

# Scope of refinements to the EITI Standard

## For decision

The Implementation Committee recommends that the Board adopts the scope of refinements to the EITI Standard and convenes the Board working group on refinements.

The paper summarises the findings of the Secretariat-led consultations on the scope of refinements to the EITI Standard. Based on the findings, it recommends issues (A) to be included in the scope of refinements and (B) to be further considered by the working group. It also recommends the development of a standardised alternative procedure for ensuring data quality.

The paper also includes an updated annex on the Draft Terms of Reference Working Group on Refinements to the EITI Standard.

# Scope of refinements to the EITI Standard

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### Supporting documentation

Responses to the consultation on the scope of refinements to the Standard (link to internal folder [here](#))

### Has the EITI competence for any proposed actions been considered?

The Articles of Association (Article 12) mandate the Board to consider general and specific policy issues affecting the EITI Association, to monitor and support implementation, and to adopt more detailed procedures and rules for the management of the EITI Association.

### Financial implications of any actions

There are no immediate financial implications to this paper. The scope of refinements may affect the future cost of EITI implementation

### Document history

Submitted to the Implementation Committee	5 May 2022
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Submitted to the Board	2 June 2022

## 1 Recommendation

The key issues raised during the consultations are grouped into two categories. Category (A) consists of issues that received broad support in the consultation across constituencies. The second category (B) consists of issues that were raised by several respondents but received less frequent or consistent support from stakeholders. In addition, a recommendation is included on developing an alternative procedure for assuring data quality from the International Secretariat. The paper concludes with issues which may be de-prioritized within the scope of refinements to the EITI Standard. In considering refinements, the working group is expected to consider current implementation challenges related to existing requirements

- A. Based on the consultation, the Implementation Committee recommends that the Board includes in the scope of refinements the following areas:
- Adjustments to existing EITI provisions to support disclosures and public debate related to the impact of the energy transition on implementing countries, including changing demand for fossil fuels and critical minerals;
  - Reflecting anti-corruption explicitly in the objectives and text of relevant EITI Requirements;
  - Adjustments to existing EITI provisions promoting gender equality;
  - Including the objective of each EITI Requirement in the EITI Standard;
  - Clarifying the distinction between encouraged, expected and required provisions.
- B. Based on the consultation, the Implementation Committee recommends that the Board mandates the working group to further consider whether refinements should include the following areas:
- Disclosures related to (1) reserves, as well as scope 1, 2 and 3 emissions from fossil fuel production in implementing countries and (2) progress in meeting Nationally Determined Contributions as per the Paris Agreement, considering existing reporting standards and practices and potential for the EITI to add value to existing reporting standards;
  - Refinements to relevant EITI provisions that strengthen anti-corruption efforts;
  - Adjustments to relevant requirements to include information about the policies and practices related to combatting illicit financial flows including tax avoidance and monitoring the costs of extractive companies; These requirements could be reviewed with a view of streamlining reporting to reduce the reporting burden while achieving the main objectives;
  - Strengthening Requirement 3.2 on production and Requirement 3.3 on exports to improve disaggregation, data quality and data usability;
  - Adjustments to Requirement 4.8 to improve data timeliness.

Additionally, based on the consultation, the Implementation Committee recommends that the Board mandates the Secretariat to produce for the Board's consideration an alternative procedure for data quality assurance that builds on the experiences from flexible reporting and the pilot on alternative approaches to reporting.

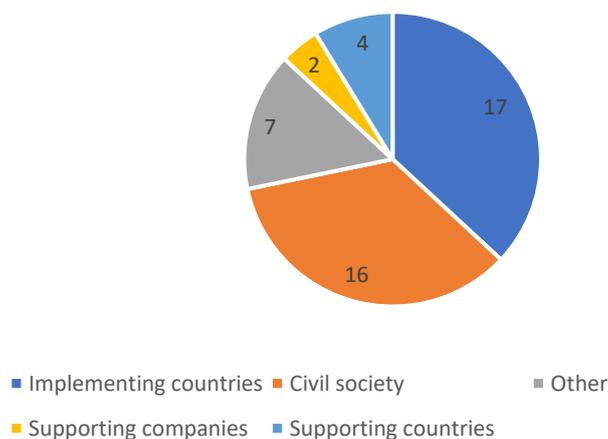
## 2 Background

The 2023 EITI Global Conference and the associated Members' Meeting represent an opportunity to refine the EITI Standard. At its 52<sup>nd</sup> meeting in February 2022, the Board mandated the Secretariat to develop the scope of refinements to the EITI Standard ahead of the 53<sup>rd</sup> Board meeting in June. A Board working group on the refinements would be established following the June Board meeting to take this work forward.

