

Comments on "Report on initial data collection and stakeholder consultation by the EITI International Secretariat"

Please find below some general comments followed by comments related to the Secretariat's basis for not approving MSG/Norway as fulfilling the different EITI standards as "Satisfactory".

General comments:

- It is our opinion that the report gives an unbalanced representation of the reasons for not extending the scope of the Norwegian EITI report. The MSG has assessed e.g. project-by-project reporting and beneficial ownership as well potential extensions of the scope of reporting. Project-by-project reporting has not been implemented because payments are not made on project level, but levied at corporate level, in Norway. As such, this requirement is non-applicable. Beneficial ownership has been followed up through dialogue with the Ministry of Finance and Ministry of Industry and Fisheries, which is in the process of establishing an electronic ownership register. Other payment types have been discussed in detail, but not implemented due to lack of applicability and/or materiality (as explained in the EITI report).
- The MSG is interested in pursuing mainstreaming and would expect this to address most of the findings in the validation report. However, the MSG would like to be ensured that this could be done through an efficient and cost-effective process.
- The MSG's work plan focuses on key milestones and deliveries. This does not mean that there are no sub-tasks and activities under each main activity. As such, we can provide a more detailed work plan if this is needed. Furthermore, we disagree with the conclusion that the work plan progress is inadequate because it "does not reflect national priorities for the industry sector". This does not seem correct. The MSG agrees that the current scope of the EITI Norway work plan (which focus on the EITI-report) is aligned with national priorities for the sector (as other democratic and open channels are regarded as more suitable for other policy discussions regarding the oil and gas industry).
- In the report the EITI-secretariat propose many actions for consideration by the MSG. They have already been considered and concluded.

Comments on EITI-secretariat's specific assessments

#1.4 MSG governance and function. **Meaningful progress** "*There is a lack of clarity in the way in which representatives interact with their constituencies and in how the constituencies nominate their representatives to the MSG*".

When the MSG was set up the first time, it was discussed and agreed within the interim MSG that a representative from each constituency should take responsibility for the process of nominating members to the MSG. It was also agreed within the group that Statoil should be a member in addition to a representative from the international companies. Norsk Olje og Gass (NOROG) is responsible for nominating a representative from the industry and to keep the industry updated on EITI-related issues as well as present the view of the industry. Likewise, the Ministry of Petroleum and Energy (MPE) has the responsibility of nominating representatives from the government side. Before each nomination, the MPE contacts relevant Ministries and asks them to consider if they want to take part in the MSG and if so, nominate their representatives. PWYP has a similar responsibility on behalf of civil society. The MSG agrees on all the nominees before the MPE presents them to the King in Council and the MSG is appointed

#1.5 Work plan. *Inadequate progress; they do not, however set out objectives for implementation that are linked to the EITI principles and reflect national priorities for the extractive industries. The number of tasks and level of detail has progressively deteriorated over the years*

Our understanding of the Secretariat's reason for defining the MSG's work plan as "inadequate" is that the Secretariat believes the objectives for implementation are not linked to EITI's principles and national priorities. We disagree. The EITI principles are about transparency, disclosure of payments and income and involvement of all stakeholders. Our EITI-report includes payment disclosures as well as comprehensive information about (or link to information about) the petroleum sector according to the EITI-standards. Furthermore, the work (and work plan) of the MSG is aligned to national priorities as open and democratic channels to influence decision making already exists in the Norwegian system. This system is better fitted to deal with petroleum related issues than the MSG.

#4.1 Comprehensiveness. *Meaningful progress; "The EITI regulation notes that all payments should be included in the reconciliation, while MSG has agreed revenues to exclude based on their immateriality. This was however not based on a definition of materiality. All revenues under 4.1.b have been considered and those deemed material are listed and described. All reported entities reported their payments"*

As explained on different occasions, the issue of which payments will be included in the report and which will not has been discussed and very thoroughly dealt with. First, we have focused on extractive economic activities as these activities pay an extra/special tax. Income/payments defined by the petroleum tax law will be covered by our EITI-reporting. We decided to focus on cash flow and using the same definitions as in the state account to allow us to be able to check if an aggregate of payments reported to the IA was the same as reported income in the state account. All payments to the government under the Petroleum Tax Law are included. We do not reconcile payments to NPD or PSA as these payments are not considered tax income but payments to cover costs (inspections, seismic etc.) We do however publish an aggregate number. Other payments outside the Petroleum tax Law (sub national payments, local taxes etc.) have been discussed in the MSG but decided to be left outside the scope. The main reasons have been that these tax payments are not related to extracting activities and do not differ from other companies' tax payments. Further, information about these payments are already available from various sources (company financial report, local government's budget, financial report). Further, it will complicate the EITI-report and increase the workload without any value added. Over the years, the MSG has also discussed whether to include the mining industry. Although we do not have a strict definition of materiality, materiality has been the main reason to leave out the mining sector.

