossil fuel subsidies and decommissioning of extractives operations.

It is not proposed that implementing countries would be expected to cover all of these issues, or that the EITI would require implementing countries to report on environmental aspects. However, this may help respond to demands that interest in environmental reporting related to the extractive sector is growing,

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further guidance for MSGs that take an interest in environmental issues.

The incoming EITI Board could consider any further actions related to environment in 2019 and 2020 and lessons learned from more targeted support of environmental reporting.