At the February Board meeting, it was agreed that consultations should be undertaken with relevant constituencies and stakeholders. In March, the Secretariat invited the Implementation Committee's input to the consultation plan (IC Paper 25-1). The consultation was launched on 1 April and closed on 22 April. It was shared with constituency coordinators, published on the EITI website, and publicised in the EITI newsletter.

In total, 46 responses were received. In addition, the International Secretariat organised regional consultation calls for National Coordinators from all six regions. All responses and the notes from the regional call are available on the internal website ([here](#)). The diagram below demonstrates the number of responses from each constituency.

Responses by constituency



The number of consulted stakeholders is significantly higher than the number of respondents, as some responses collated the views of several individuals or organisations. The number of National Coordinators who participated in the regional consultation meetings is not reflected either. There was a lower response rate from companies, with the two industry responses submitted by individual companies following engagement by the Secretariat.

This paper reflects findings from the responses to the consultation. It is structured according to the consultation themes. The paper seeks to balance views presented by different respondents and does not cover all suggestions put forward in the consultation. During the consultation, implementing countries and companies noted that significant revisions of the requirements were not desirable or manageable and that the focus should be on refinements to the Standard. Civil society noted that meaningful refinements were needed to ensure the EITI Standard is relevant to

the pressing sector governance challenges in resource-rich countries.

### 3 Energy transition

Across constituencies, respondents recognised the significance of the energy transition to the EITI's relevance and mission. There is broad support for reflecting the energy transition in the EITI Standard, although there are different views about what the scope should be.

The broadest support was expressed for refinements that would address how changes in the energy mix affect implementing countries. There is demand for disclosures that enable public debate about how the transition will affect resource-rich countries, including both corruption risk and the impact on revenues and social and environmental impacts. These relate to both the shifting demand for fossil fuels, as well as rising demand for critical minerals. Consulted stakeholders flagged opportunities related to disclosures, as well as stakeholder engagement. Some noted that existing EITI Requirements already applied to critical minerals. It is not proposed that critical minerals be defined in the Standard, as definitions may vary by country and the EITI Standard applies to all mineral resources.

*Based on the consultation, the Committee suggests that the Board includes the impact of the energy transition on implementing countries in the scope of refinements to the Standard.*

Consensus on reporting related to emissions and national efforts to meet climate targets was less clear, although these topics were also mentioned frequently by different constituencies. Several stakeholders mentioned the importance of aligning EITI provisions with existing reporting standards and practices related to the energy transition, including TCFD, OECD Policy Dialogue on Natural Resource-based Development, upcoming SEC rulings, GRI standards, [WEC 'trilemma' assessments](#) and/or WEF Energy Transition Index. Some stakeholders also called for both current emissions and current reserves disclosures by project, with a view toward understanding future emissions by project based on the emissions embedded in reserves disclosures.

*Based on the consultation, the Committee suggests that the Board mandates the working group to consider whether refinements should include disclosures related to (1) reserves, as well as scope 1, 2 and 3 emissions from fossil fuel production in implementing countries and (2) progress in meeting Nationally Determined Contributions as per the Paris Agreement and other climate/decarbonisation targets, considering existing reporting standards and practices and potential for the EITI to add value to existing reporting standards.*

Consulted implementing country representatives stressed that any provisions related to energy transition should first be encouraged rather than required. Many noted that they were already experiencing challenges in effectively implementing the EITI Standard and faced capacity and resource constraints. Supporting countries also raised this issue. The discussion on energy transition is only getting started in many producing countries. Supporting countries noted that refinements should be balanced with implementing countries' capacity challenges. Civil society inputs emphasised that requests for inclusion of requirements on energy transition had been made already in consultations on the 2016 Standard.

## 4 Anti-corruption

Respondents across constituencies highlighted that anti-corruption was at the core of much of EITI's work and mandate. The implementation of the 2019 EITI Standard was already contributing to anti-corruption efforts through Requirements on contract disclosure and beneficial ownership transparency. Some implementing countries noted that EITI's work on corruption should be complementary to the work of national anti-corruption institutions. Some civil society, implementing country and supporting country stakeholders noted that the EITI could include disclosures related to existing anti-corruption efforts and oversight mechanisms.

