

Validation of Seychelles
Draft Validation Report
CowaterSogema Independent Validator
1st September 2018

1. EXECUTIVE SUMMARY

The Government of Seychelles informed the International Secretariat about their intention to join the EITI in 2012. A public statement was subsequently made in form of a press release in June 2013. The application to implement the EITI in Seychelles was endorsed by the then President James Michel. The commitment to implement the EITI was repeated by the Minister of Finance, Pierre Laporte in his 2013 Budget Speech when he announced that the application to the EITI Board would be presented in April 2014.¹ Seychelles was admitted as an EITI candidate in August 2014.² In December 2017, the EITI Board agreed that Seychelles' Validation under the 2016 EITI Standard would commence on 1 January 2018.

This draft validation report follows on from a quality assurance review of the International Secretariat's initial assessment. The Validator agrees with the assessment that the Seychelles has currently not met all the requirements of the EITI Standard, with eight requirements assessed as meaningful progress. However, the Validator also recommends that requirement 2.4 be downgraded to meaningful progress, as the Petroleum Act's provisions are insufficiently detailed to adequately clarify the government's policy on contract disclosure. After receiving the MSG's feedback and following on from discussion with the International Secretariat, the Validator recommends that requirement 6.1 is not applicable to the Seychelles, given that there are no mandatory social expenditures.

2. BACKGROUND

Seychelles is an upper middle-income country and the highest ranking African country on the Human Development Index.³ Currently the economy is dominated by tourism and fisheries. The limited land space, capital, and human resources restrict Seychelles' ability to benefit from economies of scale in production and economic diversification. Seychelles relies on imports for almost all raw materials, products, and specialized services.⁴ The nation is ranked 4th in the Ibrahim Index of African Governance in 2013. Its lowest ranking was in public administration (27/52), which includes indicators such as budget management, revenue collection and diversification.⁵ The government has in recent years adopted investor-friendly policies, and increased transparency of public procurement.⁶

¹ A further description of the Seychelles' EITI candidature can be accessed from the government's application to join EITI: https://eiti.org/sites/default/files/documents/Seychelles_application_annexes.pdf

² EITI (2014), "Seychelles accepted as EITI Candidate": <https://eiti.org/news/seychelles-accepted-as-eiti-candidate>

³ UNDP (2012), «Human Development Index», <https://data.undp.org/dataset/Table-1-Human-Development-Index-and-its-components/wxub-qc5k>

⁴ World Bank, "Seychelles overview" <http://www.worldbank.org/en/country/seychelles/overview>

⁵ Mo Ibrahim Foundation (2018), <http://mo.ibrahim.foundation/>

⁶ US Department of State (2013), "Investment Climate Statement", <http://www.state.gov/e/eb/rls/othr/ics/2013/204905.htm>

Seychelles has no production in the petroleum sector, but one company is currently undertaking exploration activities and others are collecting seismic data. Seychelles comprises 115 islands spread over 1.4 million square km. in the western Indian Ocean, covering only 455 square km. in land area. Seychelles also manages a joint petroleum zone with Mauritius on the extended continental shelf, where exploration activities have also recently initiated.⁷

Stakeholders in Seychelles are hopeful about the petroleum sector, although there are concerns regarding the impact petroleum mining might have on the marine ecology and other sectors such as tourism and fisheries. Currently, the revenue from the petroleum sector is small but information on licenses and the process of allocating licenses is useful in developing transparent and accountable systems. According to the 2015-16 EITI Report revenues collected from the extractive industries contributed 0,39% and 0,16% to total government revenues during 2015 and 2016 respectively (p.10). As per the 2015-16 EITI Report, the upstream petroleum sector is still at exploration stage and therefore, the contribution to GDP were 0% during the years 2015 and 2016 based on reports provided by the National Bureau of Statistics (NBS).

According to the 2015-16 EITI Report,⁸ the petroleum and hydrocarbon sector in Seychelles is still at exploration stage. The exploration of petroleum in Seychelles started in the early 1970s. No commercial hydrocarbon discovery has been made to date. Seychelles' petroleum sector strategy is to improve energy security and promote petroleum exploration in the Exclusive Economic Zone (EEZ) by putting in place fiscal and regulatory incentives that will attract oil companies, expedite exploration and allow an early commercial discovery.

