



EITI RULES

including the Validation Guide

This publication brings together the EITI's requirements for implementing the EITI. It includes the EITI Principles, Criteria, the EITI Validation Guide and Policy Notes issued by the EITI Secretariat, conveying decisions taken by the EITI Board. It does not change earlier agreed policies.

VERSION: 24 February 2010

EITI Rules

including the Validation Guide

© EITI 2010

VERSION: 24 February 2010

Edited by Sam Bartlett

Designed by Alison Beanland

(The Validation Guide – Published by the
Department for International Development
© Crown copyright 2006)

This publication (excluding the logo)
may be reproduced free of charge in any
format or medium provided that it is
reproduced accurately and not used in a
misleading context. The material must be
acknowledged as Crown copyright with the
title and source of the publication specified.

Copyright in the typographical arrangement
and design rests with the EITI

Printed in Norway, 2010

The EITI International Secretariat

Ruseløkkveien 26

0251 Oslo

Norway

Tel: +47 22242105

Website: www.eiti.org

E-mail: secretariat@eiti.org

A horizontal bar composed of six colored rectangular segments: dark blue, orange, green, grey-blue, yellow, and light blue.

EITI RULES

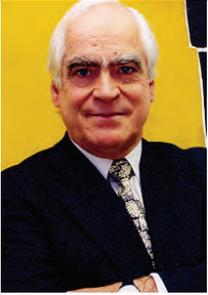
including the Validation Guide

This publication brings together the EITI's requirements for implementing the EITI. It includes the EITI Principles, Criteria, the EITI Validation Guide and Policy Notes issued by the EITI Secretariat, conveying decisions taken by the EITI Board. It does not change earlier agreed policies.

CONTENTS

Preface	7
Introduction	8
1 EITI Principles	9
2 EITI Criteria	10
3 The Validation Guide	11
3.1 Introduction	11
3.2 Key Documents in the Validation Process	13
3.3 The Validation Report	15
3.4 After Validation	15
3.5 The Validation Grid	16
3.6 Indicator Assessment Tools	18
3.7 Company Forms	26
3.7.1 EITI company self-assessment form – country-level	28
3.7.2 EITI company self-assessment form – international-level	29
3.8 Review Indicator	30
4 EITI Policy Notes	31
5 EITI Governance, Management and Administration	46
5.1 Articles of Association	47

PREFACE



Welcome to *EITI Rules, including the Validation Guide*. As with any governance institution, the rules of the EITI have developed over time and will be subject to continued interpretation and refinement in the future. As our body of rules evolve and improve, the EITI Board remains committed to providing effective guidance to our implementing countries.

These rules provide a framework that seeks to ensure consistency and credibility, while also maintaining the country-owned nature of EITI implementation. The rules provide a clear global minimum standard, while also retaining the flexibility to accommodate local challenges and opportunities inherent in each implementing country.

As the EITI Chair it has been a privilege to lead the some times complex work of our multi-stakeholder group. We have all worked hard on reaching compromises that support effective implementation and deliver meaningful impacts at the country level.

Over the last couple of years, we have also worked hard to put in place rules and a governance structure for the EITI itself. I am pleased that the EITI Board has agreed a proposal for articles of association. I look forward to the EITI stakeholders agreeing a clear and simple governance structure by adopting these articles of association for our not profit members association under Norwegian law.

A handwritten signature in black ink, appearing to read 'Peter Eigen', with a long horizontal flourish extending to the right.

Peter Eigen
Chairman of the EITI Board

INTRODUCTION

The EITI began as a campaign of civil society organisations for publication by companies of their payments to host governments, taken up in a speech made by the then British Prime Minister, Tony Blair, in 2002. Following this, the British Government convened a group of resource-rich countries, extractive companies and civil society organisations. This group started to develop the EITI methodology. At a conference in London 2003, a set of principles were agreed and a pilot phase was launched. Based on some of the experiences gained during this pilot implementation phase, a set of criteria were agreed in 2005, at a meeting at Lancaster House. This was the inaugural meeting of the EITI International Advisory Group, chaired by Peter Eigen and with the EITI's stakeholders represented. This group met five times during 2005 and 2006. In 2005 the EITI Source Book was published, which is an illustrative guide to assist countries implementing the EITI. Drawing on early experiences applying the EITI, it was agreed that implementing countries should have their implementation validated. The International Advisory Group oversaw the development of the Validation Guide, which was launched in 2006.

In time for the third EITI Global Conference in Oslo in October 2006, the International Advisory Group issued its final report (the IAG Report). In adopting this report, all of the EITI's stakeholders attending the Conference reaffirmed their support of the EITI Principles and Criteria and of the Validation Guide. A set of recommendations were also made, including that the "... EITI should establish a multi-stakeholder Board, supported by a Secretariat, to manage EITI at the international level."

The EITI International Board that was established in accordance with that recommendation has taken a number of decisions relating to both the implementation of the EITI and to the governance of the EITI itself. Decisions taken by the Board that are of relevance for the implementation of the EITI are conveyed to the EITI's stakeholders through the EITI Policy Notes that the Secretariat issues and makes available on the EITI website.

In this publication – *EITI Rules, including the Validation Guide*, the EITI Secretariat has brought together the policy documents that together make up the rules of the EITI. In doing so, this rule book sets out the requirements for implementing countries and companies as established by the EITI Board. It is the definitive guide to the requirements for implementing countries, from 'sign-up' as a candidate country through to Validation to establish EITI compliance.

This publication is not changing or adding anything to already agreed policies. Further policy refinements and interpretations are likely to occur and will be communicated through the EITI Policy Notes.

1 EITI PRINCIPLES

A diverse group of countries, companies and civil society organisations attended the Lancaster House Conference in London (2003) hosted by the UK Government. They agreed a Statement of Principles to increase transparency over payments and revenues in the extractives sector. These became known as the EITI Principles and are the cornerstone of the initiative.

THE EITI PRINCIPLES

- 1** We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.
- 2** We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interests of their national development.
- 3** We recognise that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.
- 4** We recognise that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.
- 5** We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
- 6** We recognise that achievement of greater transparency must be set in the context of respect for contracts and laws.
- 7** We recognise the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
- 8** We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.
- 9** We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business.
- 10** We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.
- 11** We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
- 12** In seeking solutions, we believe that all stakeholders have important and relevant contributions to make - including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors and non-governmental organisations.

2 EITI CRITERIA

After the EITI Lancaster House Conference, the EITI continued to gather support at the international level from governments, major multinational companies, institutional investors, non-governmental organisations and international institutions. A number of countries began to interpret and implement the Principles thus playing a pivotal role in shaping the EITI. This was an important pilot phase for the EITI. Working with the Principles, implementing countries placed the EITI within the context of other domestic initiatives, formed work plans and put in place procedures towards a country-owned process.

During this phase the diversity of experiences in implementing the EITI has added to the richness of the initiative. It also contributed to a wider debate regarding the need for clear guidance for implementation which still respects the voluntary nature of the initiative and country-specific implementation. Moving beyond the pilot phase and widening the EITI to include other resource rich countries, there was a need for a mutually agreed set of EITI Criteria for all countries wishing to implement the EITI.

At the EITI London Conference (2005) participants in the EITI endorsed the criteria but also encouraged countries to go beyond these minimum requirements where possible. They recognised value in capturing lessons learned during the pilot phase to help implementing countries and supporting companies. They welcomed the guidance on best practice set out in the IMF Code of Good Practices on Fiscal Transparency and the Manual on Fiscal Transparency. Participants also welcomed the EITI Source book as an additional, illustrative guide to implementation.

THE EITI CRITERIA

- 1** Regular publication of all material oil, gas and mining payments by companies to governments (“payments”) and all material revenues received by governments from oil, gas and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive and comprehensible manner.
- 2** Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
- 3** Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator’s opinion regarding that reconciliation including discrepancies, should any be identified.
- 4** This approach is extended to all companies including state-owned enterprises.
- 5** Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.
- 6** A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.

3 THE VALIDATION GUIDE

3.1 INTRODUCTION

The purpose of Validation

There are two purposes to Validation:

- For countries that are implementing the EITI, but have not fully implemented EITI (Candidate countries – see below), Validation should measure progress in implementation.
- For countries that have fully implemented the EITI (Compliant countries – see below), Validation should provide an absolute assessment of whether a country is or is not compliant with the EITI Principles and Criteria.

As noted above, two categories of countries were agreed:

Candidate countries are those who have signed up to implement the EITI and met all four indicators in the sign up stage of the Validation Grid (see below). This includes: committing to implement the EITI; committing to work with civil society and the private sector; appointing an individual to lead implementation; and producing a Work Plan that has been agreed with stakeholders.

Compliant countries have fully implemented the EITI. They have met all the indicators in the Validation Grid, including the publication and distribution of an EITI Report.

Overview of Validation

Figure 1 outlines the process of Validation. Further details on the agreed steps comprising Validation are contained in this guide.

The first step is the appointment of a Validator by the multi-stakeholder group. The selected Validator will then use three key documents to underpin their work. These are:

- the Country Work Plan;
- the Validation Grid and Indicator Assessment Tools; and
- the Company Forms.

Using these documents, the Validator meets with the multi-stakeholder group, the organisation contracted to reconcile the figures disclosed by companies and the government and other key stakeholders (including companies and civil society not in the multi-stakeholder group).

Using this information, the Validator completes a Report, comprising:

- a short narrative report on progress against the Country Work Plan;
- a short narrative report on progress against the indicators in the Validation Grid;
- the completed Validation Grid;
- a narrative report on company implementation;
- collated Company Forms;

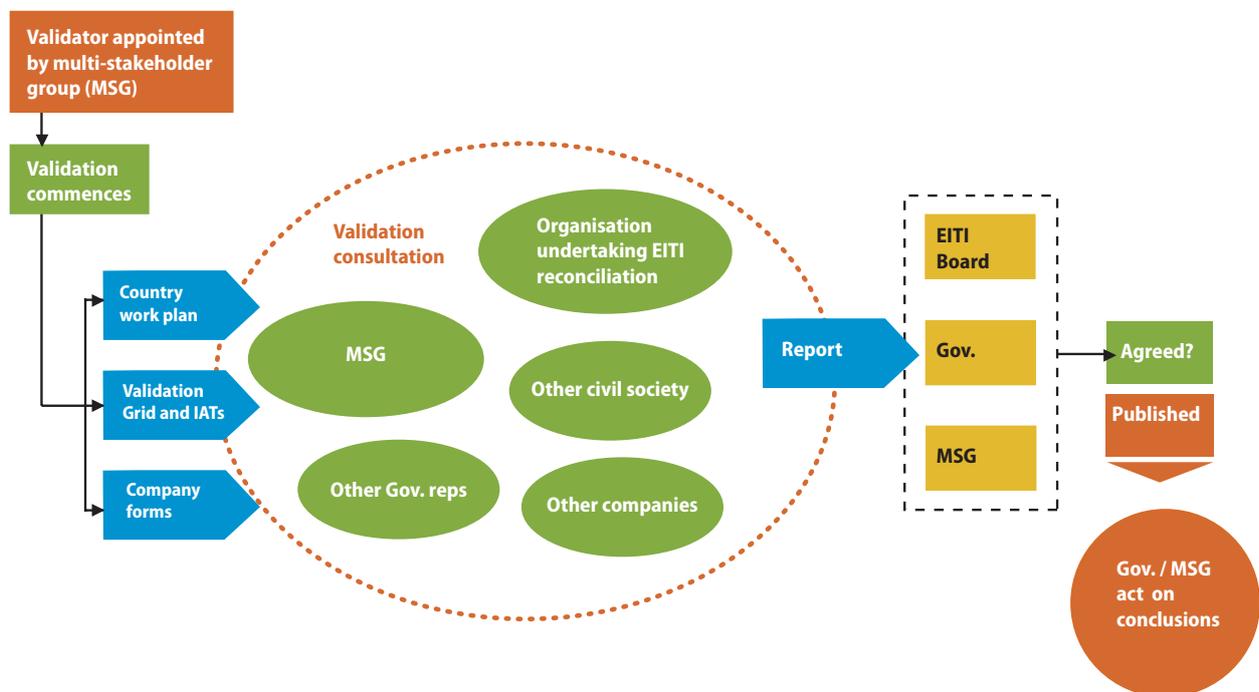
- **an overall assessment of the implementation of the EITI: is a country a candidate, compliant or is there no meaningful progress?**

This Report goes initially to the multi-stakeholder group, the government, and the EITI Board. If these groups are content with the Validation Report, it is published and conclusions and suggestions are acted upon.

