

EITI International Secretariat

24 January 2018

# Validation of Chad

## Report on initial data collection and stakeholder consultation

## Abbreviations

AER	Autorisation Exclusive de Recherche
ARSAT	Autorité de Régulation du Secteur Pétrolier Aval du Tchad
BAD	Banque Africaine de Développement
Bbl	Barrels
BEAC	Banque des Etats de l’Afrique Centrale
CAC	Commissaire aux comptes
CAF	Coût Assurance Fret
CC	Contrat de Concession
CCC	Chambre de Commerce et Consulaire
CCI	Contribution Communautaire d’Intégration
CCSRP	Collège de Contrôle et de Surveillance des Recettes Pétrolières
CCCRSE	Cellule de Collecte et de Centralisation des Recettes du Secteur Extractif
CEMAC	Communauté Économique et Monétaire des Etats de l’Afrique Centrale
CNPCI	China National Petroleum Corporation International
CNPS	Caisse Nationale de Prévoyance Sociale
COTCO	Cameroun Oil Transportation Company
CPP	Contrat de Partage de Production
DDI	Droits de douane à l’importation
DGDDI	Direction Générale des Douanes et des Droits Indirects
DGTCP	Direction Générale du Trésor et de la Comptabilité Publique
EETCI	Esso Exploration & Production Chad Inc
FOB	Free on Board
IFAC	International Federation of Accountants
IRCM	Impôt sur le Revenu des Capitaux Mobiliers
IRPP	Impôt sur le Revenu des Personnes Physiques
IS	Impôt sur les Sociétés
MPE	Ministère du Pétrole et de l’Energie
MMGC	Ministère des Mines, de la Géologie et des carrières
MSG	Multi-stakeholder Group
OHADA	Organisation pour l’Harmonisation en Afrique du Droit des Affaires
OPIC	Overseas Petroleum and Investment Corporation
PCM	Petrochad Mangara
PCT	Petrochad Transportation
SCHL	Société de Concassage de Hadjer Lamis
SHT	Société des Hydrocarbures du Tchad
SONACIM	Société Nationale de Ciment
SOTEC	Société Tchadienne d’Exploitation des Carrières
SRN	Société de Raffinage de N’Djamena
TCI	Taxe Communautaire d’Intégration
TCP	Taxe de Préférence Communautaire
TOFE	Tableau des Operations Financières de l’Etat
ToR	Terms of Reference
TOTCO	Tchad Oil Transportation Company
UHC	United Hydrocarbon Chad Ltd

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## Executive Summary

On 25 October 2016, the Board agreed that Chad's Validation under the 2016 EITI Standard would commence on 1 September 2018. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures and applied the Validation Guide in assessing Chad's progress with the EITI Standard for the period from August 2013, when the EITI Standard came into force, to September 2018. The assessment of disclosures is based on the 2016 EITI Report and other relevant information publicly-accessible in Chad. The assessment of the civil society protocol is primarily focused on space for civil society representatives, who are substantially involved in the EITI process in Chad. The assessment considers the extent to which laws, regulations and government policies in force over this period adhered to the civil society protocol. While the assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's preliminary assessment is that eight of the requirements of the EITI Standard have not been fully addressed in Chad. Three of these are assessed as unmet with inadequate progress. The recommendations and suggested corrective actions identified through this process relate in particular to civil society engagement (#1.3), MSG governance (#1.4), license allocations (#2.2), license register (#2.3), direct subnational payments (#4.6), subnational transfers (#5.2), and SOE quasi-fiscal expenditures (#6.2).

## Overall conclusions

The EITI has clearly contributed to bringing transparency in the oil and gas sector in Chad. EITI Reports are a trusted source of information for all stakeholders. EITI reporting and subsequent debates have contributed to gradually changing a mindset of information retention towards one of information sharing between government agencies. As a result, the public now has access to more information on contracts, oil-backed loans and sales agreements, sensitive issues that used to be considered taboo.

EITI reporting has contributed to improving government systems, which in turn helps the government and civil society to monitor the cost of production and transport, the sale of revenues collected in-kind and the transfer of proceeds to the treasury. Chad has gradually extended the scope of EITI reporting, first to the transport sector, then to the domestic oil refinery. Chad has moved beyond the minimum requirements of describing the fiscal regime and confirming company payments to also verifying that companies have met their contractual obligations in their payments to government for key revenue flows. Chad also continues to make efforts to publish all valid extractives contracts within 90 days of their signature. More recent EITI Reports include detailed information on the sale of oil on behalf of the state, the cost of production and transport, the repayment of oil-backed loans and other associated fees.

EITI implementation is primarily driven by a small and dedicated group of civil society representatives, company representatives and government officials including staff at the national secretariat.

Despite these achievements, a deteriorating space for civil society and weak capacities of journalists are limiting the use of EITI data to inform public debate. Reduced government funding for EITI implementation is also a concern. Reporting gaps and areas of improvements relate to the licensing process, subnational transfer of revenues earmarked to the producing regions and expenditures that are not recorded in the national budget.

## Recommendations

While the following report includes recommendations for specific improvements the MSG may wish to consider implementing, the following is a list of strategic recommendations that could help Chad make even greater use of the EITI as an instrument to support reforms.

- In accordance with Requirement 1.3 and the Civil Society Protocol, Chad is required to ensure adequate space for civil society to actively, fully and effectively participate in the EITI process, without fear of reprisal. It is recommended that adequate safeguards be implemented to effectively remove provisions of laws and regulations (e.g. Ordonnance 23) that curb civil society's ability to operate freely. It is recommended that the scope of the provisions in the presidential decree to protect civil society members of the MSG is expanded to include legal protections for all civil society actors substantially involved in the EITI process.*
- In accordance with Requirement 1.4, Chad should ensure that procedures set out in the 2018 Decree are implemented in practice. Chad should ensure each constituency publishes its procedures for nominating and changing MSG members and ensure that MSG members have the capacities to carry out their duties. The MSG should clarify its policy and practice of per diems and ensure that it does not create conflicts of interest. Chad should ensure that there is sufficient notice of meetings and timely circulation of documents prior to their debate and proposed adoption. Chad must ensure that all MSG discussions and decisions are adequately documented and is encouraged to publish them online. Chad is also encouraged to provide adequate training to new MSG members, to provide adequate funding to EITI implementation and to ensure that the MSG operates in a favourable environment to carry out its mandate as per Art.24 of the 2018 Decree, in order to allow Chad EITI to fulfil its mandate. Given its central role in the petroleum industry in Chad, it is also recommended that Glencore designates its representative to the MSG to ensure that the industry is adequately represented.*
- In accordance with Requirement 2.2, Chad should ensure that the information on licenses awarded and transferred in both sectors is publicly accessible. Chad is required to disclose the technical and financial criteria used to award or transfer licenses. In the case of licenses awarded by bidding process, Chad is required to disclose the list of applicants and the bid criteria. In addition, Chad is encouraged to disclose comprehensive and timely information about licenses awarded before and after the year under review, drawing from the publication of decrees awarding licenses in the Official Gazette. Chad is encouraged to include additional information on the allocation of licenses in EITI reporting, including commentary on the efficiency and effectiveness of licensing procedures. In accordance with Requirement 2.3, Chad is required to maintain a publicly available register or cadastre system, providing comprehensive data on licenses for all oil, gas and mining companies. Chad might wish to build on the map currently available on the MPE website. In the interim, Chad should ensure that future EITI reporting provide the information set out under Requirement 2.3.b, including coordinates and dates of application and expiry, for all licenses held by material mining, oil and gas companies. EITI reporting should also document the government's efforts to strengthen its cadastral system.*
- In accordance with Requirement 4.6, Chad is required to reconcile and disclose revenues collected at the local level where material. Chad should allocate the adequate means to reach out to subnational governments and associate them to the reporting and reconciliation process. Chad should also disclose figures from companies that operate in producing regions and are required to make subnational direct payments as per the regulatory framework. Chad should also clarify in which areas payments are made directly to the treasury in the absence of a local government.*

- *In accordance with Requirement 5.2, Chad should ensure that effective subnational transfers are disclosed by government agencies, where material. Chad should provide the specific revenue-sharing formula for calculating statutory shares to individual local governments, the value of executed transfers per local government and an assessment of deviations with the value of subnational transfers calculated according to the formula. Chad is encouraged to ensure that any material discretionary or ad hoc transfers are also disclosed and where possible reconciled. In light of the dissolution of the CCSRP in April 2018 and its mandate to report on the disbursement and allocation of the 5%, Chad is encouraged to clarify which government agencies are tasked with these prerogatives from 2017 onwards. Chad is also encouraged to engage with local governments receiving extractives subnational transfers with a view to reconciling subnational transfers with a view to reconciling such payments and enhance outreach to local communities.*
- *In accordance with Requirement 6.2, Chad is required to develop a reporting process for fuel subsidies and national debt servicing that are not recorded on the national budget. Chad should undertake a comprehensive review of all expenditures of oil revenues, which are not recorded on the national budget. Chad should develop a reporting process for these expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams. In particular, it is recommended that Chad designs appropriate reporting templates that can capture the volume and value of crude oil delivered to the refinery for electricity production as well as the amount of electricity and equivalent value delivered to the state.*
- *In accordance with Requirement 7.1, Chad should ensure that EITI reporting is comprehensible, including by ensuring that it is written in a clear, accessible style, and that executive summaries or thematic sub-reports are made available and translated into Arabic. Chad should also ensure that adequate funding is available for outreach events, including to regions and communities hosting extractive activities, and that local stakeholders benefit from capacity building activities aiming at improving their understanding of the management of the oil sector. Chad should also encourage government agencies, companies and civil society to fully engage in disseminating EITI Reports, including bilaterally. To strengthen implementation, Chad is encouraged to improve public accessibility of key information on the management of the extractives through systematic disclosure of information required under the EITI Standard through routine government and company systems.*

Figure 1– initial assessment card

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)				■	
	Industry engagement (#1.2)				■	
	Civil society engagement (#1.3)			■		
	MSG governance (#1.4)			■		
	Work plan (#1.5)				■	
Licenses and contracts	Legal framework (#2.1)					■
	License allocations (#2.2)			■		
	License register (#2.3)			■		
	Policy on contract disclosure (#2.4)					■
	Beneficial ownership (#2.5)	■	■	■	■	■
	State participation (#2.6)				■	
Monitoring production	Exploration data (#3.1)				■	
	Production data (#3.2)				■	
	Export data (#3.3)				■	
Revenue collection	Comprehensiveness (#4.1)				■	
	In-kind revenues (#4.2)					■
	Barter agreements (#4.3)	■	■	■	■	■
	Transportation revenues (#4.4)				■	
	SOE transactions (#4.5)				■	
	Direct subnational payments (#4.6)		■			
	Disaggregation (#4.7)				■	
	Data timeliness (#4.8)				■	
	Data quality (#4.9)				■	
Revenue allocation	Distribution of revenues (#5.1)				■	
	Subnational transfers (#5.2)		■			
	Revenue management and expenditures (#5.3)	■	■	■	■	■
Socio-economic contribution	Mandatory social expenditures (#6.1.)	■	■	■	■	■
	SOE quasi-fiscal expenditures (#6.2)		■			
	Economic contribution (#6.3)				■	
Outcomes and impact	Public debate (#7.1)			■		
	Data accessibility (#7.2)	■	■	■	■	■
	Follow up on recommendations (#7.3)				■	
	Outcomes and impact of implementation (#7.4)				■	

*Legend to the assessment card*

	<b>No progress.</b> The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	<b>Inadequate progress.</b> The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	<b>Meaningful progress.</b> The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	<b>Satisfactory progress.</b> All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	<b>Beyond.</b> The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

## Introduction

### Brief recap of the sign-up phase

Chad announced its intention to implement the EITI in 2007. A Presidential decree established the MSG in December 2007, but appointment of members to the High National Committee (*Haut Comité National*, HCN) was delayed until February 2010. Chad was admitted as a Candidate Country on 16 April 2010<sup>1</sup>. The Board declared Chad compliant with the EITI Rules in October 2014.

### Objectives for implementation and overall progress in implementing the work plan

Chad's work plan for 2018-2020 includes seven objectives for implementation over three years mirroring the seven Requirements in the EITI Standard: monitoring by the MSG, legal and institutional framework, prospection and production, revenue collection, revenue allocation, social and economic expenditure and results and impact. Priorities for 2018 included reaffirming stakeholders' commitment, establishing an oil cadastre, publishing all contracts, clarifying the government's policy on beneficial ownership disclosure, and improving data reliability through certification mechanisms. Implementation of the 2018-2020 workplan appears broadly on track given funding constraints.

### History of EITI Reporting

In October 2012, Chad published its first Report covering the 2007, 2008 and 2009 fiscal periods, which did not meet the requirement for regular and timely reporting, according to the first Validation completed in May 2013 under the EITI Rules.<sup>2</sup> The second and third EITI Reports covering 2010 and 2011 were published on 15 May 2013, but these reports also failed to meet EITI Requirements related to comprehensiveness and reliability according to the first Validation under the EITI Rules. The 2012 EITI Report, published in March 2014, sought to address corrective actions requested by the EITI Board. Chad has subsequently published EITI Reports every year for 2013 to 2016 within two years of the end of the fiscal period covered. The most recent report covering 2016 data was published in August 2018.

### Summary of engagement by government, civil society and industry

Evidence of active engagement by government officials, companies and civil society includes participation in MSG meetings, disclosure of EITI data, participation in dissemination campaigns and implementation of recommendations from EITI reports. Companies and key government agencies working on the management of natural resources also designate EITI focal points.

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<sup>1</sup> Public declaration of commitment to implementing the EITI by Prime Minister Nouradine Delwa Kassire Coumakoye on 20 August 2007, and signature of Decree no.1074/PR/PM/MP/2007 on 14 December 2007, amended in 2014. Nomination of first members of MSG and National Secretariat in February 2010. Chad EITI, <http://itie-tchad.org/historique-itie/>, accessed in November 2018.

<sup>2</sup> CAC75 (May 2013), Republic of Chad Validation Report, [https://eiti.org/sites/default/files/documents/2013\\_chad\\_validation\\_report\\_-\\_en\\_with\\_payment\\_certificate.pdf](https://eiti.org/sites/default/files/documents/2013_chad_validation_report_-_en_with_payment_certificate.pdf), accessed in September 2018.

