

Validation of Republic of the Congo:

Final assessment of progress in
implementing the EITI Standard

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Acronyms

AfDB	African Development Bank
BEAC	Banque des États d’Afrique Centrale
BO	Beneficial Ownership
CORAF	Congolaise de Raffinage
CSO	Civil Society Organisation
DRN	Direction des Ressources Naturelles
EITI	Extractive Industries Transparency Initiative
GDP	Gross Domestic Product
IA	Independent Administrator
IMF	International Monetary Fund
MSG	Multi-stakeholder Steering Group
NA	Not Applicable
NGO	Non-Governmental Organization
OHADA	Organisation pour l’Harmonisation en Afrique du Droit des Affaires
PEP	Politically Exposed Person
PSC	Production Sharing Contract
PWYP	Publish what you pay
ROC	Republic of Congo
SNPC	National oil company (Société nationale des pétroles du Congo)
SOE	State-Owned Enterprise
SOREMI	Société de Recherches et d’Exploitation Minières
TOFE	Tableau des Operations Financières de l’Etat
ToR	Terms of Reference
VAT	Value Added Tax
USD	United States Dollars

Executive summary

This draft Validation report presents the findings of the International Secretariat's Validation of the Republic of Congo, which commenced on 1 July 2022. The draft report was finalised for review by the multi-stakeholder group (MSG) on 23 September 2022. Following comments from the MSG received on 18 November 2022, the Validation report was finalised for consideration by the EITI Board. The assessment suggests that the Republic of Congo has exceeded one EITI Requirement, fully met 15, mostly met 12 and partly met two requirements, with two requirements assessed as not applicable.

Key achievements

- The Republic of Congo has used the EITI process to start developing government mechanisms and processes for the systematic disclosure of information required by the EITI Standard, notably by the improvement of the quality and timeliness of the disclosures of its SOE, SNPC. With support from international partners such as the International Monetary Fund (IMF) and World Bank, and in the context of international commitments including to the IMF, the government has started establishing information management systems in the key Ministries responsible for managing the extractive industries and public finances, including an online petroleum cadastral portal and a public revenue and liability management system (SYSPACE). It has also implemented key reforms to broaden coverage of the national budget-making process and the government's financial reporting to the petroleum revenues that were previously managed outside of the conventional budgetary framework.
- Stakeholders in EITI Congo have pioneered innovative projects making use of EITI data to inform policymaking and support public debate, including the development of publicly accessible financial models of key petroleum projects and analysis of crude oil sales. Combined with more granular disclosures and greater transparency on the management of petroleum revenues, this type of EITI data use can strengthen evidence-based public debate on the extractive industries. In the context of the government's stricter review of petroleum companies' compliance with the applicable fiscal regime, the EITI Congo's efforts to drive creative uses of EITI data are both aligned with national priorities and can contribute to the Republic of Congo's efforts to strengthen domestic resource mobilisation. The country's disclosures related to the forestry sector have started to address strong public interest in transparency in this sector.
- International rankings of civic space in the Republic of Congo have remained broadly constant since the previous Validation, highlighting broader civic space constraints on freedoms of expression and of operation. However, the EITI has taken action to protect and enhance civic space in relation to the EITI process and broader public debate on natural resource governance in the period under review, with plans to develop draft legislation dedicated to protecting civic space. Civil society has proactively used the EITI process to strengthen civic space beyond the MSG in a broader civic space context that remains challenging. Consulted stakeholders engaged in the EITI process, including from civil society, did not consider that broader civic space constraints had affected the environment for civil society's engagement in all aspects of the EITI process, including

public debate on natural resource governance. Progress in establishing legal safeguards for civic space will be key to institutionalising protections for civil society's participation in public debate.

Areas for development

- The induction of new MSG members at the onset of the COVID-19 pandemic, combined with competing priorities in the government agenda and revisions to the MSG's internal rules that linked the frequency of meetings to the availability of senior government officials, have led to gaps in the MSG's oversight of the EITI process since the previous Validation. This has resulted in notable delays in decision making by the MSG and in the adoption of key documents, hampering the role of the MSG in the EITI implementation. Weakening industry engagement in the EITI process beyond the provision of data has also led to imbalances in the multi-stakeholder oversight of implementation. Reforms to ensure continuous operational engagement of the three constituencies in the EITI process, combined with capacity building for new MSG members, regular and timely decision-making, and stronger industry constituency coordination practices, are needed to re-establish a balanced multi-stakeholder oversight of the EITI process. A stronger multi-stakeholder dynamic and progress have been observed during the Validation process, and the Republic of Congo is encouraged to sustain this momentum for a more consistent EITI implementation.
- The country's EITI reporting has made progress on new aspects of the 2019 EITI Standard, although there is scope for strengthening disclosures of government revenues disaggregated by individual project and the management of environmental impacts of the extractive industries. There is a need to establish a robust legal and regulatory framework for the collection and public disclosure of beneficial ownership information on extractive companies, including ownership by politically exposed persons. The commodities-for-infrastructure agreement underpinning the CEC power plant, the prefinancing arrangements with the traders, the infrastructure deal with China and the transactions between the CORAF and the state could also benefit from greater transparency. Future scoping by EITI Congo would be strengthened with revisions to cover new aspects of the 2019 EITI Standard and draw from the recommendations on data disclosures from the EITI's financial modelling project. Such disclosures are significant both to meet public demand for this information and to provide more granular disclosures to support policymaking around the collection of revenues from particular extractive projects.
- After 15 years of implementation, it is time for the Republic of Congo to undertake a more dedicated review of the outcomes and impacts of EITI implementation to bolster the public accountability of the EITI as a tool to support reforms. There is scope to draw on this review to update the annual EITI work plan in a consultative manner and ensure that the objectives for the EITI process are aligned with broader government, industry and civil society goals for the extractive industries and public finance management. More balanced multi-stakeholder engagement in outreach and dissemination around the EITI, including the use of EITI data, should help further strengthen the EITI's outcomes and impacts, even if these are already significant according to anecdotal evidence provided by consulted stakeholders. There is also an opportunity for stakeholders' appropriation of recent innovations such as the financial modelling and sales analysis project and

leverage them for increased impact of the EITI on the sector and in strengthening Domestic Resource Mobilization.

Progress in implementation

EITI Validation assesses countries against three components – “Stakeholder engagement”, “Transparency” and “Outcomes and impact”.

Stakeholder engagement

The multi-stakeholder oversight of the EITI process has weakened since the previous Validation, due to a confluence of factors. Restrictions linked to the COVID-19 pandemic were implemented just as new members of the MSG appointed in early 2020 assumed their functions. Presidential elections in March 2021 and legislative elections in July 2022 also affected the pace of implementation. Reforms to the MSG’s internal rules requiring a Minister to chair all MSG meetings led to a lower frequency of meetings and delays in the MSG’s decision-making due to the limited availability of these senior government officials given their competing priorities. Extractive companies, particularly from the petroleum sector, limited their engagement to the provision of data for EITI Reports and the delegation of attendance at EITI events, to the detriment of their participation in other aspects of implementation. Nonetheless, the MSG further improved the rules related to its governance in this period. The civil society constituency continued to act as a key driver of implementation in this period, and used its engagement in the EITI to ensure both discussions of broader civic space constraints and the lifting of restrictions both on CSOs engaged in the EITI process and activists engaged in issues other than natural resource governance. While the broader civic space context remains challenging, the EITI appears to be having a positive impact on broader civic space and there have not been reports of any breaches of the EITI protocol on participation of civil society since the previous Validation.

Transparency

The Republic of Congo has implemented several reforms in the context of its extended credit facility with the IMF that have improved transparency of the national oil company’s financial management and of oil revenues that are not transferred to the Treasury, but that are recorded in the national budget since 2020. The country has used its EITI reporting to provide a diagnostic of the national oil company’s financial relations with its subsidiaries, projects and the state, although there is scope for further work in clarifying the national refinery’s purchases of crude oil from the state. EITI Reports provide most of the required information on agreements involving the exchange of crude oil, or proceeds thereof, for loans or infrastructure, although there is opportunity to further work on these agreements to achieve greater public understanding. EITI Reports have continued to provide comprehensive and reliable information on government revenues from the extractive industries, although not yet disaggregated by individual project for relevant revenue streams. The Republic of Congo has made progress in developing draft legislation requiring the disclosure of beneficial ownership information from companies in all sectors, although it has yet to enact and implement these legal provisions to ensure comprehensive beneficial ownership transparency for all companies holding or applying for extractive rights, including ownership by politically-exposed persons. There is scope for EITI reporting to further improve transparency in licensing practices in the mining and forestry sectors, and to expand disclosures to policies and practices related to the management of environmental impacts of the extractive industries.

Outcomes and impact

EITI implementation has led to significant public debate in the Republic of Congo since the previous Validation, and supported policymaking related to the extractive industries and public finance management. This reflects the use of EITI data by civil society and government stakeholders, although weaknesses in the industry constituency's use of data reflects broader constituency engagement challenges. Constrained by the COVID-19 pandemic, the availability of funding and elections in 2021 and 2022, EITI Congo's outreach and dissemination activities have been weaker in the period under review, but are planned to ramp up later in 2022 with support from the World Bank. The MSG has continued to operate an effective mechanism for following up on recommendations from EITI reporting and Validation. Weaknesses in the consultation with broader stakeholders, including industry, have resulted in the development of the 2021-2022 work plan not factoring in all constituencies' s priorities. Publication of a larger share of data in EITI Reports in open format should support greater use of EITI data in the future, including from new audiences such as parliamentarians. The Republic of Congo has published a review of outcomes and impacts of implementation covering 2021, but has delayed a dedicated impact assessment that would be timely after 15 years of EITI implementation. Leveraging the findings and recommendations from innovative EITI work such as the financial modelling and oil sales analysis, as well as encourage future use and analysis of the extractive's sector data by the EITI, could also be a way for the EITI Congo to strengthen its impact on domestic resource mobilisation.

Validation scorecard

Component & module	EITI Requirement	Progress	Score	
Outcomes and impact		Moderate	74.5/100	
Extra points	Effectiveness and sustainability indicators		2.5	-
Outcomes and impact	Work plan (#1.5)	Mostly met	60	↓
	Public debate (#7.1)	Mostly met	60	=
	Data accessibility and open data (#7.2)	Fully met	90	-
	Recommendations from EITI (#7.3)	Fully met	90	=
	Outcomes & impact (#7.4)	Mostly met	60	↓
Stakeholder engagement		Fairly low	56.5/100	
Multi-stakeholder oversight	Government engagement (#1.1)	Mostly met	60	↓
	Industry engagement (#1.2)	Mostly met	60	↓
	Civil society engagement (#1.3)	Mostly met	75	↑
	MSG governance (#1.4)	Partly met	30	↓
Transparency		Moderate	81/100	
Overview of the extractive industries	Exploration data (#3.1)	Fully met	90	=
	Economic contribution (#6.3)	Fully met	90	=
Legal and fiscal framework	Legal framework (#2.1)	Fully met	90	=
	Contracts (#2.4)	Exceeded	100	-
	Environmental impact (#6.4)	Not assessed	-	-
Licenses	Contract and license allocations (#2.2)	Mostly met	75	↑
	License register (#2.3)	Fully met	90	=
Ownership	Beneficial ownership (#2.5)	Partly met	30	-
State participation	State participation (#2.6)	Fully met	90	↑
	In-kind revenues (#4.2)	Fully met	90	-
	SOE transactions (#4.5)	Fully met	90	=
	SOE quasi-fiscal expenditures (#6.2)	Mostly met	60	↑
Production and exports	Production data (#3.2)	Fully met	90	=
	Export data (#3.3)	Fully met	90	=
Revenue collection	Comprehensiveness (#4.1)	Fully met	90	=
	Barter agreements (#4.3)	Mostly met	75	↑
	Transportation revenues (#4.4)	Not applicable	-	=
	Disaggregation (#4.7)	Mostly met	60	-
	Data timeliness (#4.8)	Fully met	90	=
	Data quality (#4.9)	Fully met	90	=
Revenue management	Distribution of revenues (#5.1)	Mostly met	75	↑
	Revenue management & expenditures (#5.3)	Not assessed	-	-
Subnational contributions	Direct subnational payments (#4.6)	Not applicable	-	=
	Subnational transfers (#5.2)	Fully met	90	↑
	Social and environmental expenditures (#6.1)	Mostly met	60	=
Overall score		Moderate	70.5/100	

How EITI Validation scores work

Component and overall score

The three components of EITI Validation – “Transparency”, “Stakeholder engagement” and “Outcomes and impact” – each receive a score out of 100. The overall score represents an average of the component scores.



Assessment of EITI Requirements

Validation assesses the extent to which each EITI Requirement is met, using five categories. The component score is an average of the points awarded for each requirement that falls within the component.



- **Exceeded** (100 points): All aspects of the requirement, including “expected”, “encouraged” and “recommended” aspects, have been implemented and the broader objective of the requirement has been fulfilled through systematic disclosures in government and company systems.
- **Fully met** (90 points): The broader objective of the requirement has been fulfilled, and all required aspects of the requirement have been addressed.
- **Mostly met** (60 points): Significant aspects of the requirement have been implemented, and the broader objective of the requirement is mostly fulfilled.
- **Partly met** (30 points): Significant aspects of the requirement have not been implemented, and the broader objective of the requirement is not fulfilled.
- **Not met** (0 points): All or nearly all aspects of the requirement remain outstanding, and the broader objective of the requirement is far from fulfilled.
- **Not assessed**: Disclosures are encouraged, but not required and thus not considered in the score.
- **Not applicable**: The MSG has demonstrated that the requirement doesn’t apply.

Where the evidence does not clearly suggest a certain assessment, stakeholder views on the issue diverge, or the multi-stakeholder group disagrees with the Secretariat’s assessment, the situation is described in the assessment.

1. Effectiveness and sustainability indicators

The country is awarded 0, 0.5 or 1 point for each of the five indicators. The points are added to the component score on Outcomes and impact.

1.1 National relevance of EITI implementation

This indicator considers the extent to which EITI implementation in the Republic of Congo addresses nationally relevant extractive sector challenges and risks. The Republic of Congo has partly aligned the objectives of its recent EITI work plans to national priorities as codified in the 2019-2023 National Strategic Development Plan. The development of these objectives has been led by the EITI Congo Secretariat with some input from the broader civil society and government constituencies, although there is scope for significantly strengthening the consultations around the formulation of objectives for EITI implementation, particularly within the broader industry constituency. The EITI Congo's leadership in developing the 2017 Transparency Code has effectively transposed and, in some cases, exceeded the minimum requirements of the EITI Standard in national legislation, ensuring alignment of EITI implementation with national legal priorities. Thus, follow-up from EITI Congo has ensured the establishment of the National Commission on Transparency and Responsibility in Public Finance Management (CNTR) in October 2020. The EITI also features prominently within the Republic of Congo's commitments to the international community, including in the context of the IMF's extended credit facility, with clear conditions related to outcomes of EITI implementation with regards to transparency in petroleum revenues and the national oil company's financial management.

The MSG has regularly considered opportunities to go beyond the minimum requirements of the EITI Standard. This has led to the expansion of the scope of EITI implementation to the forestry sector, disclosure of oil companies' production costs and crude oil sales by private companies, and the management of the 'maritime tax' that is a levy for use of the country's territorial waters. The MSG has also repeatedly discussed issues related to broader civic space for public debate on natural resource governance, leading to the lifting of constraints on certain civil society stakeholders beyond those engaged in the EITI process. The MSG's discussions have gone beyond the technical aspects of EITI reporting to broader extractive industry issues and challenges, including those related to the budgeting of petroleum revenues and beneficial ownership transparency for companies in all economic sectors. Yet significant work remains on some key areas notably beneficial ownership transparency and on the terms of deductions from the state's share of oil production.

The Republic of Congo has also used its EITI implementation in innovative ways, including in developing a financial modelling report of a selection of petroleum contracts, which involved modelling payments to government on the basis of published contracts and analysis of crude oil sales. There is scope for stakeholders to debate the findings from such work and to further innovate both in redeveloping an EITI reporting process that builds on emerging government and company systematic disclosures, but also in driving more creative uses of EITI data following the example of the financial modelling project. Most stakeholders consulted considered that the EITI was in the process of leading to the desired outcomes, including in creating more transparency in

petroleum revenues not transferred to the Treasury as well as creating more confidence for openly discussing issues related to petroleum revenue collection and management that were previously considered too contentious to discuss in public. Several government and civil society stakeholders consulted considered that priorities for future EITI implementation focused on strengthening systematic disclosures, developing a draft law on the protection of civic space, and contributing to reflections on the impact of the energy transition on large oil producers such as the Republic of Congo. In its response to the draft Validation Report, the MSG highlighted that the disclosure around the costs of oil and gas companies as well as the financial modelling study allowed public debate to cover fiscal policy analysis, contract negotiation and monitoring, as well as debt sustainability. The fiscal models used in the study have been tested by the Natural Resources Directorate (DRN), which noted that the results are similar to those from the models used internally.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.2 Systematic disclosures of extractive industry data

Systematic disclosures of extractives data required by the EITI on government websites has improved since the previous Validation. The full text of laws and regulations published in the searchable official gazette ([journal officiel](#)). The Ministry of Hydrocarbons launched a publicly accessible petroleum cadastral [portal](#) and an oil and gas information [portal](#), which provide all information listed under Requirement 2.3.b and provides for bulk download of license information in open format. A similar system for the mining sector remains under development. All extractive contracts and licenses are published in the official gazette ([journal officiel](#)) with some petroleum, mining and forestry contracts republished on the Ministry of Finance and Budget [website](#). Audited financial statements of SNPC covering the 2012-2021 period published on the Ministry of Finance and Budget [website](#), alongside SNPC's 2017 [statutes](#). The annual national budgets are published on the Ministry of Finance and Budget [website](#), while budget execution reports for 2018-2019 are published on the Ministry of Finance and Budget [website](#) and the 2020 report on the EITI Congo [website](#). The government's financial operations dashboard (TOFE) is published for 2018 and 2019 on the Ministry of Finance and Budget [website](#), while the 2020 TOFE has been published on the EITI Congo [website](#). Since 2020, the Ministry of Finance and Budget [website](#) has published updates on the Republic of Congo's national debt, covering the period since 2018, with monthly updates published for the first half of 2022. Several leading purchasers of Congolese oil that are EITI Supporting Companies, including [Trafigura](#) and [Glencore](#), disclose their purchases of crude oil from the Republic of Congo at the international level. Several leading oil companies operating in the country but headquartered in the EU and the UK, including Total, ENI and Perenco, systematically publish their payments to government in the Republic of Congo disaggregated by project but not by revenue stream.

There are medium term plans for integrating EITI disclosures in the routine systems of government, although not yet in those of extractive companies. The 2017 Transparency Code provides a robust framework for strengthening government systematic disclosures of EITI data. The finalisation of the mining cadastre will help improve the routine publication of mining rights data. All line Ministries with jurisdiction over the extractive industries have now established information systems departments to lead digitalization efforts. The Ministry of Finance, Budget

and the Public Portfolio has established an online revenue and liability information system, SYSPACE, which is only available to accredited users but centralises information on extractive revenues. EITI Congo has plans to work more closely with non-traditional partners such as the National Statistics Agency and Parliament to further strengthen systematic disclosures of EITI data. However, EITI Congo has yet to develop plans to strengthen systematic disclosures of EITI data by extractive companies. There is also more scope to integrate government extractive revenue disclosures into routine systems, building on the SYSPACE platform. The ongoing reforms of the Mining Code and the development of implementing regulations for the new Forestry Code provide opportunities for further integrating EITI disclosures into the routine systems of government entities tasked with overseeing these sectors.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.3 Environment for citizen participation in extractive industry governance

This indicator considers the extent to which there is an enabling environment for citizen participation in extractive sector governance, including participation by affected communities. The regulatory environment provides some support for the participation of civil society in decision-making on the governance of the extractive industries at a political and policy level, albeit not yet significantly for citizen participation in the operations of the extractive industries. Indeed, there are few opportunities for public consultations in the process of awarding extractive rights in the petroleum and mining sectors, although international forestry companies practice free, prior, informed consent procedures for projects on lands affecting indigenous people.

Several multi-stakeholder forums have been established in recent years to provide civil society representation in decision-making related to the extractive industries, in a similar way to the EITI. Thus, the Republic of Congo established a multi-stakeholder committee in the context of the Central African Forest Initiative (CAFI) to oversee conservation and sustainable forestry activities. In 2020, the government established the National Commission on Transparency and Responsibility in Public Finance Management (CNTR) as a multi-stakeholder committee to oversee implementation of the 2017 Transparency Code, including its provisions related to transparency in extractive industry governance. These reforms have created political space for civil society representation. However, many civil society stakeholders consulted raised significant concerns over the lack of institutionalised dialogue between host communities and oil and mining companies, highlighting the need for such forums to raise issues related to environmental impacts and socio-economic development.

There is evidence that the MSG has regularly discussed mechanisms for citizen participation in extractive industry governance, including at MSG meetings and EITI Congo events. The MSG's discussions have gone beyond the extractive industries to discuss the arrests of activists engaged on human rights and political issues. While several CSOs raised issues related to technical constraints for civil society's work, CSOs engaged on natural resource governance issues in Brazzaville and Pointe Noire generally appear to have the capacities to engage in the EITI. Several CSOs consulted however raised concerns over the sustainability of CSOs' engagement in the EITI without a significant broadening of knowledge and capacity to more

members of the civil society constituency. Several CSOs called for greater attention to capacity building of CSOs to expand the constituency's technical capacities.