The Ministry of Finance, Trade and Economic Planning (MFTEP) is the primary government entity responsible for the oil and gas sector, with the state-owned enterprise PetroSeychelles incorporated in 2012 regulating the upstream petroleum sector and overseeing all exploration activities. There is currently one company with an active exploration license, the Japanese Oil Gas and Minerals Exploration Company, (JOGMEC). The Petroleum Mining Act (1976) provides for two types of upstream petroleum arrangements (exploration licenses and petroleum agreements). Seychelles operates under concession type contracts as opposed to production sharing types of agreement.⁹

Mineral commodities are produced in the Seychelles at a very small scale, and include clay for bricks, crushed stone, granite dimension stone, salt, and sand. Currently, there are only two only operating companies with active quarrying licenses (United Concrete Products Seychelles - UCPS and Civil Construction Company - CCCL). As the cost of construction in Seychelles is linked to prices of these products, the performance of the quarrying sector is sensitive to the growth of the construction sector. However, mining activities in the Seychelles are heavily regulated as the only objective of the sector is to supply materials for the construction sector and not to export any production.

In line with the Validation Guide, the International Secretariat carried out the first phase of validation—initial data collection, stakeholder consultations, and preparation of their initial evaluation of progress against the EITI requirements (the “Initial Assessment”). CowaterSogema was appointed as the independent Validator to evaluate whether the Secretariat’s work was carried out in accordance with the Validation Guide. CowaterSogema’s principal responsibilities as Validator are to review and amend the

⁷ Republic of Mauritius (11 January 2018), “Extended Continental Shelf: Signature of agreement for geotechnical study”, <http://www.govmu.org/English/News/Pages/Extended-Continental-Shelf-Signature-of-agreement-for-geotechnical-study-.aspx>.

⁸ 2015-16 Seychelles EITI Report (p. 19), <https://eiti.org/document/20152016-seychelles-eiti-report>.

⁹ Overview of legal framework for petroleum activities in Seychelles on PetroSeychelles website: <http://www.petroseychelles.com/index.php/legal-issues>

Initial Assessment, as needed, and to summarize its independent review in this Validation Report for submission to the Board through the Validation Committee.

1. Work Performed by the Independent Validator

The Secretariat's Initial Assessment was transmitted to CowaterSogema on 9th July, 2018. Our Validation Team undertook this phase of the Validation process through: (1) In-depth review and marking up of the EITI Assessment by each team member; (2) Detailed review and comments by the Multi-Stakeholder Specialist of Requirements 1 and the Civil Society Protocol; (3) Detailed review and comments by the Financial Specialist of Requirements 4, 5 and 6; (4) Consolidation of reviews and the production of this final Validation Report, sent to the International Secretariat on the 1st September 2018.

2. Comments on the Limitations of the Validation

The Validator carefully reviewed the Secretariat's Initial Assessment and at this stage has no comments on the limitation of the validation process.

3. Comments on the International Secretariat's Initial Assessment

The initial data collection, stakeholder consultations, and drafting of the Initial Assessment were generally undertaken by the International Secretariat in accordance with the 2016 Validation Guide. The data collection took place across three phases. Firstly, from January 2018, a desk review of the available documentation relating to the country's compliance with the EITI Standard, including but not limited to:

- The EITI work plan and other planning documents such as budgets and communication plans;
- The multi-stakeholder group's Terms of Reference, and minutes from multi-stakeholder group meetings;
- EITI Reports, and supplementary information such as summary reports and scoping studies;
- Communication materials;
- Annual progress reports; and
- Any other information of relevance to Validation.

Secondly, a country visit, which took place from 6-9 February 2018. All meetings took place in Victoria. The secretariat met with the multi-stakeholder group and its members, the IA and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group.

Finally, the International Secretariat prepared a report making an initial assessment of progress against requirements in accordance with the Validation Guide. The initial assessment did not include an overall assessment of compliance. The report was submitted to the Validator, with the National Coordinator (NC) also receiving a copy.

2. GENERAL COMMENTS

- **Progress in EITI Implementation**

There is clear commitment by the Government of Seychelles with regards to transparency in government systems. This is seen in the implementation of various initiatives on extractives and fisheries, as well as ongoing efforts to establish dedicated legislation on transparency. Striking the right balance with regards to EITI implementation in the Seychelles has however been challenging given the small size of the sector. EITI reporting and governance processes do not appear to be proportionate to the current size of the sector. While key civil society members are engaged in the process, wider interest in the EITI by civil society is limited to environmental protection concerns. The petroleum industry's engagement is particularly low, which is understandable in light of the limited activities and the lack of in-country presence. It is clear that the potential benefits of EITI as presently implemented in Seychelles are unlikely to materialise until there is a commercially-viable discovery of oil and gas.

- **Impact of EITI Implementation**

There are signs that the EITI has provided useful insights about developments in the petroleum sector. The SOE and regulator PetroSeychelles regularly publishes information on licensing in line with EITI Requirements, highlighting the potential for furthering systematic disclosures. Another area the EITI has improved disclosures on is the quarrying sector, showing the contribution of the sector in terms of revenue and highlighting specific challenges related to the legal framework.