## Key features of the extractive industry

Between 1973 and 1975, a consortium of multinational companies<sup>3</sup> discovered oil in varying amounts in the Doba, Doseo and Lake Chad basins. However, a long long-running civil war that began in 1965 intensified with several Libyan interventions in Chad between 1978 and 1987. Exploration activities halted in 1981 after several companies withdrew from the project. In 1989, ExxonMobil became the lead shareholder (40%) and developer of the consortium. A landlocked country, Chad needed significant investment to develop the infrastructure necessary to transport the oil to international markets. In 1996, the Governments of Chad and Cameroon signed a bilateral agreement for the construction and operation of a 1070 km pipeline from multiple oil fields in the southern region of Doba to an export terminal on the Atlantic Ocean in Kribi, Cameroon. In the early 1990s, it was widely recognised that, if managed properly, oil revenues could help alleviate poverty and stem the cycle of violence in one of the poorest countries in the world. The World Bank played an important role in mobilising funding for the pipeline, in exchange for the government's commitment to use oil revenues for poverty reduction. The World Bank launched the Chad-Cameroon Petroleum Development and Pipeline Project in July 2000<sup>4</sup>. Key features of the project included: (i) a legal framework that earmarked oil revenues to poverty reduction projects and future generation funds; (ii) an oversight mechanism to ensure the transparent management of oil revenues; and (iii) a revenue traceability mechanism to ensure that Chad's creditors for the development of the pipeline were paid promptly following the beginning of oil production.

After production began in 2003, Chad's economy grew more rapidly<sup>5</sup> and became highly dependent on the oil sector. However, production peaked at 182,000 barrels per day in 2005 and declined steadily thereafter, before stabilising at around 110,000 barrels per day in 2011. Government revenues from the oil sector also increased steadily in the first decade of oil production and peaked in 2012, when the government collected more than USD 2 billion in oil revenues, representing over 66% of total government revenues. At the height of the oil price cycle in 2013-2014, when oil prices averaged more than USD 100, the government borrowed heavily from Glencore and reinvested in maturing oil fields. Oil prices fell suddenly from USD 106 per barrel in June to 2014 to USD 46 in December 2014.<sup>6</sup> Government revenues collapsed from USD 2 billion per year in 2014 to less than USD 500 million in 2015. The remaining revenues were allocated to debt repayments, leaving Chad heavily indebted with dwindling revenues from the oil sector. Despite debt forgiveness of USD 1.3 billion following Heavily Indebted Poor Countries achievement in 2014, debt sustainability remained a concern. Although the declining trends of oil production were reversed in 2014 with the beginning of production from the Badila-Mangara oil field, government revenues continued to fall and led to debt restructuring with Chad's creditor, Glencore.

Proven reserves are about 1.5 billion barrels, which makes the Chadian reserves the tenth largest in Africa. The mining sector has so far been negligible, with artisanal gold mining and exploration for

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<sup>3</sup> Royal Dutch Shell (37.5%), ExxonMobil (25%), Chevron (25%), and Conoco (12.5%), Ian Gary, Nikki Reisch (2005), CHAD'S OIL: MIRACLE OR MIRAGE? Following the Money in Africa's Newest Petro-state, <https://cpb-us-w2.wpmucdn.com/campuspress.yale.edu/dist/8/1581/files/2016/09/36-1-leibold-aligning-incentives-for-development-135x8jh.pdf>, accessed in October 2018.

<sup>4</sup> See a detailed description of the World Bank project: World Bank, The Chad Cameroon Petroleum Development and Pipeline Project, [http://web.worldbank.org/archive/website01210/WEB/0\\_CO-15.HTM](http://web.worldbank.org/archive/website01210/WEB/0_CO-15.HTM), accessed in October 2018.

<sup>5</sup> 33% in annual economic growth in 2003. World Bank, The Chad Cameroon Petroleum Development and Pipeline Project

<sup>6</sup> MacroTrends, WTI Crude Oil Prices, 10 Year Daily Chart, <https://www.macrotrends.net/2516/wti-crude-oil-prices-10-year-daily-chart>, accessed in October 2018.

uranium being most prominent.

## Explanation of the Validation process

Validation is an essential feature of the EITI implementation process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. It also addresses the impact of the EITI, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI.

The Validation process is outlined in chapter 4 of the EITI Standard<sup>7</sup>. It has four phases:

1. *Preparation for Validation by the multi-stakeholder group (MSG);*
2. *Initial data collection and stakeholder consultation undertaken by the EITI International Secretariat;*
3. *Independent quality assurance by an independent Validator who reports directly to the EITI Board;*
4. *Board review.*

The [Validation Guide](#) provides detailed guidance on assessing EITI Requirements, and more detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator.

The Validation Guide includes a provision that: “Where the MSG wishes that validation pays particular attention to assessing certain objectives or activities in accordance with the MSG work plan, these should be outlined upon the request of the MSG”. The Chad EITI MSG did not formulate such requests.

In accordance with the Validation procedures, the International Secretariat’s work on the initial data collection and stakeholder consultation was conducted in three phases:

### 1. Desk Review

Prior to visiting the country, the Secretariat conducted a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including but not limited to:

- *The EITI work plan and other planning documents such as budgets and communication plans;*
- *The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;*
- *EITI Reports, and supplementary information such as summary reports and scoping studies;*
- *Communication materials;*
- *Annual progress reports; and*
- *Any other information of relevance to Validation.*

In accordance with the Validation procedures, the Secretariat has not taken into account actions

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<sup>7</sup> See: EITI, Validation, <https://eiti.org/validation>.

undertaken after the commencement of Validation.

## 2. Country visit

A country visit took place on 8-11 October 2018. All meetings took place in N'Djamena. The Secretariat met with the MSG and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the MSG. In addition to meeting with the latter as a group, the Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders were able to freely express their views and that requests for confidentiality were respected. The list of stakeholders consulted is outlined in Annex D.

## 3. Reporting on progress against requirements

This report provides the International Secretariat's initial assessment of progress against requirements in accordance with the Validation Guide. It does not include an overall assessment of compliance.

The International Secretariat's team comprised Bady Baldé, Indra Thévoz, Alex Gordy and Sam Bartlett.

## Part I – MSG Oversight

### 1. Oversight of the EITI process

#### 1.1 Overview

This section relates to stakeholder engagement and the environment for implementation of EITI in country, the governance and functioning of the multi-stakeholder group (MSG), and the EITI work plan.

#### 1.2 Assessment

### Government engagement in the EITI process (#1.1)

#### Documentation of progress

**Public Statement:** Former Prime Minister Kassiré Koumakoye made a first public commitment to implementing the EITI on 20 August 2007. The government reiterated its commitment to implement the EITI at a workshop on 24 and 25 August 2007 launching EITI implementation in Chad.<sup>8</sup> Based on preliminary results from the Validation of Chad under the 2013 EITI Rules, the then Minister of Petroleum and Energy and President of the MSG, Djerassem Le Bemadjiel, signed a letter on 17 May 2013 reiterating the country's commitment.<sup>9</sup> President Idriss Déby welcomed the former EITI Chair Clare Short in N'Djamena in May 2014.<sup>10</sup> In April 2018, former Minister of Petroleum and Energy Béchir Madet addressed a letter to the Chair of the EITI clearly outlining the government's policy in favour of contract transparency (*see Requirement 2.4*) and commitment to strengthening government systems to improve public accessibility to data on the extractive industries.<sup>11</sup>

**Senior lead:** EITI implementation in Chad is led by two high-level government officials. Presidential Decree n.854/PR/PM/MPME/2014 appoints a high-level official to lead the implementation of the EITI, the Minister of Petroleum and Energy in office. The current EITI Champion and MSG Chair, Minister of Petroleum and Energy Michel Boukar, was appointed in May 2018. The previous Minister, Béchir Madet, was appointed in August 2016. Prior to that, Minister Djerassem Le Bemadjiel was MSG Chair from 2013 to 2016. The government also appoints a senior government official to lead day to day implementation and manage the national secretariat. Amina Mahamat, the current EITI National Coordinator was

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<sup>8</sup> CAC75 (May 2013), Republic of Chad Validation Report, [https://eiti.org/sites/default/files/documents/2013\\_chad\\_validation\\_report\\_-\\_en\\_with\\_payment\\_certificate.pdf](https://eiti.org/sites/default/files/documents/2013_chad_validation_report_-_en_with_payment_certificate.pdf), accessed in September 2018.

<sup>9</sup> The letter restated the government's "political will to turn transparency in the extractive industries into a tool for good governance" and urging "His Excellency Mr. President of the Republic of Chad Idriss Déby Itno [to] firmly support the EITI process in Chad". Idem, Letter n.370/PR/PM/MEP/HCN/CSTP/13, pp.5-6.

<sup>10</sup> Presidency of the Republic of Chad (May 2014), Une délégation ITIE au palais présidentiel, <https://www.presidence.td/fr-news-1018.html>, accessed in September 2018.

<sup>11</sup> Former Minister of Petroleum and Energy, Béchir Madet (April 2018), Communiqué portant sur la politique de publication des informations sur les contrats et licences dans le secteur pétrolier, <http://itie-tchad.org/wp-content/uploads/2018/04/Communiqué-portant-sur-la-publication-des-Informations-sur-les-Contrats.pdf>, accessed in September 2018.

appointed in September 2015 by presidential decree.

**Active engagement:** The key government agencies working on the management of natural resources are represented on the MSG, including high-level representatives from the President's office, the Prime Minister's office, and sector ministries. EITI focal points within government agencies contribute to EITI reporting, including through the *Cellule de Collecte et de Suivi des Recettes Extractives* (CCSRE) within the Directory General of Treasury (DGT). MSG attendance lists show that government representatives contribute regularly to MSG meetings. There is evidence of government representatives' involvement in dissemination activities both to the regions and in N'Djamena (see Requirement 7.1) and of the government's follow-up on EITI recommendations (see Requirement 7.3).

The government has been the primary source of funding for EITI implementation, allocating at least USD 1m annually to EITI implementation since 2014. It has also provided funding in kind, such as construction of the Chad EITI headquarters in N'Djamena. The 2016 impact study on the EITI process in Chad identified gaps between the budget approved by the MSG and the amounts effectively disbursed by the government, and recommended that a new line for EITI funding be included in the national budget.<sup>12</sup> The issue of effective disbursements from the Treasury for EITI implementation was repeatedly discussed at MSG meetings, including following the fall in oil prices in 2015 (see Annex C).<sup>13</sup> MSG representatives met with the Secretary General of the Presidency on 16 May 2017, to discuss the difficult financial situation. The Secretary General assured that instructions would be given to the Ministry of Finance, while recommending that Chad EITI seek more sustainable funding mechanisms.<sup>14</sup>

In line with its commitments under the Central African Economic and Monetary Community (CEMAC), Chad adopted Law n. 018/PR/2016 of 24 November 2016, promulgating the Code for the Transparency and Good Governance of the Management of Public Finances. While the Code itself does not mention the EITI, it sets standards for the public accessibility of information on key issues such as taxation and fiscal exonerations, contracts, public debt, guarantees to public or private entities, and natural resource assets.<sup>15</sup> The Chadian Observatory for Public Finances was created in January 2017 as part of the government's commitment to disseminate data about the management of public finances, particularly Chapter VIII of the 2016 Code.<sup>16</sup>

## Stakeholder views

Former Prime Minister and current Minister Secretary of State Kalzeube Pahimi Deubet received the International Secretariat at the Presidential palace on 10 October 2018. He reiterated the government's commitment to the EITI and Stated that the President of the Republic, Irdiss Déby Itno, regularly inquired

<sup>12</sup> CAC75 (September 2016), 'Study on the structure, the implementation and the impact of the EITI process in the Republic of Chad', p.5, <http://itie-tchad.org/wp-content/uploads/2018/01/CAC-75-Tchad-Etude-dimpact-ITIE-Rapport1-1-1.pdf>, accessed in September 2018.

<sup>13</sup> See for example: Chad EITI, MSG meetings minutes, 25 June 2015 and 27 July 2017, <http://itie-tchad.org/compte-rendus/>, accessed in November 2018. See Table 1: 'Planned budgets VS executed budgets, years 2015 and 2016,' Chad EITI (January 2018), Self-assessment, p.23, <http://itie-tchad.org/wp-content/uploads/2018/05/Rapport-auto-validation-ITIE-Tchad-240118.pdf>, accessed in September 2018. The self-assessment also highlighted that part of the staff at the Chad EITI National Secretariat had not been paid for three months as of December 2017.

<sup>14</sup> Chad EITI, Meeting at the Presidency minutes, 16 May 2017, op. cit.

<sup>15</sup> Law n. 018/PR/2016 of 24 November 2016 on the Transparency and Good Governance of the Management of Public Finances, <http://itie-tchad.org/loi-portant-code-de-transparence-et-de-bonne-gouvernance-dans-la-gestion-des-finances-publiques/>, accessed in September 2018.

<sup>16</sup> Observatoire Tchadien des Finances Publiques, About, <http://www.observatoire.td/apropos/>, accessed in September 2018.

about the EITI and that the Ministerial Council often discussed issues related to the EITI.

All high-level government officials met during the mission reiterated the government's commitment to the EITI. Minister of Petroleum and Energy and Chair of the MSG, Michel Boukar, Minister of Mines, Industrial Development, Commerce and Private Sector Development, Youssouf Abbassalah and Minister of Finance Allali Mahamat Abakar highlighted that they had received instructions from President Idriss Déby to adhere to Chad's commitment to transparency. Government officials also underlined SHT's commitment to transparency, as well as the promulgation of the 2016 Code on the Transparency and Good Governance of the Management of Public Finances. Several government representatives noted the participation of Chad EITI in sectorial government activities. They mentioned that EITI representatives attended annual reviews of oil operators' activities hosted by the MPE and MFB, even though documents presented by the companies were confidential. They also noted that provisions of the 2017 Mining Code integrated EITI Principles following consultations with Chad EITI.