EITI implementation does not appear to have yet led to improvements in the conditions of communities hosting extractive activities, as advocated by civil society representatives. There is however evidence of tangible impact of the EITI on some aspects of broader civic space, even if the broader civic space context remains challenging. Thus for instance, the release of several activists not engaged in natural resource governance issues was secured in both 2018 and 2021 through civil society actions using the EITI process to gain access to senior government officials. The EITI Congo National Coordinator has also taken action to ensure that ad hoc restrictions on freedom of assembly were resolved to allow planned outreach activities to be held (see *Requirement 1.3*). Through the EITI process, Prime Minister Anatole Collinet Mackosso issued a [circular](#) directing local government and security service officials to support civil society's activities related to the EITI process in June 2022. EITI Congo subsequently held a workshop for government officials on the EITI protocol: Participation of civil society in July 2022. Drawing from this ad hoc approach to civic space, the MSG is planning for the government to establish a multi-stakeholder committee on civic space, including stakeholders beyond the EITI, with a view to developing draft legislation to protect and expand civic space in the country.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.4 Accessibility and use of extractive industry data

This indicator considers the extent to which extractive sector data is accessible and used for analysis, research and advocacy. The Republic of Congo's disclosures on the extractive industries through EITI reporting and increasingly through systematic disclosures appear to have partly addressed the data needs of key stakeholder groups. In particular, disclosures related to extractive contracts, the state's and companies' oil sales, the management of petroleum revenues not transferred to the Treasury, the national oil company SNPC's financial management and subnational transfers of oil and forestry revenues that should have taken place appear to at least partly address public demands for information from civil society, journalists and international development partners such as the IMF. Disclosures of crude oil purchases by two buyers of Congolese petroleum, Glencore and Trafigura, have also partly addressed demands for information, although other buyers have yet to follow suit. Mandatory payments to government disclosures by Total, ENI and Perenco partly address demands for timelier information than EITI reporting. there is however little evidence of use of these companies' payments to government reports by Congolese stakeholders to date.

Most extractive sector data is not yet published in open format. The Ministry of Hydrocarbons' new petroleum cadastral portal allows for bulk download of license data in open format, while EITI Congo has continued to prepare summary data files of key EITI data in open format. The data underlying EITI Congo's financial modelling report, including cargo-level crude oil exports, has also been published in open format. Underlying data in EITI Reports has been published in open format in August 2022, while all other government systematic disclosures of extractive data remain in PDF format. The EITI Congo's open data portal remains under development.

There is some evidence of stakeholders using and analysing extractive data disclosed through the EITI. The EITI Congo's financial modelling report provides one of the most innovative examples of use of EITI data, including on contracts, production costs and crude oil exports. Leading civil society organisations have published reports making use of EITI data, including in monitoring budget execution, on contract transparency and on resource-backed debt. EITI Congo has used its internships for university students to encourage more use of EITI data, with two Master's theses written about EITI Congo and published on the EITI Congo [website](#). Government officials consulted shared anecdotal evidence of use of EITI data by the national branch of the regional central bank, by the Customs Department and by the Ministries with responsibilities for finance and petroleum in particular. This use of EITI data for advocacy and research appears to have generated public debate, particularly at outreach and dissemination workshops and events held by civil society. In their response to the draft Validation Report, the MSG listed two studies produced by public institutions making use of EITI data¹² that were published in 2022.

There is scope for further strengthening EITI implementation by addressing new aspects of the 2019 EITI Standard, particularly related to the rules and practices in the management the environmental impacts of the extractive industries, as well as to the budget cycle, production and commodity price assumptions and revenue sustainability, resource dependence, and revenue forecasting. Many stakeholders consulted considered that EITI implementation should be broadened to these areas to meet robust public demand for this kind of information.

The Secretariat proposes that 0.5 additional point be added to the score on Outcomes and impact for this indicator.

1.5 EITI-related changes to extractive industry policy and practice

This indicator considers the extent to which EITI has informed changes in extractive sector policies and practices. The Republic of Congo operates a robust system for following up on EITI recommendations for reforms, which tends to rely on personal interventions to implement reforms. There have been tangible reforms attributable to EITI in government laws, regulations and administrative procedures. EITI Congo has also influenced the development of national legislation including the landmark 2017 Transparency Code, which transposed most EITI Requirements into national legislation, and draft legislation on beneficial ownership.

The Ministry of Finance, Budget and the Public Portfolio and all line Ministries have recently established information systems departments in a bid to implement the digitalization of their records. The Ministry of Hydrocarbons has established an online cadastral portal and an online information portal for the oil and gas sector, and is the process of establishing similar cadastral portals in the mining and forestry sectors. In many cases EITI Congo has helped to improve the accessibility of data, including through its ongoing centralisation of all published extractive

¹ https://www.defense.gouv.fr/sites/default/files/tronc_commun/Note%2034%20-%20Partenariat%20sino-congolais%20face%20%C3%A0%20la%20crise%20de%20surendettement.pdf

² <https://www.beac.int/wp-content/uploads/2022/05/Reglement-01-CEMAC-UMAC.pdf>
<https://initiative.ca/International/reglementation-des-changes-les-compromis-entre-la-beac-et-les-industries-extractives/>

contracts, annexes, amendments and riders. The finance ministry has strengthened its systematic disclosures of petroleum revenues not transferred to the Treasury and, together with the national oil company, those of SNPC, both in the context of the IMF programme and as a result of the EITI process. While further reforms are required under commitments to the IMF, such as the publication of quarterly oil sales reports, these reforms in systems and practices have been notable since the previous Validation.

There is however less evidence of EITI impact on company systems, procedures and practices. Larger multinational companies domiciled in the EU and UK such as Total, ENI, Perenco, Glencore and Trafigura publish their payments to governments including the Republic of Congo at a global level, but this process appears entirely unlinked from the company's EITI reporting in the country. Given that industry participation in the EITI process has focused on the provision of data required for EITI Reports, there appear to be few impacts on companies aside from a regularity in reporting to the EITI. There is scope for further strengthening EITI implementation by addressing new aspects of the 2019 EITI Standard, particularly related to the rules and practices in the management the environmental impacts of the extractive industries, as well as to the budget cycle, production and commodity price assumptions and revenue sustainability, resource dependence, and revenue forecasting. Many stakeholders consulted considered that EITI implementation should be broadened to these areas to meet robust public demand for this kind of information.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

2. Outcomes and impact

This component assesses EITI Requirements 7 and 1.5, which relate to progress in addressing national priorities and public debate.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p>Work plan (Requirement #1.5)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 1.5 is mostly met, which represents back-sliding since the previous Validation. Most stakeholders consulted considered that the objective of aligning EITI implementation objectives with national priorities had been fulfilled. Yet several government and civil society stakeholders conceded that there was not consistently a public EITI work plan in place throughout the period under review, even if the draft work plan had been approved in February 2021 subject to further</p>

	<p>refinements in light of MSG members' comments. The Secretariat's view is that the objective of the annual EITI work plan providing a key accountability document for the MSG vis-à-vis broader constituencies and the public has been mostly achieved in the period under review given delays in publishing the 2021-22 work plan and the limited evidence of consultations with some broader constituencies in its development, particularly among extractive companies.</p> <p>The Republic of Congo's EITI work plan for 2020 was approved and published ahead of the start of the previous Validation. The MSG approved the draft 2021-22 work plan at its February 2021 meeting subject to further improvements in light of MSG members' comments, and continued to discuss the work plan at successive meetings in 2021. The final version of the 2021-22 work plan was approved and published in June 2022. The MSG's 'Outcomes and impact' template is transparent about the delays in developing and publishing the work plan, due to delays in MSG meetings and discussions around funding and capacity building activities. Despite the delays in approving the 2021-22 work plan, the MSG's 'Outcomes and impact' template states that all activities planned for 2021 were implemented on schedule. Opinions were split on this issue, with several stakeholders noting that many activities originally planned for 2021 had been delayed.</p> <p>The level of consultations with key stakeholder groups beyond MSG members is unclear. The 'Outcomes and impact' template describes the process for developing the EITI work plan, which consists of the EITI Congo Secretariat submitting a draft for input by MSG members. The template notes that a particular focus of the 2021-22 work plan consisted of preparations for the Republic of Congo's third EITI Validation. The MSG discussed the work plan at successive meetings in 2021, although records of these meetings do not indicate input to the work plan from MSG members based on consultations with the broader constituencies aside from comments from civil society highlighting the importance of planning outreach and dissemination activities. Consultations with civil society and the 'Stakeholder engagement' template indicate that MSG members consulted with the broader civil society constituency in developing the work plan. Consultations with companies confirmed that there had not been specific consultation on the development of the EITI work plan with the broader constituency.</p> <p>The objectives of the 2021-22 work plan are similar to the 2020 work plan assessed in the previous Validation, although the work plan includes a narrative section explicitly linking these EITI objectives to national priorities such as the 2022-26 National Development Plan. Activities under the work plan's third objective relate to the integration of EITI implementation in government and company systems, building on the Extractive Revenues Conciliation System (SYSCORE), the Legal Verification Information System (SIVL) and the OGAS hydrocarbons information system. The Secretariat understands that the SYSCORE has since been subsumed into the Ministry of Finance and Budget's broader Government Revenues and Liabilities System (SYSPACE). The third objective also plans activities for improving the EITI's contribution to public debate about natural resource governance by stimulating the use of information systems on the hydrocarbons and forestry</p>
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	<p>sectors. Most importantly, the work plan includes activities related to the use of EITI data to inform public debate and policymaking, including the EITI Congo's financial modelling project in the hydrocarbons sector. The MSG's 'Outcomes and impact' template confirms the alignment of the EITI work plan objectives with national priorities as codified in the 2018-22 National Development Plan.</p> <p>The 2021-22 work plan outlines measurable and time-bound activities that are planned by quarter, with the related cost and source of funding provided by activity. The work plan's timeframes for activities appears aligned with deadlines for EITI reporting and Validation. The work plan includes activities related to capacity building for MSG members and EITI focal points in government and companies on the EITI process, for the three broader constituencies on beneficial ownership, and for civil society and government entities on civic space. Some activities relate to strengthening government and companies' systematic disclosures of EITI data, with activities related to the Ministry of Finance, Budget and the Public Portfolio's State Debt Payment Tracking System (SYSPACE) related to addressing technical aspects of the comprehensiveness and reliability of EITI disclosures. The work plan identifies plans to address legal obstacles to implementation through activities related to proposing draft legislation on beneficial ownership transparency and the protection of civic space. The work plan includes a general activity related to following up on EITI recommendations and a broader objective (number 2) on preparing for Validation, although the activities related to following up on corrective actions from Validation are more detailed than those related to recommendations from EITI Reports. The work plan addresses plans for beneficial ownership transparency, including clear milestones and timeframes. While activities related to improving the accessibility of published contracts are not highlighted in the work plan as such, it does include activities related to the use of published extractive contracts, including through the EITI Congo's financial modelling project. However, the lack of regular public updates to the work plan and insufficient stakeholder consultations in the development of the work plan remain a concern.</p> <p>The EITI Congo does not yet appear to have linked its annual work plan to a monitoring, evaluation and learning framework, as encouraged by Requirement 1.5.</p>
<p>Public debate (Requirement #7.1)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 7.1 is mostly met, as in the previous Validation. Most stakeholders consulted considered that the objective of the EITI enabling evidence-based public debate on extractive industry governance had been achieved, although opinions were split over whether all three constituencies had actively communicated relevant data to key stakeholders in ways that are accessible and reflect stakeholders' needs. The Secretariat's view is that the EITI has led to public debate in the period under review, but that, given that the active dissemination and use of data has been driven primarily by the civil society constituency, the objective remains mostly met. More proactive outreach and dissemination by EITI Congo, as planned with World Bank support, and by other constituencies including companies would further strengthen the EITI's contribution to public debate. A senior government official noted that EITI Congo had held</p>

	<p>workshops and TV debates on the EITI, but highlighted plans to strengthen this work under the current funding from the World Bank's Integrated Public Sector Reform Project (<i>Projet des Réformes Intégrées du Secteur Public – PRISP</i>).</p> <p>The three (2018, 2019 and 2020) EITI Reports completed in the period under review have been published on the websites of EITI Congo, of the Ministry of Finance, Budget and the Public Portfolio and of civil society organisation RPDH. EITI Congo does not appear to have produced summaries or thematic briefs on the findings of the last three EITI Reports, but leading CSOs such as RPDH and CDJP have published position papers and reports making use of EITI on specific themes, including contract transparency, resource-backed loans and budget execution. Civil society's analysis of EITI data has included work on comparing extractive revenues to total government revenues. EITI Congo's project on financial modelling of several oil projects represents an innovative use of EITI data on contracts, production costs and oil sales, with the first report and underlying financial models published on the EITI Congo website in June 2022. A senior government official highlighted plans to institutionalise such financial modelling and oil sales analysis reports. There is evidence of use of EITI data by both civil society and, anecdotally, by government, including by the national branch of the regional central bank, the Ministry of Finance, Budget and Public Portfolio, and the line Ministries for the petroleum, mining and forestry sectors, including in their engagements with development partners such as the IMF and World Bank. EITI Congo has used internships for university students to encourage more use of EITI data, with two Master's theses written about EITI Congo and published on the EITI Congo website.</p> <p>EITI Congo has not yet agreed a dedicated communications strategy to frame its outreach and dissemination efforts. While there is little evidence of the MSG explicitly considering the information needs and access challenges of different stakeholder groups, EITI Congo appears to have prioritised outreach to civil society and journalists, while civil society outreach has focused on civil society and communities hosting extractive activities, particularly around Pointe Noire. However, several government and civil society stakeholders consulted highlighted the need for EITI Congo to undertake more capacity building of key audiences, particularly civil society, to strengthen their ability to use and analyse EITI data. Some government representatives noted their intention for EITI Congo outreach and dissemination activities to go beyond the traditional target audiences of civil society and the media to also reach new audiences such as members of parliament and politicians.</p> <p>While EITI Congo did not undertake any outreach and dissemination activities in 2020, several government and civil society stakeholders consulted explained that this was due to the combination of the impact of COVID-19 restrictions, a newly appointed MSG in early 2020 and the aftermath of the 2020 EITI Validation. EITI Congo held a public outreach workshop in February 2021 to discuss the outcomes of the 2020 EITI Validation, and one workshop each in Pointe Noire and Dolisie in December 2021 to disseminate findings of the 2018 EITI Report, with a report on the events published on the EITI Congo website. Dissemination workshops were held for the 2019 and 2020 EITI</p>
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	<p>Reports in Brazzaville in June 2022 and in Pointe Noire in July 2022. The MSG also held an outreach event to raise awareness about the EITI protocol: Participation of civil society for government officials in Brazzaville in July 2022. EITI Congo has held capacity building workshops for MSG members and reporting government entities and companies related to beneficial ownership in October 2021 and February 2022, and to preparations of templates for this Validation in June 2022. However, there is evidence of additional public workshops held by civil society organisations part of the PWYP Congo coalition in 2020, 2021 and 2022 (see <i>Requirement 1.3</i>). Government and civil society stakeholders explained that delays in the World Bank's Integrated Public Sector Reform Project (PRISP) had meant that only around four of the 20 outreach and dissemination planned workshops had been held to date, with the remaining sessions outside of Brazzaville planned for the second half of 2022. A government representative also explained that several dissemination events had been postponed beyond the campaign for the July 2022 legislative elections to avoid confusion between EITI events and political campaigns.</p>
<p>Data accessibility and open data (Requirement #7.2)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 7.2 is fully met. Several stakeholders from government and civil society considered that the objective of enabling the broader use and analysis of information on the extractive industries had been fulfilled, although opinions were split over whether the objective of consistent publication of information in open data and interoperable formats had been achieved. The Secretariat's view is that the objective of enabling broader use of EITI data has been fully achieved, but that there is scope for strengthening the publication of all EITI data in open format. EITI Congo has agreed an open data policy, and summary EITI data on revenues and payments is available in open format through the summary data files prepared for the 2018, 2019 and 2020 EITI Reports. The data included in the financial modelling project were also published in open format³. Data contained in the latest EITI Report was published in open format in September 2022. Some systematically disclosed data on government websites, such as the petroleum license data available on the Hydrocarbons Ministry cadastral portal, is published in open format, although the majority of government systematic disclosures are not yet in open format. An open data platform developed as part of the SYSCORE reporting platform has been launched on the national EITI website, but does not seem to be functioning as of August 2022.</p>
<p>Recommendations from EITI implementation (Requirement #7.3)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 7.3 is fully met, as in the previous Validation. Most stakeholders consulted from all constituencies considered that the objective of ensuring a robust mechanism for following up on EITI recommendations had been fulfilled, driven by civil society and government representatives on the MSG. The Secretariat's view is that the objective has remained fulfilled since the previous Validation despite the broader weaknesses in MSG oversight (see <i>Requirement 1.4</i>).</p> <p>Records of MSG discussions indicate that EITI Congo has regularly discussed the causes of information gaps and discrepancies, particularly when finalising</p>

³ See <https://www.itie.cg/home/modelisation/>

	<p>and approving annual EITI Reports. Minutes of MSG meetings indicates robust multi-stakeholder discussions about the reasons for information gaps, such as those related to the framework agreement with China and beneficial ownership disclosures. The MSG also appears to have extensively discussed the causes of discrepancies in the reconciliation of company payments and government revenues.</p> <p>The Republic of Congo appears to have continued to take steps to follow up on lessons learned from EITI implementation. Available documentation indicates that EITI Congo has a robust mechanism in place to follow up on recommendations from EITI reporting and Validation. The MSG’s mechanism appears to consist of the MSG’s Data Collection, Implementation and Validation Commission (chaired by the MSG’s third Vice-Chair, from civil society) regularly reviewing recommendations from EITI Reports and Validation, which are then considered by the MSG. The EITI Congo Secretariat appears to maintain a matrix of past EITI recommendations in order to track the status of follow-up and implementation. The 2020 and 2021-22 EITI work plans include general activities related to follow-up on recommendations of EITI Reports and an objective related to preparing for the third Validation, which includes activities related to specific corrective actions from the country’s second Validation in 2020. The three (2018, 2019 and 2020) EITI Reports published since the previous Validation have provided an overview of the status of follow-up on past EITI recommendations. However, the lack of an annual public review of outcomes and impact of EITI implementation published by EITI Congo since the previous Validation indicates that this mechanism for public accountability in the follow-up on past EITI recommendation has weakened in the past two years (<i>see Requirement 7.4</i>).</p> <p>Nonetheless, the MSG’s ‘Outcomes and impact’ template provides an update on the status of follow-up on 17 past recommendations from EITI Reports and ten corrective actions and recommendations from the previous Validation in 2020. Of the 17 past EITI recommendations, five are marked as completed, 11 as in progress and one as not implemented, with an explanation of the MSG’s rationale for not following up on this recommendation. There is evidence of the EITI leading to tangible reforms at the legal, regulatory and administrative levels (<i>see Effectiveness and Sustainability Indicators</i>).</p>
<p>Review the outcomes and impact of EITI implementation (Requirement #7.4)</p> <p><i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 7.4 is mostly met, which represents back-sliding since the previous Validation. Several government and civil society stakeholders consulted considered that the objective of regular review of the EITI’s outcomes and impacts to ensure the EITI’s public accountability was mostly met in the period under review, given that the MSG regularly discussed the EITI’s outcomes and impact but had not published a dedicated review of the impact of implementation on a regular basis in recent years. The Secretariat’s view concurs with this assessment, given gaps in coverage of the MSG’s review of outcomes and impact and the postponement of the planned impact assessment of EITI Congo.</p> <p>The Republic of Congo published an annual progress report covering 2021 in June 2022. EITI Congo does not appear to have published a review of EITI outcomes and impact covering 2020, without explanation for the lack of review of outcomes and impact in 2020 in MSG meeting minutes or other</p>

	<p>documentation. Government stakeholders consulted confirmed that the MSG had not undertaken such a review for 2020 given the many other priorities for EITI Congo in the aftermath of the previous Validation and the onset of the COVID-19 pandemic. The annual progress report appears to have been drafted by the EITI Congo Secretariat and submitted to the MSG for input. However, there is no documentary evidence that relevant stakeholders beyond MSG members, particularly from industry and civil society, were given an opportunity to provide feedback on the EITI process and have their views reflected in the annual review outcomes and impact in accordance with Requirement 7.4.b.</p> <p>The 2021 annual progress report provides an overview of activities in 2021, clearly benchmarking progress against relevant activities in the 2021 work plan and identifying activities that were not undertaken. One third (6/18) of activities planned in 2021 were not completed given the impact of the COVID-19 pandemic. However, the 2021 annual progress report does not provide an assessment of progress towards each EITI Requirement, nor of steps taken to exceed EITI Requirements, in accordance with Requirement 7.4.a.ii. While the annual progress report does not provide an overview of follow-up on recommendations from EITI reporting and Validation, the three (2018, 2019 and 2020) EITI Reports published since the previous Validation provide the Independent Administrator's review of progress and the 'Outcomes and impact' template for this Validation provides an overview of the status of 17 past EITI recommendations and ten corrective actions and recommendations from the 2020 Validation (see <i>Requirement 7.3</i>). However, there does not appear to have been a mechanism beyond the EITI Report and the Validation template for the MSG to publish annually its own self-assessment of follow-up on past EITI recommendations.</p> <p>The 2021 annual progress report provides an overview of the outputs and outcomes of individual activities carried out but does not address progress on the broader objectives set out in the 2021-22 work plan. The progress report provides some commentary on recommendations for improving EITI implementation in the country, particularly in terms of communications and dissemination activities. Yet it does not include a narrative account of the impact of the EITI on natural resource governance or efforts to expand the scope of EITI implementation to increase stakeholder engagement in accordance with Requirement 7.4.a.v. The 2021-22 work plan activity related to a standalone impact assessment of EITI implementation in Congo, originally scheduled for Q2 2022, has been postponed. Nonetheless, the 'Outcomes and impact' template identifies several EITI Congo activities that are expected to strengthen the EITI's impact in the country, including its hydrocarbons financial modelling project, the development of an advance legal reform proposal on beneficial ownership transparency, the development of systematic disclosure mechanisms such as SYSPACE, SYSCORE and SIVL, as well as the extension of EITI reporting to the forestry sector. These efforts to strengthen the EITI's impact, which are ongoing, are covered more extensively under the assessment of effectiveness and sustainability (see <i>'Effectiveness and Sustainability Indicators' section</i>). In its response to the draft Validation Report, the MSG published an extensive review of activities and impact over the last years, using the Validation approved template, although the narrative</p>
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	account of this impact and how to increase stakeholder participation is yet to be formulated. There are also opportunities for improving the regularity of this review.
New corrective actions and recommendations	
<ul style="list-style-type: none"> • In accordance with Requirement 1.5.e-f, the Republic of Congo should ensure that the EITI work plan is reviewed and updated annually, while being made widely available to the public, to ensure that it constitutes a key accountability document for the MSG vis-à-vis broader constituencies and the public. In accordance with Requirement 1.5.b, the Republic of Congo should ensure that the EITI work plan reflects the results of consultations with key stakeholders. To strengthen implementation, the Republic of Congo may wish to link the annual EITI work plan to a monitoring and evaluation framework. • In accordance with Requirement 7.1, the Republic of Congo must ensure that government and company disclosures are comprehensible, actively promoted, publicly accessible and contribute to public debate. The Republic of Congo should ensure that the information is widely accessible and distributed, that outreach events, whether organised by government, civil society or companies, are undertaken to spread awareness of and facilitate dialogue about governance of extractive resources, building on EITI disclosures across the country in a socially inclusive manner. • To strengthen implementation, the Republic of Congo is encouraged to make systematically disclosed data machine readable and inter-operable, and to code or tag EITI disclosures and other data files so that the information can be compared with other publicly available data. • To strengthen implementation, the Republic of Congo is encouraged to strengthen the public documentation of EITI Congo's follow-up on recommendations from EITI reporting and Validation, with a view to further strengthening the public accountability of its efforts to ensure that the EITI supports broader reforms in the governance of the extractive industries. • In accordance with Requirement 7.4.a.v, the Republic of Congo should ensure that its review of outcomes and impact of EITI implementation become more regular, including a narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance, including any actions to increase engagement with stakeholders outside of the Multi-Stakeholder Group. To strengthen implementation, EITI Congo is encouraged to document how it has taken gender considerations and inclusiveness into account. In accordance with Requirement 7.4.b, all stakeholders should be able to participate in reviewing the impact of EITI implementation. 	

