

EITI policy on engaging EITI countries experiencing political instability or conflict

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Introduction

This document sets out the EITI’s policy on engaging EITI countries experiencing political instability or conflict. It was agreed by the EITI Board at its 58th EITI Board meeting in November 2023 ([Board decision 2023-50](#)).

Political instability and conflict in EITI countries may arise from various political circumstances ranging from the overthrow of a government by the military or coup d’état (seizure of a government by a militia or an internal rebellion, unconstitutional transfer of power control over disputed territories, foreign aggression, and cases of secession).

For the purpose of this policy, cases where there is forceful overthrow of governments in EITI member countries and where broader issues related to political instability and conflict are both considered. This includes instances where a national or a subnational government recognition is disputed by competent national institutions such as the courts or by well-established bilateral and multilateral organisations, regional organisations such as the Africa Union, the Association of Southeast Asian Nations, the European Union, ECOWAS, the Organisation of American States, Pacific Islands Forum, Commonwealth of Independent States (CIS), the United Nations, or UN-affiliated organisations.

Definition of terms and categories of countries

De facto government

The EITI adopts the World Bank's definition of **de facto government**, namely a government which comes into power by means outside of a country's constitution, such as a coup d'état, revolution, suspension of the constitution, or when no government is in place.¹

State of conflict

Drawing on the World Bank's definition of conflict, countries are considered to be in **a state of conflict** when organised groups or institutions, sometimes including the state, use violence to settle grievances or assert power.² This could include instances where there is violent overthrow of government, or instances where there is no overthrow of government but there are attempts by neighbouring states to assert control through violent means and EITI implementation is affected.

Political instability

Political instability is measured by various organisations using different indicators, including the frequency or intensity of internal and external armed conflict, violent demonstrations, protests and riots, social unrest, international tensions and terrorist threats, or ethnic, religious or regional intensity of violent activities.³ More broadly, political instability is defined as the propensity of a government to collapse in the face of such pressures.⁴

¹ World Bank (1994). Operational Policies 7.30: Dealings with De Facto Governments. Retrieved from <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099556205052231930/idu027e31a490f2d9041ec08285057260d93407b>.

² World Bank (2020). World Bank Group Strategy for Fragility, Conflict and Violence, 2020-2025. Retrieved from <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/844591582815510521/world-bank-group-strategy-for-fragility-conflict-and-violence-2020-2025>.

³ World Bank (2023). Worldwide Governance Indicators. Retrieved from <https://www.worldbank.org/en/publication/worldwide-governance-indicators>.

⁴ National Bureau of Economic Research (1992). Political instability and economic growth. Retrieved from https://www.nber.org/system/files/working_papers/w4173/w4173.pdf.

Response when conflict or political instability occurs

Response to the overthrow of a government by force in an EITI member country

Step 1: Statement by the EITI Board Chair

At the discretion of the EITI Board Chair and in discussion with the EITI International Secretariat, the Chair may issue a prompt statement, framed by consideration of country circumstances. Such a statement might include a call for restraint, safety of EITI office holders and adherence to the EITI Principles and Requirements, including the preservation of civic space, in accordance with the EITI's protocol on civil society participation.

Step 2: Initial brief by the EITI International Secretariat

After the forceful overthrow of a government, the EITI International Secretariat must submit a brief to the Rapid Response Committee (RRC) of the EITI Board to examine the viability of EITI implementation and outline options for the RRC to consider, which could include suspension. While the International Secretariat does not have the capacity to produce a security assessment report, it will ensure that the brief documents reactions of national stakeholders, regional and international organisations, and any potential breaches of the EITI Principles and Requirements, including the EITI's protocol on civil society participation, within a reasonable timeframe.

What constitutes a reasonable timeframe will vary for each context, recognising that time may be required to gather information and consult stakeholders on rapidly changing events. This typically varies between two to four weeks. EITI Board members can make recommendations to the International Secretariat regarding stakeholders to be consulted. The International Secretariat should consider a wide range of stakeholders. Considering rapidly moving events, the International Secretariat should first consider the safety of national EITI stakeholders in its recommendations to the EITI Board Chair and the RRC. The International Secretariat should also seek to understand whether and the extent to which natural resources and/or extractive sector governance issues are a driving cause and/or contributed to the government's overthrow.