#4.2 In-kind revenues. *Meaningful progress "Aggregate figures of the revenues from the state's share of oil production transferred by the SOE to the state account are disclosed and reconciled"*

The state does not have in kind revenue. The state has a direct financial interest (SDFI), pays its share of investment accordingly, and gets its share of production. SDFI's oil and gas are marketed together with Statoil's volumes and receive the same price as their volumes. Statoil is not a "government agency" but a publicly listed company. Statoil operates in the market on the same conditions as any other commercial company. The name of the buyer of each cargo is often viewed as commercial information and companies are not obliged to publish this. Volumes of oil and gas sold, income as well as the average prices are well documented in Petoro's annual report and included in the EITI-report. Further, Statoil reports all sales volumes, types and prices in its financial reports (20F)

#4.9 Data Quality **Meaningful progress**. "The TORs for the EITI Report are not in line with the Standard TOR for the Independent Administrator. Assurances of data quality agreed by the MSG and IA are delivered and adequately described".

The MSG has difficulties understanding how and where The Standard Terms of Reference for Independent Administrators differentiate from Norwegian MSG's process of selecting IA, our contract (ToR) with the IA and cooperation between MSG and IA in preparing and finalizing the report. See also more specific comments in the attached validation report.

#7.1 Public debate. **Meaningful progress**. "There is strong disagreement within the MSG about the extent to which the MSG could or should have an impact on the management of the extractive sector in a Norwegian context. This is something that the Board will need to take into account. Notwithstanding this disagreement, there are procedural steps listed under Requirement 7.1 that the MSG does not appear to be doing, including disseminating the findings of EITI reports to stakeholders or conducting any form of outreach".

A "strong disagreement within the MSG..." is not a correct description. The MSG agrees that in Norway there are other democratic and open channels regarded as more suitable for policy discussions regarding the oil and gas industry. The discussion has been about whether to extend the scope for the reason of being an example to other implementing developing countries.

As regards "disseminating findings of EITI reports to stakeholders", these findings have mostly been of technical and/or of very limited interest. Outreach in the form of a public meeting has been discussed on several occasions but agreed not to carry out due to little interest. There are however, daily discussions, debate and meetings in public about these issues. The MSG therefore does not see a role to fill here.

#7.4 Outcome and impact of implementation. **Meaningful progress**, "there are some gaps that need to be addressed" . "future annual progress reports should list each recommendation and the corresponding activities that have been undertaken to address the recommendations and the level of progress in implementing each recommendation in accordance with Requirement 7.4a(iii). Where the government or the MSG have decided not to implement a recommendation, the MSG should document the rationale in the annual progress report. The MSG may wish to set up a matrix showing which recommendations have been successfully addressed and which remain pending so that it is easier to follow these up in the future (Requirement 7.3)."

The MSG has not put up a matrix. The MSG has however, in its annual report addressed each requirement pointed to by the IA where MSG might not comply with EITI requirements. Further recommendation from previous validator has been addressed in the annual report. Recommendation from IA has been addressed and concluded in meetings and will be referred to in minutes from the meeting

In accordance with Requirement 7.4a(v), a narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance should be included in annual progress reports, including any actions to extend the detail and scope of EITI reporting or to increase engagement with stakeholders. Finally, the MSG will wish to ensure that the 2015 annual progress report is available online.

As already mentioned, this has to be seen in a broader context. In Norway, there is already a lively debate on all issues related to natural resource governance. There are open and democratic channels to express the different constituency's views. The role of the Norwegian MSG is to identify lack of transparency according to the EITI standards.

General comments from Civil society

Although civil society representatives on the MSG have repeatedly challenged the notion that the scope of implementation could not be expanded to address additional issues such as beneficial ownership, project-by-project disclosures and mining, they accept that the current structure has not made it possible to increase the scope of implementation beyond the reconciliation of revenues. The general discussion and prioritization in organisations has, since before 2013, been more concerned with multinational companies potential tax avoidance and the consequences for societies, rather than verifying the reconciliation of payments. As a consequence of this, civil society has not seen the EITI as a catalyst for raising such issues and representatives have been struggling to find volunteers to represent the constituency in the MSG and have been worrying about the process if they themselves discontinue. PWYP Norway has used the EITI in its capacity building programmes and supported it in countries where the EITI is seen as a useful process and used the advances and gains in other countries as useful for the global examples to move the discussion further.

The report of the first Validation shows that PWYP Norway conducted an initial open meeting to inform civil society about the EITI process and invite organisations to participate in the process. PWYP Norway has organised and participated in many events to discuss the EITI and its role in Norway. Many events in Norway are filmed in order to spread information to a wider audience. In addition, PWYP Norway has written articles on both Norwegian and international questions in the EITI in order to engage a wider public informed and the deeper purpose of the EITI. PWYP Norway has also held two extensive consultation rounds with civil society on their wish list for EITI implementation in Norway (process leading up to position paper in 2014) and prioritization for the Norwegian implementation (process leading up to position paper in 2015). PWYP Norway has also included EITI in its capacity building programmes and tried to engage sami political leaders and also inviting them into discussions with civil society in capacity building programme.

There are examples of civil society organisations lobbying the government through national media to encourage implementation of the EITI in Norway, and to extend the scope of implementation. But most issues, since before 2013, have been addressed outside the MSG.