3. Stakeholder engagement

This component assesses EITI Requirements 1.1 to 1.4, which relate to the participation of constituencies and multi-stakeholder oversight throughout the EITI process.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p>Government engagement (Requirement #1.1)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 1.1 is mostly met, with some backsliding since the previous Validation. Most stakeholders consulted from all constituencies considered that the objective of full, active and effective government leadership of the EITI process had been achieved in the period under review. While some government and civil society stakeholders acknowledged the delays in MSG meetings due to the lack of availability of senior government officials to chair meetings, they did not consider this a reflection of waning government engagement in the EITI process. The Secretariat's view is that the objective of Requirement 1.1 is borderline between being mostly and fully achieved, but that the impact of weaknesses in government efforts to ensure operational leadership over technical aspects of the MSG's functioning has had a material impact on EITI implementation given repeated delays in planned MSG activities.</p> <p>The Secretariat's view is that the high-level leadership of EITI implementation in the 2020-22 period has been matched by its operational engagement in the provision of required data, increases in funding for EITI implementation and actions to overcome barriers to implementation. However, challenges in the availability of senior government officials have caused interruptions in the MSG's work, including the holding of regular meetings in accordance with the MSG's ToR and timely MSG decision-making on EITI matters.</p> <p>There is evidence of high-level statements of support for the EITI from senior government officials in the period under review, as recorded on the Ministry of Finance, Budget and the Public Portfolio website. The government issued an official statement of support for the EITI in June 2022, signed by the Ministers of Finance, Budget and the Public Portfolio, of Hydrocarbons, of Mining Industry and Geology, and of the Forestry Economy. A senior official has consistently acted as the government lead for EITI implementation and MSG chair during the 2020-22 period, with Minister of Finance, Budget and the Public Portfolio Calixte Nganongo replaced by Minister Roger Rigobert Andely in May 2021. In practice, Minister delegate in charge of Budget Ludovic Ngatsé has chaired many MSG meetings on behalf of the MSG chair throughout this period.</p> <p>The 'Stakeholder engagement' template highlights that government MSG members have consistently attended or delegated their attendance to a consistent proxy at EITI Congo activities and MSG meetings, with two MSG members (the Minister of Finance, Budget and the Public Portfolio and the Director General of the Public Treasury) having delegated attendance to proxies during this period. Aside from chairing the MSG, the government has also chaired the MSG's Finance and Audit Commission (Advisor to the Prime Minister Jean-Jacques Ikama) and the Ad Hoc 2022 Validation Preparation Commission (Minister of Hydrocarbons Bruno Jean Richard Itoua). However, the availability of senior government officials appears to have caused delays in the holding of MSG meetings in this period, with no MSG meeting between February and October 2021 nor between January and May 2022 (see <i>Requirement 1.4</i>). Most government and civil society stakeholders as well as</p>

	<p>development partners consulted considered that the delays in holding MSG meetings were due primarily to organisational challenges within EITI Congo rather than a lack of sufficient government engagement. However, the Secretariat's view is that the implementation of new provisions of the MSG's internal rules requiring that MSG meetings be chaired by the Minister of Finance, the Minister of Hydrocarbons or the Minister of Mines has tied the MSG's functioning to the availability of senior government officials. While positive for the MSG's decision-making, these strict requirements have affected the frequency of MSG meetings and the MSG does not yet appear to have implemented mechanisms to ensure ongoing MSG oversight in periods when senior government officials are not available. Although the EITI Congo Secretariat continued organising and coordinating work throughout the 2020-22 period, weaknesses in the MSG's decision-making related to postponed meetings led to delays in several aspects of EITI implementation. A senior government official conceded that government engagement had been weaker in 2021 in the context of the COVID-19 pandemic, the implementation of the IMF programme and the renegotiations of several production-sharing contracts in the oil sector, but highlighted that the government was improving its leadership and engagement in 2022, having held three MSG meetings in the June-August 2022 period alone.</p> <p>In practice, the 'Stakeholder engagement' template describes the role of the EITI Congo Permanent Secretariat as the coordinator of the government constituency, which has involved regular communications with the broader government constituency. While the template states that the government constituency provided input to the development of the 2020 and 2021-22 EITI work plans, there is little evidence of the broader constituency's input in minutes of MSG meetings of such input in practice (e.g., minutes of the MSG's 17 November 2021 meeting in which the 2020-21 work plan was approved).</p> <p>All material government entities have generally provided the required information and quality assurances in the two (2018 and 2019) EITI Reports published in the period under review, including for the first-time certification by the Court of Accounts and Budgetary Discipline (<i>Cour des Comptes et de Discipline Budgétaire</i> – CCDB) for the 2019 EITI Report. Minutes of MSG meetings and of EITI capacity building events indicate that the government has taken steps to overcome barriers to EITI implementation. This has included encouraging all material extractive companies to report and for civil society to participate in EITI outreach and dissemination events. In June 2022, Prime Minister Anatole Collinet Mackosso issued a circular directing local government and security service officials to support civil society's activities related to the EITI process. Records of dissemination events indicates that some government officials have joined EITI outreach events in this period. However, the review of follow-up on past EITI recommendations in the MSG's 'Outcomes and impact' template indicates that follow-up on at least four recommendations is pending government action, although these relate to recommendations from the 2020 EITI Report published in June 2022. The 2021 annual progress report includes a recommendation for the government to consider the recommendations of EITI Reports.</p>
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	<p>The government has provided funding for EITI implementation through its annual national budget, as codified in the latest Government Decree on the EITI (Article 22 of Decree 2019-383). While the annual budget does not disaggregate funding for the EITI, which is included in the budget line for the Ministry of Finance, Budget and the Public Portfolio, EITI Congo's work plans have budgeted for the state to cover 36% (XAF 210m) of EITI expenditures in 2020 and 50% (XAF 566m) of expenditures in 2021-22. In practice, the government provided 43% (XAF 288m) of the funding for EITI implementation in 2021, the only year in the period under review for which actual disbursement data is available from the 2021 annual progress report.</p>
<p>Industry engagement (Requirement #1.2)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 1.2 is mostly met, which represents back-sliding since the previous Validation. Several stakeholders consulted from government, civil society and industry considered that the objective of full, active and effective company participation in the EITI process was mostly met in the period under review, given that company engagement had focused primarily on the provision of required data rather than other aspects of implementation. Several industry representatives committed to reinvigorating their engagement in the EITI process during consultations for this Validation, following a challenging period of strict COVID-19 restrictions for international companies. Several government and civil society stakeholders consulted considered that company representatives participated in EITI activities on behalf of their individual companies, without clear mechanisms for representing the broader constituency's views in practice. The Secretariat's view is that the objective is mostly met given the decline in seniority of delegated industry representatives at EITI events, companies' primary focus on providing data rather than engaging in other aspects of the EITI process, and weak constituency coordination mechanisms, particularly in the petroleum sector. A senior government official noted that petroleum companies' engagement in the EITI appeared to have weakened and noted plans for the Ministers of Finance and Hydrocarbons to hold meetings soon with the heads of oil companies to better understand the reasons and take steps to strengthen their engagement in the EITI.</p> <p>The Decree establishing the EITI (Decree 2019-383) sets the composition of industry's representation on the MSG, including the three largest companies by turnover in the petroleum, mining and forestry sectors as well as the national oil company SNPC. The largest private extractive company by turnover is automatically appointed as the MSG's fourth Vice-Chair. The renewal of industry representation on the MSG does not involve consultations with the broader constituency, given that the Directors-General of the largest extractive companies are automatically appointed to the MSG. Minutes of MSG meetings and the 'Stakeholder engagement' template indicate that industry MSG members have either attended or delegated attendance to proxies for all MSG meetings in the period under review, although MSG members from two large petroleum companies (Total and ENI), one mining company (SOREMI) and one forestry company (Congolaise Industrielle des Bois / OLAM) have delegated their attendance to proxies for all ten MSG meetings in 2020-22. The MSG's fourth Vice-Chair from the industry</p>

	<p>constituency (Total) has chaired the MSG's Communications and Capacity Development Commission.</p> <p>Industry provision of the required information and quality assurances has improved across the three (2018, 2019 and 2020) EITI Reports produced in the period under review. The lack of reporting by the 30 non-reporting companies (of which three in petroleum and ten in mining) in 2018, the three non-reporting companies (of which one in petroleum and two in mining) in 2019 and the one (mining) non-reporting company in 2020 did not have a material impact on the comprehensiveness or reliability of the EITI Report. Improvements in company disclosures have been most marked in the forestry sector, with the rate of forestry industry reporting improving from six of 23 material companies in 2018 to all seven material forestry companies in both 2019 and 2020.</p> <p>The constituency coordination mechanisms are led by the two professional associations for petroleum and mining, respectively the Petroleum Federation in the Employers' and Interprofessional Union of Congo (UNICONGO) and the Solid Mines Federation of Congo. However, the 'Stakeholder engagement' template does not further describe the practice of each association's coordination of their respective sub-constituencies. Consulted company representatives did not describe practices of coordination on EITI implementation in practice, but highlighted their commitment to improve industry engagement in the EITI process in future. The constituency's preparations for this Validation were cited as an example, in which specific industry MSG members had submitted their responses to the 'Stakeholder engagement' template after repeated follow-up from the EITI Congo Secretariat, but without consulting their broader constituency. Some government and civil society stakeholders consulted considered that forestry company representatives tended to be more engaged than those from petroleum, despite the fact that the forestry sector had only recently started being represented on the MSG.</p> <p>There is little documented evidence of the broader industry constituency's input to the development of EITI Congo work plans, aside from references to industry members' participation in relevant MSG meetings where the draft work plans were discussed. Minutes of these MSG meetings do not indicate any industry input to these documents (e.g., minutes of the MSG's 17 November 2021 meeting in which the 2020-21 work plan was approved). Representatives from all constituencies consulted noted that industry MSG members did not object to the publication of additional data on oil companies' production costs, crude oil exports or the financial modelling report.</p> <p>The 'Stakeholder engagement' template indicates that industry representatives attended workshops related to EITI reporting templates and beneficial ownership disclosures. Stakeholder consultations also confirmed that company representatives attended EITI Congo dissemination activities when invited, such as the workshop on the 2019 and 2020 EITI Reports in Pointe Noire in July 2022, attended by several company directors. However, available documents and stakeholder consultations did not identify more</p>
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	<p>active use or promotion of EITI data by extractive companies beyond internal company reporting to their headquarters.</p> <p>There do not appear to be any legal, regulatory or administrative barriers to industry engagement in all aspects of the EITI process, as confirmed in the 'Stakeholder engagement' template.</p>
<p>Civil society engagement (Requirement #1.3)</p> <p><i>Mostly met (with considerable improvements)</i></p>	<p>The Secretariat's assessment is that Requirement 1.3 is mostly met, with considerable improvements since the previous Validation. A detailed assessment of progress towards Requirement 1.3 and adherence to the EITI protocol: Participation of civil society is provided in Annex A. Congolese civil society has leveraged the EITI process in an exceptional manner to protect and expand civic space in an otherwise repressed environment. Government stakeholders engaged in the EITI have supported this agenda and helped to address obstacles for participation. As a result, the EITI has had a positive impact on civil society actors beyond those engaged in natural resource governance. The Republic of Congo is an example of a case where civil society has skilfully navigated in a challenging political environment, achieving results by allying with supportive government officials. The assessment of Requirement 1.3 as mostly met with considerable improvements acknowledges that civil society is able to operate, express, associate and engage freely on extractive sector governance and that it has used this ability in the period under review, despite weaknesses in the broader constituency's engagement.</p> <p>Most consulted stakeholders that were substantially engaged in the EITI process, particularly from government and civil society, considered that the objective of full, active and effective civil society engagement in all aspects of the EITI process, and within an enabling environment for such participation, had been fulfilled in the period under review. Several stakeholders from these two constituencies argued that there had been a net improvement in the environment for civil society engagement in the EITI and public debate on natural resource governance, particularly in terms of expression and operation. However, several civil society stakeholders not directly represented on the MSG considered that the constituency's engagement in the EITI process was too narrowly focused on a handful of individuals that had been engaged in the EITI since inception and that more efforts were required to broaden the constituency's engagement in the EITI. The Secretariat's view is that the objective has been mostly achieved in 2020-22 given the relatively narrow base of engagement centred on several individuals despite tangible improvements since the previous Validation in the EITI's impact on protecting and strengthening civic space related to the EITI process and natural resource governance, even if broader civic space constraints persist.</p> <p>The broader civic space context has remained largely unchanged since the previous Validation, with international rankings of civic space in the Republic of Congo remaining largely constants in the 2020-22 period aside from a net improvement in freedom of the press in 2022. There is no evidence of new legal, regulatory, or administrative constraints on civil society's ability to engage in public debate on natural resource governance since 2020, aside from practical curbs on large public assembly in 2021 related to the COVID-19 pandemic. There have continued to be arrests of journalists and civil society</p>

	<p>activists working on human rights and political issues, particularly in the run-up to Presidential elections in March 2021. However, available evidence and stakeholder consultations indicate that the EITI has played a role in ensuring the release of arrested journalists and CSOs, even if CSOs substantially engaged in the EITI process do not consider the arrested activists to be a part of the EITI process.</p> <p>In terms of <u>expression</u>, there do not appear to be any new constraints on civil society's ability to freely express itself on any aspect of the EITI process or natural resource governance, as in the previous Validation. Consulted civil society stakeholders considered themselves able to express views critical of government and extractive companies in all public forums. While they noted that critical expression on politics in public forum was still considered sensitive, they considered these topics to be narrowly related to party political issues rather than broader governance issues.</p> <p>In terms of <u>operation</u>, there have continued to be isolated ad hoc restrictions on civil society holding outreach events related to natural resource governance, although consulted CSOs considered this to be a symptom of over-zealous local government and law enforcement officials, rather than a consistent government attempt to curb their freedom of operation. Intervention by the EITI with relevant local government officials led to the lifting of such constraints in all reported occasions in the 2020-22 period. The Prime Minister issued a circular in June 2022 directing all government and law enforcement to ensure an enabling environment for civil society engagement in all aspects of the EITI process, including public debate, dissemination and outreach. The EITI Congo is planning to lead the establishment of a multi-stakeholder commission to develop draft legislation on the protection of civic space.</p> <p>In terms of <u>association</u>, the broader civil society constituency has continued to freely associate in relation to the EITI process and in their broader activities related to natural resource governance, as in the previous Validation and despite constraints related to the COVID0-19 pandemic. The PWYP Congo coalition has continued to act as the constituency's coordinator, with evidence of regular consultations and coordination between Brazzaville and Pointe Noire-based CSOs and stakeholders based in other areas, including communities hosting extractive activities.</p> <p>In terms of <u>engagement</u>, available evidence and stakeholder views highlighted civil society MSG members' role as a key driver of EITI implementation throughout this period. The constituency's input has shaped the design, planning, discussions and implementation of the EITI process, including with regards to dissemination and outreach. However, engagement in the EITI process appears to have centred on a handful of individuals with robust capacities, while the larger constituency has not been as engaged in all aspects of the EITI process.</p> <p>In terms of <u>access to public decision-making</u>, a number of new multi-stakeholder forums have been established in the past three years related to oversee issues related to the forestry sector and the implementation of the 2017 Transparency Code. Civil society has used the EITI process to influence</p>
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	public decision-making, including through providing input to legal and regulatory reforms and to gain access to senior government officials to strengthen the effectiveness of their advocacy, leading to tangible results including the release of arrested civil society activists not engaged in the EITI process.
<p>Multi-stakeholder group (Requirement #1.4)</p> <p><i>Partly met</i></p>	<p>The Secretariat's assessment is that Requirement 1.4 is partly met. Most MSG members consulted considered that the objective of a balanced multi-stakeholder oversight of the EITI process had been fulfilled in the past two years, although many conceded that there had been gaps of time when the MSG would not meet. However, they highlighted several contextual factors to be taken into account, including the COVID-19 pandemic intervening just as new MSG members assumed their functions, Presidential elections in March 2021 and legislative elections in July 2022. The Secretariat's view is that, despite innovations in EITI Congo's approached to implementation and procedural improvements in MSG governance since the last Validation, the objective has not been met in the period under review. There has been a deterioration in multi-stakeholder oversight of the EITI process given an uneven frequency of meetings that has delayed significant work and insufficient capacity building for newly appointed MSG members.</p> <p>The renewal of MSG membership in early 2020 was assessed in the last Validation as satisfactory, and MSG members appear broadly representative of their respective constituencies. However, stakeholder consultations highlighted that the new MSG members joined just as COVID-19 restrictions were imposed, making their integration and capacity building more challenging. There were four replacements of government MSG members since the 2020 renewal, including the Ministers of Finance, Budget and the Public Portfolio and of Hydrocarbons following a cabinet reshuffle in May 2021, as well as two government officials following their replacements in office in May 2020 and August 2021 respectively. There were two replacements of industry MSG members following the replacement of the Director General of Total Energies in June 2021 and the suspension of the Director General of forestry company SIPAM in December 2020 due to evidence of the company's implication in past legal proceedings, as discussed by the MSG at its December 2020 meeting. The replacements appear to have followed provisions of the MSG's ToR (Decree 2019-383), although it took over one year to fill the vacant seat with a new member in July 2022. There is no indication that the industry constituency has formalised its MSG nominations procedures and there is thus no evidence that gender considerations are taken into account. The civil society constituency procedures for nominating their MSG representatives continue to be those agreed in October 2018 and include provisions for considering gender in the nominations. The 'Outcomes and impact' template includes a statement of commitment that gender will be considered in the next renewal of MSG membership planned for 2023. In practice, women represent around one quarter (eight) of MSG members.</p> <p>The MSG continues to be governed by the revised Government Decree (2019-383) on EITI assessed in the previous Validation as satisfactory. However, the MSG updated its internal rules ('reglement interieur') in June 2022, with key</p>