If there is disagreement regarding the Validation process, then this is dealt with in the first instance locally, with the EITI Board only called in to help in cases of serious dispute.

Validation is not a financial audit. The job of the Validator is not to undertake financial audits but to check that countries and companies are doing what they say they are doing.

Figure 1: Validation flow chart



3.2 KEY DOCUMENTS IN THE VALIDATION PROCESS

The Country Work Plan

The host **Country Work Plan** is a vital component of the Validation process. The Work Plan must be completed and published before countries move out of the “sign-up” phase into “preparation”. The EITI Criteria require that the Work Plan be financially sustainable, and that it includes:

- measurable targets;
- a timetable for implementation; and
- and an assessment of potential capacity constraints.

The Work Plan should also show how the government will ensure the multi-stakeholder nature of the EITI, particularly in terms of the involvement of civil society.

The Work Plan should identify a timetable for Validation during the stage at which a country is a Candidate. This should reflect country needs, but should take place at least once every two years. The EITI Board may wish to consider whether more frequent Validation would assist the Candidate’s implementation without being unduly onerous. The Work Plan should also elaborate on how the government will pay for Validation.

The Validator will need to assess progress on the implementation of the EITI against these targets and timetables, and assess whether a country has acted on the identified capacity constraints.

A key element in the country Validation process will be whether the timetable for implementation is being followed. If the timetable is not being met, the Validator – based on evidence from key stakeholders and others – will need to determine whether delays in meeting the timetable are reasonable.

The Validators view on progress should be captured in a narrative report.

The EITI Validation Grid and Indicator Assessment Tools

At the heart of the Validation process is the **EITI Validation Grid**. This comprises 20 indicators which the Validator should use to assess progress. 18 of these should be assessed as met or unmet through a tick box. Two indicators (company Validation and review) should be assessed in the Validator’s narrative report. The Validator’s report should include the Grid and Indicator Assessments Tools (see below) as well as a narrative report on the progress against the Grid indicators.

Approximately half of the indicators in the Validation Grid are objective and require the Validator to decide whether they are or aren’t met. The other half are less objective, and relate to:

a) **Indicator 4 – Country Work Plan**. As noted above, the Country Work Plan is a key element of the Validation process. Because of this, Indicator 4 in the Grid has an associated Indicator Assessment Tool to outline the expected components of a Country Work Plan.

- b) **The preparation stage.** An assessment of progress by the Validator in the preparation stage necessarily involves consideration of the approaches to implementation in different countries. To this end each indicator has an associated Indicator Assessment Tool which provides guidance to the Validator on how to assess the indicator.
- c) **Company Validation.** This is part of the country Validation process, but requires answers to questions that are specific to company activities. The Indicator Assessment Tool for companies provides a self-assessment form that each company must fill in. There is no tick box in the Grid for company Validation since it would be difficult to summarise the many company reports with one “met” or “unmet” response. Rather, the Validator should include a review of company responses in the narrative report, as well as collating a table of company response to include in the Validation Report.
- d) **Dissemination.** Assessment of specific actions to make the Validation Report publicly available.
- e) **Review,** which establishes qualitative objectives for review.

As noted above, **Indicator Assessment Tools** have been developed for specific indicators. The purpose of the IATs is to provide additional guidance for the Validator in situations where the indicator is more involved or subjective. In some IATs the Validator should ensure that each piece of evidence noted is seen. For other IATs the tool indicates that there are different approaches that countries might take, and that the evidence noted is illustrative. For those IATs it is not necessary to see each piece of evidence noted to assess the indicator positively.

The Company Forms

Company implementation of EITI should also be validated. This should primarily happen as part of country Validation. The country Validation process therefore contains a self-assessment Company Form for companies to fill in and return to the Validator. The Validator has the authority to ask companies for more supporting information if necessary.

Completed forms should be posted on the company website and the Validation Report should contain a collated table of company self assessment forms.

Should a company fail to complete the self-assessment form, the Validator will indicate this in the Validation Report, and include in the Report any relevant information on the company that is in the public domain. The company will be given an opportunity to check this information.

Companies participating in the EITI should post an endorsement of the initiative on their website.

Companies that have made international commitments to support the EITI should fill in an international level self-assessment Company Form, which should be sent directly to the EITI Secretariat. These will be posted on the EITI website.

3.3 THE VALIDATION REPORT

As noted above, the Validation Report should contain:

- a short narrative report on progress against the Country Work Plan;
- a short narrative report on progress against the indicators in the Validation Grid;
- the completed Validation Grid;
- a narrative report on company implementation;
- collated Company Forms; and
- **an overall assessment of the implementation of the EITI: is a country a Candidate, Compliant or is there no meaningful progress?**

It is important that, where Validation shows that no meaningful progress has been made, and that there is little intention to implement the EITI in line with its Principles and Criteria, the Validator provides a clear assessment of whether this means the Board should consider de-listing the country from the list of Candidate countries. Before making any such recommendation the Validator should seek to ensure that the country has had time to act on any such findings – this might mean, for instance, that such a recommendation would only be justified following two Validation exercises which had both reached similar conclusions. However, in other circumstances it might be appropriate to come to such a conclusion after only one Validation.

The Report should also contain lessons learned, as well as any concerns people have expressed, and recommendations for future implementation of the EITI.

Once the Report is agreed by both the multi-stakeholder group, the government and the EITI Board, it should be published and made widely available in English, as well as any local languages.

3.4 AFTER VALIDATION

Any disagreements from the government, the multi-stakeholder group or the EITI Board over the Validator's report should first be dealt with by the Validator working with these groups. If the disagreement can be resolved, the Validator should make the appropriate amendments in the Report. If a disagreement cannot be resolved, it should be noted in the Report.

Serious disagreements with regard to the Validation process should be presented to the EITI Board and Chair, who will try to resolve them. The Board and Chair have the authority to reject complaints that they consider to be trivial, vexatious or unfounded.

3.5 THE VALIDATION GRID

EITI Criteria

Implementation of the EITI must be consistent with the Criteria below.

1 PUBLICATION: Regular publication of all material oil, gas and mining payments to governments (“payments”) and all material revenues received by governments from oil, gas and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive and comprehensible manner.

2 AUDIT: Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.

3 RECONCILIATION: Payments and revenues are reconciled by a credible, independent administrator applying international auditing standards, and with the publication of the administrator’s opinion regarding that reconciliation including any discrepancies, should be any be identified.

4 SCOPE: This approach is extended to all companies, including state owned companies

5 CIVIL SOCIETY: Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process, and contributes towards public debate.

6 WORK PLAN: A public, financially sustainable Work Plan for all of the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation and an assessment of potential capacity constraints.

EITI Implementation

SIGN-UP

1. Has the government issued an unequivocal public statement of its intention to implement EITI?

2. Has the government committed to work with civil society and companies on EITI implementation?

3. Has the government appointed a senior individual to lead on EITI implementation?

4. Has a fully costed Work Plan been published and made widely available, containing measurable targets, a timetable for implementation and an assessment of capacity constraints (government, private sector and civil society)?

See Indicator Assessment Tool (IAT)

PREPARATION

5. Has the government established a multi-stakeholder group to oversee EITI implementation?

See Indicator Assessment Tool

6. Is civil society engaged in the process?

(See IAT)

7. Are companies engaged in the process?

(See IAT)

8. Did the government remove any obstacles to EITI implementation?

(See IAT)

9. Have reporting templates been agreed?

(See IAT)

DISCLOSURE

10. Is the multi-stakeholder committee content with the organisation appointed to reconcile figures?

(See IAT)

11. Has the government ensured that all companies will report?

(See IAT)

12. Has the government ensured that company reports are based on audited accounts to international standards?

(See IAT)

13. Has the government ensured that government reports are based on audited accounts to international standards?

(See IAT)

14. Were all material oil, gas and mining payments by companies to government ("payments") disclosed to the organisation contracted to reconcile figures and produce the EITI Report?

15. Were all material oil, gas and mining revenues received by the government ("revenues") disclosed to the organisation contracted to reconcile figures and produce the EITI Report?

16. Was the multi-stakeholder group content that the organisation which was contracted to reconcile the company and government figures did so satisfactorily?

17. Did the EITI Report identify discrepancies and make recommendations for actions to be taken?

How have oil, gas and mining companies supported EITI implementation?

(See IAT)

DISSEMINATION

18. Was the EITI Report made publicly available in a way that was:

- publicly accessible;
- comprehensive; and
- comprehensible?

(See IAT)

What steps have been taken to act on lessons learnt, address discrepancies and ensure that EITI implementation is sustainable?

(See IAT)

3.6 INDICATOR ASSESSMENT TOOLS

Indicator Assessment Tool

Grid Indicator

4

INDICATOR: Has a fully costed Country Work Plan been published and made widely available, containing measurable targets, a timetable for implementation and an assessment of capacity constraints (government, private sector and civil society)?

Purpose: The Country Work Plan is the foundation of the country Validation process. The sixth EITI criterion requires that a Work Plan be produced that is agreed with key EITI stakeholders and is publicly available.

Evidence: To give this indicator a tick, the Validator is expected to see evidence that the Work Plan has been agreed with key stakeholders and that it contains:

- measurable targets;
- a timetable for implementation;
- an assessment of potential capacity constraints;
- how the government will ensure the multi-stakeholder nature of EITI, particularly in terms of the involvement of civil society;
- a timetable for Validation during the stage at which a country is a Candidate. This should reflect country needs, but should take place once every two years;
- the Work Plan should also elaborate on how the government will pay for validation.

The Validator will need to assess progress on the implementation of the EITI against these targets and timetables, and assess whether a country has acted on the identified capacity constraints.

A key element in the country Validation process will be whether the timetable for implementation is being followed. If the timetable is not being met, the Validator – based on evidence from key stakeholders and others – will need to determine whether delays in meeting the timetable are reasonable. If unreasonable, the Validator will need to consider whether to recommend that the country be de-listed from the list of Candidate countries.

INDICATOR: Has the government established a multi-stakeholder group to oversee EITI implementation?

Purpose: Implementation of the EITI should be overseen by a group comprising all appropriate stakeholders, including – but not limited to – the private sector, civil society (including independent civil society groups and other civil society, such as the media and parliamentarians) and relevant government ministries (including government leads). The group should agree clear, public terms of reference (TORs). These TORs should at least include: endorsement of the Country Work Plan – following revisions where necessary; choosing an auditor to undertake audits where data submitted for reconciliation by companies or the government are not already based on data audited to international standards; choosing an organisation to undertake the reconciliation; and other areas as noted in the Validation Grid.

