

TEMPORARY SUSPENSION AND DELISTING OF EITI IMPLEMENTING COUNTRIES

Approved by the EITI Board, 17 December 2009

Introduction

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

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

Background

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

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

Temporary Suspension and De-listing of Implementing Countries

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

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

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

Temporary Suspension

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

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

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

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

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

Voluntary Temporary Suspension

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

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

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

De-listing

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

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

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

Complaints and Appeals

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

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

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

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