The initial brief should also consider changes in policies that affect the extractive industries and civil society organisations directly or indirectly participating in the EITI process. The brief should include the extent to which violence prevails, including against elected officials, whether civil society representatives are able to speak freely on transparency and natural resource governance issues, and the extent to which companies are able to operate unimpeded in accordance with national laws. These updates can be relayed in writing or by convening a meeting of the RRC if the case warrants urgent action.

Options

The options for the RRC's response are discussed below. The RRC is encouraged to view each case in totality. It is not proposed that any of these options should be the default response.

1. Place the country under enhanced scrutiny:

Where the EITI Board needs more time to evaluate the situation in the country before coming to a decision, it could opt for a preliminary step before considering suspension. The RRC could recommend to the EITI Board to communicate to the country that it is placed under enhanced scrutiny, setting out the conditions that the country should meet

to avoid suspension. These conditions should be time-bound, with the period to be determined by the EITI Board on a case-by-case basis. The International Secretariat will further communicate on the country page on the EITI's website when a country is under enhanced scrutiny and publish a link to the EITI Board Chair's statement on the same page. The International Secretariat shall provide updates to the Implementation Committee (IC) of the EITI Board no later than six months from placing the country under enhanced scrutiny. The IC may thereafter recommend a targeted assessment to the Validation Committee (VC) to consider possible suspension in accordance with Article 8.2 of Section 1, Part 2 of the 2023 EITI Standard.

2. Temporarily suspend the country:

If the International Secretariat determines that urgent actions are required, it may recommend to the EITI Board via the RRC to temporarily suspend the country with clear and time-bound corrective actions in accordance with Article 8.2 of Section 1, Part 2 the 2023 EITI Standard.

In determining whether a swift response is required, and suspension warranted, the International Secretariat should consider the following:

- Safety concerns (i.e. violence against civilians and safety of EITI office holders);
- Scope, viability and credibility of EITI;
- In-country circumstances (i.e. circumstances leading to the political instability; subsequent events; outlook on restoration of constitutional order and the rule of law, including commitments on a speedy transition process; commitments by the de facto government to uphold the EITI Principles and Requirements; and risks of deterioration of civic space which could lead to suspension);
- Potential for a permanent and irreversible disruption of EITI implementation in the event of suspension. The EITI Board could consider the fragility of the EITI process in the country and whether suspending a country would be counter-productive in the long term and would undermine progress in EITI implementation.

The EITI Board may wish to consider:

- Whether a swift suspension and clear corrective actions can contribute to preserving EITI achievements in the country;
- Whether the lack of swift action by the Board could undermine the credibility and the reputation of the EITI;
- Actions taken by other organisations.

Any decision to suspend a country should indicate when the next briefing or assessment should be made, which should be no later than 24 months after the initial suspension. The subsequent assessment should take into account progress made in addressing corrective actions from the latest Validation and the duration of national transition processes.

In many cases, the nature of corrective actions is such that they will require more than a year to implement. Consistent with the Finance Committee's (FC) recommendation to consider cost implications, it is also important to note that frequent assessments will add

additional cost to the International Secretariat above and beyond planned activities of support to implementation and Validation. It should also be noted that if a country is already suspended, there are limited additional sanctions available other than delisting the country.

Step 3: Close monitoring by the Implementation Committee

After the EITI Board's adoption of the RRC's recommendation, the case should be transferred to the IC for close monitoring. The International Secretariat should, within one month, develop a strategy to closely monitor EITI implementation and report regularly to the IC.

The International Secretariat's strategy could include:

- Consultations with key national and international stakeholders to propose a way forward that may include a fact-finding mission if circumstances allow;
- Recommendations for how transparency of disclosures could be maintained (e.g. through systematic disclosure of extractives data by companies);
- An assessment of appropriate and feasible levels of engagement with stakeholders in the country;
- Proposals on how to communicate the EITI Board's decision to national and international stakeholders in a way that addresses reputational risk.

The International Secretariat should share the strategy with the IC for information and comment. The IC should have a reasonable timeframe to suggest new actions or improvements to the strategy and the proposed timeline. The International Secretariat should take due consideration of the IC's comments and suggestions and continue with implementation and reporting.