Evidence: To give this indicator a tick, the Validator is expected to see evidence that a multi-stakeholder group has been formed, that it comprises the appropriate stakeholders and that its terms of reference fit the purpose.

Evidence should include:

- stakeholder assessments where these have been carried out;
- information on the membership of the multi-stakeholder group:
 - Was the invitation to participate in the group open and transparent?
 - Are stakeholders adequately represented? (This does not mean stakeholders have to be equally represented.)
 - Do stakeholders feel that they are adequately represented?
 - Do stakeholders feel they can operate as part of the committee – including by liaising with their constituency groups and other stakeholders – free of undue influence or coercion?
 - Are civil society members of the group operationally, and in policy terms, independent of government and/or the private sector?
 - Where group members have changed, has there been any suggestion of coercion or an attempt to include members that will not challenge the status quo?
 - Do group members have sufficient capacity to carry out duties?
- Do the TORs give the committee a say over the implementation of the EITI? These TORs should at least include: endorsement of the Country Work Plan – following revisions where necessary; choosing an auditor to undertake audits where data submitted for reconciliation by companies or the government are not already based on data audited to international standards; choosing an organisation to undertake the reconciliation; and, other areas as noted in the Validation Grid.
- Are senior government officials represented on the committee?

Indicator Assessment Tool

Grid Indicator

6

INDICATOR: Is civil society engaged in the process?

Purpose: This indicator reinforces Indicator 5. The EITI Criteria require that civil society be actively engaged as a participant in the design, monitoring and evaluation of the process, and that it contributes to public debate. To achieve this, EITI implementation will need to engage widely with civil society. This can be through the multi-stakeholder group, or in addition to the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government, and the EITI multi-stakeholder group where appropriate, have sought to engage civil society stakeholders in the process of implementation of the EITI. This should include the following evidence:

- outreach by the multi-stakeholder group to wider civil society groups, including communications (media, website, letters) with civil society groups and/or coalitions (e.g. a local Publish What You Pay coalition), informing them of the government's commitment to implement EITI, and the central role of companies and civil society;
- actions to address capacity constraints affecting civil society participation, whether undertaken by government, civil society or companies;
- civil society groups involved in EITI should be operationally, and in policy terms, independent of government and/or the private sector;
- civil society groups involved in EITI are free to express opinions on EITI without undue restraint or coercion.

Indicator Assessment Tool

Grid Indicator

7

INDICATOR: Are companies engaged in the process?

Purpose: This indicator reinforces Indicator 5. EITI implementation requires that companies are actively engaged in implementation and that all companies report under the EITI. To achieve this, EITI implementation will need to engage widely with oil, gas and mining companies. This can be through the multi-stakeholder group, or in addition to the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government, and the EITI multi-stakeholder group where appropriate, have sought to engage companies (oil, gas and mining) in the implementation of the EITI. This should include the following evidence:

- outreach by the multi-stakeholder group to oil, gas and mining companies, including communications (media, website, letters) informing them of the government's commitment to implement EITI, and the central role of companies;
- actions to address capacity constraints affecting companies, whether undertaken by government, civil society or companies.

Indicator Assessment Tool

Grid Indicator

8

INDICATOR: Did the government remove any obstacles to EITI implementation?

Purpose: Where legal, regulatory or other obstacles to EITI implementation exist, it will be necessary for the government to remove these. Common obstacles include confidentiality clauses in government and company contracts and conflicting government departmental remits.

Evidence: To give this indicator a tick, the Validator should see evidence that the government has removed any obstacles. This might involve following a proactive assessment of obstacles, or through reactive action to remove obstacles as they arise. There is no one way of dealing with this issue – countries will have various legal frameworks and other agreements that may affect implementation, and will have to respond to these in different ways.

The sort of evidence the Validator will want to see could include:

- a review of the legal framework;
- a review of the regulatory framework;
- an assessment of obstacles in the legal and regulatory framework that may affect implementation of the EITI;
- proposed or enacted legal or regulatory changes designed to enable transparency;
- waiver of confidentiality clauses in contracts between the government and companies to permit the disclosure of revenues;
- direct communications with, e.g., companies, allowing greater transparency;
- Memoranda of Understanding setting out agreed transparency standards and expectations between government and companies.

Indicator Assessment Tool

Grid Indicator

9

INDICATOR: Have reporting templates been agreed?

Purpose: Reporting templates are central to the process of disclosure and reconciliation, and the production of the final EITI Report. The templates will define which revenue streams are included in company and government disclosures. The templates will need to be agreed by the multi-stakeholder group.

The EITI Criteria require that “all material oil, gas and mining payments to government” and “all material revenues received by governments from oil, gas and mining companies” are published. EITI templates will therefore need to define by agreement of the multi-stakeholder group what these material payments and revenues comprise, and what constitutes “material”. It will also be necessary for the multi-stakeholder group to define the time periods covered by reporting. A revenue stream is material if its omission or misstatement could materially affect the final EITI Report.

It is commonly recognised that the following revenue streams should be included:

- host government's production entitlement;
- national state owned company production entitlement;
- profits taxes;
- royalties;
- dividends;
- bonuses (such as signature, discovery, production);
- licence fees, rental fees, entry fees and other considerations for licences and/or concessions;
- profit oil;
- other significant benefits to government as agreed by the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the multi-stakeholder group was consulted in the development of the templates, that wider constituencies had the opportunity to comment, and that the multi-stakeholder group agreed the final templates. This could include the following evidence:

- draft templates provided to the multi-stakeholder group;
- multi-stakeholder group minutes of template discussions;
- communications to wider stakeholders (e.g. companies) regarding the design of the templates;
- arrangement to enable stakeholders to understand the issues involved;
- a statement by the multi-stakeholder group that they agreed the templates, including all revenue streams to be included.

Indicator Assessment Tool

Grid Indicator

10

INDICATOR: Is the multi-stakeholder group content with the organisation appointed to reconcile figures?

Purpose: An organisation will need to be appointed to receive the disclosed company and government figures, to reconcile these figures, and to produce the final EITI Report. This organisation is variously known as an administrator, reconciler, or auditor. It is vital that this role is performed by an organisation that is perceived by stakeholders to be credible, trustworthy, and technically capable.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the multi-stakeholder group were content with the organisation appointed to reconcile figures. This could include the following evidence:

- TORs agreed by the multi-stakeholder group;
- transparent liaison with the EITI Secretariat and Board to identify potential Validators;
- agreement by the multi-stakeholder group on the final choice of organisation.

INDICATOR: Has the government ensured that all companies will report?

Purpose: The EITI Criteria require that all companies – public (state owned), private, foreign and domestic – report payments to the government, according to agreed templates, to the organisation appointed to reconcile disclosed figures. The government will need to take all reasonable steps to ensure that all companies do report. This might include the use of voluntary agreements, regulation or legislation. It is recognised that there might be good (albeit exceptional) reasons why some companies cannot be made to report in the short term. In this situation, government must demonstrate that they have taken appropriate steps to bring these companies in to the reporting process in the medium term, and that these steps are acceptable to other companies.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has done one of the following:

- introduced/amended legislation making it mandatory that companies report as per the EITI Criteria and the agreed reporting templates;
- introduced/amended relevant regulations making it mandatory that companies report as per the EITI Criteria and the agreed reporting templates;
- negotiated agreements (such as Memoranda of Understanding and waiver of confidentiality clauses under production sharing agreements) with all companies to ensure reporting as per the EITI Criteria and the agreed reporting templates;
- where companies are not participating, the government is taking generally recognised (by other stakeholders) steps to ensure that these companies report by an agreed (with stakeholders) date.

Indicator Assessment Tool

Grid Indicator

12

INDICATOR: Has the government ensured that company reports are based on audited accounts to international standards?

Purpose: The EITI Criteria require that all data disclosed by companies is based on data drawn from accounts which have been audited to international standards. This is a vital component of EITI implementation.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has taken steps to ensure that data submitted by companies is audited to international standards. This could include the following:

- government passes legislation requiring figures to be submitted to international standards;
- government amends existing audit standards to ensure that they are to international standards, and requires companies to operate to these;
- government agrees an MoU with all companies whereby companies agree to ensure that submitted figures are to international standards;
- companies voluntarily commit to submit figures audited to international standards;
- where companies are not submitting figures audited to international standards, the government has agreed a plan with the company (including SOE) to achieve international standards against a fixed time-line;
- where figures submitted for reconciliation are not to audited standards, the group is content with the agreed way of addressing this.

Indicator Assessment Tool

Grid Indicator

13

INDICATOR: Has the government ensured that government reports are based on audited accounts to international standards?

Purpose: EITI criteria require that all data disclosed by the government is audited to international standards.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has taken steps to ensure that data submitted is audited to international standards. This could include the following:

- government passes legislation requiring figures to be submitted to international standards;
- government amends existing audit standards to ensure they are to international standards, and ensures compliance with these;
- where figures submitted for reconciliation are not to audited standards, the multi-stakeholder group is content with the agreed way of addressing this.

INDICATOR: Was the EITI Report made publicly available in a way that was:

- publicly accessible;
- comprehensive; and
- comprehensible?

Purpose: the EITI is ultimately fully implemented when the EITI Report is made public and is widely disseminated and openly discussed by a broad range of stakeholders. The EITI Criteria require that the Report is publicly available in a way that is publicly accessible, comprehensive and comprehensible.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has ensured that the Report was made publicly available in ways that are consistent with the EITI Criteria, including by:

- producing paper copies of the Report, which are distributed to a wide range of key stakeholders, including civil society, companies, the media and others;
- making the Report available on-line, and publicising its web location to key stakeholders;
- ensuring that the Report is comprehensive and includes all information gathered as part of the Validation process and all recommendations for improvement;
- ensuring that the Report is comprehensible, including by ensuring that it is written in a clear, accessible style and in appropriate languages;
- ensuring that outreach events – whether organised by government, civil society or companies – are undertaken to spread awareness of the Report.

Indicator Assessment Tool

Grid Indicator

INDICATOR: How have oil, gas and mining companies supported EITI implementation?

Purpose: In accordance with the EITI Principles and Criteria, all companies operating in the relevant sectors in countries implementing the EITI have to disclose material payments to the government in accordance with agreed reporting templates and to support EITI implementation. This includes: expressing public support for the Initiative; taking part in, or supporting, the multi-stakeholder process; disclosing agreed data, which is audited to international standards; and cooperating with the Validator where they have queries over Company Forms.

Evidence: This indicator does not require the Validator to provide an overall assessment. The Validator should provide a written assessment in the EITI Validation Report based on the self assessed Company Forms (below) which each company is required to complete. Where companies do not fill in forms, the Validator should note this in the final Report. In addition, the Validator should include in the final report any relevant information on the company concerned that is already in the public domain. The company should be given the opportunity to check this information. As well as using the forms to summarise company performance in the EITI Report, the forms should be publicly available and a table collating company responses should be included in the EITI Report.

The Validator should contact all the companies required to fill in forms at the start of the Validation, inform them of the requirement to complete the form and request that the forms be returned to the Validator. In addition, the Validator should ask companies to comment on lessons learnt and best practice. Companies will have two ways of providing such comments:

- companies can use the space provided on the self assessment forms, or
- companies can provide verbal evidence to the Validator where issues the company wishes to note are of a sensitive nature. The Validator will summarise anonymised lessons and experiences in the Validation Report.