In the case of an oil discovery, the EITI will have contributed to establishing a good foundation for transparent and accountable management of the petroleum sector. Until then, stakeholders may wish to reconsider the way the EITI is implemented to ensure that it takes the specific circumstances of the country and emerging sector into account. A way forward for the MSG may be to consider applying to the EITI Board for adapted implementation to ensure that the process reflects the sector's nascent stage and does not become excessively burdensome and costly without any tangible benefits. There appeared to be a common understanding among stakeholders consulted that this would help Seychelles make EITI implementation more relevant to the country.

The Independent Validator's Assessment of Compliance

Figure 1 – Validator's assessment

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)				█	
	Industry engagement (#1.2)				█	
	Civil society engagement (#1.3)				█	
	MSG governance (#1.4)			█		
	Work plan (#1.5)			█		
Licenses and contracts	Legal framework (#2.1)				█	
	License allocations (#2.2)			█		
	License register (#2.3)			█		
	Policy on contract disclosure (#2.4)			█ ←		
	Beneficial ownership (#2.5)	█				
	State participation (#2.6)			█		
Monitoring production	Exploration data (#3.1)				█	
	Production data (#3.2)	█				
	Export data (#3.3)	█				
Revenue collection	Comprehensiveness (#4.1)				█	
	In-kind revenues (#4.2)	█				
	Barter agreements (#4.3)	█				
	Transportation revenues (#4.4)	█				
	SOE transactions (#4.5)				█	
	Direct subnational payments (#4.6)	█				
	Disaggregation (#4.7)				█	
	Data timeliness (#4.8)				█	
	Data quality (#4.9)			█		
Revenue allocation	Distribution of revenues (#5.1)				█	
	Subnational transfers (#5.2)	█				
	Revenue management and expenditures (#5.3)	█				
Socio-economic contribution	Mandatory social expenditures (#6.1.)	█				
	SOE quasi-fiscal expenditures (#6.2)	█				
	Economic contribution (#6.3)				█	
Outcomes and impact	Public debate (#7.1)				█	
	Data accessibility (#7.2)	█				
	Follow up on recommendations (#7.3)				█	
	Outcomes and impact of implementation (#7.4)			█		

Legend to the assessment card

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI requirement.
	The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

3. DETAILED FINDINGS

This section highlights areas where the Validator disagrees with the findings of the Initial Assessment or requires further clarification. The one disagreement is requirement 2.4. The Initial Assessment for this requirement stated, “The International Secretariat’s initial assessment is that Seychelles has made satisfactory progress towards meeting this requirement. The report describes the government’s policy on not disclosing contracts or license agreements, noting a lack of clear policy. In practice, quarrying leases and agreements appear to be accessible in person from the Registrar General’s Office.” However, the precedent in other countries is to take confidentiality provisions in relevant laws to be insufficiently detailed to adequately clarify the government’s policy on contract disclosure. For consistency’s sake, the Validator therefore recommends that this requirement is downgraded to Meaningful Progress and an additional recommendation is added to the list below.

4. RECOMMENDATIONS

The MSG should consider the following list of specific improvements against the EITI Requirements, in addition other strategic recommendations in this report that could help the Seychelles make even greater use of the EITI as an instrument to support reforms:

- In accordance with Requirement 1.4.a and 1.4.b.vi, the MSG should ensure that the industry constituency is adequately represented on the MSG and that there is a system in place for replacing representatives that leave their positions. In accordance with Requirement 1.4.b.vii, the MSG should also ensure that there is adequate record keeping of their discussions and decisions.
- In line with EITI Requirement 1.5, the MSG should ensure it has a current EITI work plan outlining targeted objectives in line with the national priorities for the sector, and that the work plan is made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public.
- In accordance with EITI Requirement 2.2, the government should disclose a description of the process for transferring or awarding the license; the technical and financial criteria used; information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. The MSG should ensure that there is clarity on the government’s plans in the year under review for the quarrying sector, and that there is a publicly available description on the allocation of mining licenses, the process for transferring licenses and the technical and financial criteria applied.
- In accordance with EITI Requirement 2.3, the government should ensure that comprehensive information on petroleum licenses and agreements is made available, including dates of application and award of licenses/agreements.
- In accordance with EITI Requirement 2.4, the MSG should discuss the need for a substantive policy on contract disclosure and engage the government accordingly.
- In accordance with Requirement 2.6, the Seychelles should ensure that there is publicly-accessible information on the rules and practice of financial relations between SOEs and the state (including

retained earnings, reinvestments and third-party funding), the level of state participation, including associated terms, and any change thereof in the year(s) under review.