	<p>reforms such as requiring the in-person presence of either the MSG Chair, first and second Vice-Chairs, who are the Minister of Finance, Budget and the Public Portfolio, the Minister of Hydrocarbons and the Minister of Mining Industries and Geology respectively. Consulted stakeholders highlighted this as a key challenge in scheduling MSG meetings in advance, and thus as part of the explanation for long (six month) periods without MSG meetings.</p> <p>The MSG did not hold any meetings from January to May 2020, from February to October 2021 and from January and May 2022, although the MSG had more frequent meetings in the fourth quarter of each year to seek to compensate. The ‘Stakeholder engagement’ template is transparent about these deviations and explains that they were due to the impact of the sanitary crisis in 2020 and national elections in March 2021 that led to the appointment of a new cabinet in May 2021. The majority of MSG members have attended most MSG meetings and EITI Congo activities that did take place in this period, albeit with representation at a less senior level than historically from the industry constituency (see <i>Requirement 1.2</i>).</p> <p>The MSG’s submission notes that delays in holding MSG meetings had an impact on the work of the Independent Administrator, the beneficial ownership consultant, the work of the MSG’s commissions and the holding of some EITI workshops. The EITI Congo 2021 annual progress report states that the MSG’s three permanent commissions were established in December 2020 but notes that they were not operational in 2021-22 given the impact of the COVID-19 pandemic, presidential elections and the cabinet reshuffle. There is some evidence that the MSG continued to provide oversight of EITI implementation albeit with delays, including by agreeing a 2021-22 work plan in November 2021 and publishing the 2018, 2019 and 2020 EITI Reports in November 2020, December 2021 and June 2022 respectively. However, production of the annual review of outcomes and impact appears to have been delayed, with plans for an impact study in Q2 2022 postponed. Most stakeholders consulted confirmed that the EITI Congo Secretariat continued organising and coordinating EITI work throughout the period, but that delays in the MSG’s decision-making caused postponements of work related to agreeing the work plan, preparation of the EITI Report, the annual progress report and approval of key studies such as the beneficial ownership report or the financial modelling report in 2022. The MSG approved key documents at the meetings it did hold, although this led to the publication of many documents at once rather than ensuring consistent publication of approved documents, including MSG meeting minutes, throughout the 2020-22 period. A senior government official conceded that government engagement had been weaker in 2021 in the context of competing priorities, but highlighted that the government was now improving its leadership and engagement, having held three MSG meetings in the June-August 2022 period alone.</p> <p>The MSG’s three permanent commissions codified in the 2020 internal rules were established at the MSG’s December 2020 meeting. However, they did not meet in practice since their establishment. The MSG established a fourth, ad hoc, commission on Validation chaired by the Minister of Hydrocarbons in June 2022 that appears to have met. Following up on the findings of the previous Validation, the EITI Congo website published the detail of per diem</p>
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	<p>payments in June 2022, which appears to be consistent with provisions of the June 2020 MSG internal rules (<i>'reglement interieur'</i>) and confirm that MSG members from industry choose not to receive such payments. The rate of per diems still appears high at XAF 300,000 (around USD 470) per session. However, none of the stakeholders consulted on or off the MSG considered that these per diems caused conflicts of interest for MSG members. Although delays in the MSG Chair's approval of meeting minutes delayed publication of meeting records for the 2021-22 period, these were published on the EITI Congo in June 2022. Advance notification of meetings and circulation of documents appears to have complied with the provisions of the MSG's internal rules in this period, even if the 2021-22 EITI work plan identifies limited advance notice of MSG meetings as a potential risk to EITI implementation.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • In accordance with Requirement 1.1, the government should ensure that it is fully, actively and effectively engaged in all aspects of the EITI process, including in its leadership of operational aspects of implementation such as facilitating the MSG's consistent oversight of the process and regular decision-making. • In accordance with Requirement 1.2, the industry constituency should ensure that it is fully, actively and effectively engaged in all aspects of the EITI process, including through input to and attendance at MSG meetings, commitment to resolving bottlenecks to implementation, outreach to stakeholders that are not members of the MSG, use of EITI data and other information to promote public debate. • In accordance with Requirement 1.3, the broader civil society constituency is required to demonstrate that it is fully, actively and effectively engaged in all aspects of the EITI process, including stakeholders not directly represented on the MSG. To strengthen implementation, the Republic of Congo is encouraged to pursue efforts and implement plans to strengthen the enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. In particular, the Republic of Congo could prioritise progress in developing legislation dedicated to protecting civic space, building on lessons learned from the EITI's interventions to lift ad hoc constraints on civil society dissemination and outreach events. The civil society constituency is encouraged to expand capacity building and engagement to a larger number of civil society representatives to strengthen the sustainability of civil society engagement in all aspects of the EITI process. • In accordance with Requirement 1.4, the Republic of Congo should ensure that its multi-stakeholder group exercises regular oversight of the EITI process, including timely approval of key EITI documents such as EITI Reports, work plans and annual progress reports. Members of the multi-stakeholder group should liaise with their constituency groups. 	

4. Transparency

This component assesses EITI Requirements 2 to 6, which are the requirements of the EITI Standard related to disclosure.

Overview of the extractive sector (Requirements 3.1, 6.3)

Overview of progress in the module

The Republic of Congo has continued to use its EITI reporting as the central means of disclosures of the information on the extractive industries and their contribution to the economy. However, a number of ongoing and planned reforms under the government's commitment to the IMF under the extended credit facility would lead to the systematic disclosure of a far greater amount of timelier data on the contribution of the petroleum sector to the national economy, including through the planned publication of quarterly oil sales reports.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p>Exploration (Requirement #3.1)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 3.1 is fully met, as in the previous Validation. Several stakeholders from government and civil society considered that the objective of a transparent overview of the extractive industries had been achieved. The Secretariat's view is that there is scope for the government and extractive companies to strengthen their systematic disclosures on their exploration and production activities in order for this objective to be exceeded in future Validations. All information covered by Requirement 3.1 continues to be disclosed through the Republic of Congo's annual EITI Report.</p>
<p>Contribution of the extractive sector to the economy (Requirement #6.3)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 6.3 is fully met, as in the previous Validation. Most stakeholders consulted from all constituencies considered that the EITI provided the most comprehensive overview of the contribution of the extractive industries to the economy available. The Secretariat's view is that the objective has been fulfilled, with a growing set of systematic disclosures of extractive revenues, and has the potential to exceed the objective by implementing reforms such as the systematic publication of quarterly oil sales reports as planned under the commitments to the IMF.</p> <p>The Republic of Congo's EITI Reports provide the most exhaustive publicly accessible data on the contribution of oil, gas, mining and forestry industries, in absolute and relative terms, to GDP, government revenue, exports and employment. Annex 24 of the 2020 EITI Report provides employment data for</p>

	reporting companies disaggregated by gender and nationality (national/foreign), but not yet by occupation as <i>encouraged</i> by Requirement 6.3.d. The 2020 EITI Report does not provide estimates of the informal sector's contribution to extractive industries, and the last study with United Nations Development Program (UNDP) dates from 2012.
New corrective actions and recommendations	
<ul style="list-style-type: none"> • To strengthen implementation, the Republic of Congo may wish to work with relevant line Ministries for the petroleum, mining and forestry sectors to strengthen their systematic disclosures of information on the extractive industries, including significant exploration activities. • To strengthen implementation, the Republic of Congo is encouraged to use the EITI to support the implementation of planned reforms in partnership with the IMF related to the systematic disclosures of quarterly oil reports on physical production and export flows, and transfers of proceeds of the sales to the state. 	

Legal environment and fiscal regime (Requirements 2.1, 2.4, 6.4)

Overview of progress in the module

The Republic of Congo has used its EITI disclosures to provide a comprehensive review of the legal framework and fiscal regime for the petroleum, mining and forestry sectors, building on the systematic disclosures of all laws and regulations in the official gazette (*journal officiel*). EITI implementation has led to the strengthening of contract and license disclosure practices, in accordance with the 2017 Transparency Code, ensuring the availability of information on fiscal terms per project. However, the Republic of Congo has not yet expanded the scope of its EITI implementation to cover the management of environmental impacts of the extractive industries in practice, despite significant public interest in the topic. There is scope for EITI Congo to work with relevant government entities including the Ministries directly involved in the EITI process to strengthen their systematic disclosures of legal, fiscal and environmental provisions related to the extractive industries, including ongoing or planned reforms.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
Legal framework and fiscal regime (Requirement #2.1)	The Secretariat's assessment is that Requirement 2.1 is fully met, as in the previous Validation. Government and civil society stakeholders consulted considered that the objective of public understanding of the regulatory

Fully met	<p>framework for the extractive industries had been achieved through EITI reporting. The Secretariat's agrees that the objective has been fulfilled.</p> <p>There are systematic disclosures of information on the legal and regulatory framework for the extractive industries in the Republic of Congo, with the full text of laws and regulations published in the official gazette (journal officiel) and the fiscal terms for each project disclosed in the full text of extractive contracts published in the official gazette and on government portals (see <i>Requirement 2.4</i>). The country has used its latest (2020) EITI reporting to comprehensively describe the legal framework and fiscal regime for the mining, oil and gas sectors, including all information listed under Requirement 2.1.a. It has also expanded coverage to the forestry sector since the 2014 EITI Report. While the 2020 EITI Report provides a cursory overview of some reforms related to the mining and petroleum sectors, this description remains limited to coverage of the SYSPACE public finance management system and references to planned updates to the Mining Code, albeit without details from the Mining and Geology Department (DGM) on the nature of planned reforms to the legal framework for mining. Nonetheless, the Secretariat's view is that these weaknesses do not represent material back-sliding compared to EITI disclosures assessed in the previous Validation. Government officials consulted explained that the process for reforming the Mining Code was launched in 2014, but that with World Bank support the government was now recruiting consultants to support the preparation of the draft new law.</p>
<p>Contracts (Requirement #2.4)</p> <p>Exceeded</p>	<p>The Secretariat's assessment is that Requirement 2.4 is exceeded. All stakeholders consulted from all constituencies considered that the objective of public accessibility of all licenses and contracts underpinning extractive activities had been achieved and that the public now had an understanding of the contractual rights and obligations of companies in the oil, mining, and forestry sectors. Several CSOs consulted considered that the Republic of Congo provided an example of best practice in the publication of extractive contracts and licenses. The Secretariat's view is that the objective has been exceeded.</p> <p>Given that extractive contracts are awarded by laws and licenses awarded by decree, the publication of the full text of these documents is required in the official gazette (<i>journal officiel</i>). Article 14 of the 2017 Transparency Code provides a robust foundation for the disclosure of the full text of mining and petroleum rights by requiring all licenses, permits, authorisations and contracts in the mining, oil and gas sectors to be comprehensively published.</p> <p>The oil and gas cadastre indicates that there were no new awards of oil and gas contracts or licenses since the start of 2021. While it is unclear from public documents whether any oil and gas contract or license was amended since 2021, stakeholder consultations confirmed that there had not been any new contract awards or amendments between the start of 2021 and July 2022. There is insufficient information in the public domain to assess whether any new mining licenses or contracts were awarded since the start of 2021. The MSG has published a list of all active mining, oil and gas contracts as of the end of 2020, with sufficient information for improving the accessibility of oil and gas contracts. The 2020 EITI Report provides a list of active mining, oil and gas licenses active as of end-2020, and in August 2022 the EITI Congo website published lists of contracts and licenses in the petroleum and mining sectors.</p>

	<p>In its response to the draft Validation report, the MSG asserted the exhaustivity of the lists of contracts and licenses for the mining and petroleum sector, both based on a review of the respective cadasters. These lists include contracts signed before January 2021, as well as a direct link to the official gazette.</p> <p>In practice, it appears that all mining, petroleum and forestry contracts (including annexes, amendments and riders) have been published in the official gazette (<i>journal officiel</i>) and, for a large number of oil and gas contracts, on the website of the Ministry of Finance, Budget and the Public Portfolio. The Government Decrees awarding each mining and petroleum license are published in the official gazette (<i>journal officiel</i>), which includes the full text of the license. PWYP Congo published a report on the status of contract transparency in October 2020, highlighting the lack of publication of two oil and gas contracts awarded in 2019 (Mopongo and Marine XXI) and missing pages in three published contracts awarded in 1994 and 2006 (Haute Mer, Marine VI-VII and La Noumbi). However, an August 2022 note from the Director General of Hydrocarbons clarified that the operator had withdrawn from the Marine XXI block in 2020 before the conclusion of the contract and that the Mopongo block had lapsed following the operator's lack of adherence to its work programme. Several government officials consulted considered that the full text of all petroleum contracts had comprehensively been published in the official gazette and refuted allegations that certain contracts were missing pages. There was consensus among all stakeholders consulted that all contracts and licenses were publicly accessible. Government officials noted that this would be confirmed in the list of contracts and licenses that would shortly be published on the EITI Congo website. In November 2022, the MSG updated the full list of contracts and licenses for both sectors, confirming the comprehensiveness of the documents disclosures.</p> <p>There is evidence of innovative use of petroleum production sharing contracts by EITI Congo in its financial modelling report, which modelled government revenues from specific petroleum projects on the basis of the published contracts.</p>
<p>Environmental impact (Requirement #6.4)</p> <p><i>Not assessed</i></p>	<p>The Secretariat's assessment is that Requirement 6.4 remains not assessed, given that several encouraged aspects of this requirement remain to be addressed by EITI Congo. Several government and civil society stakeholders consulted highlighted the significant public interest in environmental impacts of the extractive industries, but noted that the objective of transparency in the management of these impacts had not yet been achieved given that the EITI Congo had not yet expanded the scope of EITI disclosures to describing the practices of environmental management of the extractive industries.</p> <p>The Republic of Congo has used its latest (2020) EITI reporting to provide a cursory overview of legal and contractual provisions related to environmental management in the mining and petroleum sectors. It alludes to provisions in mining and petroleum sector legislation requiring companies to undertake Environmental Impact Assessments. The EITI Report's review of the practice of three mining license awards in 2020 highlights the lack of evidence of environmental impact assessments as one of the deviations from statutory procedures for the award of mining licenses. However, the Republic of Congo has not yet expanded its use of EITI reporting to actual practice related to</p>

	<p>environmental management and monitoring of extractive investments in the country. Several government stakeholders consulted explained that the EITI Congo had not yet considered the environmental aspects in the scoping of EITI Reports. There is scope for the Republic of Congo to use its EITI disclosures to provide information on regular environmental monitoring procedures, administrative and sanctioning processes of governments, as well as environmental liabilities, environmental rehabilitation and remediation programmes. Consulted stakeholders highlighted other ongoing reforms, such as the amendment of around 30 oil production sharing contracts in 2022 to provide for an updated fiscal regime by removing fiscal stabilisation clauses in existence since 1968.</p>
<p>New corrective actions and recommendations</p>	
<ul style="list-style-type: none"> • To strengthen implementation, the Republic of Congo is encouraged to strengthen its use of EITI disclosures to track ongoing and planned reforms in the legal framework and fiscal regime for the extractive industries and to consider ways of expanding government systematic disclosures of this information. • To strengthen implementation, the Republic of Congo is urged to complete its work to publish a list of all active contracts and licenses, indicating which are publicly available and which are not. For all published contracts and licenses, it should include a reference or link to the location where the contract or license is published. The Republic of Congo is encouraged to further improve the accessibility of all extractive contracts and licenses by centralising access to the full text of each document. • To strengthen implementation, the Republic of Congo is encouraged to use its EITI reporting to provide an overview of relevant legal provisions and administrative rules as well as actual practice related to environmental management and monitoring of extractive investments in the country. The Republic of Congo's EITI reporting could provide information on regular environmental monitoring procedures, administrative and sanctioning processes of governments, as well as environmental liabilities, environmental rehabilitation and remediation programmes. 	

Licenses and property rights (Requirements 2.2, 2.3)

Overview of progress in the module

The Republic of Congo has continued to use its EITI reporting to improve transparency in licensing practices in the petroleum, mining and forestry sectors since the last Validation. It has established a modern online oil and gas cadastral [portal](#) that systematically discloses all information required by the EITI Standard, but continues to use its EITI reporting as the key means of disclosure of license information, pending the planned establishment of cadastral portals for those sectors. EITI reporting has clarified the statutory procedures for awarding and oil licenses, but criteria assessed for transferring remain unclear. For mining procedures for awards, not transfers, have been clarified, although this clarification is pending broader legal and regulatory reforms planned for the Mining Code. The EITI Congo's review of the practice of awards and transfers is extensive in the oil and gas sector, but appears ad hoc for the mining and forestry sectors and could be more systematic. The Republic of Congo could address

recommendations of successive EITI Reports and civil society calls for more oversight of the process for discretionary awards of oil and gas rights through the development of an implementing Decree for the 2016 Hydrocarbons Code.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p>Contract and license allocations (Requirement #2.2)</p> <p><i>Mostly met (with considerable improvements)</i></p>	<p>The Secretariat's assessment is that Requirement 2.2 is mostly met, with considerable improvements since the previous Validation. Several government and civil society stakeholders consulted considered that the objective of transparency in the practice of extractive rights awards had been fulfilled, highlighting the identification through EITI reporting of deviations in mining and forestry rights awards as an example of the EITI providing a robust diagnostic of licensing practices.</p> <p>There was a total of four contract awards in oil and gas and 24 license awards in mining in 2020, but no transfers in either sector, according to the 2020 EITI Report. The Transparency template refers to 30 mining license awards, as it includes licensing of gold and diamond buying houses. In consultations, the IA clarified that the fourth oil and gas license (IKalou /Ikalou sud (pex) to ENI) whose award date refers to 2020 was in fact a license renewal.</p> <p>The government has been developing its systematic disclosures of information on extractive licenses through the Ministry of Hydrocarbons' new online petroleum license register, its cadastral portal, and the full text of laws and regulations in the official gazette (see <i>Requirements 2.1 and 2.3</i>). However, these new information systems do not track the award and transfer of mining rights beyond updating the license information. The Republic of Congo has used its latest (2020) EITI Report to provide most of the information listed in Requirement 2.2.a for license awards in both mining and oil and gas. However, there are gaps in public disclosures of the statutory procedure for transferring licenses, including a lack of clarity in the technical and financial criteria assessed in transfers of participating interests in oil and gas contracts as well as a lack of information on the procedure for transferring mining licenses and of the technical and financial criteria assessed in mining license awards. However, government officials consulted stated that the same technical and financial criteria applied for oil and gas license transfers as for awards, in line with Articles 5, 19 and 20 of Decree 2008-15 of 11 February 2008, the implementing regulations of the previous Hydrocarbons Code that have not yet been updated for the 2016 Hydrocarbons Code. This process for transferring petroleum rights was confirmed in an August 2022 note from the Director General of Hydrocarbons in response to questions raised in the 2020 EITI Report. However, neither the note or any other public documents available provide a list of criteria assessed for transfers of oil and gas</p>

	<p>licenses. With regards to the statutory procedures for awards and transfers of mining licenses, government and civil society representatives consulted explained that the criteria and their weightings were not yet codified pending revision of the Mining Code and its implementing Decree. In its response to the draft Validation report, the MSG clarified that there was no technical et financial criteria in the process of award and transfer of mining licenses. This is confirmed by a note published by the DGM on its website.</p> <p>EITI Congo has made progress in assessing non-trivial deviations from statutory procedures in the awards of oil and gas contracts and of mining licenses in 2020. The MSG selected the three oil and gas license awards and a selection of three mining production licenses for its review of material deviations in licensing practices, excluding the small-scale mining licenses due to their “limited time of activity” and the absence of criteria to grant such permits. No deviations were identified in oil and gas contract awards. This was confirmed in an August 2022 note from the Director General of Hydrocarbons in response to questions raised in the 2020 EITI Report, confirming that the discretionary award of petroleum rights in 2020 was in line with statutory provisions of the Hydrocarbons Code. Several civil society stakeholders called for greater codification of the practice of discretionary awards of oil and gas licenses, by developing implementing regulations for the 2016 Hydrocarbons Code as recommended in successive Congo EITI Reports, although those consulted understood the circumstances in which these blocks were awarded during COVID-19 restrictions in 2020. The 2020 EITI Report highlights significant deviations in the three mining license awards reviewed that raise concerns over the robustness of the mining licensing process. Government and civil society stakeholders consulted considered that the selection of license awards reviewed was satisfactory and had been approved by the MSG, and noted that the three mining licenses awarded in 2020 had subsequently been cancelled due to concerns over the company’s adherence to its work programme commitments. Stakeholders from all constituencies highlighted the expansion in licensing review to the forestry sector as a major improvement since the previous Validation.</p> <p>The Secretariat’s view is that the assessment of Requirement 2.2 considers that the objective is mostly met with improvements. One of the key technical gap relating to the lack of transparency on criteria assessed in mining license awards and transfers has been answered by the MSG. However, a gap remains on the explanation of the technical and financial criteria related to oil transfers, and the protracted delays in updating the 2008 regulations for the 2016 Hydrocarbons Code represents an obstacle to the objective of transparency in the practices of extractive license allocations and transfers in the period under review.</p>
<p>Register of licenses (Requirement #2.3)</p> <p><i>Fully met</i></p>	<p>The Secretariat’s assessment is that Requirement 2.3 is fully met, as in the previous Validation. Most stakeholders consulted were broadly content with the availability of license and contract information for the petroleum, mining and forestry sectors. The Secretariat’s view is that the objective has been achieved, but not yet exceeded pending the establishment of a modern cadastral system for the mining sector, currently under development.</p> <p>The Ministry of Hydrocarbons launched a publicly accessible petroleum cadastral portal in 2019, which provides all information listed under Requirement 2.3.b and provides for bulk download of license information in open format. While a</p>

	<p>similar cadastral system is under development for the mining sector, it was not yet finalised and launched at the start of this Validation. In the meantime, the Republic of Congo has used its latest (2020) EITI Report to disclose most required information for mining licenses, with the coordinates of each license available in the full text of the publicly available Decrees listed in the annexes to the 2020 EITI Report. While there are some minor information gaps in the 2020 EITI Report, including the lack of information on the awarding Decree for one exploration license and missing dates of application for six licenses, the Secretariat's view is that these are not material gaps that would warrant a downgrade in the previous assessment of fully met. The assessment of this requirement may improve to 'exceeded' once the mining cadastral portal is publicly launched, depending on stakeholders' views of the comprehensiveness and reliability of license data disclosed therein.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • In accordance with Requirement 2.2, the Republic of Congo should clarify the technical and financial criteria assessed for transfers of oil and gas licenses. To strengthen implementation, the Republic of Congo could undertake its diagnostic of contract and license award practices to extractive rights awarded in previous years prior to the period covered by EITI implementation. • To strengthen implementation, the Republic of Congo is encouraged to pursue its efforts to establish a modern mining cadastral portal that covers all information in Requirement 2.3.b and meets the needs of key stakeholders' groups. 	