While acknowledging the government's wider commitment to transparency, industry and CSO representatives consulted noted that collaboration with government agencies could be difficult given that Chad did not have a long-standing culture of information-sharing. CSO representatives stated that challenges in the government's commitment lay in the practice rather than the statutory legal framework, exacerbated by a challenging economic context and high staff turnover in government agencies. They also noted that the current Chad EITI Chair and his predecessor seldom attended MSG meetings, in contrast to previous chairs. They noted however that high-level government representatives were generally available to discuss EITI-related issues. They highlighted that the government's commitment had translated into the creation of structures within government agencies to improve data collection.

Government and CSO representatives as well as donors consulted noted that the funding crisis was affecting the entire government, with most agencies not receiving their allocated subvention. Government representatives noted that the government had provided approximately 85% of the budget for EITI implementation over the past years, but that Chad EITI had not benefitted from timely Treasury disbursements even though it had its own budget line.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The government has issued unequivocal public statements of its commitment to the EITI, appointed high-level government officials to oversee and engage in the EITI process, provided substantial amounts of funding for EITI implementation, and ensured the functioning of the national secretariat. Government agencies have participated actively in EITI reporting and dissemination. While stakeholders consulted noted the decrease in government funding in the past two years due to the challenging economic context, they highlighted the government's commitment to improving transparency in the extractive sector.

To strengthen implementation, Chad is encouraged to use EITI implementation to drive reforms to improve the transparency and management of extractive revenues. The government is encouraged to ensure that funding allocated for EITI implementation is disbursed in a timely matter. Chad EITI may wish to work closely with the Chadian Observatory for Public Finances to ensure greater public access to information on the collection and allocation of oil revenues.

## Industry engagement in the EITI process (#1.2)

### Documentation of progress

**Active engagement:** The lead oil producer, Esso, a subsidiary of ExxonMobil, has been represented on the MSG since the inception of the EITI process. Records of MSG meetings show that the association of petroleum producers (AOPT),<sup>17</sup> led by Esso, participates actively in EITI implementation. The AOPT is the coordinating body for the oil companies' constituency. In addition, CNPCI, Overseas Petroleum and Investment Corporation (OPIC), United Hydrocarbon Chad, the national oil company la *Société nationale des Hydrocarbures du Tchad* (SHT) and the national refinery la Société National de Raffinage (SRN) are all represented on the MSG. The relatively small mining industry is represented in the MSG by *Société Exploitation Tchadienne des Carrières* (SOTEC). More recently, SHT has demonstrated strong commitment to improving disclosures through its own website.<sup>18</sup>

The chair of the association of petroleum producers, Yolla Zongré, is also the vice Chair of the MSG and chairs MSG meetings regularly. He also acts as the liaison between the EITI and the oil industry and as the MSG spokesperson to the government and the media. Other members of the MSG representing the industry include Ricelle Armande Tueguen, UHC, Sahoulba Fouda, OPIC, Mahamat Taher Mahamat Abdoulaye, SHT, Laoudoumaye Yomgota, CNPCC and Ali Djadda Kampard, SOTEC. EITI focal points in oil and gas companies also participate regularly in MSG meetings. Transportation companies are not directly represented in the MSG.

**Enabling environment:** Early in the EITI implementation process, the MSG commissioned a study of legal barriers to EITI implementation, which concluded that the confidentiality clauses in the standard production sharing agreements did not represent major obstacles to EITI implementation.<sup>19</sup> The study however recommended the government “*eliminate restrictions of confidentiality with respect to agreements and contracts themselves, and add provisions requiring contractors to participate in the EITI process*”. In May 2014, the MSG reached a consensus on the principle to include an EITI clause in new contracts.<sup>20</sup> The Chair of the MSG at the time, Minister of Petroleum and Energy Djerassem Le Bemedjiel, tasked a working group to draft a transparency clause that will be included in future contracts. The panel was also tasked with reviewing the oil and mining codes and identifying ways in which confidentiality clauses could be addressed. The Presidential Decree that established the EITI process and its subsequent amendments also required that oil, gas and mining companies operating in Chad adhere to the EITI Standard and participate actively in its implementation.<sup>21</sup>

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<sup>17</sup> Association des Opérateurs Pétroliers du Tchad (AOPT) was officially created by ESSO and included also PetroChad Mangara Ltd, SHT and CNPCI. Its first general assembly was held on 1 February 2016. SHT (May 2017), Les initiatives de la SHT en matière de contenu local, [http://unctad.org/meetings/en/Presentation/CNUCED\\_BRAZZAVILLE\\_SHT\\_mai2017.pdf](http://unctad.org/meetings/en/Presentation/CNUCED_BRAZZAVILLE_SHT_mai2017.pdf), accessed in September 2018

<sup>18</sup> SHT publishes on its website financial reports, production data and minutes of Board deliberations. SHT, website, <http://sht-tchad.com/fr/>, accessed in October 2018.

<sup>19</sup> G. Pastre (July 2011), Etude sur le Cadre Legal de la Mise en œuvre de l'ITIE au Tchad, p.23, as mentioned in the CAC75 Validation Report.

<sup>20</sup> See MSG meetings minutes.

<sup>21</sup> Decree 854/PR/PM/MPME/2014, Article 3: “All oil, gas and mining/quarrying companies public or private in the exploration or production phase on the national territory are obliged to adhere and actively participate in the implementation of the EITI.” <http://itie-tchad.org/wp-content/uploads/2018/07/DECRET-854-Portant-modification-du-decret-1074.pdf>, accessed in September 2018.

## Stakeholder views

MSG members agreed that industry representatives are actively engaged and participate regularly in MSG meetings. Stakeholders noted timely submission of data required for the EITI reporting has improved substantially in the latest reporting cycle. They underlined that the MSG had requested funding for EITI implementation from oil and gas companies, but that only SHT had made a symbolic contribution. Other industry representatives noted that they had considered providing funding for EITI implementation but were concerned about potential conflicts of interest. Industry representatives also noted that companies relied heavily on EITI Reports as the authoritative source of information on the extractive industries in Chad. They noted that EITI Reports were closely monitored by their management.

A government official explained that while some industry representatives attended meetings regularly and contributed substantially to MSG deliberations, all companies did not participate equally. A few were characterized as '*opaque*'<sup>22</sup>, including Glencore. For those companies, it was difficult for the MSG and the national secretariat to identify a contact person within the company for the purpose of EITI reporting. Civil society representatives noted that company representatives were engaged but highlighted the level of engagement remained unequal across extractives companies.

## Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The government has conducted reviews of the legal and regulatory environment and taken steps to address barriers to industry participation in the process, including removal of confidentiality clauses in oil contracts. Industry representatives led by Esso have participated actively in EITI reporting and in MSG meetings. MSG membership show that the oil industry has been represented at a high-level and companies have contributed to the design and implementation of the EITI. The International Secretariat concludes that the oil and gas industry has demonstrated active engagement in the EITI process through their representation on the MSG and participation in EITI reporting.

To strengthen EITI implementation, the industry constituency is encouraged to strengthen mechanisms for consultations with the broader constituency and to increase their engagement in dissemination and outreach activities.

## Civil society engagement in the EITI process (#1.3)<sup>23</sup>

### Documentation of progress

In the late 1990s and early 2000s, civil society actors were already campaigning for transparency and

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<sup>22</sup> "Nébuleuses" in French.

<sup>23</sup> The first Validation under the EITI Standard (Azerbaijan 2016) established precedent for the Validation of requirement 1.3. The CSO protocol "operationalises" requirement 1.3. Each part of the CSO protocol speaks to specific parts of Requirement 1.3:

2.1 of the CSO protocol is intended to assess provisions 1.3(d), 1.3(e)(i), 1.3(e)(iv).

2.2 of the CSO protocol is intended to assess provisions 1.3.(b) and 1.3(c).

2.3 of the CSO protocol is intended to assess provision 1.3(e)(iii).

2.4 of the CSO protocol is intended to assess provisions 1.3.(a) and 1.3(e)(ii)

accountability of oil and gas revenues. Despite weak capacities, a small group of NGOs specialised on the governance of the oil and gas sector (*Monitoring du Projet Pétrole Tchad-Cameroun* (GRAMP/TC)) emerged when production began in 2003.<sup>24</sup>

A review of online publications and press reports<sup>25</sup> shows that civil society space deteriorated rapidly between 2014 to 2016. This was due to multiple factors not directly linked to the EITI process. Following the intervention of Chad's army against Boko Haram in neighbouring countries, Chad was confronted with terrorist attacks on its own soil by the jihadist group in 2015.<sup>26</sup> After a series of suicide bombings by Boko Haram around the Lake Chad from August to October 2015, the Government of Chad declared a state of emergency on 10 November 2015.<sup>27</sup> Meanwhile, oil prices fell suddenly from USD 106 per barrel in June 2014 to USD 46 in December 2014.<sup>28</sup> Government revenues collapsed from USD 2 billion per year in 2014 to less than USD 500 million in 2015. The cut in social expenditures by the government, especially on education and stipends for students at the university of N'Djamena, led to multiple strikes by students and unions, between 2015 and 2017.<sup>29</sup> These strikes were often followed by police arrests and several deaths. Demonstrations also took place against the reform of the Constitution and presidential elections in 2016.

**Expression:** Article 28 of Chad's new Constitution<sup>30</sup> adopted in May 2018 guarantees freedom of expression, subject to applicable laws. However, existing laws and regulations had not been updated to reflect this new Constitution at the start of Validation. Law 029 of 12 August 1994 guarantees broad freedom of expression and opinion. Presidential decree 007/HCC/P/SG of 10 June 1999 sets out fees and royalties for private radios at XAF 2.5m (USD 5000) per year and XAF 0.5m (USD 1000) per year for private community and community radio stations. Ordonnance 05 in 2008 added new constraints, particularly about the coverage of sensitive topics such as government affairs and armed rebellion. Chadian journalists, politicians and lawyers campaigned heavily for the repeal of the law. It was ultimately repealed and replaced by Law 17 signed on 31 August 2010.

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2.5 of the CSO protocol is intended to assess provision 1.3(d).

<sup>24</sup> COWI (August 2014), *La Société Civile au Tchad – Cartographie des acteurs*, pp.31-32,

[http://www.akpublics.de/media/MISEREOR/20140827\\_1\\_carographie\\_tchad\\_fr.pdf](http://www.akpublics.de/media/MISEREOR/20140827_1_carographie_tchad_fr.pdf), accessed in October 2018. « Les OSC se regroupent également autour de questions d'intérêt national tel que la paix (Comité de suivi de l'Appel à la paix et à la réconciliation CSAPR, CNJP), les droits humains (Collectif des associations de défense des droits humains-CADH), l'exploitation de ressources naturelles (Commissions permanentes pétrole- CPPN, CPPL, ROSCAP, CREMP, GRAMP/TC), les droits spécifiques et la condition de la femme (Cellules de liaison des associations féminines- CELIAF, Association des femmes juristes-AFJT) (...) ».

<sup>25</sup> Amnesty International and Freedom House country reports, 2015, 2016, 2017. Freedom House rates civil liberties in Chad as not free. See: Freedom House, Chad, <https://freedomhouse.org/country/chad>, accessed in December 2018.

<sup>26</sup> International Crisis Group (March 2017), Report 246, *Boko Haram in Chad: Beyond the security response*,

<https://www.crisisgroup.org/fr/africa/central-africa/chad/246-fighting-boko-haram-chad-beyond-military-measures>, accessed in October 2018.

<sup>27</sup> Afrique Connection (November 2015), *Boko Haram: N'Djamena Declares State of Emergency in Lake Chad Region*,

<https://www.afriqueconnection.com/article/10-11-2015/boko-haram-ndjamena-d%C3%A9cr%C3%A8te-l%C3%A9tat-durgence-dans-la-r%C3%A9gion-du-lac-tchad>, accessed in October 2018.

<sup>28</sup> MacroTrends, WTI Crude Oil Prices, 10 Year Daily Chart, <https://www.macrotrends.net/2516/wti-crude-oil-prices-10-year-daily-chart>, accessed in October 2018.

<sup>29</sup> At least one student was killed during a student protest on 9 March 2015. A dozen of police officers were subsequently arrested. Jeune Afrique (March 2015), *Tchad : onze policiers arrêtés après la répression d'une manifestation d'étudiants*,

<https://www.jeuneafrique.com/228265/politique/tchad-onze-policiers-arr-t-s-apr-s-la-r-pression-d-une-manifestation-d-tudiants/>, accessed in November 2018.

<sup>30</sup> Chad adopted a new constitution on 4 May 2018. Présidence de la République, *Constitution de la République du Tchad promulguée le 4 mai*, <https://www.presidence.td/fr-news-3310-LA-CONSTITUTION-DE-LA-REPUBLIQUE-DU-TCHAD-PROMULGUEE-LE-04-MAI-2018.html>, accessed in October 2018.

Documented cases of arrest of civil society representatives were only indirectly linked to the EITI process but raised concerns about the application of the civil society protocol. For example, on 15 June 2015 at about 4 pm, Mr Djerlar Miankeol<sup>31</sup>, head of the Ngaoubourandi association and member of the Chadian League of Human Rights (LTDH) was arrested in the city of Moundou. Miankeol was arrested following an interview on 7 June 2015 on *FM Liberté radio*, in which he denounced the corruption of magistrates in the context of unlawful expropriation of farmer's land. He was also known for his work against corruption in the oil sector.<sup>32</sup> Amnesty International declared him a prisoner of conscience and campaigned for his release.<sup>33</sup> Although Miankeol was not a member of the MSG, he was member of a civil society network (LTDH) represented on the MSG. Following his arrest, all CSO representatives on the MSG threatened to pull out of the EITI process if he was not released. He was subsequently released on 28 July 2015, with all charges against him dropped.<sup>34</sup> After his release, civil society representatives resumed their participation in the EITI process. Although his organisation seemed substantially involved in the EITI process, it remains unclear whether his arrest was an EITI-related issue.

Since 2010, NGOs have exercised their freedom of expression in the context of EITI implementation. There is evidence of CSO constituency side-meetings on the EITI, including interactions with MSG representatives. In July 2016, Chad hosted a three-day seminar to review EITI Reports and discuss the management of oil revenues<sup>35</sup>, together with civil society representatives from five neighbouring countries.<sup>36</sup> A special edition of the weekly newspaper *Le Citoyen* provided a detailed overview of the EITI process and key figures published in EITI Reports.<sup>37</sup> This press coverage was generally focused on the EITI process itself rather than substantive issues covered by EITI Reports. Through the permanent *Bureau* of the MSG, chaired by civil society, CSOs also participate actively in producing EITI Reports and EITI work plans. Civil society representatives can express their views on EITI activities. For example, national newspapers *L'Observateur* and *L'Info* reported the main objectives of the 2015-2017 work plan and highlighted civil society requests for the government to provide adequate funding of the work plan.