The self-assessment form should be filled in, in the first instance by the company, as follows:

Country-level:

- Each oil, gas or mining company active in the country being validated should complete a country-level Company Form as a self-assessment and should submit it to the Validator.
- The national Validator will collate responses and may contact companies if they have additional questions or require further supporting information. Companies should respond positively to such requests.
- Companies should make forms for each country of operation publicly available on their external websites

- **International level:**
- Companies that have made international commitments to support the EITI should fill in an international-level self assessment form.
- The international Company Form should be completed by each company and this should be sent to the EITI Secretariat who will put it on the EITI website.
- Companies should also provide clear endorsement of the EITI on their website.

EITI COMPANY SELF-ASSESSMENT FORM **COUNTRY-LEVEL**

COMPANY:

COUNTRY:

Mark indicators below with a ✓

1. Has the company made public statements in support of the EITI process in this country?

Yes No

2. Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g.laws and MoUs) and, where appropriate, meeting with stakeholders?

Yes No

3. Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?

Yes No

4. Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?

Yes No

5. Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?

Yes No

Narrative opinions

If any indicators above are marked "No", please provide an explanation:

Any other comments:

COMPANY:

Mark indicators below with a ✓

1. Has the company published a clear public statement endorsing the EITI Principles and Criteria, and ensured that this is accessible on its external website?
 Yes No
2. If applicable (i.e. for operations in EITI implementing countries that have completed at least one Validation), has the company provided links on its external website to completed Company Forms?
 Yes No Not applicable
3. Has the company assigned strategic responsibility for the EITI to a member of its senior management and appointed a lead contact person responsible for communication of the company's EITI policy, action in support of the EITI, and responding to queries from EITI stakeholders?
 Yes No
4. If the International EITI Conference has taken place in the Validation period, did a member of senior management attend or send a statement of support?
 Yes No Not applicable
5. Where a company has a global sustainability report or corporate responsibility report, has the company included a summary of its contribution to the EITI in this and on its external website?
 Yes No

Narrative opinions

If any indicators above are marked "No", please provide an explanation:

Any other comments:

3.8 REVIEW INDICATOR

Indicator Assessment Tool

Grid Indicator

INDICATOR: What steps have been taken to act on lessons learnt, address discrepancies and ensure that EITI implementation is sustainable?

Purpose: The production and dissemination of an EITI Report is not the end of implementation of the EITI. The value comes from the process as much as the product, and it is vital that lessons learnt in implementation are acted upon, that discrepancies identified in the EITI Report are addressed and that EITI implementation is on a stable, sustainable footing.

Evidence: The Validator should see evidence that a review mechanism has been established that takes account of the purpose outlined above. The Validator should comment on this in the Validation Report.

4 EITI POLICY NOTES

EITI policy and methodology are guided by the EITI Principles and EITI Criteria, and are outlined in detail in the EITI Sourcebook and EITI Validation Guide (see section 3). The EITI Board has also issued a number of clarifications and guidance notes to implementing countries. These are published as EITI Policy Notes.

Policy Note #1

Clarification on Validation Indicator 4

Policy Note #2

Guidance Note for Implementing Countries on Procuring an EITI Validator

Policy Note #3

Validation Deadlines

Policy Note #4

Financing Validation

Questions regarding EITI policy and methodologies may be directed to the EITI International Secretariat, which will refer questions to the EITI Board for decision where necessary.

CLARIFICATION ON VALIDATION INDICATOR 4

Approved by the EITI Board on 22 February, 2008¹

Introduction

Validation Indicator 4 reads:

“Has a fully costed Country Work Plan been published and made widely available, containing measurable targets a timetable for implementation and an assessment of capacity constraints (government, private sector and civil society).”

While the indicator itself does not make specific reference to ‘agreement with key EITI stakeholders’, the Indicator Assessment Tool (IAT) for Validation Indicator 4 states: ‘The sixth EITI Criteria requires that a work plan is produced that is agreed with key EITI stakeholders and is publicly available.’ Furthermore, the 2006 Report of the EITI International Advisory Group also makes it clear that:

“Candidate countries are those that, having signed up to implement EITI, have met all four indicators in the sign up stage of the Validation Grid and have provided documentary evidence to the EITI Board and Secretariat to this effect. The indicators ask whether a government has:

...

– produced a Country Work Plan that has been agreed with stakeholders.”

The Indicator Assessment Tool also states that ‘the Validator is expected to see evidence that work plan has been agreed with key stakeholders’.

Accordingly, in affirming compliance with Validation Indicator 4, the EITI board must be satisfied that the work plan has been discussed with and agreed by stakeholders. The agreement of stakeholders might be demonstrated in a number of ways, for example, in the form of minutes of a meeting and/or published and verified statements of support from various key stakeholders.

1. This Guidance note was approved at the 4th Meeting of the EITI Board in Accra, Ghana on 22nd February, 2008

GUIDANCE NOTE FOR IMPLEMENTING COUNTRIES ON PROCURING AN EITI VALIDATOR

Approved by the EITI Board on 22 February, 2008²

Initiation of Validation Process. The EITI Validation Guide states that “the first step is the appointment of a Validator by

Preface

On behalf of the EITI Board, the International EITI Secretariat issues the following guidance to EITI Implementing Countries on the process for selecting an EITI Validator. This guidance note has been developed with a view to strengthening the quality, consistency and sustainability of the Validation process. A key objective has been to reinforce country ownership of the validation process, while ensuring that the EITI Board, with the support of the International EITI Secretariat, exercises its mandate as the custodian of the EITI principles, criteria and Validation methodology. These procedures will be updated as lessons are learned through the first round of country validation.

Background

Validation is an essential element of the EITI process, and central to the initiative’s status as an international standard. The objective of Validation is to provide an independent assessment of the progress achieved by Implementing Countries on their progress on EITI and what measures they may need to take to make better and faster progress. For Candidate Countries,³ Validation should measure progress in EITI implementation. For countries that have fully implemented EITI (Compliant Countries⁴), Validation will serve to provide an assessment of their ongoing fulfilment of all the EITI Criteria. In 2006, the International Advisory Group (IAG) recommended as follows:

Validation will be done by a Validator selected by the multi-stakeholder group in the country being validated, from a list of suitable organisations or individuals pre-approved by the International EITI Secretariat and the EITI Board. Validation will be paid for by the country being validated.⁵

The EITI Validation Guide⁶ states that “the first step is the appointment of a Validator by the multi-stakeholder group”. This Guidance Note provides more detailed advice to Implementing Countries on the process for procuring and contracting an EITI Validator. It sets out the key steps in the process, and the roles and responsibilities of the Implementing Countries, the Validator and the EITI Board and EITI Secretariat.

Overview of Key Steps

The implementing country will contract the Validator, through a procurement process overseen by the International EITI Secretariat. The following table presents the key steps in the process. The following sections provide additional guidance.

EITI POLICY NOTE #2

STEP	RESPONSIBLE PARTY	COMMENT
1. Initiation of Validation Process	Multi-stakeholder Group	Candidate countries must complete a Validation process every 2 years.
2. Inform the International EITI Secretariat	Lead Agency for EITI	
3. International EITI Secretariat Assesses Indicator #5	International EITI Secretariat	
4. Establishment of procurement process, including preparation of ToR and Contract.	Lead Agency for EITI. The Multi-Stakeholder Group should endorse the procurement process, the ToR and the Contract.	The International EITI Secretariat will provide guidance and technical assistance where required, include template ToRs and Contracts.
5. Procurement and Contracting of the Validator	Lead Agency for EITI.	The Multi-Stakeholder Group should be represented in this process and must endorse the selected candidate
a) Send Request for Proposals to Accredited Validators	Lead Agency for EITI.	
b) Receive proposals from Accredited Validators	Lead Agency for EITI.	
c) Assess technical and Financial Proposals	Lead Agency for EITI.	
d) Contract Negotiation with Selected Candidate	Lead Agency for EITI.	
6. Quality Assurance by the EITI Board	Coordinated by the International EITI Secretariat	
Send the final ToR and Contract to the International EITI Secretariat for Review	Lead Agency for EITI.	The review will typically take no more than 10 working days.
International EITI Secretariat Issues "No objection", or recommends changes	EITI International Secretariat	
Initiation of the Validation.	Lead Agency for EITI.	A copy of the signed Contract should be sent to the International EITI Secretariat
7. Oversight of the Validation Process	National Oversight by the Multi-stakeholder Group and Lead Agency. International Oversight by the EITI Secretariat and EITI Board	

1

Initiation of Validation Process. The EITI Validation Guide states that “the first step is the appointment of a Validator by the multi-stakeholder group”. The multi-stakeholder group should formally approve the decision to initiate the validation process. This could involve establishing a sub-committee to oversee the process of selecting and contracting a Validator.

2

Informing the International EITI Secretariat at the initiation of the Validation process. Implementing Countries wishing to initiate the Validation process should inform the International EITI Secretariat in writing⁷ via their designated lead on EITI implementation. This letter should briefly outline:

- a. An indicative timetable for the completion of the Validation process
- b. The proposed procedure for procuring and contracting an approved Validator, including:
 - i. The lead agency and contact person for the procurement process;
 - ii. The proposed procurement procedure including the proposed selection criteria and weighting for assessing proposals;
 - iii. The proposed contracting authority that will enter into the contract on behalf of the Implementing Country
 - iv. The role of the Multi-Stakeholder Group in the procurement process
- c. The arrangements for financing the Validation process
- d. Any requests for technical assistance from the International EITI Secretariat.

The International EITI Secretariat will acknowledge receipt of this letter upon arrival, and respond within ten (10) working days, highlighting any issues with respect to the proposed process. The International EITI Secretariat will also respond to requests for technical assistance, and provide available guidance notes and templates. The International EITI Secretariat will provide the lead agency and contact point for the procurement with the latest list of accredited Validators.

3

Assessing Indicator 5. Indicator 5 in the Validation Grid on the establishment of the Multi-Stakeholder Group will be assessed by the EITI Secretariat, and must have been met, in order to proceed with Validation.

4

Implementing Countries to Draft Terms of Reference. The Terms of Reference (ToR) for the validation process shall be developed by the implementing country, approved by the multi-stakeholder group. The International EITI Secretariat will provide Implementing Countries with a template ToR, drawing on international best practice. The methodology and indicator assessment tools as set out in the Validation Guide must be adhered to. However, Implementing Countries may wish to adapt the ToR to accommodate local variations in EITI implementation. Variations to the template Terms of Reference will be assessed by the International EITI Secretariat (see section 5). Stakeholders wishing to raise concerns regarding the terms of reference may contact the International EITI Secretariat, which will refer complaints to the EITI Board as warranted (see section 6).

It is in the interests of the all parties that the Terms of Reference provide a clear and unambiguous outline of the scope of the EITI validation exercise as it applies in the

country. This should include background information on the country's participation in the EITI (including the initiation of the process, and key milestones), details on the participating agencies, companies and stakeholders, and commentary on recent events and developments of relevance to the Validation process. The ToR should also include the EITI work plan as an attachment, and an update on the status of company reporting, disclosure and auditing.

The Terms of Reference should clearly specify the timeline for the validation process, the deliverables, and the process for reviewing and commenting of the draft validation report. The ToR should empower the Validator to document lessons learned, as well as any concerns people have expressed, and recommendations for future implementation of EITI.