- In accordance with Requirement 4.9 and the standard Terms of Reference for Independent Administrators, the Seychelles should ensure that future EITI Reports provide a clearer assessment on the reliability of the data disclosed, and that actual audit practices by government entities are described.
- In accordance with Requirement 6.1, the MSG should encourage the disclosure of all material social expenditures by extractive sector companies.
- In accordance with Requirement 7.4, the MSG should ensure that future annual reviews of outcomes and impacts include an assessment of progress made against each EITI Requirement. This should also include an assessment of the impact and outcomes of the work plan objectives. The MSG could also consider alternative ways to assess progress of EITI implementation that would suit the context of Seychelles in a request for adapted EITI implementation.

The International Secretariat makes the following additional recommendations could help the Seychelles make even greater use of the EITI as an instrument to support reforms:

- To strengthen implementation, the MSG is encouraged to continue to consider ways to encourage industry to be fully, actively and effectively engaged in the EITI process, in particular in the event that there is an increase in the number of companies undertaking petroleum exploration activities.
- To strengthen implementation, civil society may wish to consider creative ways of building public interest in the EITI process and the broader governance of the extractive sector, such as addressing environmental sustainability issues that seem of greatest public interest in Seychelles.
- The government and the MSG may wish to consider applying for adapted EITI implementation to establish a governance structure that takes the limited activity in the petroleum sector into account. This could allow the government and MSG to focus on their identified priorities for the extractive sector.
- To strengthen implementation, the MSG may wish to ensure that regulations supporting the implementation of the key laws governing the petroleum sector are made publicly available in a systematic manner on the PetroSeychelles website. This could include details on ongoing or planned reform. The government is further encouraged to ensure that the Mining Act is published where the government makes legal documents publicly available online, for instance the Attorney General's Office website or MHILT website.
- To strengthen implementation, PetroSeychelles is recommended to continue to regularly publish details on licenses awarded and transferred on an annual basis, if not in real time, and consider efforts to systematically disclose details on licensing as required by the EITI
- To strengthen implementation, PetroSeychelles could also consider publishing a comprehensive overview of current and expired licenses to provide a full picture of petroleum activities to date.
- To strengthen implementation, it is recommended that the MSG clarifies the actual practice regarding public access to quarrying agreements, and how members of the public can access these at the Registrar General's Office. Further consultations with relevant government

authorities such as MHILT are encouraged to follow up on the disclosure of all quarrying contracts. The government is also encouraged to consider publishing petroleum contracts.

- To strengthen implementation, it is recommended that future beneficial ownership disclosures clarify whether the owners reported are ultimate owners, provide a clear overview of the corporate structures of the companies covered, and provides direct links to their stock exchange filings for publicly-listed entities.
- To strengthen implementation, it is recommended that the Government of Seychelles ensures that there is publicly available information related to the Joint Management Zone in Mauritius, and that adequate transparency mechanisms will be in place regarding exploration activities in the zone.
- To strengthen implementation, the Seychelles is encouraged to revisit its materiality decisions to strike an appropriate balance between the oil and mining sector's currently modest revenues and the objective of revenue transparency. The MSG is encouraged to assess the scope for integrating EITI reporting into other statutory reporting obligations as a means of streamlining EITI implementation. To strengthen implementation, the government and key SOEs should ensure that the rules and practices for transfers related to SOEs are clarified. It is also recommended that PetroSeychelles reports on the revenues they collect from the extractive sector on a project-level basis in their annual financial reporting, with a view of systematising ('mainstreaming') EITI disclosures.
- To strengthen implementation, the Seychelles may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of sector-specific levies and taxes ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018. Given the EITI's "two-year rule" (requirement 4.8), this would effectively require project level reporting by all countries by 31 December 2020 at the latest.
- To strengthen implementation, it is recommended that the MSG ensure that future EITI disclosures provide analysis of inconsistencies in statistics on the contribution of the extractive industries to the economy.
- To strengthen implementation, the MSG may wish to ensure that EITI data is published in a timely manner.
- To strengthen implementation, the government and the MSG is also strongly encouraged to continue engaging key stakeholders such as MFTEP, PetroSeychelles and the OAG to develop a plan for how to mainstream EITI disclosures.
- To strengthen implementation, the MSG could consider continuing to produce summary EITI Reports and undertake more targeted communications and outreach activities related to key priority issues for the government and the MSG, for instance on environmental protection or revenue management.
- To strengthen implementation, the MSG could consider addressing obstacles related to disclosing EITI documents on government websites, and is encouraged to finalise an open data policy for EITI data in line with EITI Requirement 7.2.

- To strengthen implementation, the MSG may wish to prioritise recommendations over the short and medium term, engaging in regular follow-up with government agencies beyond those directly represented on the MSG.