On 3 October 2018, the President signed Decree 1637/PR/MPE/2018, which renewed the MSG and provided protection for MSG members, including from civil society.<sup>38</sup> Article 24 states that MSG members are protected when carrying out their missions and cannot be prosecuted for opinions while exercising their functions. However, this protection is limited to MSG members and to activities deemed part of MSG members' functions.

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<sup>31</sup> FIDH (June 2016), Tchad : Arrestation et détention arbitraire de M. Djerlar Miankeol, <https://www.fidh.org/fr/regions/afrique/tchad/tchad-arrestation-et-detention-arbitraire-de-m-djerlar-miankeol>, accessed in October 2018.

<sup>32</sup> Mr Djerlar Miankeol's publications between 2008 to 2010 include: Living with the oil – Study on the living conditions of communities in the oil producing region of Chad; and For an efficient use of oil revenues – Study on the management of the 5% of oil revenues earmarked for the oil producing region. Peace Resources Group, Djerlar Miankeol, [https://www.peaceresources.net/Djerlar\\_en.html](https://www.peaceresources.net/Djerlar_en.html), accessed in October 2018.

<sup>33</sup> See: Amnesty International (July 2015), Chad, further information: Chadian prisoner of conscience released, <https://www.amnesty.org/en/documents/afr20/2183/2015/en/>, accessed in October 2018.

<sup>34</sup> The High Court had condemned Djerlar Miankeol to two years in prison. The court decision is described by: Amnesty International (July 2015), Two year sentence for expressing his views, <https://ua.amnesty.ch/urgent-actions/2015/06/138-15/138-15-2>, accessed in October 2018.

<sup>35</sup> *L'Info* (July 2016), n.480, <http://itie-tchad.org/wp-content/uploads/2018/07/Coupures-de-Presses-2016.pdf>, accessed in October 2018.

<sup>36</sup> Cameroon, Congo, Gabon, Niger and DRC.

<sup>37</sup> *Le Citoyen* (July 2016), n.0136, <http://itie-tchad.org/wp-content/uploads/2018/07/Coupures-de-Presses-2016.pdf>, accessed in October 2018.

<sup>38</sup> Decree N 1637/PR/MPE/2018 of 3 October 2018, <http://itie-tchad.org/wp-content/uploads/2018/10/Decret-N%C2%B01637-Portant-institution-de-m%C3%A9canisme-de-mise-en-oeuvre-et-de-suivi-de-l'ITIE.pdf>, accessed in October 2018.

There is only very limited evidence of published analysis on substantial issues pertaining to the management of the oil sector produced by local CSOs. An example is the work of a group of Chadian researchers not represented on the MSG, the Circle of Reflection and Orientation on the Sustainability of the Chadian Economy (CROSET), which published an analysis of the Glencore deal in November 2015 and called for more transparency on how the state selects intermediaries to buy the oil from the state.<sup>39</sup>

There is at least one case of censorship that is directly linked to an EITI-related topic. On 12 June 2017, SWISSAID published a study titled *"TCHAD SA – A corrupt family clan, Glencore's billions and Switzerland's responsibility"*.<sup>40</sup> Drawing on EITI data, the study made recommendations to improve transparency by Glencore through EITI reporting in Chad and received wide media coverage after its launch in June 2018. As is common practice for such reports, the EITI International Secretariat also published a link to the report on its website on 13 June 2018. However, on 19 June 2017, SWISSAID wrote to the Chadian Embassy in Geneva stating that *"Given that our report has been interpreted in different ways, including for political purposes that were absolutely not our aim, we have considered it preferable to remove it from our web page, and to cease any dissemination. Our report is therefore no longer available."* The International Secretariat was not informed of the report's removal from the public domain. In January 2018, the law firm Pierre HAIK of HAIK & ASSOCIES representing President Idriss Déby Itno wrote to EITI Chair Fredrik Reinfeldt with information about a defamation lawsuit filed on behalf of the President against SWISSAID and the EITI on 11 September 2017 in a Paris Court (the *Tribunal de Grande Instance de Paris*). The lawsuit alleged that the SWISSAID study defamed Mr Idriss Déby Itno and his family, and the EITI was sued for having republished the retracted report on its website. Without admission of wrongdoing, the EITI withdrew the report from its website on 30 January 2018 and notified the lawyer that it was unaware that the report had been retracted by its authors. It is unclear whether other media organisations that published links to the report online were also sued.<sup>41</sup> The lawsuit did not interfere with EITI implementation in Chad, which continued unabated in 2017 and 2018. Nonetheless, Chad EITI published a report in August 2018 addressing some of the transparency gaps on the Glencore loan (see *Requirements 4.2 and 5.1*). It should be noted that SWISSAID operates freely in Chad after the publication of the report and its representatives participate actively in MSG meetings.

**Operation:** Law 025/PR/92 sets out the general rules for registering, operating and dissolving associations in Chad, which require prior authorisation from relevant government agencies. The Council of Ministers can recognise certain associations of "public utility", which allows them to receive grants from the State. The law's implementing decree<sup>42</sup> allows for the registration of associations at the local level, although local-level approval can take as long as three years according to a 2014 study.<sup>43</sup> Although the government does not provide funding for NGOs, there is no evidence of legal restrictions for access to funding.

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<sup>39</sup> Study published by : Cercle de Réflexion et d'Orientation sur la Soutenabilité de l'Economie Tchadienne (CROSET) (November 2015), Glencore et la crise de trésorerie au Tchad: décryptage de trois deals polémiques, <http://www.croset-td.org/2015/11/glencore-et-la-crise-de-tresorerie-au-tchad-decryptage-de-trois-contrats-polemiques/>, accessed, in October 2018.

<sup>40</sup> In French: "Un clan familial corrompu, les milliards de Glencore et la responsabilité de la Suisse"

<sup>41</sup> SWISSAID retracted immediately after publication on 12 June 2017, following complaints from the President. The report was still available on Public Eye website as of 30 October 2018 at [https://www.publiceye.ch/fileadmin/files/documents/Rohstoffe/2017\\_Report\\_Tschad-AG.pdf](https://www.publiceye.ch/fileadmin/files/documents/Rohstoffe/2017_Report_Tschad-AG.pdf), but was not available anymore as of 1 January 2019.

<sup>42</sup> Decree n.066/PR/MET/94.

<sup>43</sup> COWI, op. cit., p.33.

While the Constitution allows for broad freedom of assembly, public gatherings require prior approval by the relevant authorities in accordance with Article 1 of Ordonnance 45/62. Public protests also require prior approval and specifically regulated by Decree 193/62. The decree allows for the ban of peaceful protests and arrest of peaceful protesters on the grounds of “public disorder” or “incitement to and/or taking part in an unauthorised gathering”.

There is evidence that requests for peaceful protest have been routinely denied after the state of emergency was declared in 2015. For example, Amnesty International documented at least 13 decrees confirming a ministerial decision to deny authorisation to protest organisers.<sup>44</sup> None of these requests were directly linked to the EITI. Several demonstrations were banned in 2017 according to Freedom House.<sup>45</sup> Protests that occurred in 2016 were generally linked to the presidential elections and therefore not directly linked to the EITI process. For example, a Chadian court convicted four civil society activists on 13 April 2016 for “*disturbing public order, opposing legitimate authority, and organising non-armed protests*” ahead of the presidential elections.<sup>46</sup> The activists were arrested three weeks before the elections on 22 March and freed immediately after the elections on 13 April 2016. Unions and students organised multiple strikes in 2017 and 2018 to protest against austerity measures and cut in government spending in health and education.

On 27 June 2018, the President signed into law *Ordonnance 23*. Under the new Constitution, the President has the power to sign laws during parliament summer breaks (June to October), which are then confirmed by parliament.<sup>47</sup> *Ordonnance 23* includes multiple provisions that could restrict the space for civil society, including article 3, which prohibits regional or community-based associations, and articles 4, 5, 8 and 9, which require prior authorisations for the creation of an NGO and abolish the current declarative regime. It remains unclear whether any of these provisions have been applied in practice and it is premature to assess the impact of the law on civil society participation in the EITI process (see *stakeholder views below on potential restrictions imposed by the law*). Furthermore, despite the new changes in government regulations, there is no evidence of government agencies purposely and systematically neglecting applications for registration from certain NGOs to deny these NGOs their rights as legal entities.

**Association:** In October 2004, Chadian civil society organisations and churches launched the national Publish What You Pay (PWYP) coalition.<sup>48</sup> It was primarily focused on “Publish What You Earn,” i.e. the transparency of government spending of oil revenues and the implementation of Law 001. National NGOs that adhered to the coalition included the Justice and Peace Commission of the Catholic Church, the *Commission Permanente Pétrole de N’Djaména* (CPPN), the *Commission Permanente Pétrole Locale* (CPPL), the *Réseau de Suivi des Activités liées au Pétrole au Moyen Chari* (RESAP-MC), and the *Groupe de Recherches Alternatives*.

In addition to the PWYP coalition, civil society members have established a network for monitoring

<sup>44</sup> Amnesty International (January 2018), op. cit.

<sup>45</sup> Freedom House, op. cit.

<sup>46</sup> Freedom House (April 2016), Chad Convicts Activists for Peaceful Protests, Press release, <https://freedomhouse.org/article/chad-convicts-activists-peaceful-protests>, accessed in October 2018.

<sup>47</sup> Tchad Infos, (June 2013), Tchad: le président Déby Itno habilité à légiférer par ordonnance, <https://tchadinfos.com/tchad/tchad-president-dby-itno-habilit-lgifer-ordonnance/>, accessed in October 2018.

<sup>48</sup> For a full description of the national PWYP coalition, see: PWYP website, <http://www.publishwhatyoupay.org/members/chad/>, accessed in October 2018.

petroleum activities, including the Commission Permanente Pétrole (CPPL/CPPN/RESAP) and the Justice and Peace Commission of the Catholic Church. International NGOs are currently represented in the MSG by SWISSAID and they work closely with their local partners. These NGOs can communicate with each other, with evidence that social media such as Whatsapp are a key channel of communication alongside phones and emails. Advocacy campaigns are generally conducted on radio.

*Engagement:* CSOs are actively engaged in the EITI process. With support from the Catholic Church, Oxfam, SWISSAID and the World Bank, the NGOs mentioned above campaigned successfully for EITI implementation in Chad from 2005 to 2010. The NGOs affiliated with the GRAMP-TC group played an active role in EITI implementation to this day. The groups called on oil companies to renounce confidentiality clauses in oil contracts and asked the government to amend the oil revenue management law to cover all oil fields in the country. They played an active role in the conception and oversight of the EITI process. The permanent *Bureau* of the MSG chaired by civil society regularly develops the first draft of the EITI work plan. The PWYP coalition takes the lead in the production of communication materials and dissemination campaigns. EITI work plans include capacity building activities for civil society, but these activities are not often implemented in practice due to lack of funding. In 2015, civil society groups led by CEFOD launched a dissemination campaign on EITI reports and organised public debates on national radio and television.<sup>49</sup>

*Access to public decision-making:* Prior to joining the EITI and well before production of oil began, Chad passed the Petroleum Revenue Management Act (Law 001 of 11 January 1999), which established a Petroleum Revenue Oversight and Control Committee (*Collège de Contrôle et de Surveillance des Ressources Pétrolières, CCSRP*), commonly known as the *Collège*.<sup>50</sup> According to Law 001 and subsequent decrees, the *Collège* was a joint government-civil society body that had the mandate to verify, authorise and oversee the expenditure of oil revenues.

Until recently, civil society representatives had two main mechanisms for access to public decision: the *Collège* and the EITI process. Civil society representatives on the *Collège* exercise direct oversight of government revenues from the oil sector.<sup>51</sup> Their role as members of the *Collège* includes approval of expenditure of oil revenues in accordance with Chad's Petroleum Revenue Management Act (Law n.001 of 11 January 1999) and subsequent amendments. The *Collège* has produced multiple reports on oil revenues and allocation of the revenues that are also accessible on the EITI website.<sup>52</sup> A presidential decree has recently cancelled the *Collège* and EITI remains the main mechanism for civil society to access decision making.

Through the EITI process, civil society representatives on the MSG have successfully campaigned for

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<sup>49</sup> An overview of dissemination campaign led by civil society in 2015 is available here: Chad EITI, Actualités, <http://itie-tchad.org/actualites/>, accessed in October 2018.

<sup>50</sup> Ian Gary, Nikki Reisch (2005), CHAD'S OIL: MIRACLE OR MIRAGE? Following the Money in Africa's Newest Petro-state, <https://cpb-us-w2.wpmucdn.com/campuspress.yale.edu/dist/8/1581/files/2016/09/36-1-leibold-aligning-incentives-for-development-135x8jh.pdf>, accessed in October 2018.

<sup>51</sup> See Gary and Reisch, op. cit.

<sup>52</sup> The 2013-2016 *Collège*'s annual reports are accessible here: Chad EITI, Rapports annuels du Collège de contrôle et de surveillance des revenus pétroliers, <http://itie-tchad.org/rapports-annuels-du-college-de-contrôle-et-de-surveillance-des-revenus-petroliers/>, accessed in October 2018.

contract transparency. Even if they have not succeeded in the publication of the loan agreement with Glencore, which arguably interested them the most, they have succeeded in securing the publication of key terms of the contract through EITI reporting and in changing the government policy in favour of contract transparency (see Requirement 2.4).<sup>53</sup>

### Stakeholder views

*Expression:* There were diverging views on the general environment for freedom of expression. Some CSOs deemed that fees for private or community radios represented prohibitive costs and that the risks of being suspended by the regulating authority were high. Some MSG members, including some civil society representatives, argued that there were no topics that were beyond public discussion or so-called taboo. They argued that it was rather an issue of lack of interest and weak capacities. Stakeholders consulted generally agreed that civil society protections were limited to what were deemed to be EITI activities, including dissemination and outreach. EITI activities are understood by most stakeholders to mean EITI reporting, MSG meetings and dissemination campaigns. On the question of whether there were taboo topics that were off limit for civil society and journalists, all stakeholders consulted agreed that before SWISSAID published the subsequently-redacted report, there was very little information about the loan agreement between Glencore and the government. Other CSO representatives argued that the agreement with Glencore remained a taboo topic. Government officials argued that they could not disclose the details of the agreements due to confidentiality clauses. It was finally agreed that Independent Administrators and the EITI national secretariat would be granted access to the contract for the purpose of the EITI reporting.