5

Procurement and Contracting of the Validator by Implementing Countries.

Implementing Countries must procure an EITI Validator from a list of accredited organisations and individuals pre-approved by the EITI Board, via the Secretariat. Following an international competitive bid process, including through the Official Journal of the European Union (OJEU), the UK Department for International Development (DFID), on behalf of the International EITI Secretariat, and led by a committee of the EITI Board (the Validation Committee⁸), seven companies and partnerships have been accredited to undertake validation. At the discretion of the EITI Board, via the International EITI Secretariat, this list of Validators may be added to and modified, subject to the demand for validation services.

Implementing Countries shall select the most appropriate method for the procurement and contracting of an accredited Validator. The International EITI Secretariat recommends a competitive bidding process open to all accredited Validators. International best practice include a range of procedures, including quality- and cost-based selection (QCBS), quality-based selection (QBS), selection under a fixed budget (FBS), least-cost selection (LCS), selection based on Consultants' qualifications (CQS), and single-source selection (SSS).

The independence of the Validator is paramount, so the procurement process must include appropriate provisions to address possible conflicts of interests. The procurement process (including the proposed selection criteria and weighting for assessing proposals) should be endorsed by the multi-stakeholder group. One option is to establish a sub-committee of the multi-stakeholder group to oversee the procurement process.

The contract for the Validation process shall be between the Implementing Country (the lead government agency, or the multi-stakeholder group) and one of the approved Validators.

6

Quality Assurance by the EITI Board. The EITI Board, working through the International EITI Secretariat, must review the procurement process and the Validator's terms of reference and contract prior to initiation of the Validation assignment. In conducting its review, the EITI Board shall have regard to, inter alia:

- a. The overarching quality and transparency of the procurement process;
- b. The involvement of the multi-stakeholder group;
- c. The treatment of conflicts of interest;

- d. The adequacy of the terms of reference vis-à-vis the objective of Validation and the methodology as set out in the Validation Guide;
- e. The coherence of the Validator's technical and financial proposals; and,
- f. The terms of the contract between the Implementing Country and the Validator.

Stakeholders wishing to raise concerns regarding the procurement of the Validator, the terms of reference or the contract may contact the International EITI Secretariat, which will refer complaints to the EITI Board as warranted.

Where the Board, working through the International EITI Secretariat, has concerns regarding the procurement process or the Validator's contract, these will be communicated in writing including recommended remedial actions and modifications. Once these issues have been addressed to the satisfaction of the Board, the International EITI Secretariat will issue a letter of no objection sanctioning the validation exercise. A copy of the signed contract should be forwarded to the International EITI Secretariat.

7

EITI Oversight of the Validation Process. The International EITI Secretariat, on behalf of the Board, will oversee the validation process. Building on the Validation Guide, the EITI Secretariat will enter into a Memorandum of Understanding (MoU) with accredited Validators. The MoU will further clarify the Validator's responsibilities and obligations to the EITI Board and International Secretariat. It will include guidance on, inter alia:

- Ensuring strong communication and efficient information exchange between the EITI Secretariat and the Validator during the validation process;
- Reporting any difficulties or irregularities encountered in the validation process;
- Dispute resolution mechanisms.

2. This Guidance note was approved at the 4th Meeting of the EITI Board in Accra, Ghana on 22nd February, 2008

3. Candidate countries are those who have signed up to implement EITI and met all four indicators in the sign up stage of the Validation Grid: (1) committing to implement EITI; (2) committing to work with civil society and the private sector; (3) appointing an individual to lead implementation; and (4) producing a Work Plan that has been agreed with stakeholders

4. Compliant countries have fully implemented EITI. They have met all the indicators in the Validation grid, including the publication and distribution of an EITI Report

5. http://www.eiti.org/files/document/eiti_iag_report_english.pdf Page 6

6. See <http://www.eiti.org/document/validationguide> Page 3

7. The Contact Point at the International EITI Secretariat is: Sam Bartlett, Policy Advisor. Email: sbartlett@eiti.org
Cell Phone: +47 9026 7530 Address: EITI Secretariat, Ruseløkkveien 26, 0251 Oslo, Norway

8. Comprising: Karina Litvack (F&C), Graham Baxter (BP – replaced by Mike Wilkinson, Shell); Gavin Hayman (Global Witness), John Strongman (WB – replaced by Anwar Ravat, WB); Fidele Ntissi (Government of Gabon)

VALIDATION DEADLINES

Approved by the EITI Board on 27 May 2008

Introduction

Validation is an essential feature of the EITI process. It serves two critical functions. First, it promotes dialogue and learning at the country level. Second, it safeguards the EITI brand by holding all EITI implementing countries to the same global standard. Candidate Countries must complete a Validation within two years. The EITI Board has established the deadlines for all Candidate Countries, and has agreed the rules for assessing a country's EITI status at these deadlines.⁹ A summary is presented in Figure 1, below. In all decisions on Validation, the Board will place a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand.

Figure 1. Validation Deadline Scenarios

Status at Validation Deadline:	Implications:
1. Validation not started	Delisted*
2. Validation started, not completed	Delisted*
3. Validation completed	
a) No meaningful progress	Delisted
b) Meaningful progress, but not yet compliant	Candidature can be renewed via MSG Application**
c) Close to Compliance	Compliant status following EITI Secretariat Review
d) Verifies Compliance	Compliant status granted for 5 years***

* Except in "exceptional and unforeseeable circumstances"
 ** Application to Board requires new agreed work plan, before 2 year deadline
 *** Stakeholders or the EITI Board can request another Validation before the 5 year deadline

EITI Board Decisions on Determining the Status of Implementing Countries following the 2-year Validation Deadline

Treatment of EITI Candidates with Incomplete Validations at the 2 year deadline

The Board has resolved that Candidate Countries must complete a Validation process within 2 years. For the first 22 Candidate countries, the deadline has been set at 9 March 2010. In accordance with the EITI Principles, and in order to protect the integrity of the EITI brand, the Board will delist Candidate Countries that have not completed a Validation within the two year period. A "complete Validation" is defined as follows:

1. The Validation report is agreed and endorsed by the multi-stakeholder group, the government and the EITI Board
2. The report has been published and is publicly available;
3. Payment of the Validator has been completed.

The Board will only consider extending the deadline for completing the Validation process in exceptional and unforeseeable circumstances (where constraints arise that are beyond the control of the EITI Candidate country). An extension will only be considered where an application, endorsed by the multi-stakeholder group, is presented to the Board in advance of the deadline. The Board requests that the EITI Secretariat maintains its work to publicise the central importance of Validation within the EITI methodology, including further outreach work in implementing countries, and, where necessary, to provide technical assistance to ensure that Validation is completed ahead of the 2 year deadline. The Board requests regular updates from the Secretariat on the status of Validation in implementing countries.

Determining the Status of Implementing Countries Following Validation.

The Board expects Candidate countries to strive toward achieving EITI Compliant status within 2 years. Where Validation verifies that a Candidate country has fully implemented EITI, and met all of the indicators in the Validation grid, the Board will designate that country as EITI Compliant. Retaining Compliant status requires that the country is revalidated within 5 years.

Stakeholders in the process may call for a new Validation of an EITI Compliant country at any time within that five-year period if they think the process needs reviewing. This request could be mediated (if necessary) through a member of his or her constituency representative(s) on the Board. The Board will review the situation and exercise its discretion as to whether to require the EITI Compliant Country to undergo a new Validation, placing a priority on the need to uphold the integrity of the EITI brand.

Where valid concerns exist that a country has become EITI Compliant, but its implementation of the EITI has subsequently fallen below the standard required for Compliance, then the Board reserves the right to require the country to undergo a new Validation or face delisting from the EITI.

Where an EITI Candidate country has completed Validation within two years, but the Validation shows that no meaningful progress has been made toward achieving EITI Compliance, and that there is little evidence of a sincere intention to implement EITI in line with the Principles and Criteria, the Board will de-list the country from the list of Candidate countries.

In assessing “meaningful progress” the Board will have regard to:

1. The EITI process – in particular the functioning of the Multi-stakeholder Group and clear, strong commitment from Government; and
2. The status of EITI Reporting. Specifically, the Board expects that an EITI Report has been published and made publically available with the first two year period.

An EITI Candidate Country that has completed Validation within two years, and has made meaningful progress in EITI Implementation without achieving Compliant status, may apply to have its Candidate status renewed, subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation. The application for extending EITI Candidature should be made following the completion of the Validation exercise, and must be endorsed by the multi-stakeholder group.

In circumstances where the Validation shows that a Candidate Country has not only made meaningful process, but can reasonably expect to achieve Compliance within a very short time, then the Board may, at its discretion, waive the requirement for a second Validation and empower the EITI Secretariat to reassess the country's status within a specific period. The Secretariat will submit its assessment to the Board for review. Where the Board is satisfied that remaining requirements have been met, the country will be designated as EITI compliant. In the interim, the country will retain its Candidate status.

In reviewing applications for renewal of Candidate status, the Board will place a priority on the need to preserve the integrity of the EITI brand and for consistency of treatment between Candidate countries. The Board is only likely to grant an application in exceptional cases where a Candidate Country's efforts to reach Compliant status within two years have been hindered by unforeseen difficulties or by constraints beyond its control.

An implementing country – via its Multi-stakeholder group – may petition the EITI Board to review its decision regarding the country designation as a Candidate or Compliant Country at any time. The Board will consider such petitions with regard to the facts of the case, the need to preserve the integrity of the EITI brand and the principle of consistent treatment between countries. The Board's decision is final.

9. The EITI Board agreed its position on *Determining the Status of Implementing Countries Following the 2-year Validation Deadline* at 5th EITI Board Meeting Madrid, 27 May 2008 (Board Paper 5-3)

FINANCING VALIDATION

Approved at the 6th EITI Board Meeting Athens, 29-30 October 2008

Guidance on Financing Validation

The report of the International Advisory Group, agreed at the Oslo International EITI Conference in October 2006 established the principle that “Validation will be paid for by the country being validated” (IAG Report p. 6.) This principle was reaffirmed by the EITI Board at its second meeting, in Berlin in April 2007.

The EITI Board again reiterates the importance of that this principle is adhered to. It is critical to the success of the EITI that implementing countries retain the ownership of the implementation of the EITI. It is also important that the multi-stakeholder nature of the EITI is upheld also in the way the Initiative is funded.

At the same, the EITI Board recognizes that there may be circumstances in which Governments may feel compelled to seek outside financial support. The EITI Board urges anyone considering providing such financial support to take the following into account:

- National ownership of EITI implementation must in no way be undermined.
 - The Board can for example not foresee any circumstances in which it would be acceptable that the contract with the validator is with anyone except the Government (or the National EITI Secretariat).
 - A potential funder of validation should seek and document assurances of Government ownership. Such ownership may for example be demonstrated through a government’s commitment to co-fund the majority of the validation.
- The respect of the EITI principles and criteria must in no way be undermined.
 - A potential funder of validation should seek and document confirmation from the EITI multi-stakeholder group that it is fully supportive of the agreement the government is seeking with potential funders.
- The EITI International Secretariat should be consulted on any proposed arrangements for financial support towards validation.

TEMPORARY SUSPENSION AND DELISTING OF EITI IMPLEMENTING COUNTRIES

Approved by the EITI Board, 17 December 2009

Introduction

This policy note establishes a procedure on how the EITI Board, in exercising its mandate established by the EITI Articles of Association¹⁰, may resolve to temporarily suspend or de-list an EITI implementing country. Implementing countries have undertaken to abide by the EITI Principles and Criteria. Where it is manifestly clear that the EITI Principles and Criteria are not in a significant aspect adhered to and honoured by an Implementing Country, the EITI Board may temporarily suspend or de-list that country.