Beneficial ownership (Requirement 2.5)

Overview of progress in the module

Adherence to Requirement 2.5 on beneficial ownership is assessed in Validation as of 1 January 2020 as per the framework agreed by the Board in June 2019.⁴ The assessment consists of a technical assessment and an assessment of effectiveness.

Technical assessment

The technical assessment is included in the Transparency template, in the tab on Requirement 2.5. It demonstrates that there is a clear government policy on beneficial ownership disclosure in the extractive industries, but that an enabling legal environment for the collection and public disclosure of beneficial ownership data has not yet been established. Article 66 of the March 2017 [Transparency Law](#) required the state to disclose the identity of beneficial owners "and their associates" of all oil and gas, mining and forestry exploration and production licenses. The government's June 2018 [report](#) on governance and corruption, prepared in collaboration with the IMF, includes commitments to establish mechanisms to collect and disclose beneficial ownership information. The government has prepared draft legislation that would extend beneficial ownership data collection to companies in all sectors, but the draft does not yet include provisions for the public disclosure of this information nor include provisions related to politically exposed persons (PEP). Several government and civil society stakeholders consulted noted that

⁴ <https://eiti.org/document/assessing-implementation-of-eitis-beneficial-ownership-requirement>.

the MSG planned to continue its advocacy around the need to align national legislation on beneficial ownership with EITI Requirement 2.5, particularly related to data disclosure and coverage of PEPs, as well as the 2017 Transparency Code that requires extractive industry beneficial ownership data to be publicly disclosed.

In the absence of an enabling legal environment enabling data collection from all companies holding or applying for mining and petroleum licenses and contracts, the Republic of Congo has used its EITI reporting to pilot beneficial ownership data collection since the 2016 EITI Report. The MSG has agreed definitions for “beneficial owner” and “politically exposed person” that are aligned with international best practice for the purposes of EITI data collection, with a 25% threshold for disclosures. The rate of disclosure of ownership data through successive EITI Reports has improved marginally but remains limited, with only five companies disclosing full and 13 companies disclosing partial beneficial ownership information in the 2020 EITI Report. However, EITI Congo published a dedicated [study](#) on beneficial ownership in June 2022, in which it published beneficial ownership information on 41 of the 144 extractive license-holders operating in the country as of 2021, although it had to complete the information collected from three companies with open-source information for another 38 companies. This information has been published in open format on the EITI Congo [website](#).

The 2020 EITI Report includes an assessment of the comprehensiveness and reliability of its EITI disclosures from a total of 25 material companies, while the EITI Congo [study](#) on beneficial ownership in June 2022 provided an assessment of the comprehensiveness and reliability of beneficial ownership disclosures from all extractive companies to date. The oil and gas online [cadastre](#) provides information on 13 of 26 petroleum companies’ beneficial owners, while the May 2019 update of the forestry [license register](#) discloses beneficial ownership data for 17 of 35 forestry companies. The June 2022 beneficial ownership study discloses the names of the stock exchanges where the parent companies of seven petroleum and mining companies are listed, along with links to their statutory stock exchange filings.

The company register, the *Registre de Commerce et de Crédit Mobilier* (RCCM), does not maintain a standalone website. Information on company shareholders does not appear publicly accessible online despite legal requirements for company shareholder information to be publicly accessible. EITI reporting has disclosed the legal owners of only nine material extractive companies to date, although the June 2022 EITI Congo beneficial ownership study provides information on the legal ownership (shareholders) of 65 of 144 extractive license-holding companies, with 79 companies marked as not having communicated shareholder information.

Assessment of effectiveness

The Republic of Congo has made progress in addressing some, but not most, aspects of Requirement 2.5. It has not yet fulfilled the criteria under Phase 1 of the beneficial ownership Validation framework that ended in December 2021, in that it is still in the process of establishing an enabling legal and regulatory framework for the public disclosure of beneficial ownership data. Nonetheless, the Republic of Congo’s efforts to pilot beneficial ownership reporting through the EITI for five years are noteworthy, and it has expanded the scope of reporting companies to the smaller companies in the mining and petroleum sectors, even if gaps in comprehensiveness of reporting persist.

The Republic of the Congo is not on the Financial Action Task Force (FATF) List of Countries identified as having strategic anti-money laundering deficiencies. The latest FATF (*Groupe d'Action contre le Blanchiment d'argent en Afrique Centrale – GABAC*) mutual evaluation [report](#) on the Republic of Congo dates from March 2015, but raises concerns over the lack of systematic data collection on beneficial owners of companies. There have been recent legal reforms of the requirements for asset disclosures by politically exposed persons (PEPs), which has been long required by the Constitution but never operationalised. In February 2019, the government enacted a law requiring asset disclosures by PEPs, which was broadly welcomed as progress despite some deficiencies by international partners such as the IMF in a July 2019 [report](#). The government has pledged to improve its asset declaration requirements in line with international best practice.

EITI Congo's June 2022 beneficial ownership [study](#) includes an assessment of the Republic of Congo's progress in implementing Requirement 2.5. The MSG's self-assessment considers that five of the nine components of Requirement 2.5 have been fully addressed, three have been fully met and one partly met. The most significant gap identified relates to the coverage of beneficial ownership information publicly disclosed to date, with public disclosures related to only 41 of 144 extractive license-holders. The EITI Congo has organised capacity building [workshops](#) for companies on beneficial ownership in Brazzaville and Pointe Noire in October 2021 and February 2022, although more outreach to companies is needed.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p>Beneficial ownership (Requirement #2.5)</p> <p><i>Partly met</i></p>	<p>The Secretariat's assessment is that Requirement 2.5 is partly met. Several government officials considered that the objective of transparency in the ultimate ownership of extractive companies was in the process of being fulfilled given advances in preparing draft legislation on beneficial ownership. Several CSOs and consultants considered that the objective was mostly achieved given that the MSG planned to advocate for improvements in the draft legislation to require public disclosure of beneficial ownership information and of politically exposed persons, at least for the extractive industries. The Secretariat's view is that the objective is not yet fulfilled given that an enabling environment for the public disclosure of beneficial ownership information has yet to be established and that beneficial ownership data has not yet been disclosed for a majority of companies holding or applying for extractive rights.</p> <p>The Republic of Congo has made efforts to prepare a draft legal and regulatory framework for the collection of beneficial ownership information of companies in all sectors, although it has yet to enact legislation requiring the public disclosure of this data. Article 66 of the March 2017 Transparency Law provides some legal basis for the public disclosure of such data by requiring the state to disclose the identity of beneficial owners "and their associates" for all</p>

	<p>mining, oil, gas and forestry exploration or production licenses. However, implementing laws and regulations have yet to be enacted. The country has used its EITI reporting process to collect and disclose legal and beneficial ownership information from some of the larger companies in the sectors. A draft law on beneficial ownership prepared by the Ministry of Finance, Budget and the Public Portfolio in 2020, included in Annex 2 of the June 2022 EITI Congo beneficial ownership study, proposed expanding beneficial ownership data collection to companies in all sectors. The Supreme Court issued an opinion that the draft law was in conformity with the Constitution. However, the June 2022 EITI Congo study on beneficial ownership raises concerns over the potential exclusion from beneficial ownership reporting obligations of extractive companies not domiciled in the Republic of Congo, as well as a lack of provisions related to the disclosure of PEPs and requiring the public disclosure of beneficial ownership information. However, several civil society stakeholders consulted highlighted plans to continue advocacy to ensure that these weaknesses in the draft legislation were addressed, at least for disclosures related to the extractive industries. A senior government official noted that enacting the beneficial ownership law was a top government priority for 2022. The official noted that a new Anti-Corruption Law had been enacted in March 2022, which introduced asset disclosure requirements for PEPs, and that a Decree on Conflicts of Interest was passed in July 2022 as an implementing regulation for this law.</p> <p>The Republic of Congo has used its EITI reporting to collect data on beneficial ownership since the 2016 EITI Report, but has expanded the scope of data disclosed through gradual improvements in company reporting. EITI Congo agreed definitions of beneficial ownership and politically exposed person (PEP), on which it has based its EITI data collection. Yet only five of the 25 material companies in the 2020 EITI Report disclosed full information on their beneficial ownership, while 13 companies disclosed partial beneficial ownership information, two companies were wholly state-owned, and one company was demonstrably a wholly owned subsidiary of a publicly listed company. Data collection through the EITI has included requests for all information listed in Requirement 2.5.c-d. EITI Congo's June 2022 beneficial ownership study provides information on the stock exchange listings of seven companies and guidance on accessing their regulatory filings. Without a public register of company shareholders in the Republic of Congo, EITI reporting has provided information on the shareholders of nine material companies for 2020. A summary of outreach workshops with companies is available on the website of the EITI Congo. As a result of this outreach, the EITI Congo's June 2022 beneficial ownership study included improved disclosures, with 41 petroleum, mining and forestry companies' beneficial ownership, as well as disclosures of legal ownership information for 65 companies (out of 144 extractive license-holders). The study also contained a robust assessment of the comprehensiveness and reliability of the data disclosed under the study. Several criteria assessed under Phase 1 of the beneficial ownership Validation framework until December 2021 have not yet been addressed given the lack of an enabling legal framework, while the objective of full disclosure of all beneficial owners under Phase 2 of the Validation framework is not yet fulfilled.</p>
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New corrective actions and recommendations

- In accordance with Requirement 2.5, the Republic of Congo is required to disclose the beneficial owners of all companies holding or applying for extractive licenses. To achieve this target, the Republic of Congo should establish an enabling legal and regulatory framework for the collection and public disclosure of beneficial ownership information on all oil, gas and mining companies, including appropriate definitions of beneficial ownership and covering politically exposed persons. The Republic of Congo, following the recommendation of the study of June 2022 on Beneficial Ownership, should provide adequate assurances for data reliability. The government is encouraged to establish a public register of beneficial owners. The Republic of Congo is encouraged to agree priorities for beneficial ownership disclosures and, based on these priorities, plan efforts to obtain this data. For example, the Republic of Congo may prioritise disclosures by certain types of companies, companies holding a certain type of license or producing a certain commodity due to risks related to corruption, tax evasion or circumventing provisions for local participation. These priorities should guide outreach efforts to companies and provide them guidance.

State participation (Requirements 2.6, 4.2, 4.5, 6.2)

Overview of progress in the module

The Republic of Congo has implemented several reforms related to its national oil company and state participation in the extractive industries since the last Validation, in the context of its extended credit facility with the IMF. The publication of SNPC's audited financial statements has become institutionalised on the Ministry of Finance, Budget and the Public Portfolio [website](#), alongside its [statutes](#) and the [financial statements](#) of its upstream subsidiary SONAREP. Having concluded a new oil sales agreement with the national refinery CORAF in 2020 (which was published on the Ministry of Finance, Budget and the Public Portfolio [website](#) in August 2022), the state's financial relations with the CORAF are treated as a buyer of a share of the state's in-kind revenues (see *Requirement 4.2*) and as a delayed payment to the Treasury (see *Requirement 5.1*), in addition to describing the revised terms attached to SNPC's equity interest in its subsidiary CORAF under Requirement 2.6. EITI reporting, particularly for 2020, has added significant value through a forensic analysis of the national oil company's audited financial statements, providing the most detailed description of SNPC's financial relations in EITI reporting to date. Most oil revenues that were categorised as quasi-fiscal in previous Validations are now recorded in the national budget with a higher degree of transparency. There is scope to further strengthen the use of EITI as an annual diagnostic of quasi-fiscal expenditures.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement /
past corrective

Summary of progress in addressing the EITI Requirement

action and assessment	
<p>State participation (Requirement #2.6)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 2.6 is fully met. Several government and civil society stakeholders considered that the objective of transparency and public understanding of whether SOEs' financial relations with the state are in accordance with the relevant regulatory framework had been achieved. However, some CSOs and a development partner raised concerns over allegations of unusually low dividend payments by the national oil company to the state, even if there was consensus that it had not achieved a profit in 2020, the year reviewed by the latest EITI Report. The Secretariat's view is that there have been significant improvements both in systematic disclosures and EITI reporting of the practice of state participation since the previous Validation and that the objective has been achieved. A senior government official highlighted the significance of the improvements in the government and SNPC's systematic disclosures of information on the state's participation in the extractive industries. For instance, the official noted that SNPC was now routinely publishing its audited financial statements within the timeframe required under the OHADA, which was considered a significant improvement on previous years when such publications could not be considered.</p> <p>In mining, the Republic of Congo's EITI reporting has continued to provide the required information on the state's entitlement to a 10% free equity interest in all companies holding mining production licenses. The 2020 EITI Report provides an update on the list of state participations in mining companies, terms attached to the participations and confirming the lack of changes, and indicates that this participation did not give rise to material revenues for the government in 2020 given the lack of dividends. While the report does not mention any loans or guarantees provided by the state to any mining company or project, a review of the Ministry of Finance, Budget and the Public Portfolio's debt reports and stakeholder consultations confirmed the lack of such loans or guarantees in the mining sector to date.</p> <p>In oil and gas, SNPC has continued to strengthen its systematic disclosures since the previous Validation, in the context of the IMF programme, and has continued to regularly publish its audited financial statements on the Ministry of Finance, Budget and the Public Portfolio website (although not yet on SNPC's own website). The SNPC's upstream subsidiary SONAREP has also published its audited financial statements for 2020 on the finance ministry website. These published reports have expanded to cover the terms of its participation in each oil and gas project, including through third-party financing ('portage') by the operator. The government's restructuring of its financial operations dashboard (TOFE) and national budget to cover resource-backed loans from China and commodity traders has also increased transparency around these transactions. In 2020, the government concluded a new oil sales agreement with the national refinery, the CORAF, which is a subsidiary of SNPC. Therefore, while SNPC's equity interest in the CORAF is covered under Requirement 2.6, the CORAF's purchases of crude oil from the state are covered under EITI Requirements related to the sale of the state's in-kind revenues and the distribution of extractive industry revenues (see <i>Requirements 4.2 and 5.1</i>). Some CSOs and development partners raised concerns over whether SNPC was recording</p>

	<p>resource-backed loans from commodity traders in its accounts or whether these were only recorded in sovereign debt statistics, although most stakeholders consulted considered that the SOE's audited financial statements provided sufficient information on its revenues and liabilities.</p> <p>The 2020 EITI Report provides the most detailed diagnostic of state participation in the petroleum sector to date. For the first time, it categorises the national oil company SNPC's upstream subsidiary SONAREP as material SOE in its own right, given that it assumed operatorship of two oil projects through the award of rights in 2020. This categorisation was controversial during stakeholder consultations, with both government and civil society representatives considered that SONAREP should be covered only as SNPC's subsidiary given that its dividends were to be paid to SNPC, not directly to the state. The report confirms the state's minority (45%) interest in SOCOTRAM, the company collecting the 'maritime tax' from oil exporters.</p> <p>Beyond describing the statutory financial relations between SNPC and the state, as well as between SNPC and SONAREP, according to the Hydrocarbons and SNPC Laws and SNPC's statutes, the Republic of Congo's EITI's reporting has provided a diagnostic of the practice of SNPC's financial relations with the state based on an analysis of the SOE's audited financial statements. This review covers both the practice of SNPC's financial relations with its subsidiaries, and its participation in oil and gas projects. While the report does not explicitly clarify the terms of SNPC's equity interest in SONAREP, stakeholder consultations confirmed that it was on commercial terms under the framework of OHADA, a system of corporate law in West and Central Africa. The gaps in the 2020 EITI Report on the terms of SONAREP's participation in the two oil projects it was given operatorship in 2020 are addressed in SNPC's audited financial statements for 2021, published on the Ministry website.</p> <p>The 2020 EITI Report discloses the value of SNPC dividends to the state (only USD 5m) in 2020, related to profit in 2018. Several CSOs and development partners consulted raised concerns over the low level of SNPC dividends to the state and called for the EITI to help improve transparency in this regard. The 2020 EITI Report provides a forensic review of SNPC's retained earnings, including its marketing fee for the state's in-kind revenues and the SOE's share of operating and capital expenditures in oil projects. This includes coverage of the specific fiscal regime for the Yanga and Sendji concession, in which the operator provides third-party financing for SNPC before reimbursing itself through deductions on the state's Profit Oil. The EITI Report describes the lending agreement between the state and SNPC, in which the state can provide funding for SNPC at a set interest rate (4%), although it confirms that this mechanism has not been used to date.</p> <p>The 2020 EITI Report has expanded coverage to information on the company's corporate governance and procurement policies, with the potential to cover the practices in future EITI reporting.</p>
<p>Sale of the state's in-kind revenues (Requirement #4.2)</p>	<p>The Secretariat's assessment is that Requirement 4.2 is fully met. Most stakeholders consulted from all constituencies considered that the objective of transparency in the sale of in-kind revenues of oil and gas had been achieved. The Secretariat's view is that the objective has been achieved, but not yet</p>

Fully met	<p>exceeded pending systematic disclosure of the state's oil sales and additional EITI disclosures on the practices related to the selection of buying companies, including any material deviations from the applicable legal and regulatory framework governing the selection of buying companies, and the related sales agreements.</p> <p>The 2020 EITI Report discloses the volumes of government in-kind revenues collected, the volumes actually sold, and the proceeds of sales, disaggregated (but not reconciled, which is only encouraged by the EITI Standard) by buyer and by cargo. The data on volumes of in-kind revenues are provided disaggregated by company, but not yet by project (see <i>Requirement 4.7</i>). The volumes of the state's in-kind revenues collected cover both the in-kind revenues commercialised by SNPC on behalf of the state as well as the volumes commercialised by Total EP Congo on behalf of the state in the context of the bespoke marketing arrangements for the Nkossa/Nsoko field. The crude oil sales disclosures cover the share of the state's in-kind revenues transferred to the national refinery CORAF.</p> <p>Since the 2017 EITI Report, the Republic of Congo has expanded the scope of disclosure of commodity sales to the crude oil sales by international oil companies on their own account (including their Cost Oil and Equity Oil). Combined with the EITI disclosures of oil companies' recoverable costs, this provides a basis for analysing the terms of oil companies' oil exports, although the oil companies' oil exports are disaggregated by sales cargo, but not by project from which the crude oil is sourced. Industry representatives consulted expressed satisfaction at the public disclosure of oil companies' crude oil exports, while representatives from other constituencies highlighted these disclosures as a significant innovation of EITI Congo.</p> <p>The EITI crude oil sales disclosures cover and clearly distinguish payments in the framework of each resource-backed loan agreements, including the reimbursement of pre-financing agreements from commodity traders, payments in the context of the government-to-government agreement with China, and payments for the CEC power plant. However, stakeholder consultations confirmed that the value of CORAF payments for a share of the state's in-kind revenues in 2020 were not included in calculations of total government revenues from proceeds of the sale of the state's in-kind revenues, even if there is sufficient information in the EITI Report on the value of CORAF payments to the government for its crude oil purchases. The CORAF had only paid around USD 120m of the estimated USD 250m value of the 6.1m barrels of crude oil it purchased from the state in 2020, according to the EITI Report, although stakeholder consultations raised concerns over the accuracy of these calculations in the EITI Report (see <i>Requirement 5.1</i>).</p> <p>The Republic of Congo has made progress on encouraged aspects of Requirement 4.2. Beyond publishing oil companies' cost and equity oil sales, the EITI Reports have disclosed information on the statutory framework for oil sales and data on crude oil sales including product type, price, market and sales volume, ownership of the product sold and the nature of the contract, as well as disclosure of sales of SNPC's own production. Several leading purchasers of Congolese oil that are EITI Supporting Companies, including Trafigura and Glencore, disclose their purchases of crude oil from the Republic of Congo at the</p>
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	<p>international level, albeit only disaggregated by cargo for volumes purchased and aggregated by year for the values of purchases. However, there is scope for the Republic of Congo to strengthen its use of EITI reporting to disclose a description of the process for selecting the buying companies, the technical and financial criteria used to make the selection, the list of selected buying companies, any material deviations from the applicable legal and regulatory framework governing the selection of buying companies, and the related sales agreements. However, the new crude oil sales agreement with the CORAF refinery was published in August 2022. There is however evidence of innovative use of oil sales data by the EITI Congo, which published a financial modelling report that analysed crude oil sales by all companies.</p>
<p>Transactions related to state-owned enterprises (Requirement #4.5)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 4.5 is fully met. Most stakeholders consulted considered that the objective of ensure the traceability of payments and transfers involving SOEs had been achieved, but some CSOs and development partners considered that the second objective of public understanding of whether revenues accruable to the state are effectively transferred to the state had not yet been achieved given general concerns over whether SNPC transferred dividends to the state in line with decisions of its Board of Directors on the distribution of profits. The Secretariat's view is that the objective of transparency in the traceability of extractive revenues collected by SOEs has been achieved, given that the 2020 EITI Report appears to have comprehensively disclosed all SOE transactions that actually took place in 2020, even if concerns persist from some stakeholders over whether SNPC is meeting its financial obligations to the state (see <i>Requirement 2.6</i>).</p> <p>There are some systematic disclosures related to extractive SOE transactions in the routine disclosure of SNPC's audited financial statements and the Ministry of Finance, Budget and Public Portfolio's ad hoc publication of the government financial operations dashboard (TOFE) and the national budget execution report. Yet the Republic of Congo's EITI reporting has provided the most comprehensive and reliable disclosures of SOE transactions to date. In the mining sector, there have been no dividend payments by mining companies to the state to date, given that none of the companies in which the state is entitled to exercise its 10% free equity interest have yet reached a stage of profitability. In the oil and gas sector, the 2020 EITI Report provides a comprehensive and detailed review of the revenues collected by SNPC, both related to its upstream operations and to its equity interests in other companies. The revenues collected by SNPC are material. The revenues collected by SNPC on behalf of the state are disclosed and reconciled in the EITI Report, including both in-kind revenues and dividends from its equity interests in upstream companies. The report also discloses and reconciles SNPC's payment of a USD 5m dividend related to its performance in 2018 and confirms the lack of dividend related to 2020 given that the company was loss-making that year.</p> <p>While the 2020 EITI Report provides three different figures for the value of SNPC's transfers to the government related to its sales of the state's in-kind revenues, consultations with government officials and the IA clarified this apparent inconsistency. The EITI Report (p.18) refers to XAF 238bn (USD) as the value of crude oil cargos commercialised by SNPC on behalf of the state in 2020, while its Annex 28 refers to a different number of XAF 261.5bn (USD) as the</p>