Civil society representatives argued that the government reaction following the publication of the SWISSAID report was unwarranted and proved the point that the Glencore deal was a taboo topic. Some CSOs consulted considered that the SWISSAID report had served its purpose despite its retraction, as the Glencore loan went from being a taboo topic to only a sensitive topic that could be discussed publicly. Glencore and SHT had also disclosed more detailed data on the commercialisation of State oil and the loan repayment. Upon request from the International Secretariat, a SWISSAID representative on the MSG decided not to comment on the circumstances that led to the retraction. Civil society representatives on the MSG stated that SWISSAID could publish this kind of report precisely because it is an international NGO. They emphasised that many local CSOs did not have the expertise, funding and political support to publish such a report. Some civil society representatives on the MSG insisted that, if they had the capacity to publish such a report, they would not have retracted it despite the risk of harassment. Other civil society representatives expressed doubt that they would have taken such risks.

Development partners commented that the content of the SWISSAID report appeared reasonable in its tone but considered the headline to be too provocative and the media coverage too sensational. They noted that the report clearly targeted a Swiss audience. Without justifying the retraction of the report, they noted that the framing and the release of the report could have been handled better.

Some development partners consulted highlighted a radio show organised in September 2018 on the EITI process, with representatives from government and CSOs. Nevertheless, they considered that CSOs were

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<sup>53</sup> Contracts, conventions and Decrees are published on the EITI website, accessed in October 2018. Chad EITI, Contrats et conventions, <http://itie-tchad.org/convention/>, accessed in November 2018.

not protected in Chad and could be met with reprisals when protesting. Denunciation without solid proof was liable for prosecution under a defamation law. They did not provide specific examples of denunciation that had led to prosecution but insisted civil society activities wishing to denounce so-called real issues were taking substantial risks. Naming individuals would expose them to strict libel laws. They also highlighted two separate instances of arrests of union members in 2012 (the condemnation was pronounced at the first court session, but the union members were released due to the pressure of fellow organisations) and 2016 (following protests in the framework of elections, and two EITI MSG meetings were rescheduled as a sign of solidarity). However, stakeholders noted that expressing views on sensitive topics related to development and governance could be affiliated to political activity, which was banned for all CSOs.

*Operation:* A government representative noted that the new MSG decree was signed by the President on 3 October 2018.<sup>54</sup> The government representative argued that the presidential decree provided for the protection of civil society actors members of the MSG, as stated in Art. 24 (*see documentation of progress above*). Civil society representatives dismissed this provision as too narrow. They argued that there was a contradiction between the presidential decree and *Ordonnance 23*,<sup>55</sup> which prohibited civil society groups from conducting loosely-labelled political activities. Industry representatives confirmed that the ordonnance prevailed in case of contradiction between the presidential decree and *Ordonnance 23*.

Following the signature of *Ordonnance 23* by the President on 27 June 2018, CSOs published a memorandum criticising key provisions of the law that in their view would undermine their freedom of operation in violation of their constitutional rights. They singled out article 3 in the law, which prohibited regional or community-based associations. CSO also objected to articles 4, 5, 8 and 9 of the law for requiring prior authorisations for the creation of an NGO. They argued for maintaining the declarative regime. They also considered a five-day deadline for declaring the creation of an association to be an unreasonable deadline. They considered additional restrictions for religious groups Article 25 a direct violation article 55 of the constitution. They objected to the development character of NGOs imposed by the government sd per article 27, arguing that associations could have a wide mandate that could change over time. They also argued that article 28 prohibited associations to comment on political issues.

*Association:* CSO representatives consulted explained that CSOs that were vocal critics of the government were treated differently from other civil society groups that seemed to systematically side with the government. Requests for protest were routinely denied to civil society activists, whereas requests from CSOs affiliated with the regime or supportive of government policies were allowed to proceed. Industry representatives confirmed that 'activist' CSOs and 'development' CSOs were treated differently. PWYP confirmed that they consulted the organisations they represented regularly before and after MSG meetings. International NGOs that used to provide substantial funding to local CSOs had withdrawn their

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<sup>54</sup> Decree N 1637/PR/MPE/2018 of 3 October 2018, op. cit.

<sup>55</sup> Article 29 of the Ordonnance N 023/PR/2018 on Régime des associations adopted by the Ministerial Council on 7 June and signed by the President on 27 June 2018 prohibits civil society from commenting on political issues. See also: Amnesty International (October 2018), Tchad : Analyse juridique de l'ordonnance portant régime des associations, <https://www.amnesty.org/en/documents/afr20/9240/2018/fr/>, accessed in November 2018.

financial support.

There was general agreement that despite logistical challenges, civil society representatives were able to communicate with each other. Stakeholders consulted from both the MSG and beyond it confirmed that the government had restricted access to social media on mobile networks. They explained that access to Facebook and WhatsApp on cell-phones required a VPN at a prohibitive cost for most Chadians. These social media apps were accessible through WIFI, although stakeholders highlighted the low Internet penetration.<sup>56</sup> Civil society representatives also noted that, while they found the restrictions on WhatsApp problematic, they were still able to communicate with each other and no stakeholders consulted offered evidence to show that social media restrictions had had a direct impact on stakeholder engagement in EITI.

*Engagement:* All stakeholders consulted agreed that CSO members were systematically the most numerous at MSG meetings. They were also first in line with regards to dissemination and outreach activities, but funding gaps had drastically reduced the number and scale of activities. Civil society representatives were also proud to point out their contribution in the design and development of the EITI. They insisted that they campaigned vigorously for the EITI at critical junctures and produced campaign materials based on EITI Reports. However, other stakeholders noted that CSOS's general capacity to express views related to natural resource governance remained limited due to constraints in funding.

*Access to decision making:* Stakeholders consulted noted that the future for CSOs looked challenging and many highlighted the abrupt dissolution of the *Collège* as a source of concern that would deprive them access to decision-making. The decision to dissolve the *Collège* was based apparently on the idea that its mandate overlapped with the prerogatives of other institutions, as well as the argument that oil revenues should not be singled out from the broader public finance management framework.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made meaningful progress in meeting this requirement. Publicly-available information and stakeholder consultations describe a broader context affected by restrictions to civic space since 2015, due to multiple factors not directly linked to the EITI process. These included emergency security measures after terrorist attacks attributed to Boko Haram in 2015; crackdown against protests opposed to the reform of the Constitution and presidential elections in 2016; and the collapse of oil prices in 2015 that led to the adoption of austerity measures, which in turn prompted multiple protests.

The Secretariat assessed each provision of the civil society protocol and documented significant risks of breaches of freedom of expression and freedom of operation in Chad. Regarding freedom of expression, evidence points to at least one case of censorship that might be directly linked to an EITI-related topic, with the withdrawal of the SWISSAID report on the Glencore oil-backed loans. Stakeholder comments also outlined potential for self-censorship, including on issues related to the governance of the extractive sector. Nonetheless, CSOs were able to fully express themselves in the context of EITI implementation, including during dissemination activities. Stakeholders highlighted the adoption of the 2018 MSG Decree

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<sup>56</sup> An industry representative confirmed that a portable modem and monthly subscriptions could cost more than USD 100 per month, well beyond the means of most civil society representatives.

that supported freedom of expression of MSG members exercising their functions. Although there were diverging views among stakeholders consulted, there is evidence that the SWISSAID report and EITI reporting helped destigmatise the Glencore oil-backed loans and provide greater public information on the topic. In addition, while the Secretariat sought to document cases of arrests of civil society representatives substantially involved in the EITI process, it did not find a direct link between the documented cases of arrests and the EITI process as defined in the civil society protocol. Stakeholders also pointed out that the threat to boycott the EITI process by CSO representatives on the MSG had contributed to securing the release of some civil society activists.

Regarding freedom of operation, the general context of shrinking civic space affected CSOs' ability to organise peaceful demonstrations, albeit not specifically linked to EITI implementation. All stakeholders consulted considered the signature of *Ordonnance 23* a substantial threat to freedom of operation, with its new registration burdens on NGOs. However, it is premature to assess the impact of these new regulations on CSOs' participation in the EITI process given that the *Ordonnance* was only signed in late June 2018. None of the NGOs consulted during Validation had ceased or changed their activities as a result of these legal amendments.

The Secretariat noted that there were no violations to the civil society protocol's provisions on freedom of association, civil society engagement or access to public decision-making. Regarding freedom of association, CSOs have established networks working on revenue management and the governance of the extractives sector. Restrictions on social media did not significantly affect CSOs' ability to communicate and cooperate as part of the EITI process. Civil society's engagement within the EITI process allowed them to substantially contribute to, and often lead, the conception, implementation and evaluation of the process, despite constraints in capacities and resources highlighted by all stakeholders consulted. Access to public decision-making was enabled by CSOs' role both within the now-defunct *Collège* and the EITI, with direct access to decision making on how petroleum revenues were allocated, as well as influence on the government's policy on contract transparency.

Finally, stakeholders' comments show that CSO representatives have carved out a space in which they can operate using the EITI, as illustrated by how they successfully used their threat to boycott the EITI process to secure the release of their colleagues arrested on issues not directly related to the EITI, or by how EITI reporting had shed light on the Glencore oil-backed loans. The International Secretariat concludes that not all aspects of this requirement have been implemented in the period under review, but that the underlining objectives were in the process of being achieved.

In accordance with Requirement 1.3 and the Civil Society Protocol, Chad is required to ensure adequate space for civil society to actively, fully and effectively participate in the EITI process, without fear of reprisal. It is recommended that adequate safeguards be implemented to effectively remove provisions of laws and regulations (e.g. *Ordonnance 23*) that curb civil society's ability to operate freely. It is recommended that the scope of the provisions in the presidential decree to protect civil society members of the MSG is expanded to include legal protections for all civil society actors substantially involved in the EITI process.

## MSG governance and functioning (#1.4)

### Documentation of progress

Up to September 2018, the functioning of the MSG was based on Decree 854/PR/PM/MPME/2014, which modified Decree 07-1074PR/PM/MP of 14 December 2007.<sup>57</sup> The MSG discussed the revision of these texts on numerous occasions.<sup>58</sup> A 2016 impact study on EITI implementation listed six recommendations to improve the internal governance of the Chad EITI.<sup>59</sup> A World Bank consultant who supported the January 2018 self-assessment exercise suggested a new Decree that streamlined procedures, a clear nominations process for the industry and CSO constituencies and a clear per diem policy.<sup>60</sup> The industry and CSO constituencies used these revised procedures to select their latest representatives in April-May 2018. After the start of Validation, a new MSG Decree was adopted on 3 October 2018 ('the 2018 Decree'), taking into account recommendations from the 2016 impact study and 2018 self-assessment.<sup>61</sup> While this initial assessment focuses on the rules and practices of MSG governance under the 2014 Decree, including review of MSG meetings minutes over 2015-2017,<sup>62</sup> it takes into consideration changes set by provisions in the 2018 Decree to the extent that they address gaps in the 2014 Decree and are expected to improve future practice.

*MSG composition and membership:* The 2014 Decree set MSG membership at 25, down from 28 in the 2007 Decree. The 2014 Decree defines the split in MSG membership between eleven representatives from government, six from industry, and eight from civil society, and requires that government members must be high-ranking officials while industry and civil society members must have appropriate decision-making powers. A follow-up of EITI implementation body within the MSG, the *Bureau*, is composed of nine members including the MSG Chair, a first vice-president from the CSO constituency, a second vice-president from the industry constituency, a general rapporteur, a deputy rapporteur, and one advisor from each of the three constituencies.

### Overview of changes of changes in MSG membership:

	Changes in 2016	Changes in June 2018	September 2018 (new decree)
Government representatives	6/11	11/11	9/11

<sup>57</sup> Decree n.854/PR/PM/MPME/2014, <http://itie-tchad.org/wp-content/uploads/2018/01/DECRET-854-1.pdf>, accessed in September 2018; Decree n.07-1074PR/PM/MP/2007, <http://extwprlegs1.fao.org/docs/pdf/cha141615.pdf>, accessed in September 2018.

<sup>58</sup> including at its 13 April 2017 meeting and during the January 2018 self-assessment.

<sup>59</sup> These recommendations were to: streamline the structure and procedures, by deleting the Bureau, limiting the total number of members to 20 and simplifying nominations procedures; allowing new actors to sit on the MSG, including GLENCORE; draft and operationalise a capacity-building plan; limit the turnover of NCs; operationalise regional committees; and opening a documentation centre at the National Secretariat, which would become a national reference for data on the extractive sector. CAC75 (September 2016), op. cit., pp.4-5. For comments on the internal governance of the MSG before the publication of the 2014 Decree, see: MSI Integrity (2015), Chad, <http://www.msi-integrity.org/wp-content/uploads/2015/02/Chad.xlsx%20in%20September%202018>, accessed in September 2018.

<sup>60</sup> A copy of these draft documents was shared with the International Secretariat in February and March 2018.

<sup>61</sup> Decree 1637/PR/MPE/2018 of 3 October 2018, op. cit.

<sup>62</sup> Chad EITI, MSG meetings minutes 2015-2017, op. cit. Minutes of 2018 meetings were not publicly available as of September 2018.

Industry representatives	5/6	5/6	7/6
Civil society representatives	10/8	8/8	7/8
	21/25	24/25	22/25

The table above shows that the number of representatives per constituency did not always respect the statutory rules, sometimes going beyond the maximum number. As of 2016, 21 MSG members were active, including six government representatives, five company representatives and ten CSO representatives.<sup>63</sup> As of September 2018, the MSG was composed of eleven government representatives, five industry representatives and eight CSO representatives.<sup>64</sup> One CSO representative and one government representative had been members since the start of the EITI in Chad. They were replaced with the enactment of the 2018 Decree, which modified the number of MSG members, alongside the Minister of Petroleum and Energy as MSG Chair, as follows: eight government representatives, seven company representatives and seven CSO representatives. The 2018 Decree also disbanded the *Bureau*. Based on a review of MSG minutes, the *Bureau* had been chaired mostly by the vice-Chair of the MSG, a CSO representative, especially under the current and former Minister of Petroleum and Energy.