Stakeholders flagged sensitivities and legal risks related to directly addressing corruption. Some noted that there were further opportunities to use EITI data to identify corruption risks and practices, using for example beneficial ownership data and licensing information. Several stakeholders supported reflecting anti-corruption explicitly in the objective of EITI Requirements that contribute to anti-corruption efforts. Implementing countries also described how EITI was already collaborating with anti-corruption institutions in their countries. This could be reflected in requirements related to planning and outcomes. Recommendations from the expert groups on anti-corruption in critical mineral supply chains being convened by EITI, NREGI & OECD can provide useful technical input into considerations on refinements.

*Based on the consultation, the Committee suggests that the Board includes in the scope of refinements (1) reflecting anti-corruption in the objectives of relevant EITI Requirements, and (2) consideration for strengthening references to anti-corruption efforts in Requirements 2.1 (legal framework), 1.5 (work plan), 7.1 (public debate) and/or 7.4 (review of outcomes and impact). If the Board agrees to define the objective of each EITI requirement in the Standard, anti-corruption could be reflected in the objectives of, for example, Requirement 2.2 on license allocation, Requirement 2.4 on contract transparency and Requirement 2.5 on beneficial ownership as well as 4.1.*

Especially civil society respondents proposed strengthening existing provisions related to SOEs, licensing, beneficial ownership, local procurement and contract transparency. *Based on the consultation, the Committee suggests that the Board mandates the working group to consider whether Requirement 2.6.b and/or c should be upgraded from expected/encouraged provisions to required provisions. The working group may also wish to consider adjustments to other relevant EITI provisions.*

## 5 Revenue collection

This section draws together views related to domestic resource mobilisation, systematic disclosures and data quality, as these were frequently linked in the responses. Respondents recognised that improving revenue collection and domestic resource mobilisation was at the core of the EITI's mandate.

Many respondents considered systematic disclosures as the key avenue to improving data timeliness and the usability of data for analysis. Implementing countries generally considered that EITI provisions sufficiently enabled and encouraged systematic disclosures, but lack of capacity and resources was a challenge. Both implementing country and civil society respondents noted

the importance of strengthening the quality and disaggregation of production and export data disclosures.

Some respondents noted that the EITI could shed light on existing laws and practices for ensuring tax compliance. Increasing transparency regarding extractive companies' costs was also mentioned by some implementing country and civil society respondents. Questions were also raised about the inclusion of tax transparency and overlap with public country by country reporting, which has become increasingly common across the extractive sectors. Supporting countries raised the importance of collaborating with other actors in the field, including development partners.

*Based on the consultation, the Implementation Committee recommends that the Board mandates the working group to consider (1) adjusting Requirement 2.1 to include information about any preferential tax treatment and the policies and practices related to combatting tax avoidance and evasion, through for example monitoring the costs of extractive companies, (2) strengthening Requirement 3.2 on production and Requirement 3.3 on exports to improve disaggregation, data quality and data usability, and (3) adjusting Requirement 4.8 to improve data timeliness. The working group may identify other opportunities for refinements that have the potential to strengthen revenue collection.*

There were both calls to expand flexible reporting and to maintain reconciliation as the default approach. Suggestions on data quality procedures included, for example, risk-based assessments and unilateral disclosure. Some implementing country stakeholders and partners noted that flexible reporting was more affordable than reconciliation.

*Based on the consultation, the Implementation Committee recommends that the Board mandates the Secretariat to produce for the Board's consideration an alternative procedure for data quality assurance that builds on the experiences from flexible reporting and the pilot on alternative approaches to reporting. This would not necessarily require changes to Requirement 4.9 on data quality.*

## 6 Gender

Consulted stakeholders across constituencies recognised the importance of increasing gender equality within the extractive sector and in the EITI more specifically. Respondents highlighted progress made by implementing countries since the adoption of the 2019 EITI Standard. Respondents from all constituencies considered further work on gender equality to be important.

*Based on the consultation, the Committee suggests that the Board includes adjustments to EITI provisions that promote gender equity in the scope of the refinements. To identify refinements that would have the highest impact on gender equality and to take into account both intersectional considerations and implementing countries' capacity challenges, it is proposed that the working group reviews opportunities for refinements across the Standard in line with the EITI Principles and mandate. This could involve, for example, further disaggregation of disclosures, gender quotas or increased emphasis on monitoring gendered impacts of implementation, gendered impacts of social and environmental expenditures, or community-level reporting. The working group may also define areas that would be better addressed through enhanced support*

and guidance, rather than adjustments to the Standard.