	<p>value of the same crude oil cargos commercialised by SNPC on behalf of the state in 2020. Finally, the EITI Report (p.19) also refers to XAF 218.5bn (USD) as the value of proceeds of the sale of the state's in-kind revenues that was actually transferred to the Treasury (and reconciled) in 2020. In consultations, the IA provided additional documentation (available here) that explained that the difference between the XAF 238bn and XAF 261.5bn figures came from the use of an average exchange rate by the IA in the former, and of actual exchange rates on the day of the purchase in the latter. Both figures represented oil export data for 2020 on an accrual's basis, with payments for cargos exported in November-December typically made in the first quarter of the subsequent year. The lower XAF 218.5bn figure represented payments for the crude oil sales in 2020 on a cash accounting basis, i.e. payments received.</p> <p>With regards to SNPC's marketing and sale of the state's in-kind revenues, the report provides unilateral SNPC disclosures of the total value of proceeds of these sales and the results of reconciliation of the value of transfers related to these proceeds to the Treasury, equivalent to 13% of total proceeds from the sale of the state's in-kind revenues. In terms of SNPC's transfers to other accounts, the report provides SNPC's unilateral disclosures of the management of the proceeds from the sale of the state's in-kind revenues, including the value of its transfers to the escrow account guaranteeing the China-funded infrastructure projects on the one hand and in reimbursement of pre-financing agreements with three commodity traders. Regarding transfers between the state and its SOEs, no transfers were made from the state to its state-owned companies. With respect to SNPC and SONAREP transfers to the state other than common taxes and levies, the 2020 EITI Report describes two types of retained earnings by SNPC worth a total of USD 36.6m in 2020, including USD 30m seized in the context of the state litigation against one of its creditors, and USD 6.6m in other amounts owed by the state to SNPC.</p> <p>In terms of government transfers to SNPC's subsidiaries, the report provides the volumes of crude oil deducted by SNPC from the state's in-kind revenues and transferred to the domestic refinery CORAF. The report highlights shortfalls between the value of the CORAF's payments, around USD 120.8m, and the estimated value of the 6.1m barrels in crude oil deliveries, around USD 249.8m, although stakeholder consultations raised concerns over the calculation of the payments for crude oil supplies due by the CORAF to the state in 2020 (see <i>Requirement 5.1</i>). The comprehensiveness and reliability of data on SOE transactions in the 2020 EITI Report have been ensured through the certification of SNPC and SONAREP's reporting templates by their respective auditors and signed by management, together with a review of audited financial statements of both SNPC and SONAREP, which are publicly accessible.</p>
<p>Quasi-fiscal expenditures (Requirement #6.2)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 6.2 is mostly met. Most stakeholders consulted from government, civil society and development partners considered that past quasi-fiscal expenditures had now been resolved and brought onto the government's budget and thus that the objective of transparency on off-budget extractive revenues had been achieved. The Secretariat for the large part agrees with this view, although it notes areas for further work including the systematisation of the reporting related to CORAF's payments for its oil purchases from the state, including arrears. In addition, while</p>

	<p>transfers to the China Exim Bank escrow account are now clear, the management of that account and any transfers to the government net of repayments under the agreement with China remain unclear (see <i>requirement 4.3 and 5.1</i>). Further MSG deliberations on any transfers from the China Exim Bank escrow account to the government would be warranted to ensure that the broader objective of Requirement 6.2 be fully addressed.</p> <p>The 2020 EITI Report describes the reforms leading to the recording in the national budget and the government's financial operations dashboard (2020 TOFE) of the four types of transactions categorised as quasi-fiscal in the previous Validation. These consist of payments made into the China Exim Bank escrow account as a guarantee of repayment for China's infrastructure agreement, reimbursement of pre-financing agreements to commodity traders, transfers of 6.1m barrels of the state's crude oil to the refinery CORAF, and in-kind crude oil deductions from state revenues in reimbursement of the CEC power plants. While the published government budget and financial management documents do not clearly disaggregate lines for these items, the EITI Report and stakeholder consultations confirmed that all four types of deductions from transfers to the Treasury were now recorded in national budget documents. However, there were differing explanations of the value and categorisation of the unpaid arrears from the CORAF to the state related to deliveries of crude oil in 2020. The Natural Resources Department of the Ministry of Finance, Budget and Public Portfolio published a note to comment on the 2020 EITI Report's figures related to CORAF deliveries, clarifying the correct figures for the value of oil transferred to CORAF in 2020 and noting the delayed payment for 2020, only registered in the 2021 TOFE. However, lack of clarity regarding the status of arrears from past deliveries of crude to CORAF remains. The 2020 EITI Report also lists expenditures by the SNPC Foundation that it categorises as social expenditures, and that stakeholder consultations confirmed were voluntary in nature. The 2018 EITI Report had categorised several SNPC Foundation expenditures as quasi-fiscal in nature, although government officials consulted considered that the 2020 EITI Report's categorisation of the Foundation's expenditures as social was correct. In its answer to the draft Validation report, the MSG confirmed that these expenditures were undertaken under the CSR program of SNPC and should be considered as social expenditures.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • To strengthen implementation, the Republic of Congo is encouraged to work in the context of its IMF programme to strengthen government systematic disclosures of information on the state's participation in the extractive industries, particularly SNPC and its subsidiaries. The Republic of Congo is encouraged to publicly describe the rules and practices related to SOEs' operating and capital expenditures, procurement, subcontracting and corporate governance. • To strengthen implementation, the Republic of Congo could expand its use of EITI reporting to disclose a description of the process for selecting the buying companies, the technical and financial criteria used to make the selection, the list of selected buying companies, any material deviations from the applicable legal and regulatory framework governing the selection of buying companies, and the related sales agreements. Companies buying oil and gas from the state, beyond entities that are EITI Supporting Companies at the international level, are encouraged to disclose volumes received from the state or state-owned enterprise and payments made for the purchase of oil and gas. 	

- To strengthen implementation, the Republic of Congo is encouraged to work with the national oil company SNPC, the National Resources Direction of the Ministry of Finance, Budget and Public Portfolio to strengthen the systematic disclosures of transactions related to state-owned enterprises, including the level of disaggregation of payments to government in the SOEs' financial statements.
- In accordance with Requirement 6.2, the Republic of Congo should review all types of spending by extractive state-owned enterprises with a view identifying expenditures that could be categorised as quasi-fiscal, for example the potential arrears unpaid by CORAF in exchange of former delivery of crude by the State. Congo-EITI should also clarify the management of the escrow account dedicated to the agreement with China. Congo EITI is required to develop a reporting process for SOEs' quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams and should include SOE subsidiaries and joint ventures. Congo EITI is encouraged to take the IMF's definition of quasi-fiscal expenditures into account when considering whether expenditures are considered quasi-fiscal.

Production and exports (Requirements 3.2, 3.3)

Overview of progress in the module

The Republic of Congo has continued to use its EITI reporting to disclose production and export volumes and values, with more granular disclosures for crude oil. There have been efforts to include more estimates of informal extractive activities in EITI reporting, although there is scope to expand EITI reporting to the methods for monitoring volumes and calculating values for both production and export.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
Production (Requirement #3.2) <i>Fully met</i>	The Secretariat's assessment is that Requirement 3.2 remains fully met, as in the previous Validation. Most stakeholders consulted considered that the objective of transparency in extractive production data had been achieved. Several stakeholders from government and civil society highlighted the EITI publications of oil companies' production costs as a meaningful innovation by EITI Congo. The Secretariat's view is that the objective has been fulfilled, given that the Republic of Congo's EITI Reports aggregate annual data on production of all extractive commodities' production volumes and values, with more disaggregated data on oil and gas production. However, the 2020 EITI Report has

	not yet provided additional commentary on the methods for calculating production volumes or estimating values.
Exports (Requirement #3.3) <i>Fully met</i>	The Secretariat's assessment is that Requirement 3.3 remains fully met, as in the previous Validation. Most stakeholders consulted considered that the objective of transparency in extractive export data had been achieved, with some government officials consulted highlighting the government's follow-up on recommendations from EITI Reports regarding the oversight of informal exports of artisanal-mined gold and diamonds, including smuggling from neighbouring countries. The Secretariat's view is that the objective is fully met, but not yet exceeded pending the disclose of more information on the methods for tracking export volumes and calculating values, as well as strengthened systematic disclosures of extractives export data through, for instance, quarterly oil reports. The 2020 EITI Report discloses disaggregated export data on crude oil, including cargo-level sales data for all crude oil exported in 2020 (see <i>Requirement 4.2</i>).
New corrective actions and recommendations	
<ul style="list-style-type: none"> • To strengthen implementation, the Republic of Congo is encouraged to explore ways of strengthening systematic disclosures of extractive commodity production volumes and values, building on existing systematic disclosures such as the Ministry of Hydrocarbons oil and gas portal and developing similar systems in the mining and forestry sectors. • To strengthen implementation, the Republic of Congo is encouraged to explore ways of strengthening systematic disclosures of extractive commodity export volumes and values, for instance through the planned quarterly oil reports to be published by the Ministry of Finance, Budget and the Public Portfolio. 	

Revenue collection (Requirements 4.1, 4.3, 4.4, 4.7, 4.8, 4.9)

Overview of progress in the module

The Republic of Congo has continued to provide comprehensive and reliable disclosures of government revenues from the petroleum, mining and forestry sectors through its EITI reporting since the previous Validation. The Ministry of Finance, Budget and the Public Portfolio has developed a new revenues and liabilities information system called [SYSPACE](#), although this is not accessible to the public without accreditation. The EITI Congo was supporting the development of an online reporting tool for extractive companies, known as [SYSCORE](#), which was meant to integrate into the SYSPACE system, the Ministry of Hydrocarbons has prioritised an oil and gas information [portal](#) and cadastral [portal](#) for tracking information other than payments for now. EITI reporting has gradually expanded to a larger share of reporting companies in the three EITI Reports published since the previous Validation, although government revenue data has not yet been disaggregated by project where applicable, even though this information appears readily available in government systems. There is scope for further improvements in the timeliness of EITI financial disclosures if further integrated into reforms of government systematic disclosures, such as through regular publication on the government's revenues from the extractive industries.

The Republic of Congo has used its EITI reporting to significantly improve the transparency around repayments of resource-backed loans from China and commodity traders, as well as the barter-type arrangement for the construction and operation of the CEC power plant project in Pointe Noire. Regardless of whether the resource-backed loans meet the narrow definition in EITI Requirement 4.3, they are categorised as resource-backed loans by international partners like the IMF and are the subject of significant public interest given their magnitude. EITI Congo has shed significant light on these arrangements, and the Ministry of Finance, Budget and the Public Portfolio published the terms of the loans in August 2022. There is scope for EITI Congo to undertake more dedicated work on analysing the payment for the CEC power plant to assess the value-for-money for the public. Likewise, despite not strictly constituting a government revenue from transportation, further transparency on the ‘maritime tax’ issue would help support public debate and policy making on an issue of significant interest to the public and the government.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p>Comprehensive disclosure of taxes and revenues (Requirement #4.1)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 4.1 is fully met, as in the previous Validation. Most stakeholders consulted appeared content at the coverage of the country's EITI Reports in terms of companies and revenues. The Secretariat's view is that the objective is achieved given the full adherence of material government entities and companies to reporting, even if there is scope to strengthen both government and companies' systematic disclosures of payments and revenue data.</p> <p>The Republic of Congo has continued to publish conventional reconciliation reports, with rising reporting by material companies in particular. Following a publicly documented approach, EITI Congo has ensured compliance with EITI reporting by all extractive companies aside from one small mining company in 2020. The coverage of disaggregated disclosures for the oil and gas, mining, and forestry sectors, of 99.96%, 89%, and 85% respectively, suggests that these disclosures are comprehensive. While the 2020 EITI Report contains a review of the audit status of material companies, there have not yet been any improvements in the accessibility of extractive companies' audited financial statements.</p>
<p>Infrastructure provisions and barter arrangements (Requirement #4.3)</p>	<p>The Secretariat's assessment is that Requirement 4.3 is mostly met, with considerable improvements since the previous Validation. Many stakeholders consulted considered that the objective of transparency in infrastructure provisions and barter-type arrangements had been achieved, with several MSG members explicitly stating that there were resource-backed loans from China and commodity traders, but that these did not fit the EITI's narrower definition of ‘barter’ type arrangements involving physical delivery of extractive commodities. The Secretariat's view is that there is insufficient information in the public</p>

<p><i>Mostly met (with considerable improvements)</i></p>	<p>domain to conclude on whether the resource-backed loan from China constitutes a 'barter' type arrangements according to EITI Requirement 4.3, while the arrangement with commodity traders does appear to fit the definition. The loans from commodity traders are repaid through lifting of crude oil cargos, while the loans from China are repaid through crude oil liftings by Chinese state-owned oil companies, with differing stakeholder views on whether the crude oil sales are required to be sold to Chinese state-owned companies through some form of right of first refusal arrangement. Regardless of the categorisation of the China agreement as a resource-backed loan, key terms of the loan arrangement have been provided and public information on the infrastructure works funded in 2020 have been communicated to the Secretariat. The improvements in disclosures related to the China agreement and the granularity of cargo-level oil sales disclosures related to the two agreements marks a considerable improvement since the previous Validation, in the Secretariat's view.</p> <p>There also remains significant public interest in the past costs of the CEC power plant, whose development costs have now been repaid but remain some of the highest costs for developing this type of power plant. The 2020 EITI Report provides a detailed description of the CEC project, whose capital expenditure costs were effectively repaid in 2019 prior to the completion of an audit, whose results have not yet been published. There was significant stakeholder interest, particularly from civil society, on the past investment and management costs of the CEC project. There is scope for EITI Congo to analyse data disclosed through the EITI on repayments of the CEC power plant to assess its value to the state. The Secretariat's view is that progress towards the objective of Requirement 4.3 would be strengthened through a more systematic review of the CEC project and an assessment of its materiality compared to conventional extractive agreements.</p> <p>With regards to the agreement with China, the EITI Report provides 2019 data on infrastructure projects financed by China. A list of the infrastructure projects funded under the agreement with China in 2020 was provided to the International Secretariat in August 2022, although this does not appear to yet be published online. In addition, the report provides the value of aggregate debt outstanding at the end of 2020, the terms of the loan including length, interest rate and general repayment modalities. In its response to the draft Validation report, the MSG confirmed that the deliveries of crude oil displayed in the Annex 14 of the 2020 EITI Report were linked to the agreement. While EITI Congo reporting has focused on financial inflows to the escrow account established under the China agreement, it has not yet covered the management and oversight of funds in the escrow account, which would be needed to strengthen public accountability around the arrangement.</p> <p>With regards to the pre-financing agreements with the three commodity traders Orion Oil, Glencore and Trafigura, the EITI Report provides information on the value of the loans, but not on other terms such as length, interest rate or repayment modalities. However in August 2022, the Ministry of Finance, Budget and the Public Portfolio website published a note on the restructured terms of the loans from commodity traders, which included the loan tenor and interest rate. A separate note published on the website in August 2022 describes the general repayment modalities for the loans from China and the commodity traders.</p>
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	<p>Stakeholder consultations with government and civil society confirmed that repayments of the loans from Glencore and Trafigura had been frozen in 2020 pending the conclusion of debt restructuring talks that concluded in 2021-22. This was confirmed on the note on the loan terms published in August 2022.</p> <p>While noting the progress made on the disclosure aspect of these deals, the International Secretariat considers that, there remains insufficient assessment by the MSG on the China agreement and its implementation in 2020 and the CEC project and the prefinancing agreements with the traders, for stakeholders to be able to assess whether the agreements provide fair value to the government compared to conventional extractive agreements. These assessments would be necessary towards achieving the overall objective of requirement 4.3 of “ensuring public understanding of infrastructure provisions and barter-type arrangements, which provide a significant share of government benefits from an extractive project, that is commensurate with other cash-based company payments and government revenues from oil, gas and mining, as a basis for comparability to conventional agreements.”</p>
<p>Transportation revenues (Requirement #4.4)</p> <p><i>Not applicable</i></p>	<p>The Secretariat’s assessment is that Requirement 4.4 continues to remain not applicable in the period under review, as in the previous Validation. There was consensus among stakeholders consulted that the ‘maritime tax’ did not constitute a form of government revenues from the transportation of oil but rather a fee for access to the country’s maritime waters paid by companies transporting the crude oil. Nevertheless, the ‘maritime tax’ is of high public interest and continues to be regularly discussed at MSG meetings, with additional disclosures in the 2020 EITI Report. Several government and civil society representatives consulted noted that the next step was for oil companies to recognise that the ‘maritime tax’ was to be paid by oil exporter rather than producers, which would imply that it should not be categorised as a recoverable cost that oil companies could claim reimbursement for as ‘Cost Oil’. Industry representatives consulted did not express a view on the issue. While confirming that the ‘maritime tax’ does not constitute a government transport revenue, the 2020 EITI Report nonetheless describes the levy and provides oil companies’ disclosures of their ‘maritime tax’ payments in 2020, even if only one company (Total) reported any such payments. Given the level of public interest in the issue, there is scope for EITI Congo to expand its disclosures and advocacy around the issue through analysis of ‘maritime tax’ data disclosed through successive EITI reporting.</p> <p>In the mining sector, transportation is provided by the companies’ own resources and there are no government revenues linked to the transportation of mineral commodities. In oil and gas, the 2020 EITI Report provides information on the ‘maritime tax’, including disclosure of one company’s ‘maritime tax’ payments in 2020, and confirms that this payment flow is not considered a form of government revenues from the extractive industries.</p>
<p>Level of disaggregation (Requirement #4.7)</p> <p><i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 4.7 is mostly met. Most stakeholders consulted considered that the objective of ensuring disaggregation in public disclosures of company payments and government extractive revenues and to enable the public to assess the extent to which the government can monitor its revenue receipts as defined by its legal and fiscal framework was mostly met. They noted that project-level data on relevant government revenue</p>

	<p>information was available from relevant government agencies, but had not been included in EITI reporting to date. The Secretariat's view is that the objective is mostly met.</p> <p>Reconciled financial data in the 2020 EITI Report is broken down by government entity, revenue stream, and company. The definition adopted for the term project is documented in a previous EITI report, which had also defined the revenue streams that are levied at the project level. However, the 2020 EITI Report does not present revenue disclosures for 2020 disaggregated by project in the oil, gas, mining or forestry sectors. Recognising the gap in project-level disaggregation, which was considered an oversight, government officials consulted noted that it would be straightforward to ensure this level of disaggregation in future EITI reporting. There is de facto project-level reporting for the dozen companies holding a single permit or license.</p>
<p>Data timeliness (Requirement #4.8)</p> <p><i>Fully met</i></p>	<p>The assessment is that Requirement 4.8 is fully met, as in the previous Validation. Most stakeholders consulted considered that the objective of timely EITI disclosures to inform policy making and public debate had been fulfilled. The Secretariat concurs but highlights the scope for further improvements in the timeliness of EITI disclosures by increasingly building on new systematic disclosures by the government. The 2018, 2019 and 2020 EITI Reports were published in December 2020, December 2021 and June 2022. The MSG has consistently approved the period for reporting and adopted cash-based accounting for EITI disclosures.</p>
<p>Data quality and assurance (Requirement #4.9)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 4.9 is fully met, as in the previous Validation. Most stakeholders consulted considered that the objective had been achieved, namely of appropriate measures being taken to ensure the reliability of EITI disclosures of company payments and government revenues from oil, gas and mining. The Secretariat's view is that the objective has been fulfilled, through the strict adherence to agreed quality assurances for EITI reporting by both government entities and companies.</p> <p>Although the public sector audit reports from the Supreme Audit Institution ("Cour des Comptes") are not yet available for the period under review (2020), the 2020 EITI Report contains the IA's assessment of the comprehensiveness and reliability of the reconciled financial data. The 2020 EITI Report provides a detailed review of audit and assurance procedures and practices in both government revenue-collecting entities and material extractive companies, and sets out the methodology and results of the reconciliation. The EITI Report includes the IA's clear assessment in line with its carrying out the agreed upon procedures. There is scope for the Republic of Congo to expand its use of EITI reporting as a regular diagnostic of government revenue collecting systems and controls as well as extractive companies' practices, with a view to formulating recommendations for broader reforms in government and company audit and assurance policies and practices.</p>
<p>New corrective actions and recommendations</p>	

- To strengthen implementation, extractive companies are expected to publicly disclose their audited financial statements, or the main items (i.e., balance sheet, profit/loss statement, cash flows) where financial statements are not available.
- In accordance with Requirement 4.3, the Republic of Congo should ensure the public disclosure of the key terms of any agreements, or sets of agreements, involving the provision of goods and services (including loans and infrastructure works), in full or partial exchange for oil, gas or mining concessions or physical delivery of such commodities to specific parties appointed as part of the agreement. This should include arrangements in which there is physical delivery of crude oil to specific buyers in reimbursement of loans or the provision of infrastructure works, such as pre-financing arrangements. To be able to do so, the MSG need to disclose the value of the balancing benefit stream (e.g. infrastructure works), and to assess whether the agreements provide fair value to the government compared to conventional extractive agreements. This could also include information on the management and oversight of funds in the escrow account dedicated to the China agreement. The EITI Congo is required to agree a procedure to address data quality and assurance of the information set out above, in accordance with Requirement 4.9 and Article 66 of the March 2017 Transparency Code.
- To strengthen implementation, the Republic of Congo may wish to publish more dedicated and comprehensive disclosures and analysis of the 'maritime tax' over the years of EITI implementation, a levy on oil exports that, despite being a levy for the use of the country's territorial waters rather than a tax, is an issue of significant public interest.
- In accordance with Requirement 4.7, the Republic of Congo should ensure that public disclosures of company payments and government revenues from the extractive industries are disaggregated by government entity, by revenue stream, by company and, where applicable, by project for all extractive revenues considered material for EITI reporting. To strengthen implementation, Congo EITI is urged to document which forms of legal agreements constitute a project, in accordance with the definition in Requirement 4.7, and which legal agreements are substantially interconnected or overarching.
- To strengthen implementation, the Republic of Congo is encouraged to pursue efforts to further improve the timeliness of its EITI reporting, including through innovative ways of building on the government's systematic disclosures of data required by the EITI Standard.
- To strengthen implementation, the Republic of Congo could use its EITI implementation as an annual diagnostic to develop recommendations for strengthening government and extractive companies' routine audit and assurance systems and practices.