The 2014 Decree noted that two-thirds of each constituency should be renewed every three years, based on the same procedures as for their initial nomination. MSG minutes highlighted the need for the urgent renewal of MSG members in October 2017, when their mandate initially ended. MSG minutes also mentioned “new members” at the MSG’s 5 March and 13 April meetings.<sup>65</sup> The 2018 Decree shortened the duration of MSG members’ mandate to two years, renewable once.

**Civil society representation:** According to the 2014 Decree, the MSG was required to include eight seats for CSOs. They comprise one representative each for the Network for the Coordination and Information of Women’s Associations, the Network of Human Rights Associations, PWYP, GRAMP and CPPN, the Chamber of Trade, Industry, Agriculture, Mines and Crafts, the Union of Chadian Journalists, the Union of Chadian Syndicates. According to the 2017 APR, all CSO members were represented on the MSG as of 31 December 2017. Chad’s Validation under the 2013 EITI Rules noted that the industry and CSO constituencies confirmed they had nominated their own representatives without any coercion.<sup>66</sup>

Based on the January 2017 self-assessment and a mapping of active CSOs in Chad working on issues related to the EITI, procedures reviewed for the nomination of CSO representatives established the following four groups and recommended the following representation on the MSG:

- *Two representatives of CSOs active in the extractive sector (PWYP coalition, GRAMP-TC) CELIAF, APAD, URPI, the National episcopal commission);*
- *Two representatives of CSOs working on human rights (ATPDH, LTDH, AFJT, APLFT, ACAT Tchad,*

<sup>63</sup> CAC75 (September 2016), op. cit.

<sup>64</sup> Chad EITI, 2017 APR, op. cit.

<sup>65</sup> Chad EITI, MSG Minutes, op. cit., 27 July 2017, 5 March 2015, 13 April 2018.

<sup>66</sup> CAC75 (2013), op. cit., p.27.

ALCOMET);

- One representative of regional CSOs (RESAP, CPPN, CPPL, CDJP);
- One representative of syndicates (UST, CLTT, CIST);
- One representative of international CSOs (SWISSAID, MISEREOR, CRS, OXFAM).

There is evidence of the nomination procedure for CSO representatives in April and May 2018, by voting. The CSO constituency selected one representative each for each of the categories above. Minutes from the voting process indicate that the call for nominations was open to all, fair and transparent.<sup>67</sup>

Industry representation: According to the 2014 Decree, the MSG was required to include six seats for industry. They comprised one representative each for the Chadian Company for the Exploitation of Quarries, CNPCIC, Esso Exploration and Production Chad INC, SHT, GLENCORE in Chad, and United Hydrocarbon. As of July 2018, only the representative of GLENCORE was missing. In 2016, the MSG discussed how to secure the nomination of a representative from GLENCORE on the MSG.<sup>68</sup> However, Glencore did not appoint a representative. The 2018 Decree modified the composition of the MSG as follows: one representative of the Association of Oil Operators in Chad; one oil company at the exploration phase; two oil companies at the production phase; one representative of the SHT; one representative of the SONAMING (the newly created mining SOE); and one company from the quarrying sector. As of October 2018, there was no publicly available information about the nominations procedure for the industry constituency.

Government representation: According to the 2014 Decree, the MSG was required to include eleven seats for government representatives. They comprised one representative each of the President's Office, the Prime Minister's Office, the SAI, the CCSRP, the Economic, Social and Cultural Council, the Ministry of Planning and international Cooperation, the National Assembly, the Ministry of Finance and Budget, the Ministry of Communication, as well as the Minister of Oil, Mines and Energy and the Secretary General of the same Ministry. It should be noted that the MPE included mining activities formerly. Government representatives were appointed by their respective structures, as per the Decree and (usually) the head of the entity. The 2018 Decree modified the list of government representatives as follows: a representative of the President's Office; a representative of the MPE; a representative of the MMGC; a representative of the MFB; a representative of the Ministry of Economy and Development Planning; a representative of the Secretary General of Government; a deputy; and a representative of the *Chambre des Comptes* (CdC, or the supreme audit institution).

Terms of reference: The 2014 Decree distinguishes between the *Haut Comité National* (High Level Committee - HCN) and the *Bureau*, but members of both committees are the same and the *Bureau* is essentially a permanent committee of the MSG. According to the statutory rules, the HCN is charged with taking key decisions, while the *Bureau* is charged with overseeing EITI implementation. In practice, evidence including meeting minutes indicates that the Bureau does both. The Decree defines the MSG's mandate, which covers all aspects mentioned under Requirement 1.4.b.iv of the 2016 EITI Standard, although it does not explicitly mention the MSG's responsibilities for annual progress reports or Validation. Based on a review of MSG meeting minutes, the *Bureau* has taken key decisions about EITI

<sup>67</sup> Chad EITI, Minutes of CSO meetings, 27 April 2018, 11 May 2018 <http://itie-tchad.org/wp-content/uploads/2018/05/Compte-rendu-Reunion-OSC2.pdf> and <http://itie-tchad.org/wp-content/uploads/2018/05/compt-rendu-OSC-regionales.pdf>, accessed in September 2018.

<sup>68</sup> Chad EITI, MSG Minutes, 1 September meeting, op. cit.

implementation on behalf of the MSG and overseen day-to-day EITI implementation. Based on MSG minutes, it seems that the *Bureau* has also been undertaking part of the national secretariat's work. The 2018 Decree dissolved the *Bureau* and maintained the HCN as the sole multi-stakeholders group overseeing EITI implementation.

*Internal governance and procedures:* The 2014 Decree requires that the MSG meet at least three times a year and that the Chair can convene extraordinary meetings. The MSG adopted its Internal Rules on 7 October 2017, which included provisions for four ordinary sessions a year and for extraordinary sessions called either by the MSG Chair or by two-thirds of MSG members.<sup>69</sup> There is a lack of clarity on the exact number of meetings held by the HCN and the *Bureau* between 2015 and September 2018, although a review of MSG meeting minutes suggests that the former met at least 13 times and the latter met at least 14 times. The 2018 Decree formalised the frequency of MSG meetings as at least four a year, with extraordinary meetings convened by the MSG Chair or at least two-thirds of MSG members.

The 2014 Decree noted that working documents should be sent at least 15 days ahead of a scheduled meeting. It remains unclear whether this policy was followed in practice. The 2018 Decree shortened that delay to seven working days. The 2014 Decree did not mention the right of any MSG member to table an issue for discussion. It did not mention the existence of a Code of Conduct. The 2018 Decree however clearly stated that any MSG has the right to suggest items for the agenda of meetings.

*Decision-making:* The 2014 Decree stated that decisions were taken by consensus, or by simple majority in case of vote. In practice decisions are taken by consensus. However, available MSG meeting minutes illustrate how the *Bureau* seemed to become the *de facto* decision-making body over the 2014-18 period. It is unclear whether these decisions were taken in consultation with other MSG members not members of the *Bureau*. The 2018 Decree maintained previous rules for decision-making, noting in addition that the MSG could approve documents electronically by non-objection.

*Record-keeping:* The 2014 Decree did not include provisions about record-keeping. In practice, the national secretariat drafted short accounts of MSG meetings, summarising key points. MSG minutes for the years 2015-2017 are available online. The minutes provide summaries of key decisions taken and do not describe discussions in detail, nor identify discussants even by constituency. The 2018 Decree codified the practice of note-taking by the national secretariat.

*Capacity of the MSG:* The 2014 Decree did not include provisions on the responsibility of MSG members to have the capacity to carry out their duties. Article 24 of the 2018 Decree stipulated that MSG members benefit from all the necessary protections and facilities required to carry out their mandate.

*Per diems:* The 2014 Decree states that the function of MSG member was voluntary. However, MSG members were entitled to suggest *per diems* depending on attendance of MSG meetings as approved by Prime Ministerial Decrees. There was no publicly available document codifying the practice of *per diems* as of September 2018. The January 2018 self-assessment shed light on the practice of *per diems*. Regarding CSO representatives, the self-assessment report noted that CSO representatives' participation was stronger within the *Bureau* and explicitly linked this to the higher level of *per diems* paid there. CSO

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<sup>69</sup> The internal rules were not available online as of September 2018. A copy was shared with the International Secretariat.

representatives therefore tended to be more active as technical advisors, rather than as key actors in outreach, dissemination and advocacy activities. The self-assessment also raised concerns about potential self-censorship and conflicts of interest for CSOs in exchange for receiving per diems, as well as the incentive for members to remain as long as possible a part of the MSG.<sup>70</sup> The 2018 Decree did not modify dispositions from the 2014 Decree on *per diems*.

***Attendance:*** There were no publicly available attendance lists before the start of Validation. A copy of scans of hand-written attendance lists for 2016-2018 meetings were shared with the International Secretariat in August 2018. The overall trend shows consistent participation from all three constituencies, with quorums reached at nearly all meetings.

***National Secretariat:*** Articles 9, 10 and 11 of the 2014 Decree outline the mandate and functioning of the National Secretariat, which include drafting TORs for the IA. It has been composed of six members over the 2014-18 period, including the National Coordinator and the deputy National Coordinator. The National Secretariat was expected to put in place four working groups, whose members received per diems: an accounting and audit group, a communication group, a capacity building group and a legal counsel one. In practice as of September 2018, the Secretariat was composed of five staff, including National Coordinator Amina Mahamat<sup>71</sup>, appointed on 3 September 2015 by Presidential Decree.<sup>72</sup>

***Regional committees:*** Ministerial order 14/PR/MEP/HCN/Comité de Pilotage/CSTP/2013 of 12 February 2013 created regional EITI committees in provinces affected by extractive activities of Chad. Their mandate is to encourage local debate and improve EITI data collection at the local level. They are supposed to be composed of eight government representatives, including from local governments, three company representatives and eight CSO representatives. As of 2016, committees had been created in Doba, Moundou, Bongor, Pala and Sarh<sup>73</sup>, but have remained largely inactive until 2018.

## Stakeholder views

Government officials explained that a new EITI Decree had been signed to address weaknesses in internal governance identified during preparation for Validation. While all MSG members consulted welcomed improvements introduced by the 2018 Decree, several CSO representatives highlighted the risk of the MSG becoming too affiliated with government agencies, including due to the dissolution of the Bureau that had provided CSOs with strong influence on decision-making. MSG members also worried that shortened mandate periods introduced by the 2018 Decree would lead to excessively frequent changes in membership and thus to loss of institutional memory.

Industry and CSO representatives noted that there were no barriers to influencing the agenda of MSG meetings and discussing specific issues. They highlighted that there was effective coordination between representatives that sit on the MSG and their wider constituency, with no barriers to communicating the evolution of EITI implementation.

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<sup>70</sup> Chad EITI, January 2018, op. cit., pp. 13, 19. It should be noted that this is more of an issue for the Bureau, which has been closed, than for the wider MSG, which renews its membership regularly.

<sup>71</sup> She was previously Secretary of State for Economy (2013-2014) and Advisor at the Prime Minister's Office (2014-2015).

<sup>72</sup> Idem., p.7.

<sup>73</sup> CAC75, September 2016, op. cit., pp.19-20.

CSO representatives noted that the wider civil society constituency was adequately represented on the MSG, reflecting the diversity of CSOs in the country by focus topic, geographical spread and gender. All CSO representatives consulted confirmed that they had been invited to the elections in May 2018. Industry representatives noted that their nomination process was also clear and that they were adequately represented on the MSG. Some industry and government representatives noted that the MSG was a rather homogenous group, because all members worked towards the same objectives. On capacities, stakeholders noted that MSG members had the necessary capacities to carry out their tasks and had benefitted from regular trainings about the EITI process itself. MSG members strongly highlighted the protections introduced by Article 24 of the 2018 Decree as a way of ensuring that MSG members could carry out their duties without reprisal. However, CSO representatives noted significant capacity gaps with regards to broader expertise on fiscal issues and quantitative analysis of data (*see Requirement 1.3*). They also highlighted limitations to dissemination and outreach activities due to funding gaps (*see Requirement 1.5*). Several MSG members noted that meeting documents were not systematically circulated in advance as per the Decree.

All MSG members rejected the notion that per diems were equivalent to salaries. They argued that there was a misunderstanding about their per diem policy. Some stated that per diem represented a motivation to ensure participation and that participation would drop significantly without them. Others noted that per diems represent rather a reimbursement of costs incurred to engage in EITI and highlighted that per diem levels had been halved at the beginning of 2018. They explained that there was also reimbursement of transport costs in addition to per diems. They noted that an internal commission had worked on ways to streamline the per diem policy, but that it was waiting for all new MSG members to be in place before presenting its conclusions, including on further decreasing the amounts.

MSG members noted that regional EITI committees still existed and played a key role in disseminating EITI data as local relays for outreach. However, gaps in funding had hampered the organisation of outreach activities and therefore decreased the involvement of local EITI committees.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made meaningful progress towards meeting this requirement. The 2014 Decree set out a clear mandate for the MSG, which was carried out in practice within the limits of available funding. Its membership was regularly renewed. Procedures for decision-making, the duration of the mandate and the frequency were clear, albeit not systematically documented in practice. The 2014 Decree did not explicitly mention certain aspects of internal governance, such as the possibility for MSG members to suggest any issue on the agenda. The Decree did not explicitly state that nominations should be based on an open and transparent invitation to participate in the MSG, did not explicitly refer to adequate and appropriate representation of stakeholders, did it mention that MSG members should be nominated through an independent process free from any suggestion or coercion, or the need for CSO MSG members to be independent operationally and in policy terms. The nominations process for the industry and CSO constituencies was unclear until April 2018, including whether nominations had been conducted in a fair and transparent manner. However, stakeholders consulted confirmed that the lack of clarity on nominations had not negatively affected the representation of broader constituencies. However, stakeholder consultations mostly confirmed that the MSG was based on an inclusive decision-making process in practice, even though there were concerns around the role of the Bureau as a *de facto* decision-making body. Finally, as of September 2018, the *per diem* policy was not transparent, with potential conflicts of interest.