Suspension of an Implementing Country is a temporary mechanism. The Board shall set a time limit for the implementing Country to address breaches of the EITI Principles and Criteria. If the EITI Board is satisfied that corrective measures have been undertaken in that period, the suspension will be lifted. If the matter is not resolved to the satisfaction of the EITI Board by the agreed deadline, the country will be de-listed.

Background

The EITI Association was constituted to make the EITI Principles and Criteria¹¹ the internationally accepted standard for transparency in the oil, gas and mining sectors. The EITI Board has a mandate to consider general and specific issues affecting the EITI Association (Articles of Association – Article 13(1)(i)), including establishing procedures regarding the EITI Validation process, such as complaints, resolving disagreements, and the question of de-listing a country (Articles of Association – Article 13(1)(ix)).

The EITI Principles “affirm that management of natural resource wealth for the benefit of a country’s citizens is in the domain of sovereign governments to be exercised in the interests of their national development” (Principle 2). The EITI Principles also state that “all stakeholders have important and relevant contributions to make - including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors, and non-governmental organisations”. EITI Criterion 5 requires that “Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate”. Also other EITI Criteria and EITI Principles are important yardsticks for implementing countries in relation to the issues of temporary suspension and de-listing.

Temporary Suspension and De-listing of Implementing Countries

As a custodian of the EITI Principles and Criteria, the EITI Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI.

Where the EITI Board is concerned that adherence to the EITI Principles and EITI Criteria is compromised, it shall task the International EITI Secretariat with gathering information about the situation and submit a report to the EITI Board.

Where it is manifestly clear that the EITI Principles and Criteria are not in a significant aspect adhered to by an Implementing Country, the EITI Board may temporarily suspend or de-list that country.

Temporary Suspension

Suspension of an implementing country is a temporary mechanism. The EITI Board shall set a time limit for the implementing country to address breaches of the EITI Principles and Criteria. If the EITI Board is satisfied that corrective measures have been undertaken in that period, the suspension will be lifted.

Suspended countries will be considered a “Candidate Country (suspended)” or a “Compliant Country (suspended)” for the period of suspension, with their suspended status clearly indicated, on the EITI website and elsewhere.

If the matter is not resolved to the satisfaction of the EITI Board by the agreed deadline, the country will be de-listed i.e., lose its status as an EITI implementing country.

Temporary suspension will not alter the validation deadline, unless the EITI Board agrees that an extension is warranted. The Board will not sanction the commencement of validation during the suspension period.

At all stages in the process, the EITI Board shall ensure its concerns and decisions are clearly communicated to the implementing country.

Voluntary Temporary Suspension

Countries that are experiencing exceptional political instability or conflict may apply for voluntary temporary suspension for up to one year. The Government should lodge an application for voluntary temporary suspension with the International EITI Secretariat, which will submit the application to the EITI Board for decision. The Government’s application should note the views of the EITI multi-stakeholder group (MSG). Voluntarily suspended countries will be considered as a “Candidate Country (suspended)” or a “Compliant Country (suspended)” for the period of suspension, with their suspended status clearly indicated, on the EITI website and elsewhere.

The Government may apply to lift the suspension at any time. The application should document the steps agreed by stakeholders to re-start the EITI Validation process, and the work plan to achieve compliance. The Government should lodge an application to lift a voluntary suspension with the International EITI Secretariat. The Secretariat will submit the application to the EITI Board for decision. The EITI Board will consider setting a new validation deadline. The Board will not sanction the commencement of validation during the suspension period.

If the suspension is in effect for more than one year, the EITI Board will consider whether to de-list the country.

De-listing

If an Implementing Country has been subject to voluntary suspension or temporary suspension, and the matter has not been resolved to the satisfaction of the EITI Board to the effect that such suspension has been lifted, the country will be de-listed, i.e. lose its status as an EITI implementing country. De-listing may also

occur if an implementing country does not meet the validation requirements as set out in policy note 3.

A de-listed country may reapply for admission as an EITI Candidate Country at any time. The EITI Board will apply the agreed procedures with respect to assessing Candidate applications. It will also assess previous experience in EITI implementation, including previous barriers to effective implementation, and the corrective measures implemented.

Complaints and Appeals

The Implementing Country concerned may petition the EITI Board to review its decision regarding temporary suspension or de-listing. The EITI Board will consider such petitions with regard to the facts of the case, the need to preserve the integrity of the EITI brand and the principle of consistent treatment between countries.

The country concerned may, prior to the notice periods under Article 8 of the Articles of Association, appeal a decision of the EITI Board made in accordance with the first paragraph to the next ordinary Members' Meeting.

10. Implementing countries are "states that have been classified by the EITI Board as either Candidate countries or Compliant countries" (Articles 5(2)(i) of the Articles of Association).

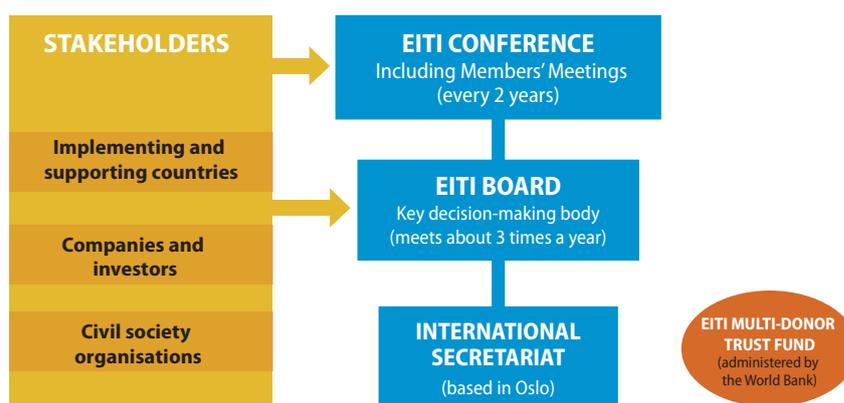
11. See pages 9 and 10 of EITI Rules, including the Validation Guide

5 EITI GOVERNANCE, MANAGEMENT AND ADMINISTRATION

The EITI has evolved from an idea into an initiative with detailed rules and procedures. The governance of the EITI itself has also evolved: following the International Advisory Group's reporting to the Global Conference in Oslo in 2006, the EITI International Board and EITI International Secretariat were both established. Since 2006, the EITI International Board has further refined the structure and is proposing that the current structure of the EITI Association as a not-for-profit organisation under Norwegian law, be altered to include member countries and supporters. As a result, a new and expanded EITI Association was adopted at the Doha Conference in February 2009.

The new arrangements will provide for the EITI to continue to hold a global conference once every two years, bringing together all stakeholders. Alongside these conferences, a smaller Members' Meeting with the three constituency groups – countries (implementing and supporting), companies (including institutional investors) and civil society organisations – will take place, with all groups equally represented. The main task of the Members' Meeting will be to appoint an EITI International Board for the next two years. Between the global conferences, the EITI International Board will continue to oversee the Initiative. The Board has 20 members, with the different constituencies being entitled to representation. The Chairman, currently Peter Eigen, should be independent. All implementing and supporting countries are entitled to be members of the EITI Association. It is up to the respective constituencies to agree among themselves their membership of the Association and who they wish to nominate to the Board.

The EITI International Secretariat will continue to operate as a not-for-profit organisation under Norwegian law, now as part of the new Association.



Articles of Association for The Extractive Industries Transparency Initiative (EITI)

Article 1	Name	48
Article 2	Background and objective	48
Article 3	Legal Person, Limited Liability	48
Article 4	Organisation	48
Article 5	Membership and Constituencies	48
Article 6	Subscription Fee	49
Article 7	The EITI Conference	49
Article 8	The EITI Members' Meeting	49
Article 9	The Functions of the EITI Members' Meeting	51
Article 10	The EITI Board	51
Article 11	EITI Observers	52
Article 12	The EITI Chair	52
Article 13	Functions of the EITI Board	52
Article 14	Committees of the EITI Board	53
Article 15	EITI Board Operations and Proceedings	53
Article 16	The EITI Secretariat	54
Article 17	The Head of the EITI Secretariat	54
Article 18	Funding	54
Article 19	EITI Accounts, Fund Management and Payments	54
Article 20	Amendments	55
Article 21	Review	55
Article 22	Withdrawal and Dissolution	55
Article 23	Entry into Force	55
Annex A	The EITI Principles	
Annex B	The EITI Criteria	
Annex C	The EITI Validation Guide	
Annex D	Memorandum of Understanding with the World Bank about the EITI Multi-Donor Trust Fund	
Annex E	Using the EITI logo	
Annex F	Draft EITI Constituency Guidelines, EITI International Secretariat, 20 January 2009	

5.1 ARTICLES OF ASSOCIATION

ARTICLE 1 NAME

- 1) The name of the association shall be “The Association for the Extractive Industries Transparency Initiative (EITI)” (hereinafter referred to as “the EITI Association”).

ARTICLE 2 BACKGROUND AND OBJECTIVE

- 1) The EITI Association is an international multi-stakeholder initiative with participation of representatives from governments and their agencies; oil, gas and mining companies; asset management companies and pension funds (hereinafter referred to as “Institutional Investors”) and local civil society groups and international non-governmental organisations.
- 2) The objective of the EITI Association is to make the EITI Principles (Annex A) and the EITI Criteria (Annex B) the internationally accepted standard for transparency in the oil, gas and mining sectors, recognising that strengthened transparency of natural resource revenues can reduce corruption, and the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries.

ARTICLE 3 LEGAL PERSON, LIMITED LIABILITY

- 1) The EITI Association is a non-profit association organised under Norwegian law (“forening”).
- 2) The Members of the EITI Association shall not be responsible, individually or collectively, for any of the EITI Association’s debts, liabilities or obligations.

ARTICLE 4 ORGANISATION

- 1) The permanent institutional bodies of the EITI Association are:
 - i) The EITI Members’ Meeting, which is held in connection with the EITI Conference;
 - ii) The EITI Board led by the EITI Chair;
 - iii) The EITI Secretariat led by the Head of Secretariat.
- 2) The EITI Board may establish committees in accordance with Article 14.

ARTICLE 5 MEMBERSHIP AND CONSTITUENCIES

- 1) A Member of the EITI Association is a personal representative of a country (meaning state), company, organisation or legal entity that is appointed by a Constituency as set out in Articles 5 (2) and (3).
- 2) The Members are organised in three Constituencies which are:
 - i) The Constituency of Countries, which comprise:
 - a) Implementing Countries, meaning states, that have been classified by the EITI Board as either Candidate Countries or Compliant Countries; and
 - b) Supporting Countries, meaning states or union of states, that support the objective of the EITI Association.
 - ii) The Constituency of Companies, which comprise:
 - a) Companies in the extractive sector that have committed to support the objective of the EITI Association and associations representing these companies; and

5.1 ARTICLES OF ASSOCIATION

- b) Institutional Investors that have committed to support the objective of the EITI Association.
 - iii) The Constituency of Civil Society Organisations, which comprise non-governmental organisations, global action networks or coalitions that support the objective of the EITI Association.
- 3) Each Constituency decides on its rules governing appointments of Members of the EITI Association. The Membership shall be limited to the following:
- i) From the Constituency of Countries, up to one representative from each Implementing Country and each Supporting Country (or their unions);
 - ii) From the Constituency of Companies, up to one representative from each company and associations representing them, and a maximum of five representatives from Institutional Investors;
 - iii) From the Constituency of Civil Society Organisations, up to one representative from each Civil Society Organisations.
- 4) A Constituency may replace any of its own appointed Members at any time. The Constituency shall inform the EITI Secretariat of its Members at any time.
- 5) The EITI Board may terminate any Member's Membership of the EITI Association if:
- i) The Member, or the country or other entity the Member represents, does not comply with these Articles of Association; or
 - ii) The Member, or the country or other entity the Member represents, has conducted his/her/ its affairs in a way considered prejudicial or contrary to the EITI Principles.
- 6) A resolution by the EITI Board in accordance with Article 5 (4) may be appealed by any Member to the Members' Meeting for final decision.