Revenue management (Requirements 5.1, 5.3)

Overview of progress in the module

The Republic of Congo has implemented significant reforms since the previous Validation in the context of its extended credit facility programme with the IMF. These reforms have included the extension of the government's financial operations dashboard (TOFE) and the national budget and execution report to cover all government oil revenues, including those not transferred to the Treasury. The country's EITI reporting has tracked this evolution in the budgeting of oil revenues, and provided some additional information on the management of oil revenues used to reimburse resource-backed loans, the CEC power plant and crude oil supplies to the national refinery CORAF. The systematic publication of SNPC's audited financial statements provides transparency in the management of SNPC's own revenues. However, there are no other financial reports for

the other oil revenues not transferred to the Treasury and the 2020 EITI Report highlights the lack of disclosure of the use of loans contracted under the China agreement since the disclosure of infrastructure works undertaken in 2019. The crude oil sales to the CORAF are now framed in a new agreement with the state since 2020, which has been made [public in 2022](#). Due to the debate over the level of the CORAF's payment for these crude oil deliveries in 2020 and the appropriate classification of CORAF's delayed payment for crude oil supplied in 2020, the Secretariat considers that more work is needed to ensure transparency in the management of government revenues that are not transferred to the Treasury,

The Republic of Congo has used its EITI reporting to provide more light on the national budget-making and audit cycles, although there is scope for it to further expand these disclosures to cover information that could further public understanding and debate around issues of revenue sustainability and resource dependence.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p>Distribution of extractive industry revenues (Requirement #5.1)</p> <p><i>Mostly met (with considerable improvements)</i></p>	<p>The Secretariat's assessment is that Requirement 5.1 is mostly met, with considerable improvements since the previous Validation. Most stakeholders consulted considered that the objective of transparency in extractive industry revenues not recorded in the national budget had been achieved, given the reforms in the government's budget that extended coverage to all oil revenues. However, some CSOs called for more information on the arrears in payments by the CORAF for a share of crude oil deliveries received in 2020. The Secretariat's view is that the reforms in the government's financial operations dashboard (TOFE) since the previous Validation have extended the national budget to cover all oil revenues previously managed off-budget, although there remain scope for greater clarity on the nature and categorisation of arrears in the national refinery's payments for crude oil supplied by the state (and whether these could be considered off-budget in-kind revenues pending payment) before the objective can be considered fully achieved.</p> <p>The 2020 EITI Report describes the management of public finances according to the single Treasury account principle, and notes the specific exceptions to this principle in the oil sector, through the revenues collected by SNPC on behalf of the state and transferred to escrow accounts for reimbursement of resource-backed loans as well as deductions from the state's in-kind revenues to repay the costs of development and operations of the CEC power project. All government revenues from the mining and forestry sectors are recorded in the national budget. The report confirms that 63.51% of oil revenues were transferred to the Treasury in 2020, with the remainder constituted by repayments of the resource-backed loans with China and the commodity traders, reimbursements of the CEC power plan costs and the value of the share of crude oil transfers to the CORAF for which payment was not received</p>

	<p>by the Treasury in 2020. In a note published in August 2022, the Ministry of Finance noted that the payment had been delayed and took place in 2021. The value of revenues collected and retained by the SNPC, including from dividends from its equity interests in extractive companies, the marketing fee for its sales of the state's in-kind revenues, and SNPC's equity oil revenues, is also provided in the EITI Report. While the EITI Report categorises social expenditures as a form of 'off-budget revenues', the Secretariat's view is that these do not constitute forms of government revenues and thus should only be covered in the assessment of social expenditures (see <i>Requirement 6.1</i>), not government revenues.</p> <p>As of 2020, the value of these revenues is recorded in the government's TOFE and the national budget, albeit not explicitly disaggregated per revenue stream for reimbursements of resource-backed loans with China and the commodity traders. This was confirmed by consultations with stakeholders from all constituencies, including development partners. The 2020 EITI Report provides a general explanation of the management of each of these oil revenues not transferred to the Treasury, albeit only with reference to SNPC's audited financial statements, not of other financial reports on the reimbursement of resource-backed loans, repayments of the CEC power plant or of the CORAF. Financial reports related to the management of most of these revenues do not appear to be publicly accessible, with only CORAF's 2019 audited financial statements available on the Ministry of Finance, Budget and the Public Portfolio's website. The EITI Report provides information on infrastructure works funded under the China agreement in 2019, but notes that this information was not provided for 2020. The management of oil revenues transferred to the China Exim Bank escrow account established to reimburse loans under the China agreement remains unclear in practice, including whether any transfers of oil revenues from the escrow account to the government have taken place from any excess revenues in the account beyond funds used to repay the loans (see <i>Requirement 4.3</i>).</p> <p>The 2020 EITI Report describes the new crude oil sales agreement between the state and the national refinery CORAF concluded in 2020 (and published in August 2022) as well as the expansion of the government's financial and budget reporting through the TOFE and national budget, to include crude oil transfers to the CORAF and other financial subsidies granted by the state. Figures provided in the 2020 EITI Report indicate that the CORAF only paid for around USD 120m of the estimated USD 249m value of the 6.1m barrels supplied by the state to the refinery in 2020, alongside a XAF 35bn subsidy granted in the 2020 budget to the CORAF. There was significant debate over these figures in stakeholder consultations, with several government officials arguing that the USD 249m estimated value of the 6.1m barrels of crude oil supplied to the CORAF was not correct, and noting that the payment for the last two months of crude oil supplies to the CORAF in 2020 would have been paid in the first months of 2021. Several government officials consulted also argued that the XAF 35bn subsidy from the state to the CORAF was discounted from the value of crude oil purchases that CORAF should have made to the government, although other stakeholders consulted considered that the budget subsidy to the CORAF was not meant to cover the cost of crude oil supplies. The CORAF oil sales agreement published in August 2022 confirms that the value of</p>
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	<p>oil sales to the refinery is calculated with the fiscal price for crude oil, net of 15% tax (proportional mining royalty – RMP), in accordance with the 2016 Hydrocarbons Code. It also confirms the 60 day period for payment after crude oil deliveries. Regardless of the explanation of these EITI figures, there was consensus among stakeholders consulted that there had been arrears in payment by the CORAF for its crude oil purchases in 2020. There is scope for EITI Congo to expand its coverage of CORAF’s financial relations with the state to more clearly explain the refinery’s payments for the supply of crude oil, the categorisation of any arrears in payment and the potential for a share of crude oil supplies to the CORAF to constitute off-budget government revenues pending their full payment by the refinery. The Natural Resources Department of the Ministry of Finance, Budget and Public Portfolio has published a note clarifying the figures related to the delivery of crude oil to the CORAF and its payment. There have been considerable improvements in the transparency of oil revenues not transferred to the Treasury since the previous Validation, in the context of budget reforms under the IMF programme. There is however scope for further improving the management of revenues transferred to the escrow account to repay loans under the China agreement, and to systematize the reporting of financial flows between the State and CORAF, including the arrears. Thus, while most technical aspects of Requirement 5.1 have been addressed, the Secretariat’s view is that the objective remains mostly met.</p>
<p>Revenue management and expenditures (Requirement #5.3)</p> <p><i>Not assessed</i></p>	<p>The Secretariat’s assessment is that Requirement 5.3 remains not assessed, given that several encouraged aspects of this requirement remain to be addressed by the EITI in the Republic in Congo.</p> <p>The Republic of Congo has addressed some aspects of Requirement 5.3, primarily through EITI reporting and the EITI Congo financial modelling study. However, while the MSG has provided some information on revenue and expenditure management, it has not addressed the accountability aspects of the requirement related to the management of earmarked revenues, assumptions and budget projections. The public sector audit reports of the Court of Accounts and Budgetary Discipline are not yet publicly available for the period under review (2020). Therefore, it cannot yet be said that the Republic of Congo has fully met or exceeded all technical aspects and the overall objective of this requirement.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • In accordance with Requirement 5.1, the Republic of Congo should ensure public disclosure of which extractive industry revenues, whether cash or in kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be publicly explained, with links provided to relevant financial reports as applicable, e.g., any extra-budgetary entities or escrow accounts. • To strengthen implementation, the Republic of Congo is encouraged to use its EITI implementation as a means of ensuring timely government disclosures that would further public understanding and debate around issues of revenue sustainability and resource dependence, including the assumptions underpinning forthcoming years in the budget cycle and relating to projected production, commodity prices and revenue forecasts arising from the extractive industries and the proportion of future fiscal revenues expected to come from the extractive sector. 	

Subnational contribution (Requirements 4.6, 5.2, 6.1)

Overview of progress in the module

The Republic of Congo has statutory provisions for the subnational transfers of a share of petroleum and forestry revenues, although these were not effective in the period under review given the lack of implementing regulations. Nonetheless, the country's EITI reporting has added value by calculating the value of aggregate revenues that should have been transferred according to the revenue-sharing formula. EITI Congo has continued to disclose extractive companies' social expenditures, but has yet to expand the scope of EITI reporting to their environmental payments to government and other payments to third parties related to the environment. There appears to be strong public interest in this type of information on the extractive industries.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
Subnational payments (Requirement #4.6) <i>Not applicable</i>	The Secretariat's assessment is that Requirement 4.6 remains not applicable in the period under review, as in the previous Validation. Stakeholder consultations confirmed that there were no direct subnational payments by extractive companies, consistent with the findings of the 2020 EITI Report.
Subnational transfers (Requirement #5.2) <i>Fully met</i>	The Secretariat's assessment is that Requirement 5.2 is fully met. Most stakeholders consulted did not express views on progress towards the objective of transparency in subnational transfers of extractive revenues, although some CSOs noted the need to implement subnational transfers in accordance with the 2000 Decree and the 2016 Hydrocarbons Code that codify such mechanisms. The Secretariat's view is that the objective has been met in the absence of subnational transfers in practice, given the use of EITI reporting to disclose the aggregate value of subnational transfers that should have been transferred according to the general revenue-sharing formula. Once the implementing regulations for the subnational transfers are prepared and enacted, the Republic of Congo will be required to disclose the actual transfers to each beneficiary subnational government and any discrepancies between the value of transfers and what should have been transferred according to the revenue-sharing formula.

	<p>The 2020 EITI Report confirms the lack of transfers of petroleum revenues to subnational governments in practice, despite legal provisions requiring such subnational transfers. However, the Republic of Congo has used its EITI reporting to calculate estimates of the value of subnational transfers according to the revenue-sharing formula. Thus, while Requirement 5.2 was assessed as Not Applicable given the lack of execution of subnational transfers, the Secretariat's view is that the assessment should be fully met in light of the EITI reporting of undisbursed subnational transfers of extractive revenues, even if only in aggregate. Consultations clarified that it was not possible to calculate the value of subnational transfers per designated beneficiary in the absence of implementing regulations that set the modalities of such calculations. The EITI Report provides similar calculations of notional subnational transfers of forestry revenues according to the revenue-sharing formula, confirming the lack of such transfers in practice in 2020.</p>
<p>Social and environmental expenditures (Requirement #6.1)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 6.1 is mostly met. Most stakeholders from all constituencies consulted considered that the objective of transparency in mandatory social expenditures had been achieved, but considered that the objective of transparency in environmental payments to government (and to third parties) was not yet achieved given that the MSG's scoping ahead of EITI reporting had not yet been expanded to consider such payments. The Secretariat's view is that the objective of transparency in both social expenditures and environmental payments is mostly achieved in the period under review.</p> <p>There are provisions requiring companies to undertake mandatory social expenditures in certain petroleum production-sharing contracts and some mining contracts. The Republic of Congo has used its EITI reporting to disclose information on extractive companies' mandatory and voluntary social expenditures. The 2020 EITI Report states that the IA reviewed a number of production-sharing contracts and mining contracts to assess the existence of mandatory social expenditure requirements, although the contract sample size reviewed by the IA is unclear from public documents. In consultation, the IA explained that it had reviewed the PSCs involving material companies, but considered that the comprehensive reporting from all extractive companies aside from one small mining company implied that the disclosures of mandatory social expenditures in the 2020 EITI Report were comprehensive of all such social expenditures by material companies. The EITI Report provides disclosures of mandatory social expenditures from one petroleum company and one mining company. Most of the information listed in Requirement 6.1.a is provided for these two companies' mandatory social expenditure disclosures, although not the date of payments or the locations (regions) of the beneficiaries. These disclosures were submitted to the same quality assurances as the rest of material companies' reporting of payments to government. Stakeholders consulted from all constituencies considered these disclosures to be comprehensive of all mandatory social expenditures undertaken in 2020. The IA highlighted additional workshops with extractive companies in preparing the 2020 EITI Report to ensure comprehensive reporting of payments, including mandatory social expenditures. Several</p>

	<p>government officials consulted considered the SNPC Foundation’s spending to constitute voluntary social expenditures.</p> <p>The existence and nature of extractive companies’ environmental payments to government remains unclear based on the 2020 EITI Report, which discloses information on forestry companies’ environmental expenditures only. The EITI Report hints at the existence of environmental payments to government by mining and petroleum companies in its references to the need to submit Environmental Impact Assessments, which implies that some form of government fee exists for processing these impact assessments, but does not clearly describe any such payments to government. In consultations, several government and civil society stakeholders noted that the scoping of EITI Reports had not yet been extended to extractive companies’ environmental payments to government or other types of environmental expenditures to the benefit of third parties. They noted for instance that companies operating under contracts awarded under the 2016 Hydrocarbons Code were required to make annual payments to an environmental rehabilitation fund, an escrow account opened at the central bank, equivalent to 0.5% of their annual turnover. Several officials also noted that extractive companies were required to adhere to the Law on the Protection of the Environment and that it was possible that extractive companies were required to make payments to government related to the environment. Stakeholders from government, industry and civil society committed to undertaking more work on environmental payment disclosures in future EITI reporting.</p>
<p>New corrective actions and recommendations</p>	
<ul style="list-style-type: none"> • To strengthen implementation, the Republic of Congo is encouraged to use its EITI reporting to track implementation of statutory provisions for the subnational transfer of a share of petroleum and forestry revenues collected at the national level. The Republic of Congo is encouraged to implement these statutory subnational transfer provisions in practice. In the interim, EITI Congo is encouraged to pursue efforts to disclose calculations of subnational transfers of extractive revenues according to the relevant revenue-sharing formula in as disaggregated levels as possible. • In accordance with Requirement 6.1, the Republic of Congo should ensure public disclosures of all social expenditures by extractive companies mandated by law, regulation, or contract, where such payments are material. The Republic of Congo should ensure public disclosures of all payments by extractive companies to the government related to the environment mandated by law, regulation, or contract, where such payments are material. To strengthen implementation in light of significant public interest, the Republic of Congo is encouraged to consider ensuring public disclosure of extractive companies’ discretionary social expenditures and environmental payments to third parties, where material. 	

Background

Overview of the extractive industries

An overview of the extractive industries is accessible on the [country page](#) of the EITI webpage for the Republic of Congo

History of EITI implementation

The history of implementation is accessible on the [country page](#) of the EITI webpage for the Republic of Congo

Explanation of the Validation process

An overview of the Validation process is available on the EITI website.⁵ The [Validation Guide](#) provides detailed guidance on assessing EITI Requirements, while the more detailed [Validation procedure](#) include a standardised procedure for undertaking Validation by the EITI International Secretariat.

The International Secretariat's country implementation support team include Nassim Bennani and Ahmed Zouari, while the Validation team was comprised of Hugo Paret and Alex Gordy. The internal review for quality assurance was conducted by Nassim Bennani, Lydia Kilpi, Francisco Paris and Mark Robinson.

Confidentiality

The detailed data collection and assessment templates are publicly accessible, on the internal Validation Committee page [here](#).

The practice in attribution of stakeholder comments in EITI Validation reports is by constituency, without naming the stakeholder or its organisation. Where requested, the confidentiality of stakeholders' identities is respected, and comments are not attributed by constituency. This draft report is shared with stakeholders for consultation purposes and remains confidential as a working document until the Board takes a decision on the matter.

Timeline of Validation

The Validation of the Republic of Congo commenced on 1 July 2022. A public call for stakeholder views was issued on 1 June 2022. Stakeholder consultations were held virtually from 25 July to 10 August 2022. The draft Validation report was finalised on 23 September 2022. Following comments from the MSG received on 18 November 2022, the Validation report was finalised for consideration by the EITI Board.

⁵ See <https://eiti.org/validation>

Resources

- Validation data collection file – [Stakeholder engagement](#)
- Validation data collection file – [Transparency](#)
- Validation data collection file – [Outcomes and impact](#)

Annex A: Assessment of Requirement 1.3 on civil society engagement

Methodology

Due to concerns expressed by stakeholders related to the enabling environment for civil society engagement in the EITI, the International Secretariat's Validation team has conducted a detailed assessment of the Republic of Congo's adherence to the EITI Protocol: Participation of civil society.⁶

The assessment follows the Validation Guide, which defines guiding questions and related evidence that should be considered in cases where there are concerns about potential breaches of the civil society protocol.⁷ For contextual purposes, the Validation provides an overview of the broader enabling environment for civil society participation in country's extractive sector. The assessment seeks to establish whether legal or practical restrictions related to the broader enabling environment have in practice restricted civil society engagement in the EITI in the period under review. It focuses on the areas where there are concerns regarding adherence with the civil society protocol.

A call for stakeholder views on progress in EITI implementation was launched on 1 June 2022, in accordance with the Validation procedure. No responses to the call for views were received. The assessment draws on the Stakeholder engagement file, stakeholder consultations, and third-party reports.

Overview of broader environment for civil society engagement

The Republic of Congo's ranking in international assessments of civic space have remained relatively constant in the period under review (2020-2022). The country's ranking in successive [Freedom in the World](#) reports has remained 'not free', improving marginally from 17/100 in 2020 to 20/100 in 2022. Its assessment by [CIVICUS](#) has remained 'repressed' throughout this period. The United States Department of State's assessment in successive [Reports on Human Rights Practices](#) has also remained constant, without indication of new restrictions on civic space in this period. However, the Republic of Congo's ranking of press freedom by Reporters without Borders ([RSF](#)) improved significantly in the period under review, rising from 118th of 180 countries assessed in 2020 and 2021 to 93rd of 180 countries in 2022.

International rankings of civic space have highlighted restrictions on public assembly and the arrest of civil society activists in the run-up to Presidential elections in March 2021. A night-time curfew in Brazzaville and Pointe Noire and restrictions on the size of public gatherings nationwide were imposed until December 2021, justified by the impact of the COVID-19 pandemic according to [Freedom House](#). None of the stakeholders consulted considered that these COVID-19 related restrictions were intended to curb the freedoms of operation or assembly of civil society stakeholders. Public demonstrations remain governed by Ordonnance [62-28](#) of October 1962,

⁶ <https://eiti.org/document/eiti-protocol-participation-of-civil-society>.

⁷ <https://eiti.org/document/2021-eiti-validation-guide>.

requiring advance authorisation for public demonstrations and marches from the Prefecture. Consultations with some CSOs not substantially engaged in the EITI process highlighted several instances where advance authorisation had not been given to public demonstrations held by pensioners, human rights defenders and political activists on issues not related to natural resource governance. Some CSOs considered that the application of the advance authorisation regime was uneven and considered that authorisations were only denied for demonstrations led by CSOs considered critical of the government. However, none of the stakeholders consulted highlighted instances of advance authorisation for public demonstrations related to natural resource governance having been denied. There have been arrests of three civil society stakeholders in the first half of 2021. Journalist Raymond Malonga was arrested on charges of defamation in [February 2021](#) for having published a news story on alleged embezzlement by the wife of the head of the National Security Council. Two human rights activists, Coordinator of the Congolese Platform of NGOs of Human Rights and Democracy Alexandre Ibacka Dzabana and Vice-President of the association 'Ras le Bol' Christ Dongui, were arrested on charges of breaches of state security in [March 2021](#). Yet several CSOs engaged in the EITI process considered that these arrests were not related to the EITI process or public debate on natural resource governance. They noted that there had been no reported cases in the Republic of Congo submitted through the PWYP International mechanism for identifying breaches of the EITI protocol: Participation of civil society in countries of operation in the 2020-22 period.