The International Secretariat could consider reconvening the RRC where there is significant deterioration of the political situation that threatens the safety of national stakeholders and rapid response is required.

Step 4: Consideration of delisting

In accordance with Step 2, when a country undergoing political instability or conflict is suspended, the EITI Board should set timebound corrective actions to lift suspension.

No later than 24 months after the initial suspension, the International Secretariat will review the case with a recommendation to the IC for an EITI Board decision. Failure to transition to a civilian regime, continuing violence and suppression of civil society, failure to progress on EITI implementation, or failure to progress any corrective actions identified are all grounds for considering a decision to delist a country.

All decisions to delist should be with regard to due process, in accordance with Article 5 ("Membership and constituencies") of the EITI Articles of Association and Article 8 ("Suspension") of Section 1 ("EITI Board oversight and Validation"), Part 2 of the 2023 EITI Standard.

Policy on engaging with countries experiencing political instability or conflict

1. Engagement with suspended countries:

Suspension is a temporary mechanism, and suspended countries remain members of the EITI. Engagement with countries that are suspended for political instability should be distinguished from countries that are suspended for missing a reporting deadline. Such actions could be referred to suspensions in response to political instability and conflict rather than suspensions in response to reporting deficiencies.

When engaging with suspended countries, the EITI Board and International Secretariat shall:

- a) **Limit engagement with stakeholders at a technical level.** During the period of suspension due to political instability or conflict, the International Secretariat's engagement should be limited to monitoring the implementation of the corrective actions agreed by the EITI Board and communication downgraded to a technical level. Stakeholders from suspended countries may attend EITI organised events, receive trainings and guidance from the International Secretariat and its partners. The International Secretariat may also share relevant on-demand resources and data analyses with in-country stakeholders to support engagements on the ground. Other EITI stakeholders, including supporting countries and companies, are encouraged to consider the impact of any of their actions with respect to safety concerns, preservation of the transparency achievements in the country, as well as any risks to the credibility and reputation of the EITI. However, the EITI should refrain from high-level engagement (at the level of the EITI Board and its Chair) with a disputed or de facto government imposed by force.
- b) **Suspend EITI Board membership.** In accordance with Article 9(8) of the Articles of Association, "the EITI Board shall require the Constituency of Countries to replace a Board member or Alternate representing an implementing country that withdraws or is delisted from the EITI. **A Board member or Alternate representing an implementing country that is suspended during his or her tenure shall be suspended during the country's period of suspension.** A Board member shall be replaced by the Alternate or a new Board member nominated by the Constituency of Countries. An Alternate may be replaced by a new Alternate nominated by the Constituency of Countries. Should the suspension be in force for more than a year, the EITI Board may decide that the Board membership of the suspended Board member or Alternate should be terminated" (emphasis added).
- c) **Sustain progress with EITI implementation.** To the extent possible, existing or alternative mechanisms for ensuring transparency should be maintained or established. Options could include proactive and systematic disclosure of extractives data by government or companies subject to requirements on data reliability, or ad hoc data analysis led by stakeholders in the country with technical support from partners or the International Secretariat where there are no safety or security issues involved. In the absence of a functioning multi-stakeholder group (MSG), alternative means of engagement among constituencies should be explored to preserve engagement and dialogue among stakeholders where there are no safety or security issues involved. The International Secretariat will report to the IC the extent to which these alternative mechanisms have been explored.

d) **Adjust Validation timelines.** Validation deadlines are suspended for countries that have been suspended for political instability or conflict.

2. Engagement with countries experiencing political instability or conflict but which are not suspended

In addition to close monitoring by the IC, the International Secretariat should provide regular and proportionate implementation support to countries experiencing political instability or conflict that have not been suspended, depending on the significance of the sector and potential impact for the EITI. The EITI Board may request at any time a targeted assessment of adherence to a set of requirements in the EITI Standard. Such targeted assessments should follow the Validation Guide but be limited in scope and therefore not considered as a full Validation.