## 7 Logic and accessibility

Most respondents who commented on the issue, supported including the objective of each EITI Requirement in the Standard. Currently the Validation Guide<sup>1</sup> includes the objectives for Validation purposes.

Diverging views were expressed on whether the Standard should continue to follow the value chain or if it should be reorganised thematically.

Several respondents commented that the distinction between encouraged, expected and required provisions should be clarified. In particular, the Standard has varying terminology for each of these categories and the significance of the varying terms for country Validation is not immediately clear.

*Based on the consultation, the Implementation Committee recommends that the Board includes in the scope of refinements (1) explicitly stating the objective of each EITI Requirement, and (2) clarifying the distinction between encouraged, expected and required provisions.*

## 8 Other areas for consideration

Based on the consultation, refinements in the following areas were not considered a priority for refinements to the Standard during the consultation and could be addressed through alternative means within the planned work of the International Secretariat:

- Renewable energy;
- The scope of the required elements of Requirement 2.4 on contract transparency and Requirement 2.5 on beneficial ownership transparency;
- Refinements that relate to disclosures on suppliers and contractors.

There were few comments related to the inclusion of renewable energy in the EITI Standard. *Based on the consultation, the Committee suggests that while this issue is of growing relevance to the EITI, the Board does not prioritise renewable energy in the refinements to the Standard.* This does not exclude references to renewable energy being part of refinements on prioritised topics (e.g., in reporting on energy transition plans or anti-corruption efforts), nor further policy work, implementation support and company outreach efforts related to renewable energy.

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<sup>1</sup> <https://eiti.org/guidance-notes/validation-guide>

Implementing country respondents highlighted the challenges they were facing in implementing Requirement 2.5 on beneficial ownership and Requirement 2.4 on contract transparency. Civil society respondents suggested adjustments to these requirements to increase their comprehensiveness and data quality. The Secretariat is undertaking efforts to support implementation in these areas and recognises the implementation challenges mentioned by implementing countries, which are also reflected in Validation results. It is proposed that any refinements to these requirements are primarily limited to clarifications and possible refinements to encouraged elements.

The consultation sought views on whether the EITI Standard should include provisions related to suppliers and contractors. There were limited comments on this. However, inclusion was advocated in a number of civil society submissions, and mentioned by some supporting and implementing country respondents. Overall, the consultation suggests that adjusting EITI provisions to include supplier and contractor transparency is not among the highest priorities for constituencies at this time compared to other topics. Further work in this area could be done through other means such as pilot projects.

*Based on the consultation, the Committee suggests that the Board does not (1) expand the scope of the required elements of Requirement 2.4 on contract transparency and Requirement 2.5 on beneficial ownership, or (2) include refinements that relate to disclosures on suppliers and contractors. This does not exclude clarifying the language provisions or developing further guidance on any of these issues.*

## Annex 1: Draft Terms of Reference Working Group on Refinements to the EITI Standard

### 1. Background

In the lead up to each Global Conference, the EITI Board has considered opportunities to strengthen EITI implementation and to improve governance of the EITI Association. The Secretariat has proposed a process for reviewing lessons learned from the EITI Standard and potential areas for revision to the Implementation Committee.

### 2. Scope

The working group will consider opportunities for refining the EITI Requirements, based on the Board decision on the scope of refinements to the Standard at the 53<sup>rd</sup> Board meeting in June 2022. The working group may also wish to consider issues linked to EITI Requirements developed by the Validation Committee following the Validation review. The working group may also wish to consider findings from the ongoing Independent Evaluation of the EITI where relevant.

The working group will continue to support the Implementation Committee with concrete proposals/ recommendations on refinements to the Standard ahead of the 9<sup>th</sup> Global Conference in mid-2023.

### 3. Working Group Composition

The working group consists of members of the EITI Board. Each constituency would propose 2 representatives. Working group members are expected to consult with their constituencies at every stage of the process.

The working group should agree how its meetings are chaired and establish participation and communication guidelines to ensure the efficiency and cohesiveness of the group. As the group is an advisory board to the Implementation Committee, no rules on quorum are established. EITI Board members may observe the meetings, and the working group may consult external experts.

### 4. Schedule of work

The working group's tenure extends until the 9<sup>th</sup> EITI Global Conference, when the EITI Board finalises any refinements to the EITI Standard. The working group will communicate through email and teleconferences on a regular basis to be decided by the group. The working group will report to the Implementation Committee.