EITI Board 8 May 2019

# Decision on the 2018 Validation of Germany

Decision reference: 2019-39/BC-273

# Table of contents

# The Board's decision

The Board agreed that Germany has made satisfactory progress in implementing the 2016 EITI Standard. EITI implementation in Germany has improved the availability of information and strengthened dialogue between stakeholders.

The EITI Board commended Germany’s efforts to increase the relevance of EITI implementation by addressing environmental aspects, subsidies and renewable energy. Government, civil society and industry are working together to ensure meaningful implementation proportionate to economic importance of the domestic extractive industries.

The Board recognised Germany’s efforts to overcome challenges to implementation posed by the federal system and legal constraints relating to tax confidentiality. The coordination between the federal and state-level governments is commendable. The Board encouraged Germany to ensure that the minor gapsin publicly available licensing information are addressed, and that further efforts are made to ensure that licensing information is made available online.

The Board encouraged the MSG to undertake further efforts to consider a mainstreamed approach to implementation and to ensure that implementation is proportionate considering the size of the sector and stakeholder interest. Germany may wish to seek further synergies between mandatory company disclosures and EITI implementation. The government is encouraged to regularly monitor compliance with the mandatory disclosure regime and disclose results. There is potential for the EITI to contribute to ensuring that mandatory payment reports and beneficial ownership data are accessible and user-friendly. Germany is required to ensure that beneficial ownership data is made publicly available by 1 January 2020.

The Board has determined that Germany will be re-Validated in three years, i.e. on 8 May 2022.

# Scorecard

| EITI Requirements | | Level of Progress | | | | |
|---|---|---|---|---|---|---|
| Categories | Requirements | No Progress | Inadequate | Meaningful | Satisfactory | Beyond |
| MSG oversight | Government engagement (#1.1) | | | | | |
| | Industry engagement (#1.2) | | | | | |
| | Civil society engagement (#1.3) | | | | | |
| | MSG governance (#1.4) | | | | | |
| | Workplan (#1.5) | | | | | |

| EITI Requirements | | Level of Progress | | | | |
|---|---|---|---|---|---|---|
| Categories | Requirements | No Progress | Inadequate | Meaningful | Satisfactory | Beyond |
| 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) | | | | | |

| EITI Requirements | | Level of Progress | | | | |
|---|---|---|---|---|---|---|
| Categories | Requirements | No Progress | Inadequate | Meaningful | Satisfactory | Beyond |
| Overall Progress | | | | | Satisfactory | |

**No progress.** All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.

**Inadequate progress.** Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.

**Meaningful progress.** Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.

**Satisfactory progress.** All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.

**Beyond.** The country has gone beyond the requirements.

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.

# News

### Germany EITI leads by example

*With all requirements met, Germany is set to embrace routine disclosures and innovate further.*

Germany was recognised today by the EITI Board as having made satisfactory progress across all EITI Requirements. An active advocate and supporter for the EITI internationally, Germany started implementing the EITI in 2016 to demonstrate its own commitment to responsible natural resource governance.

From the outset, Germany's multi-stakeholder group focused on making the EITI relevant to national priorities, addressing implementation in a federated state, manage a declining mining sector, water use and environmental impacts and aligning reporting standards.

# Understanding the impact of extraction on the environment

Germany's 2016 EITI Report covered environmental aspects and subsidies. It explained how environmental impacts are compensated for and how the state can guarantee that the cost of rehabilitating sites does not fall on the taxpayer. The report also disclosed the amount of water consumed by the extractive sector in each state and described the rules and fees for water usage.

"Germany's ambitious approach to reporting on environmental management and monitoring provides inspiration to other multi-stakeholder groups that are seeking to understand the impact of oil, gas and mining activities," said EITI Chair Fredrik Reinfeldt.

The German EITI has also shed light on subsidies received by the extractive sector. Hard coal production in Germany is no longer competitive due to high production costs, and the sector has been subsidised. In 2007, an agreement was reached to phase out subsidies in a socially responsible manner by the end of 2018.

The EITI Report showed that in 2016 subsidies to the coal sector totalled nearly EUR1.3 billion. In the same year, total gross government revenue from the extractive sector was less than EUR500 million.

## One country, many governments

Germany's federal structure adds complexity to EITI implementation. Its experience offers some important lessons for other implementing countries.

While the Federal Mining Law sets the basic terms for extraction, each of the 16 states has its own regulations, licensing processes and royalty rates. This presents challenges for ensuring comprehensive disclosures.

For example, information about licenses is held in state registers and the 12,000 municipalities collect significant taxes. The level of data management and transparency varies across states, and production is concentrated in a handful of them.

Germany has sought to address the challenge by creating a working group for coordination between the federal government and states. Additionally, only municipal tax payments above EUR 2 million were reconciled to manage the workload.

## Less reporting with better data

Germany's Validation uncovered opportunities to further align EITI implementation with the European Union's regime for mandatory payment disclosures. The EITI Standard requires disaggregating data by revenue stream, while the EU framework allows companies to group different revenue streams under one heading. For example, all taxes on income, production and profits are aggregated.

Refining the mandatory reporting regulations and ensuring that compliance is monitored efficiently would allow Germany to start moving from reconciling revenues and payments to relying on routine disclosures.