ARTICLE 6 SUBSCRIPTION FEE

- 1) There is no subscription fee for Members.

ARTICLE 7 THE EITI CONFERENCE

- 1) An EITI Conference shall be held every two years in order to provide a forum for EITI stakeholders, being all with an interest in the EITI Association, to further the objective of the EITI Association and to express their views on the policies and strategies of the EITI Association. The EITI Chair shall act as chairman for the Conference. The EITI Conference is a non-governing body of the EITI Association.
- 2) The EITI Members, the EITI Board and the EITI Secretariat have the right to attend or be represented at the EITI Conference. Other EITI stakeholders should also be invited, in each case, to the extent that it is reasonably practical to make arrangements in order to do so as decided by the EITI Board.
- 3) The EITI Conference shall be summoned by the EITI Board on the EITI website and by written notice to the Members and Constituencies with at least four weeks notice. The written notice shall include the agenda of the EITI Conference.
- 4) The EITI Conference shall:

5.1 ARTICLES OF ASSOCIATION

- i) Provide an important and visible platform for debate, advocacy, continued fund raising, and inclusion of new EITI stakeholders;
 - ii) Review progress based on the activity report for the preceding two year period;
 - iii) Provide suggestions to the EITI Board as to the activities of the EITI Association for the next two years;
 - iv) Mobilise and sustain high level coordination, political commitment and momentum to achieve the objective of the EITI Association; and
 - v) Provide an informal communication channel for those EITI stakeholders who are not formally represented elsewhere in the governance structure of the EITI Association.
- 5) Views on the issues set out in Article 7 (4) above may be expressed in a non-binding Statement of Outcomes which should be agreed upon by the EITI Conference and communicated to the EITI Members' Meeting and the EITI Board. The EITI Conference shall make every effort to adopt resolutions by consensus. Taking account of the view of the EITI stakeholders, the EITI Chair may decide that a vote is required. Every EITI stakeholder, except the Members of the EITI Board in this capacity and the Secretariat, has one vote. Resolutions of the EITI Conference are adopted by simple majority of those present and voting.

ARTICLE 8 THE EITI MEMBERS' MEETING

- 1) The governing body of the EITI Association is the EITI Members' Meeting.
- 2) The EITI Members' Meeting is comprised of the Members of the EITI Association.
- 3) The ordinary EITI Members' Meeting shall be held every two years in connection with the EITI Conference. The ordinary EITI Members' Meeting shall be summoned by the EITI Board to the Members with at least four weeks written notice.
- 4) An Extraordinary Members' Meeting may be summoned by the EITI Board to the Members with at least three weeks written notice. The EITI Board shall ensure that an Extraordinary Members' Meeting shall be held within four weeks of the receipt by the EITI Chair of a request to hold an Extraordinary Members' Meeting.
- 5) Members who wish to take part in an EITI Members' Meeting, must give notice to the EITI Secretariat by the date stated in the summons. A Member may be represented in the EITI Members' Meeting by written proxy. The proxy may also include specific voting instructions. A duly signed proxy must be received by the EITI Secretariat by the date stated in the summons.
- 6) The EITI Chair shall act as chairman for the EITI Members' Meeting.
- 7) The quorum of a Members' Meeting shall be a minimum of half of the, Members, and must include at least one third of the Members from each Constituency.
- 8) The Members' Meeting shall make every effort to adopt resolutions by consensus. If a vote is required, resolutions are adopted by qualified majority requiring the support of at least two thirds of the total votes cast and must include the support of at least one third of the votes cast by the Members representing each Constituency. The total number of votes for the Members of each Constituency shall be equal and be determined as follows:
 - i) Members from the Constituency of Countries shall have one vote each; and
 - ii) The votes for Members from the Constituency of Companies and the Constituency of Civil

5.1 ARTICLES OF ASSOCIATION

Society Organisations shall be determined by dividing the total of Country votes by the number of Members of the Company and Civil Society Constituencies respectively.

- 9) The EITI Chair shall announce the number of votes for each Member from the different Constituencies prior to voting.

ARTICLE 9 THE FUNCTIONS OF THE EITI MEMBERS' MEETING

- 1) The EITI Members' Meeting shall:
 - i) Approve the activities report, the accounts and the activity plan of the EITI Board;
 - ii) Elect the Members, and Alternates for each Member, of the EITI Board, on nomination from the Constituencies;
 - iii) Elect the EITI Chair, on proposal of the EITI Board; and
 - iv) Consider any other matters pursuant to requests from a Member. Such requests shall be submitted in writing to the EITI Chair in time for any such matters to be included in the agenda for the EITI Members' Meeting stated in the summons.

ARTICLE 10 THE EITI BOARD

- 1) The executive body of the EITI Association is the EITI Board, elected by the EITI Members' Meeting and operating under the guidance from the EITI Members' Meeting.
- 2) In order to reflect the multi-stakeholder nature of the EITI Association, the EITI Board shall consist of 20 EITI Board Members ("Board Members") and shall be made up as follows:
 - i) A Chair;
 - ii) 8 Board Members being Members of the EITI Association from the Constituency of Countries, of which a maximum of 3 Board Members should represent Supporting Countries and the remainder should represent Implementing Countries. When possible, Implementing Countries should be represented by at least 3 Compliant Countries.
 - iii) 6 Board Members being Members of the EITI Association from the Constituency of Companies, of which a maximum of 1 should represent Institutional Investors.
 - iv) 5 Board Members being Members of the EITI Association from the Constituency of Civil Society Organisations.
- 3) All Board Members retire with effect from the conclusion of the ordinary EITI Members' Meeting held subsequent to his or her nomination, but shall be eligible for re-nomination at that EITI Members' Meeting.
- 4) In the case of a vacancy on the EITI Board between two EITI Members' Meetings, this vacancy shall be filled with the Board Member's Alternate from the Constituency of the Board Member that no longer holds office. If there is no Alternate, the relevant Constituency may nominate a new Board Member and Alternate to be elected by the Board.
- 5) The Constituencies may nominate, and the EITI Members' Meeting may elect, one alternate Board Member (an "Alternate") for each Board Member that the Constituency has nominated. An Alternate may deputise for the Board Member. If there is no Alternate, the relevant Constituency shall nominate a new Board Member and Alternate.
- 6) If a Board Member is absent from a Board Meeting, that Board Member's Alternate may attend,

5.1 ARTICLES OF ASSOCIATION

participate in discussions, vote and generally perform all the functions of that Board Member in the Board Meeting.

- 7) The EITI Association shall obtain liability insurance for Board Members. The terms and conditions should be approved by the EITI Board.

ARTICLE 11 EITI OBSERVERS

- 1) Representatives from relevant international organisations, such as the World Bank, the International Monetary Fund and other relevant stakeholders, should be invited by the EITI Board to attend EITI Board Meetings and Members' Meetings as observers, when this can be practically accommodated. They have no voting rights, but may be invited to express their views on specific matters. The EITI Board may decide that certain items should be discussed without observers present.

ARTICLE 12 THE EITI CHAIR

- 1) The EITI Chair shall be elected at the ordinary EITI Members' Meeting. The EITI Board shall, prior to each ordinary EITI Members' Meeting, recommend a candidate for the EITI Chair for the two-year period following that EITI Members' Meeting. The term of an EITI Chair's may be renewed once.
- 2) The EITI Chair shall:
 - i) Act as chairman of the EITI Members' Meeting;
 - ii) Act as chairman of the EITI Board Meeting;
 - iii) Present the EITI Board report to the EITI Conference and the EITI Members' Meeting;
 - iv) Represent the EITI Board in external matters;
 - v) Follow-up with the EITI Secretariat regarding the implementation of the resolutions of the EITI Board; and
 - vi) Seek to foster collaborative relationships between EITI stakeholders.
- 3) If the EITI Chair is unable to preside over a Board Meeting, the Board Members present may appoint another Board Member to chair that Meeting.

ARTICLE 13 FUNCTIONS OF THE EITI BOARD

- 1) The EITI Board is the executive body of the EITI Association and shall act in the best interests of the EITI Association at all times. The EITI Board shall exercise the executive powers of the EITI Association subject to the resolutions of the EITI Members' Meeting, including the following key functions:
 - i) Consider general and specific policy issues affecting the EITI Association;
 - ii) Agree on the work plans and budget of the EITI Association;
 - iii) Agree on the arrangements for the EITI Conferences and the EITI Members' Meetings;
 - iv) Present (through the EITI Chair) the activity report and the activity plan to the EITI Conference and obtain approval of the same from the EITI Members' Meeting;
 - v) Present (through the EITI Chair) the annual accounts and the audit reports for the accounting periods since the last ordinary EITI Members' Meeting;

5.1 ARTICLES OF ASSOCIATION

- vi) Engage the Head of the Secretariat;
- vii) Oversee and direct (through the EITI Chair) the work of the EITI Secretariat;
- viii) Ensure that the multi-stakeholder nature of the EITI Association is maintained and fully reflected in the EITI Association at all levels, including in its Committees;
- ix) Establish its procedures regarding the validation process, including complaints, resolving disagreements, the question of de-listing a country and appeal procedures;
- x) Adopt more detailed procedures and rules for the management and operation of the EITI Association including the contents of country work plans and company work plans, the validation process, the management of funds, payments for projects, goods and services, auditing and reporting and the approval of projects; and
- xi) Recommend a candidate for the EITI Chair prior to each ordinary EITI Members' Meeting.

ARTICLE 14 COMMITTEES OF THE EITI BOARD

- 1) The EITI Board may create committees to further specific issues. Any such committee should include two or more Board Members or their Alternates, and its composition should, as far as is reasonable, reflect the multi-stakeholder nature of the EITI Association. The terms on which any such committee shall operate should be recorded in the Minute Book.

ARTICLE 15 EITI BOARD OPERATIONS AND PROCEEDINGS

- 1) The EITI Board should meet at least twice a year. If the circumstances so necessitate, EITI Board Meetings can be held by simultaneous telephone conference. At least one EITI Board Meeting per year shall be in person.
- 2) A Board Meeting shall be convened by written notification from the EITI Chair with at least 14 days notice. Any shorter period of notice requires the written consent of all Board Members.
- 3) Board Members shall make every effort to adopt resolutions by consensus. Taking account of the view of the Board Members, the EITI Chair may decide that a vote is required. Every Member of the EITI Board has one vote. In case of a tie, the Chair has the casting vote. Voting can be done by written proxy.
- 4) No resolution may be made by a Board Meeting unless a quorum is present at the time of passing the resolution. At least two-thirds of the Board Members, with at least two Board Members from the Constituency of Countries (one Implementing Country and one Supporting Country), one Board Member from the Constituency of Civil Society Organisations and one Board Member from the Constituency of Companies, establish a quorum.
- 5) If a vote is required, resolutions are adopted by a qualified majority requiring 13 votes to be cast in favour of the resolution, and must include the support of at least one third of the votes of the Board Members from each Constituency.
- 6) A Board Member shall not vote in respect of any matter or arrangement in which he or she is directly interested, or if there are any other special circumstances which are apt to impair confidence in his or her impartiality. A Board Member shall declare such interests in writing to the EITI Board as soon as possible after he or she becomes aware of the same. A Board Member shall not be counted in the quorum present when any resolution is made about a matter which that Board Member is not entitled to vote upon.