The EITI appears to have had an impact on these broader civic space constraints, with evidence that the MSG has discussed cases of civil society activists' arrests and that civil society MSG members used the EITI to obtain the release of arrested activists. In a similar way as in 2018 and early 2020 when civil society MSG members secured the release of civil society activists that were part of the 'Ras-le-bol' and 'Tournons la page' associations for political reform (which were reviewed in previous Validations), long-standing civil society MSG members from the PWYP coalition undertook public advocacy for the release of the three arrested civil society members, including at a July 2021 [press conference](#) that characterised the arrests as breaches of the EITI protocol: Participation of civil society. All civil society stakeholders consulted confirmed that the three arrested CSOs were not substantially engaged in the EITI process, but were members of the 'Tournons la page' campaign alongside some civil society MSG members. Through the EITI, three civil society MSG members secured a meeting with newly appointed Prime Minister Anatole Collinet Makosso in July 2021, which resulted in the release of the three activists in August 2021. A senior government official consulted said that the EITI Congo was providing an effective mechanism for resolving any problems that were reported by civil society engaged in the EITI. Several civil society and government stakeholders consulted considered that this reflected the EITI's impact on broadening civic space in the Republic of Congo. Although not a constitutionally established body, several civil society stakeholders considered that the EITI was now an established mechanism in the Republic of Congo that was having an impact on civic space. Although the broader civic space context was categorised as still challenging, several CSOs considered that the EITI was leading to improvements in civic space related to public debate on natural resource governance and to the release of arrested civil society activists even if they were not engaged in the EITI process. A 2020 PWYP International [consultation report](#) on civic space highlighted PWYP Congo members' views that the EITI played a strategic role in protecting and enhancing broader civic space, as it noted that *"the prospect of jeopardising a country's current or future EITI membership over issues related to civic space has been a major incentive for the government to reverse a controversial decision or situation affecting fundamental freedoms."*

Beyond ad hoc measures to lift restrictions on civic space, the MSG has considered a more systematic approach to protecting and strengthening civic space since 2020. Having discussed the importance of ensuring an enabling environment for civil society engagement in the EITI process at several meetings in 2021, the MSG included in its 2021-22 EITI [work plan](#) several activities related to raising awareness of the EITI protocol: Participation of civil society among government officials and organising a workshop to consider the need for a dedicated law on the protection of civic space. In June 2022, Prime Minister Anatole Collinet Makosso issued a [circular](#) directing local government and security service officials to support civil society's activities related to the EITI process. This followed the issuance of an official government [statement of support](#) for the EITI the same month, signed by the Ministers of Finance, Budget and the Public Portfolio, of Hydrocarbons, of Mining Industry and Geology, and of the Forestry Economy. The MSG also held an outreach [event](#) to raise awareness about the EITI protocol: Participation of civil society for government officials in Brazzaville in July 2022. Several civil society and government stakeholders consulted noted the evolution of plans to establish a multi-stakeholder commission to consider the need for a dedicated law on the protection of civic space, which would include representatives beyond those substantially engaged in the EITI process, with a view to proposing draft legislation on civic space to the government by 2023. Several CSOs consulted highlighted that Minister of Finance Rigobert Roger Andely had committed to take the proposal forward during a recent MSG meeting. There was debate and varying views between government and civil society representatives consulted over the intended role of the Consultative Civil Society Council (*Conseil consultatif de la société civile* – CCSC) in the commission to consider draft legislation on civic space. Several government officials highlighted the organisation's federating role for civil society. However, several CSOs highlighted that many organisations refused to sign up to the CCSC and did not consider it representative of *bona fide* civil society organisations.

Expression

The broader context for freedom of expression does not appear to have significantly improved or deteriorated in the period under review. There have not been any legal, regulatory or administrative reforms since the previous Validation related to civil society's freedom of expression. There continue to be concerns voiced from international NGOs such as Freedom House, CIVICUS and Amnesty International regarding deviations from constitutional guarantees of freedom of expression in practice, in particular related to arrests of journalists and civil society activists working on human rights and political issues in 2021.

Civil society's input to the 'Stakeholder engagement' template states that there are no obstacles to civil society's freedom of expression in relation to all aspects of the EITI process. Review of MSG meeting minutes during the 2020-2022 period indicates that civil society has been the more active participants in MSG discussions, including in raising points of concern and criticisms directed at government and companies. The template notes examples of public expression critical of the government and companies in print and broadcast media on the part of leading CSOs engaged in the EITI process such as AGODEC, PWYP, RPDH and CDJP. The RPDH [website](#) and Facebook [page](#), the CDJP [website](#), and the PWYP Congo Facebook [page](#), provide additional evidence of public expressions critical of the government and extractive companies, including position papers, budget analysis and press statements.

This was confirmed in consultations with civil society and government stakeholders, who highlighted the critical nature of public pronouncements by civil society representatives engaged in the EITI. They also noted the growing public dialogue between civil society and government on issues previously considered as too sensitive to discuss in public, including the national oil company's financial management, resource-backed loans involving the People's Republic of China and commodity traders, and the 'maritime tax' among others. None of the stakeholders consulted considered that there were topics related to the EITI process and natural resource governance that could not be discussed in public. While most civil society stakeholders consulted noted that topics considered explicitly related to 'politics' were still considered sensitive, they stated categorically that this did not impact their public expression on any issue related to natural resource governance, including beneficial ownership. There is documented evidence of civil society stakeholders expressing themselves on all issues related to the extractive industries, including topics they considered previously too sensitive to discuss in public, such as beneficial ownership, extractive contract transparency, crude oil sales, SOE financial relations with the state, resource-backed loans, quasi-fiscal expenditures and civic space. Several international CSOs consulted considered that the broader civic space context did not provide an enabling environment for civil society engagement in public debate on natural resource governance. Some international CSOs consulted considered that there was a tendency towards self-censorship given the chilling effect of arrests of journalists working on issues other than the extractive industries, although they did not raise specific allegations of self-censorship on the part of CSOs engaged in the EITI process. None of the consultations with stakeholders engaged in the EITI process considered that any topic related to the EITI process was considered too sensitive to discuss in public. Several national CSOs argued that past self-censorship on extractive issues had now been overcome, given progress in disclosures and public debate related to the extractive industries and natural resource governance.

Operation

The broader context for freedom of operation does not appear to have significantly improved or deteriorated in the period under review. There have not been any legal, regulatory or administrative reforms since the previous Validation related to civil society's freedom of operation. Civil society organisations continue to be required to register with the Ministry of Interior, with [Freedom House](#) noting that CSOs critical of the government tended to face a more burdensome process. However, all CSOs engaged in the EITI process have continued to be duly registered under the Republic of Congo's regime of declaration for establishing a CSO. There is no documented or anecdotal evidence of a CSO having been disbanded in the period under review.

Civil society's input to the 'Stakeholder engagement' template states that there are no obstacles to civil society's freedom of operation in relation to all aspects of the EITI process. The template notes evidence of public meetings and workshops led by civil society focused on challenges in following up on the previous Validation in June 2021 and on the proposals for legal reforms on the protection of human rights defenders in October 2021. The CSOs engaged in the EITI process have continued to access foreign funding during the period under review, including from PWYP International, the National Endowment for Democracy, MISEREOR, Secours Catholique Caritas France, in both driving outreach and producing analytical reports such as PWYP Congo reports on extractive [contract disclosure](#) and on [budget execution](#) of expenditures in health infrastructure.

In practice, civil society appears to have been a driver of EITI implementation in the period under review. The PWYP Congo coalition has continued to play a coordinating role for the broader constituency. Available documentation and stakeholder views highlight that civil society MSG members have driven the EITI process both in participation in MSG meetings and in leading outreach and dissemination activities. Despite constraints linked to the COVID-19 pandemic and a slow-down in dissemination activities led by EITI Congo, civil society has continued to hold public workshops and dissemination events throughout this period, led by NGOs engaged in the EITI including RPDH, PWYP, CDJP, OCDH and NIOSI, both in Brazzaville and Pointe Noire as well as in communities hosting extractive activities. Several civil society and government stakeholders consulted noted that there had been a few isolated cases of over-zealous law enforcement that had stopped two public gatherings by EITI-related CSOs in departments of la Bouenza and Kouilou, but highlighted that the EITI National Coordinator's intervention with the local Prefect had promptly resolved the situation and allowed these events to be held in practice.

Association

The broader context for freedom of association does not appear to have significantly improved or deteriorated in the period under review. International rankings of civic space highlight deviations from constitutional guarantees of freedom of association in practice. Civil society organisations have continued to be required to seek authorisation from local and national authorities to hold public events, with international NGOs like [Freedom House](#) noting that such permission is routinely denied, particularly during the COVID-19 pandemic. For instance, the Brazzaville Prefecture denied authorisation for a public march in front of the state-owned electricity utility to raise concerns over the impact of power outages in [April 2022](#). There have also been dispersals of public demonstrations in the period, including the use of tear gas in [December 2021](#) to stop a public march by victims of a 2012 explosion at a military munitions depot. Several CSOs consulted beyond the MSG considered that there continued to be restrictions on freedom of association, given that the required authorisation of the Prefecture to hold public meetings was often not granted when the applicants were considered to be planning activities that could generate dissent or public order disturbances.

There is no documented evidence of bans or dispersals of public demonstrations related to the EITI process or natural resource governance in the period under review, however. Consultations with CSOs substantially engaged in the EITI process indicated that they did not consider these restrictions on public assembly to have affected the constituency's engagement in all aspects of the EITI process since 2020. Some CSOs consulted explained that civil society did not tend to hold public demonstrations on natural resource governance issues, but rather prioritised public gatherings such as press conferences and workshops in private spaces, which did not require advance authorisation from the Prefecture. Civil society's input to the 'Stakeholder engagement' template states that there are no obstacles to civil society's freedom of association in relation to all aspects of the EITI process, noting as evidence the attendance lists and minutes of civil society events on the extractive industries and press coverage of these events.

The MSG continues to include nine CSOs engaged on petroleum, mining and forestry issues as well as two representatives from the media. Following a renewal of MSG members in early 2020 that was conducted in accordance with civil society constituency guidelines and reviewed in the

previous Validation, the new membership confirmed in Ministerial Order [5382/MFB-CAM](#) included eight new representatives among the 11 MSG members from civil society. The PWYP Congo coalition has continued to play its role as coordinator of the broader civil society constituency, using WhatsApp groups and in-person meetings to coordinate the constituency in practice as highlighted in the 'Stakeholder engagement' template. This civil society coordination with the broader constituency has focused both on canvassing input for MSG discussions as well as organising outreach and dissemination activities. Review of MSG meeting minutes and key documents such as the EITI Congo work plan indicate that civil society has provided input to the development of key documents and the design of EITI implementation, drawing on input from the broader constituency. Civil society stakeholders consulted did not indicate concerns over government monitoring of their communications.

Engagement

Civil society's input to the 'Stakeholder engagement' template states that there are no obstacles to civil society's engagement in all aspects of the EITI process. The template notes as evidence the active participation of civil society in MSG discussions and the MSG's consideration of points raised by civil society. There is no documented evidence or stakeholder views indicating that there have been constraints on civil society's engagement in all aspects of the EITI process, including participation and active engagement in EITI events and MSG discussions, as well as leading outreach and dissemination efforts, including beyond the cities of Brazzaville and Pointe Noire.

Minutes of MSG meetings and the 'Stakeholder engagement' template indicate that civil society MSG members have attended and actively contributed to all EITI Congo activities in this period, including MSG meetings (always in person, without delegation to proxies) and EITI dissemination events. Civil society is represented on all four of the MSG's Commissions and the MSG's third Vice-Chair (from civil society) chairs the MSG's Data Collection, Implementation and Validation Commission, even if these MSG Commissions did not meet in practice in the 2020-22 period (see *Requirement 1.4*). Civil society organisations represented on the MSG including PWYP Congo, RPDH, CDJP, OCDH and NIOSI have organised outreach and dissemination events related to the EITI and extractive industry governance issues in the 2020-22 period, despite restrictions related to the COVID-19 pandemic. The RPDH [website](#) documents civil society activities on the EITI and related issues. There is also evidence of use of EITI data by CSOs, through analytical reports and position papers including PWYP Congo reports on extractive [contract disclosure](#) in October 2020 and on the 2019 [budget execution](#) of health infrastructure investments in September 2021. This active use of EITI data has formed the basis of active advocacy and lobbying on issues related to natural resource governance, including in public forums, print and broadcast media. However, some CSOs consulted considered that civil society representation in the EITI process was primarily driven by civil society leaders that had been part of the EITI process in Congo since inception. Several CSOs not directly represented on the MSG considered that they did not receive regular communications from civil society MSG members, but rather were invited to meetings when it was necessary to approve constituency documents. Several CSOs highlighted risks to the sustainability of civil society engagement in the EITI process given this over-reliance on a few individuals.

Available documents and stakeholder consultations indicate that civil society has provided input to the development of the EITI Congo work plan and the 2021 annual progress report, although the postponement of the dedicated impact assessment has hindered the constituency's ability to canvass the broader constituencies on their views on the impact of the EITI in a more systematic way (see *Requirement 7.4*). Minutes of MSG meetings in which EITI Congo work plans were discussed and approved indicate civil society input to these documents (e.g., [minutes](#) of the MSG's 17 November 2021 meeting), particularly related to outreach and dissemination activities. Meeting records and stakeholder views indicated that civil society's views have been taken into account in MSG discussions and decisions. Civil society and government stakeholders indicated that the constituency had sufficient capacities to engage in all aspects of the EITI process, including in technical MSG discussions on the EITI Report or highly technical work such as the EITI Congo's financial modelling report. While some CSOs called for more capacity building for the constituency, particularly for newer MSG members appointed in 2020, they broadly considered that technical capacity constraints did not hinder the constituency's active engagement in EITI implementation in the period under review. Several CSOs outside the MSG considered that there was a significant need for capacity building of the broader constituency as part of needed efforts to expand the constituency. While the 2021-22 EITI Congo work plan includes activities related to capacity development for MSG members and key civil society groups such as the media and NGOs, some CSOs consulted expressed concerns over the delays in approving the work plan and consequent postponement of several activities (see *Requirement 1.5*).

Access to public decision-making

Civil society's input to the 'Stakeholder engagement' template states that there are no obstacles to civil society's access to public decision-making related to the extractive industries. As highlighted in the template, civil society has been represented in various government-led initiatives related to the extractive industries beyond the EITI, including the Central African Forest Initiative ([CAFI](#)) and the National Commission for Transparency and Responsibility in Public Finance Management ([CNTR](#)) established in 2020. Civil society representatives, particularly those substantially engaged in the EITI process, have participated in regular meetings with international partners such as the IMF in the context of the Republic of Congo's extended credit facility. There are few legal and regulatory mechanisms in place to ensure public participation in the licensing process in the petroleum and mining sectors, with no provisions for public consultations in the licensing process. In the forestry sector however, companies that are members of the Forest Stewardship Council (FSC) have implemented free, prior and informed consent (FPIC) mechanisms to ensure public consultations in areas where forestry activities affect indigenous peoples.

The civil society outreach and dissemination events related to the EITI process and public debate on natural resource governance in the 2020-22 period have provided forums for promoting public debate, and included civil society stakeholders beyond those based in Brazzaville and Pointe Noire. As noted in the assessment of civil society engagement, the constituency has conducted analysis of key issues related to the extractive industries including resource-backed loans, contract disclosure, beneficial ownership transparency, as well as issues related to broader civic space. The 'Stakeholder engagement' template highlights civil society's contribution, through the EITI, to the development of the new Forestry Code and its implementing

regulations, the [Voluntary Partnership Agreement](#) on forestry governance and trade with the European Union, and the draft law on beneficial ownership developed in 2021-22. Civil society activists have continued to use the EITI process to ensure the lifting of ad hoc constraints on civil society's ability to hold public outreach events. Available documents, together with government and civil society stakeholder views, indicate that the EITI is working to establish more systematic protections for civil society stakeholders, including through the planned development of draft legislation on civic space.

However, stakeholder consultations and the documentation provided for this Validation indicate continued civil society concerns over access to information as a constraint on their ability to influence public decision making. While consulted stakeholders highlighted the greater availability of information on the petroleum sector as a consequence of both the EITI and reforms in line with commitments to the IMF, several CSOs expressed frustration at constraints in the availability of information on the forestry sector. Civil society's submission to the 'Stakeholder engagement' template criticises the government's constraints on disclosures of information on the forestry sector following a 2022 circular from the Ministry of the Forestry Economy requiring ministerial approval for disclosures related to the sector.

Nonetheless, civil society appears to have effectively used the EITI process to gain access to senior government officials including Prime Minister Makosso, both through MSG meetings and in bilateral meetings requested as part of EITI implementation. This has led to swift government actions, including in ensuring the release of civil society activists not engaged in the EITI process. Many consulted CSOs highlighted the use of the EITI to gain access to government officials and influence public decision making as an innovation in the Republic of Congo and considered that it provided the constituency with effective access to public decision making.

Assessment

The Secretariat's assessment is that Requirement 1.3 is mostly met, with considerable improvements since the previous Validation. Congolese civil society has leveraged the EITI process in an exceptional manner to protect and expand civic space in an otherwise repressed environment. Government stakeholders engaged in the EITI have supported this agenda and helped to address obstacles for participation. As a result, the EITI has had a positive impact on civil society actors beyond those engaged in natural resource governance. The Republic of Congo is an example of a case where civil society has skilfully navigated in a challenging political environment, achieving results by allying with supportive government officials. The assessment of Requirement 1.3 as mostly met with considerable improvements does not legitimise repression of broader civic space. It acknowledges that civil society is able to operate, express, associate and engage freely on extractive sector governance and that it has used this ability in the period under review, despite weaknesses in the broader constituency's engagement.

Most consulted stakeholders that were substantially engaged in the EITI process, particularly from government and civil society, considered that the objective of full, active and effective civil society engagement in all aspects of the EITI process and within an enabling environment for such participation had been fulfilled in the period under review. Several stakeholders from these two constituencies argued that there had been a net improvement in the environment for civil society engagement in the EITI and public debate on natural resource governance, particularly in

terms of expression and operation. However, several civil society stakeholders not directly represented on the MSG considered that the constituency's engagement in the EITI process was too narrowly focused on a handful of individuals that had been engaged in the EITI since inception and that more efforts were required to broaden the constituency's engagement in the EITI. The Secretariat's view is that the objective has been mostly achieved in 2020-22 given the relatively narrow base of engagement centred on several individuals despite tangible improvements since the previous Validation in the EITI's impact on protecting and strengthening civic space related to the EITI process and natural resource governance, even if broader civic space constraints persist.

The broader civic space context has remained largely unchanged since the previous Validation, with international rankings of civic space in the Republic of Congo remaining largely constants in the 2020-22 period aside from a net improvement in freedom of the press in 2022. There is no evidence of new legal, regulatory, or administrative constraints on civil society's ability to engage in public debate on natural resource governance since 2020, aside from practical curbs on large public assembly in 2021 related to the COVID-19 pandemic. There have continued to be arrests of journalists and civil society activists working on human rights and political issues, particularly in the run-up to Presidential elections in March 2021. However, available evidence and stakeholder consultations indicate that the EITI has played a role in ensuring the release of arrested journalists and CSOs, even if CSOs substantially engaged in the EITI process do not consider the arrested activists to be a part of the EITI process.

In terms of expression, there do not appear to be any new constraints on civil society's ability to freely express itself on any aspect of the EITI process or natural resource governance, as in the previous Validation. Consulted civil society stakeholders considered themselves able to express views critical of government and extractive companies in all public forums. While they noted that critical expression on politics in public forum was still considered sensitive, they considered these topics to be narrowly related to party political issues rather than broader governance issues.

In terms of operation, there have continued to be isolated ad hoc restrictions on civil society holding outreach events related to natural resource governance, although consulted CSOs considered this to be a symptom of over-zealous local government and law enforcement officials, rather than a consistent government attempt to curb their freedom of operation. Intervention by the EITI with relevant local government officials led to the lifting of such constraints in all reported occasions in the 2020-22 period. The Prime Minister issued a circular in June 2022 directing all government and law enforcement to ensure an enabling environment for civil society engagement in all aspects of the EITI process, including public debate, dissemination and outreach. The EITI Congo is planning to lead the establishment of a multi-stakeholder commission to develop draft legislation on the protection of civic space.

In terms of association, the broader civil society constituency has continued to freely associate in relation to the EITI process and in their broader activities related to natural resource governance, as in the previous Validation and despite constraints related to the COVID-19 pandemic. The PWYP Congo coalition has continued to act as the constituency's coordinator, with evidence of regular consultations and coordination between Brazzaville and Pointe Noire-based CSOs and stakeholders based in other areas, including communities hosting extractive activities.

In terms of engagement, available evidence and stakeholder views highlighted civil society's role as a key driver of EITI implementation throughout this period. The constituency's input has shaped the design, planning, discussions and implementation of the EITI process, including with regards to dissemination and outreach. However, engagement in the EITI process appears to have centred on a handful of individuals with robust capacities, while the larger constituency has not been as engaged in all aspects of the EITI process.

In terms of access to public decision-making, a number of new multi-stakeholder forums have been established in the past three years related to oversee issues related to the forestry sector and the implementation of the 2017 Transparency Code. Civil society has used the EITI process to influence public decision-making, including through providing input to legal and regulatory reforms and to gain access to senior government officials to strengthen the effectiveness of their advocacy, leading to tangible results including the release of arrested civil society activists not engaged in the EITI process.

In accordance with Requirement 1.3, the broader civil society constituency is required to demonstrate that it is fully, actively and effectively engaged in all aspects of the EITI process, including stakeholders not directly represented on the MSG. To strengthen implementation, the Republic of Congo is encouraged to pursue efforts and implement plans to strengthen the enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. In particular, the Republic of Congo could prioritise progress in developing legislation dedicated to protecting civic space, building on lessons learned from the EITI's interventions to lift ad hoc constraints on civil society dissemination and outreach events. The civil society constituency is encouraged to expand capacity building and engagement to a larger number of civil society representatives to strengthen the sustainability of civil society engagement in all aspects of the EITI process.