The 2018 Decree and the process that led to its enactment show encouraging signs that Chad EITI is seeking to address issues related to internal governance, including the streamlining of decision-making and clarification of the *per diem* policy. Practice observed in the first half of 2018 shows improvements in the transparency of the nominations process for the CSO and industry constituencies.

In accordance with Requirement 1.4, Chad should ensure that procedures set out in the 2018 Decree are implemented in practice. Chad should ensure each constituency publishes its procedures for nominating and changing MSG members and ensure that MSG members have the capacities to carry out their duties. The MSG should clarify its policy and practice of per diems and ensure that it does not create conflicts of interest. Chad should ensure that there is sufficient notice of meetings and timely circulation of documents prior to their debate and proposed adoption. Chad must ensure that all MSG discussions and decisions are adequately documented and is encouraged to publish them online. Chad is also encouraged to provide adequate training to new MSG members, to provide adequate funding to EITI implementation and to ensure that the MSG operates in a favourable environment to carry out its mandate as per Art.24 of the 2018 Decree, in order to allow Chad EITI to fulfil its mandate. Given its central role in the petroleum industry in Chad, it is also recommended that Glencore designates its representative to the MSG to ensure that the industry is adequately represented.

## Work plan (#1.5)

### Documentation of progress

***Publicly accessible workplan:*** The triennial 2018-2020 work plan was adopted by the MSG in May 2018 and is accessible on the EITI-Chad website. In February 2018, the MSG published a more detailed work plan and budget for the year 2018, per activity. The previous triennial work plan, which covered the period 2015-2017, is also available online.<sup>74</sup>

***Objective for implementation:*** The 2016 impact study noted that previous work plans only partially aligned with national priorities, that they were only partially implemented and lacked emphasis on capacity building activities for stakeholders. It recommended that the work plan better take into account the local context and national priorities and be based on a more limited budget.<sup>75</sup> The seven objectives for implementation over 2018-2020 mirror the structure of the EITI Standard. Sub-objectives reflect the local context and national priorities, as identified by stakeholders during the January 2018 self-assessment.<sup>76</sup>

***Measurable and time-bound activities:*** The work plan sets clear deadlines over three years, by trimester. It lists desired outcomes and indicators and identifies the person or entity responsible for each activity.

***Activities aimed at addressing any capacity constraints:*** It includes activities aimed at strengthening

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<sup>74</sup> Chad EITI (February 2018), 2018-2020 work plan, <http://itie-tchad.org/wp-content/uploads/2018/05/Final-PTA-Triennial.xlsx>; Chad EITI (February 2018), 2018 priority work plan, <http://itie-tchad.org/wp-content/uploads/2018/05/Plan-de-Travail-Prrioritaire-2018-1.pdf%20/>; Chad EITI (May 2015), 2015-2017 work plan, [http://itie-tchad.org/rapport/itie-tchad\\_pan\\_2015-2017/](http://itie-tchad.org/rapport/itie-tchad_pan_2015-2017/), accessed in September 2018.

<sup>75</sup> CAC75 (September 2016), op. cit., pp.4-5.

<sup>76</sup> These include reaffirming stakeholders' commitment, establishing an oil cadastre, publishing contracts, clarifying the government's policy on beneficial ownership disclosure, and improving data reliability through certification mechanisms.

capacity of CSOs in particular, as well as outreach activities targeting companies to improve reporting.

*Activities related to the scope of EITI reporting:* The work plan sets activities to improve reporting on production and exports using revised reporting templates. It also seeks to improve data collection by tax collecting agencies and to improve data reliability, through outreach to companies on data certification, use of certification mechanisms by SAIs and the creation of an internal working group on data quality and exhaustivity. The work plan does not mention activities related to mainstreaming.

*Activities aimed at addressing any legal or regulatory obstacles identified:* The work plan does not mention activities aimed at addressing legal or regulatory obstacles.

*Plans for implementing the recommendations from Validation and EITI reporting:* The work plan includes an activity to improve the monitoring of recommendations from EITI reporting, using a table to be updated monthly (see Requirement 7.3).

*Costings and funding sources, including domestic and external sources of funding and technical assistance:* Activities are fully costed, with indications of specific activities that could be supported by financial and technical partners, such as the AdDB, the World Bank or UNDP. The balance between costs related to activities and functioning costs has improved compared to the previous triennial work plan, with a decrease in total budgeted cost (see Annex C).<sup>77</sup>

## Stakeholder views

MSG members noted that work plans were drafted by all representatives and therefore reflected the views of the three constituencies. Stakeholders recognised that a consultant funded by the World Bank facilitated the consultation process and helped draft the work plan. The 2018 work plan was adopted based on the January 2018 self-assessment, aiming to better reflect national priorities and the EITI Standard, as well as formulate time-bound activities at a reasonable cost. It was published on the Chad EITI website but not disseminated outside of the MSG due to lack of funding. They noted that work plans were always reviewed annually, including for budgeting reasons, but that only triennial work plans had been publicly available prior to 2018. With regards to the limited number of activities realised over the previous two years, they blamed the lack of funding for stalling implementation, including on the beneficial ownership roadmap and dissemination activities (see Requirements 2.5 and 7.1).

## Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2018-20 work plan contains objectives aligned with national priorities, has measurable and time-bound activities, provides for plans to address capacity constraints and scope of EITI reporting, as well as plans for follow-up on EITI recommendations. Stakeholder consultations confirmed that the EITI work plan was a result of consultations with stakeholders in all three constituencies. The work plans are fully costed, with indications of the sources of funding. While the work plan does not have any specific activities related to overcoming legal obstacles, the beneficial ownership roadmap to 2020 includes relevant activities and is accessible online. Stakeholders noted that funding gaps stalled

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<sup>77</sup> USD 538,371 in 2018, USD 638 213 in 2019 and USD 438 213 in 2020.

implementation over the past two years, notably in the implementation of the beneficial ownership roadmap. Even though the lack of funding has hampered the implementation of the work plan, the government has provided funding in the past and that reduction of government funding is not specifically targeted to the EITI, but rather a consequence of broader budget cuts. To overcome this lack of funding, EITI-Chad has sought funding from donors.

To strengthen implementation, Chad is encouraged to align its next EITI work plan with plans for transitioning towards systematic disclosures of information required under the EITI Standard.

**Table 1 – Summary initial assessment table: MSG oversight**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions
Government oversight of the EITI process (#1.1)	The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The government has issued unequivocal public statements of its commitment to the EITI, appointed high-level government officials to oversee and engage in the EITI process, provided substantial amounts of funding for EITI implementation, and ensured the functioning of the national secretariat. Government agencies have participated actively in EITI reporting and dissemination. While stakeholders consulted noted the decrease in government funding in the past two years due to the challenging economic context, they highlighted the government's commitment to improving transparency in the extractive sector.	Satisfactory progress
Company engagement (#1.2)	The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The government has conducted reviews of the legal and regulatory environment and taken steps to address barriers to industry participation in the process, including removal of confidentiality clauses in oil contracts. Industry representatives led by Esso have participated actively in EITI reporting and in MSG meetings. MSG membership show that the oil industry has been represented at a high-level and companies have contributed to the design and implementation of the EITI. The International Secretariat concludes that the oil	Satisfactory progress

	<p>and gas industry has demonstrated active engagement in the EITI process through their representation on the MSG and participation in EITI reporting.</p>	
<p>Civil society engagement (#1.3)</p>	<p>Publicly-available information and stakeholder consultations describe a broader context affected by restrictions to civic space since 2015, due to multiple factors not directly linked to the EITI process. Regarding freedom of <u>expression</u>, evidence points to at least one case of censorship that might be directly linked to an EITI-related topic. Stakeholder comments also highlighted potential for self-censorship, including on issues related to the governance of the extractive sector. Nonetheless, CSOs were able to fully express themselves in the context of EITI implementation, including during dissemination activities, given provisions of the 2018 MSG Decree supporting freedom of expression for MSG members exercising their functions. Regarding freedom of <u>operation</u>, the general context of shrinking civic space affected CSOs' ability to organise peaceful demonstrations, albeit not specifically linked to EITI implementation. While <i>Ordonnance 23</i> in June 2018 introduced new registration burdens for NGOs, there was consensus among stakeholders consulted that this had yet impacted CSOs engaged in EITI at the time of Validation. There do not appear to be any violations to the civil society protocol's provisions on freedom of association, civil society engagement or access to public decision-making. Restrictions on social media have not significantly affected CSO's freedom of <u>association</u>, including their ability to communicate and cooperate, in relation to the EITI. Civil society's <u>engagement</u> within the EITI process allowed them to substantially contribute to, and often lead, the conception, implementation and evaluation of the process, despite constraints in capacities and resources. <u>Access to public decision-making</u> was enabled by CSOs' role both within the now-defunct <i>Collège</i> and the EITI, with direct access to decision making on how petroleum revenues were allocated, as well as influence on the government's policy on contract transparency. It appears that CSO representatives have carved out a space in which they can operate</p>	<p>Meaningful progress</p>

	<p>using the EITI, as illustrated by the release of CSOs arrested for reasons not related to the EITI, due to the constituency's threat to boycott the EITI.</p>	
<p>MSG governance and functioning (#1.4)</p>	<p>The International Secretariat's initial assessment is that Chad has made meaningful progress towards meeting this requirement. The 2014 Decree set out a clear mandate for the MSG, which was carried out in practice within the limits of available funding. Its membership was regularly renewed. Procedures for decision-making, the duration of the mandate and the frequency were clear, albeit not systematically documented in practice. The 2014 Decree did not explicitly mention certain aspects of internal governance, such as the possibility for MSG members to suggest any issue on the agenda. The Decree did not explicitly state that nominations should be based on an open and transparent invitation to participate in the MSG, did not explicitly refer to adequate and appropriate representation of stakeholders, did it mention that MSG members should be nominated through an independent process free from any suggestion or coercion, or the need for CSO MSG members to be independent operationally and in policy terms. The nominations process for the industry and CSO constituencies was unclear until April 2018, including whether nominations had been conducted in a fair and transparent manner. However, stakeholders consulted confirmed that the lack of clarity on nominations had not negatively affected the representation of broader constituencies. However, stakeholder consultations mostly confirmed that the MSG was based on an inclusive decision-making process in practice, even though there were concerns around the role of the Bureau as a <i>de facto</i> decision-making body. Finally, as of September 2018, the <i>per diem</i> policy was not transparent, with potential conflicts of interest. The 2018 Decree and the process that led to its enactment show encouraging signs that Chad EITI is seeking to address issues related to internal governance, including the streamlining of decision-making and clarification of the <i>per diem</i> policy. Practice observed in the first half of 2018 shows improvements in the transparency of</p>	<p>Meaningful progress</p>

	the nominations process for the CSO and industry constituencies.	
Work plan (#1.5)	<p>The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2018-20 work plan contains objectives aligned with national priorities, has measurable and time-bound activities, provides for plans to address capacity constraints and scope of EITI reporting, as well as plans for follow-up on EITI recommendations. Stakeholder consultations confirmed that the EITI work plan was a result of consultations with stakeholders in all three constituencies. The work plans are fully costed, with indications of the sources of funding. While the work plan does not have any specific activities related to overcoming legal obstacles, the beneficial ownership roadmap to 2020 includes relevant activities and is accessible online. Stakeholders noted that funding gaps stalled implementation over the past two years, notably in the implementation of the beneficial ownership roadmap. Even though the lack of funding has hampered the implementation of the work plan, the government has provided funding in the past and that reduction of government funding is not specifically targeted to the EITI, but rather a consequence of broader budget cuts. To overcome this lack of funding, EITI-Chad has sought funding from donors.</p>	Satisfactory progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> <li>1. To strengthen implementation, Chad is encouraged to use EITI implementation to drive reforms to improve the transparency and management of extractive revenues. The government is encouraged to ensure that funding allocated for EITI implementation is disbursed in a timely matter. Chad EITI may wish to work closely with the Chadian Observatory for Public Finances to ensure greater public access to information on the collection and allocation of oil revenues.</li> <li>2. To strengthen EITI implementation, the industry constituency is encouraged to strengthen mechanisms for consultations with the broader constituency and to increase their engagement in dissemination and outreach activities.</li> <li>3. In accordance with Requirement 1.3 and the Civil Society Protocol, Chad is required to ensure adequate space for civil society to actively, fully and effectively participate in the EITI process, without fear of reprisal. It is recommended that adequate safeguards be implemented to effectively remove provisions of laws and regulations (e.g. Ordonnance 23) that curb civil society's ability to operate freely. It is recommended that the scope of the provisions in the presidential decree to protect civil society members of the MSG is expanded to include legal protections for all civil society actors substantially involved in the EITI process.</li> </ol>		

4. In accordance with Requirement 1.4, Chad should ensure that procedures set out in the 2018 Decree are implemented in practice. Chad should ensure each constituency publishes its procedures for nominating and changing MSG members and ensure that MSG members have the capacities to carry out their duties. The MSG should clarify its policy and practice of per diems and ensure that it does not create conflicts of interest. Chad should ensure that there is sufficient notice of meetings and timely circulation of documents prior to their debate and proposed adoption. Chad must ensure that all MSG discussions and decisions are adequately documented and is encouraged to publish them online. Chad is also encouraged to provide adequate training to new MSG members, to provide adequate funding to EITI implementation and to ensure that the MSG operates in a favourable environment to carry out its mandate as per Art.24 of the 2018 Decree, in order to allow Chad EITI to fulfil its mandate. Given its central role in the petroleum industry in Chad, it is also recommended that Glencore designates its representative to the MSG to ensure that the industry is adequately represented.

5. To strengthen implementation, Chad is encouraged to align its next EITI work plan with plans for transitioning towards systematic disclosures of information required under the EITI Standard.

## Part II – EITI Disclosures

### 2. Award of contracts and licenses

#### 2.1 Overview

This section provides details on the implementation of the EITI requirements related to the legal framework for the extractive sector, licensing activities, contracts, beneficial ownership and State participation.