5.1 ARTICLES OF ASSOCIATION

- 7) The EITI Board may establish procedures regarding decision-making processes outside Board Meetings.
- 8) The EITI Association can be committed externally by the joint signature of all Board Members. The EITI Board may elect two or several Board Members to carry the right of signature, of which any two can sign jointly.

ARTICLE 16 THE EITI SECRETARIAT

- 1) The EITI Secretariat (“the Secretariat”) shall consist of the Head of Secretariat and other necessary staff. The members of the Secretariat shall be either contracted directly or seconded by EITI Members.
- 2) The Secretariat shall be responsible for the day-to-day running of the EITI Association under the direction of the EITI Board through its Chair.
- 3) The Secretariat shall keep an updated Members’ Registry at all times.
- 4) The Secretariat shall keep a record of these Articles of Association and any amendments thereto.
- 5) The Secretariat shall keep Minutes of all EITI Board Meetings, Members’ Meetings and meetings of the EITI Conference in a Minute Book. All such Minutes shall be published on the EITI website. Such Minutes shall record the names of those present, the resolutions made at the meetings and, where appropriate, the reasons for the resolutions.

ARTICLE 17 THE HEAD OF THE EITI SECRETARIAT

- 1) The Secretariat shall be led by a full-time Head of Secretariat who will manage the day-to-day running of the EITI Association, including the selection of necessary staff, oversee development of the EITI Association and provide support to the EITI Board. The Head of Secretariat shall report to EITI Board through the Chair and be responsible for the activities of the Secretariat.
- 2) The Head of Secretariat, or his appointee from the Secretariat, shall serve as Secretary to all EITI Board Meetings, EITI Members’ Meetings and EITI Conferences.

ARTICLE 18 FUNDING

- 1) The EITI Association is a non-profit association. Its funds consist of voluntary contributions from EITI Members and grants from bilateral and multilateral donors, international financial institutions and other agencies, organisations and entities.
- 2) The EITI Association may also operate through voluntary contributions in kind.

ARTICLE 19 EITI ACCOUNTS, FUND MANAGEMENT AND PAYMENTS

- 1) The EITI Association holds a separate bank account in its own name, the “EITI International Management Account”. The EITI Board may elect two or several Board Members to carry the right of signature, of which any two can sign jointly. The EITI International Management Account can be used for any activity falling within the objectives of the EITI Association and the work plans approved by the EITI Board. The funds may be applied to administration and governance costs, country-specific activities and multi-country activities.

5.1 ARTICLES OF ASSOCIATION

- 2) The EITI Board shall appoint an external, independent auditor to annually audit the EITI International Management Account, and to present a written audit report to the EITI Board. The EITI Board shall develop reporting and auditing arrangements with respect to the EITI International Management Account which shall be set forth in the supplementary operating rules and procedures of the EITI Association.

ARTICLE 20 AMENDMENTS

- 1) These Articles of Association may be amended by the EITI Members' Meeting convened and held, pursuant to Article 8 by approval of at least two-thirds of the Members present. A proposal for an amendment shall be communicated in writing to all EITI Members four weeks in advance of the relevant resolution.

ARTICLE 21 REVIEW

- 1) A review of the governance arrangements of the EITI Association should be undertaken by the EITI Board within two years of the constitution of the Association.

ARTICLE 22 WITHDRAWAL AND DISSOLUTION

- 1) Any Member may withdraw from the EITI Association at any time. Such withdrawal shall become effective upon receipt of a written notification of withdrawal by the Head of Secretariat.
- 2) The EITI Association may be dissolved by the Members' Meeting in accordance with the provisions of Article 8. A proposal for dissolution shall be communicated in writing to all EITI Members four weeks in advance of the relevant resolution.
- 3) In the event of a dissolution, the assets of the EITI Association shall be applied to similar objectives to those of the EITI Association and as determined by the EITI Board subject to the approval of the EITI Members' Meeting.

ARTICLE 23 ENTRY INTO FORCE

- 1) These Articles of Association shall enter into force upon the constitution of the EITI Association.

5.1 ARTICLES OF ASSOCIATION

ANNEXES

ANNEX A The EITI Principles

As per section 1 in this publication.

ANNEX B The EITI Criteria

As per section 2 in this publication.

ANNEX C The EITI Validation Guide

As per section 3 in this publication.

ANNEX D Memorandum of Understanding with Multi-Donor Trust Fund

Available online: <http://www.eiti.org/files/page/EITI%20MOU%20-%202027Mar2008.pdf>

ANNEX E Using the EITI Logo

See below.

ANNEX F Draft EITI Constituency Guidelines, EITI International Secretariat, 20 January 2009

See next below.

ANNEX E

USING THE EITI LOGO

The EITI name and logo are the property of the EITI Board, though partners and local networks are encouraged to use it or derivatives in order to promote the Initiative. Using the EITI logo can help a national EITI programme by being identified with the international EITI movement. Because EITI has internationally agreed standards, independent governance, and a validation process to monitor country implementation of the Initiative, using the logo to make the link between national and international EITI programmes can be beneficial for implementing countries. More information on using the EITI Logo can be found at <http://www.eiti.org/about/logopolicy>

The EITI Logo



5.1 ARTICLES OF ASSOCIATION

ANNEX F

DRAFT EITI CONSTITUENCY GUIDELINES, EITI INTERNATIONAL SECRETARIAT, 20 JANUARY 2009

Background

The report of the International Advisory Group, as adopted by the Oslo Conference in October 2006 agreed that a 20 person Board would be established at Oslo to serve until the next EITI Conference. The Board consists of:

- The Chair
- 5 representatives of implementing countries;
- representatives of donors;
- representatives of NGOs;
- companies; and
- 1 investor.

Everyone other than the Chair is invited to have an alternate. It was agreed that each of the constituencies would determine how they wish to agree nominations.

A proposal for the legal incorporation of the EITI Board and Secretariat will be considered by an EITI Members' Meeting in Doha in February 2009. The proposal draws extensively on the report of the International Advisory Group. It is suggested that the different stakeholders are represented in the same way as is the case today.

According to the IAG Report 'Each of the constituencies should agree how they wish to be represented on the proposed Board. This requires prior consideration by each constituency of how they define those eligible (i) to be selected as representatives; and (ii) to be involved in the selection process'.

Guidelines

Recognising the important principle that the EITI's various constituencies have the right to determine their own internal processes, this document offers some guidelines of the internal working of constituency processes.

The constituencies are defined in the EITI Articles of Association, which also determine the size of the constituencies' membership on the association and the number of seats on the EITI Board. (Much of the inspiration and language in these guidelines has been taken from the Global Fund to Fight AIDS, Tuberculosis and Malaria's guidelines on constituency processes.)

Some of the EITI constituencies, not least the company constituency, are informally sub-divided. Currently, for

example, mining companies organise themselves relatively independently from the oil and gas companies. The following principles should apply to the processes applied by these sub-sets.

- The processes the different constituencies follow should be open and transparent.
- Information on the processes should be made available on the EITI website, including a contact person for any stakeholder wishing to be involved.
- The process should be flexible and open to new members. The constituencies should bear in mind the need to balance the need for continuity against the need for renewal and broadening of the ownership of the EITI.
- Recognising the important role the Board has for the EITI, countries and organisations are encouraged to be represented at senior level.

The constituencies are urged to bear in mind how important it is that the EITI Association and Board are representative of all of the EITI's stakeholders. It is, for example, expected that countries from different regions and companies and civil society organisations with strong links to different regions, are represented. While it may not be possible to determine that an international body such as the EITI Board be gender balanced, the constituency groups are encouraged to ensure that both genders are adequately represented.

Specifically, for the various constituency groups:

Countries

EITI Member Association

All implementing and supporting countries are entitled to become members of the Association.

The EITI Board

- *Implementing countries:* Board members might be selected from the governments of those countries who are 'demonstrably implementing EITI' i.e. invite representatives from countries that have produced at least one EITI report within the last twelve months (this wording was drawn from 5th IAG meeting minutes). As far as possible, the representation should also reflect both a geographical and sectoral distribution. A system of sub-constituencies might be considered to ensure that all implementing countries' views are represented.

5.1 ARTICLES OF ASSOCIATION

ANNEX F continued

- *Supporting Countries:* Board members should be selected from the government of those countries who are demonstrably giving financial, political, or technical support to EITI implementation. The supporting countries should consider a sub-constituency approach which will engage other supporting countries as they join the EITI family. It is hoped that some emerging economies might join this group over the next two years.

Civil Society Organisations

EITI Member Association

All Civil Society Organisations are entitled to become members of the Association.

The EITI Board

Board members should be selected from those who have actively supported EITI implementation – either at the international level or in-country.

The Publish What You Pay Coalition have conducted a consultation with their members about how selection for this constituency will be managed. Those civil society representatives interested in being represented on the EITI Association or Board are encouraged to contact the Publish What You Pay coalition.

Companies

EITI Member Association

All companies supporting the EITI and up to five institutional investors are entitled to become members of the Association.

The EITI Board

There are four broad categories of companies represented in the EITI company constituency: oil and gas companies, mining companies, state-owned companies and institutional investors.

ExxonMobil and Shell were in 2008 represented oil and gas companies on the Board, with Chevron and Total as alternates. These companies are encouraged to liaise with other international oil companies to agree representation for the Association and for the appointment of the next Board.

AngloAmerican and the International Council on Mining and Metals have in 2008 represented mining companies, with Areva as an alternate. These companies and the ICMM are encouraged to liaise with other mining companies to agree representation for the Association and for the appointment of the next Board.

PEMEX have represented national companies, with Petrobras as its alternate. These companies are encouraged to liaise with other mining companies to agree representation for the Association and for the appointment of the next Board.

F&C Asset Management were in 2008 representing institutional investors on the Board, recently with Standard Life as an alternate. These investors are encouraged to liaise with other investors to agree representation for the Association and for the appointment next Board.

The Secretariat remains available to facilitate all nomination processes.

Grievances

If an EITI stakeholder wishes to complain about the processes his/her constituency has followed to agree its representation on the EITI Association or Board, those complaints should firstly be directed towards the members of that constituency. If a satisfactory solution cannot be agreed, a written report should be made to the EITI International Secretariat. Within three weeks of receiving such a report, the Secretariat will investigate the complaint and make a report of its findings to the EITI Board.

The Extractive Industries

Transparency Initiative (EITI) is a globally developed standard that promotes revenue transparency at the local level. It is a coalition of governments, companies, civil society, investors and international organisations. Through robust yet flexible methodology company payments and government revenues from oil, gas and mining are published and discrepancies are reduced. Although the EITI Board and the International Secretariat are the custodians of the EITI process, implementation takes place at the country level, in a process that emphasises multi-stakeholder participation. www.eiti.org