Countries that lack full control over their territory may apply for an adapted implementation of the EITI Standard. If a country under this category has a scheduled or pending Validation, updates will be provided to the Validation Committee (VC) which will decide whether there are grounds to defer Validation. The VC could consider whether a credible Validation process could proceed, especially when a de facto government imposed by force is involved.

3. Engagement with countries that have been delisted or withdrawn

Countries that are delisted or that withdraw from the EITI process following the EITI Board's decisions or actions on political instability or conflict are no longer members of the EITI. Partners, including the World Bank's Extractives Global Programmatic Support (EGPS), are encouraged to evaluate their support in light of the country's delisting or withdrawal. Ongoing projects supported by the EITI or its partners should be closed as soon as practically feasible.

If a country is delisted from the EITI and wishes to regain EITI membership, the International Secretariat and its partners should provide support along the lines provided to outreach countries, for the preparation of candidature application to become an EITI member, with a full assessment of ongoing sources of political instability or conflict.

Background

EITI implementation is a government-led process, that is not treaty bound. The basis for EITI implementation is therefore called into question every time there is an overthrow of a government through a coup or armed insurrection. Applicability of the first EITI sign-up requirement requiring high-level political support (Req. 1.1) is also in doubt under those circumstances. The continuity and legitimacy of government champions and MSG chairs are often unclear immediately following the overthrow of a government by force, especially in the case of elected governments.

Following multiple cases of overthrow of governments in EITI member countries in 2020 (and in 2021 the Implementation Committee and the Rapid Response Committee requested that the International Secretariat develop a clear policy on how the EITI could engage in instances of political instability and conflict. More recently, military officers overthrew democratically elected governments underlining the importance of such a policy.

EITI Principle 2 states that the management of natural resource wealth for the benefit of a country's citizens is the domain of sovereign governments to be exercised in the interest of their national development. In keeping with this Principle, the EITI Board agreed at its 18th Board

meeting in Jakarta to maintain its long-standing policy that the EITI should not take a view on the political legitimacy of a specific government of an implementing country.

In 2009, the EITI Board adopted EITI Policy Note 5,⁵ which established a procedure on how the EITI Board, “may resolve to temporarily suspend or de-list an EITI implementing country”. The Policy provided a mechanism through which countries that are experiencing “exceptional political instability or conflict” may apply for “voluntary temporary suspension” for up to one year. It stated, “where it is manifestly clear that the EITI Principles and Criteria are not in a significant aspect adhered to by an Implementing Country, the EITI Board may temporarily suspend or de-list that country.” The application of the policy was hotly debated over two years. Consistent application of the policy proved difficult. The Board sought to clarify this policy at its 18th meeting in October 2011 in Jakarta, but it did not reach consensus on the matter.

Policy Note 5 was subsequently reflected in Article 8.b, Section 4 of the 2019 EITI Standard (now Article 8.2 of Section 1, Part 2 of the 2023 EITI Standard) and applied on a case-by-case basis following assessment of viability of implementation by the International Secretariat.

Article 8.a, Section 1, Part 2 of the 2023 EITI Standard

Suspension due to political instability or conflict

The EITI Board may decide to suspend countries in cases where political instability or conflict manifestly prevents the country from adhering to a significant aspect of the EITI Principles and Requirements. Countries that are experiencing exceptional political instability or conflict may also voluntarily apply to be suspended. In this situation, the government should lodge an application for voluntary suspension with the EITI Board. The government’s application should note the views of the multi-stakeholder group. The EITI Board should monitor and review the situation on a regular basis and retains the right to extend the suspension period or delist the country.

However, the application of this policy over the years has been inconsistent and uneven. The EITI’s policy on engaging with EITI countries experiencing political instability or conflict, agreed in November 2023, clarifies and codifies existing practices to ensure consistent application of the policy.

In addition to these provisions, the EITI Standard also includes a mechanism for adapted implementation (Article 1 of Section 1, Part 2 of the 2023 EITI Standard), which allows multi-stakeholder groups facing “exceptional circumstances that necessitate deviation from the implementation requirements” to seek prior EITI Board approval for adapted implementation.

⁵ Policy Note 5 adopted by the EITI Board on 17 December 2009 is available on the EITI website: <https://eiti.org/sites/default/files/attachments/PolicyNoteNo05.pdf>.