#### 2.2 Assessment

##### Legal framework (#2.1)

###### Documentation of progress

**Systematic disclosures:** The 2016 General Tax Code, the 2007 Oil Code and its implementing Decree and the February 2018 Mining Code are available online.<sup>78</sup> Access to the Official Gazette online is through subscription.<sup>79</sup> The Chad EITI website includes the main laws and contracts governing the sector in pdf format, which are also listed in the 2016 EITI Report.<sup>80</sup>

To benefit from the IMF's extended credit facility arrangement, Chad has to fulfil eight structural benchmarks. The third is the publication of a quarterly oil sector report with detailed coverage of the Glencore debt servicing. At the start of Validation, the MFB's *Cellule des Etudes et du Suivi de la Gestion des Revenus Pétroliers* (CESGRP) and the OTFIP had published three notes on the oil sector, covering the second and third trimesters of 2017 and the first trimester of 2018 (see *Requirements 2.2-3, 3.1-3, 4.2 and 5.1*). These notes include a section on “*Legislative and regulatory texts*”, with a list of new available texts for that period, indicating their type, reference number, object and date of signature, including any changes in licenses or contracts.<sup>81</sup>

<sup>78</sup> General Tax Code, 2016, <http://finances.gouv.td/index.php/publications/codes-lois-textes/codes?view=simplefilemanager&id=88>; Law no.006/PR/2007 of 2 May 2007 on the Oil Code, <http://www.droit-afrique.com/upload/doc/tchad/Tchad-Code-2007-hydrocarbures-MAJ-2010.pdf>; Decree no.796/PR/PM/MPE/2010, <http://extwprlegs1.fao.org/docs/pdf/cha161463.pdf>; Law no.011/PR/1995 of 20 June 1995 on the Mining Code, <http://www.droit-afrique.com/upload/doc/tchad/Tchad-Code-1995-minier.pdf>; Presidential Order n.4/PR/018 of 21 February 2018, <https://drive.google.com/file/d/1zAQgXol3s5fRq8TZMM1-juqS-uedj3c/view>; see the 1995 Mining Code, Decree no.821PR/MMEP/95, [http://www.eisourcebook.org/cms/February%202016/Chad%20Regulation%20Mining%20Code%20%20\(in%20French\).pdf](http://www.eisourcebook.org/cms/February%202016/Chad%20Regulation%20Mining%20Code%20%20(in%20French).pdf) accessed in September 2018.

<sup>79</sup> Each monthly update costs XAF 4000 (approximately USD 7) for the full text. Official Gazette, <https://www.journalofficielchad.td/>, accessed in September 2018.

<sup>80</sup> See: Chad EITI website, Decrees, Conventions and Contracts, Others, <http://itie-tchad.org/convention/loi-002-pr-2014-portant-gestion-des-revenus-petroliers/>.

<sup>81</sup> This initial assessment focuses mainly on the latest published quarterly note in June 2018, covering the first trimester of 2018. Ministry of Finance and Budget (April 2018), Notes trimestrielles sur le secteur pétrolier, <http://finances.gouv.td/index.php/publications/rapports>, accessed in September 2018. A fifth quarterly note on the oil sector was published in September 2018, after the start of Validation, and a copy shared with the International Secretariat.

**EITI reporting: *Legal and fiscal regime:***

*Oil and gas:* The 2016 EITI Report describes the two legal structures, namely concessions and PSAs introduced with the 2007 Oil Code<sup>82</sup>, and lists the licenses under each of the two regimes.<sup>83</sup> It lists taxes and levies applicable to oil companies depending on the fiscal regime, indicating the respective tax rates, as well as the potential fiscal advantages and exonerations which companies can benefit from depending on the applicable regime.<sup>84</sup> For the first time, the report compares contractual tax applicable on oil production with applied tax rates on the production of the Esso, PCM and CNPCI consortiums. It shows that discrepancies are below 1%.<sup>85</sup>

The law on the management of oil revenues promulgated in 1999, was modified in 2006 to apply to all production from oil fields in Chad, and further modified in 2014 (*see Key features of the extractive sector*).<sup>86</sup> The Law distinguishes between indirect oil revenues including taxes, levies and customs rights, and direct oil revenues including dividends and royalties, collected in-kind. The law sets priority sectors for the allocation of oil revenues (*see Requirement 5.3*) and introduced the *Collège* responsible for oversight of oil revenues.<sup>87</sup> The CCSRP was dissolved in April 2018 following the start of the 4<sup>th</sup> Republic.<sup>88</sup>

*Mining:* The report provides an overview of the main laws in the mining sector. It refers to seven taxes arising from common law and four taxes specific to the mining sector. The report notes that the MMGC is in charge of monitoring the payment of sector-specific taxes. It details the regulations on gold exploitation and commercialisation introduced by the 2016 Finance Law. The report also lists amendments to the fiscal regime applicable to mineral substances and holders of mining licenses, as enacted by the 2017 Finance Law.<sup>89</sup>

***Government agencies' roles:*** The report briefly describes the roles and responsibilities of the MPE, CCSRP, SHT, the CCCRSE and the ARSAT in the oil sector.<sup>90</sup> More information can be found online on the SHT's and the CCSRP's role and mandate.<sup>91</sup> The report briefly describes the role of the MMGC and the Directorate General of Geology, and notes plans for the creation of new government agencies in the

<sup>82</sup> These explanations can also be found in: IMF (July 2016), Report no.16/275, General Questions: Chad, <http://www.imf.org/~media/Websites/IMF/imported-publications-loe-pdfs/external/french/pubs/ft/scr/2016/cr16275f.ashx>, accessed in September 2018.

<sup>83</sup> Three licenses under the first regime and the eleven licenses under the second regime.

<sup>84</sup> Chad EITI (August 2018), op. cit., pp.27-30.

<sup>85</sup> Idem., p.93.

<sup>86</sup> Law n.001/PR/99 of 11 January 1999 on the management of oil revenues, modified by Law no.16/PR/2000 of 1 August 2000, <http://www.droit-afrique.com/upload/doc/tchad/Tchad-Loi-1999-01-gestion-des-revenus-petroliers.pdf>, accessed in September 2018. Law no.002/PR/2014 of 27 January 2014, modifying Law no.002/PR/06 of 11 January 2006 modifying Law n.016/PR/2000 of 18 August 2000, <http://itie-tchad.org/convention/loi-002-pr-2014-portant-gestion-des-revenus-petroliers/>, accessed in September 2018.

<sup>87</sup> Or CCSRP, responsible for monitoring the mobilisation of direct oil revenues, verifying the compliance of the management of special accounts with the Finance Laws and for authorising, monitoring disbursements from these special accounts and their allocation and conducting missions on the field to assess the reality and impact of investments on poverty reduction. See also : Massuyeau and Dorbeau-Falchier (April 2005), *Gouvernance pétrolière au Tchad : la loi de gestion des revenus pétroliers*, Afrique contemporaine, n.216, pp.139-156, <https://www.cairn.info/revue-afrique-contemporaine-2005-4-page-139.html#re8no8>, accessed in September 2018. Gary and Reisch, op. cit.

<sup>88</sup> France24 (May 2018), 'Le Tchad entre dans sa quatrième République', <https://www.france24.com/fr/20180506-tchad-idriss-deby-constitution-ndjamena-quatrieme-republique-pouvoirs-renforces>, accessed in September 2018.

<sup>89</sup> Chad EITI (August 2018), op. cit., pp.44-45, 49-50.

<sup>90</sup> Idem., p. 26.

<sup>91</sup> See: SHT, Presentation, <http://sht-tchad.com/fr/index.php/sht/presentation>; SHT, Laws and statutes, <http://sht-tchad.com/fr/index.php/gouvernance/lois-statuts>; CCSRP, Regulatory texts, <http://www.ccsrp-tchad.org/w1/index.php/textes-reglementaires>; CCSRP, 2014-2016 annual reports, op. cit.

mining sector.<sup>92</sup>

*Degree of fiscal devolution:* The report clarifies the level of fiscal devolution as per the 2014 Law on the management of oil revenues. 5% of a share of direct oil revenues should be transferred to oil producing regions (see *Requirement 5.2*).<sup>93</sup>

*Reforms:* Chad introduced a new Constitution on 4 May 2018, which sets that the State exercises sovereignty over its natural resources.<sup>94</sup> Regarding the oil sector, the 2017-2021 National Development Plan highlights the need for Chad to decrease its dependence vis-à-vis the oil sector.<sup>95</sup> The report notes ongoing reforms in the mining sector and highlights key innovations to the draft revised Mining Code, such as the creation of a state-owned company,<sup>96</sup> the introduction of calls for tenders as a default for the allocation of licenses, and the promotion of the ASM sector. The report notes that the 2016 Finance Law introduced reforms related to the artisanal mining of gold and that Chad officially adhered to the Africa Mining Vision in June 2017 to help develop the sector through the modernisation of the legislative and regulatory framework.<sup>97</sup>

### Stakeholder views

Government representatives stated that the applicable fiscal regime in the oil sector was clear and depended on the type of contract. They explained that sometimes bonuses varied, depending on the attractiveness of a specific oil bloc and the quality of available geological information. Some industry representatives noted that the applicable fiscal regime was clear, while others noted that it was too fragmented due to the multiplicity of regimes, as well as an unclear implementation of the Finance Law. They noted that oil operators had requested changes in tax rates.

Stakeholders consulted explained that reforms in the mining sector were driven by three objectives, namely to raise awareness of the country's geological and investment potential, improving the institutional and regulatory framework, including by establishing a state-owned enterprise in June 2018, and developing a public mining cadastre.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement, with efforts to go beyond the minimum requirement. EITI reporting provides a clear explanation of the applicable fiscal regime and a description of each revenue stream. For the first time, the 2016 EITI Report also described potential fiscal exemptions and compared royalty rates for each producing company compared to what was paid in practice. A quarterly government report on the oil

<sup>92</sup> Chad EITI (August 2018), op. cit., p.43.

<sup>93</sup> Chad EITI (August 2018), op. cit., pp.99-100.

<sup>94</sup> Its article 63 States that "The State exercises its full and permanent sovereignty over all the riches and national natural resources for the well-being of the national community. However, it can grant the exploration and exploitation of these natural resources to private initiatives." Constitution of the Republic of Chad (May 2018), op. cit.

<sup>95</sup> Government of Chad (July 2017), 2017-2021 National Development Plan, <http://pnd.td/wp-content/uploads/2017/09/PND.pdf>, accessed in September 2018.

<sup>96</sup> The law for the creation of the mining SOE was adopted on 8 June 2018. See: Le Pays Tchad, Une société nationale des mines et des géologies est née, 9 June 2018, <http://lepayschad.com/index.php/economie/1912-une-societe-nationale-des-mines-et-des-geologies-est-nee>, accessed in September 2018.

<sup>97</sup> UN Economic Commission for Africa (June 2017), Chad launches the Country Mining Vision, <https://www.uneca.org/stories/chad-launches-country-mining-vision>, accessed in September 2018.

sector also tracks regulatory changes in the oil sector.

To strengthen implementation, the MSG may wish to expand the assessment of the applied tax rate in practice beyond the royalty payments. The MSG may also wish to monitor and document ongoing and planned reform in the mining, oil and gas sectors.

## License allocations (#2.2)

### Documentation of progress

**Systematic disclosures:** Chad's quarterly note on the oil sector lists all the decrees approving the allocation or transfer of oil licenses for the period under review, including the object and date of signature.<sup>98</sup> Chad's regulatory framework also clearly sets transparency as the norm for the allocation of licenses and signature of contracts in the extractive sector. Article 7 of the Transparency and Good Governance Code notes that contracts should be clearly established and made known to the public.<sup>99</sup>

#### **EITI reporting: Awards/transfers:**

*Oil and gas:* The 2016 EITI Report notes the Director General of Oil and Energy's confirmation that no license was allocated in 2016. The report notes that licenses in the oil sector can be allocated by tender process or by direct negotiation. It describes the procedure for the allocation by tender process, albeit without detailing how the technical and financial criteria are assessed. It does not mention where results of tender processes are published. The report describes in detail the procedure for direct negotiation, which is the most common way of awarding licenses according to the Director General of the MPE, including the required technical and financial criteria and how they are assessed.

The report does not comment on license transfers in the oil sector in 2016 but describes the statutory procedure, including the list of documents to be submitted, an example of a license transfer agreement, and a draft contract amendment. Decisions are taken by the Council of Ministers, approved by the MPE by decree and/or ministerial order and published in the Official Gazette.<sup>100</sup>

*Mining:* The 2016 EITI report provides a list of active mining licenses and names of license-holders as of April 2018, of which 42 were awarded in 2016, and a list of 15 license applications in 2016.<sup>101</sup> It is unclear whether those were all new licenses or the result of transfers. The report describes the four types of licenses<sup>102</sup> awarded in the mining sector. It refers to Chapter II of the 1995 Mining Code for the award procedure, based on 'first come-first served'. The report lists documents to be provided, specific technical

<sup>98</sup> However, it does not provide links to the full texts. MFB (June 2018), op. cit.

<sup>99</sup> This provision was not mentioned in the 2016 EITI Report. "Contracts between the administration and public or private enterprises, in particular natural resource companies and companies operating public service concessions, are clearly established and made known to the public. These principles apply to both the contract award procedure and its content. These contracts are regularly reviewed by the Court of Auditors and the relevant Parliamentary Commissions. Government involvement in the private sector should be conducted in a transparent manner and on the basis of non-discriminatory rules and procedures". Law n.018/PR/2016, op. cit.

<sup>100</sup> Chad EITI (August 2018), op. cit., pp. 32-34.

<sup>101</sup> Idem, pp.133-138.

<sup>102</sup> the prospecting permit, the exploration license, the ASM production permit and the production license.

and financial criteria and their weightings. It also explains that mining license transfers are allowed and lists the documents to be provided. It notes that the decrees approving the allocation or transfer of licenses are published in the Official Gazette.<sup>103</sup>

Non-trivial deviations:

*Oil and gas:* The IA notes that a letter was requested from the MPE to confirm the lack of non-trivial deviations but was not provided ahead of the finalisation of the report. The 2016 EITI Report notes that ERHC and MONCRIEF saw their exploration licenses withdrawn in March 2017 and August 2016 respectively, for non-respect of their contractual obligations under their PSCs. It notes that Global Petroleum notified the MPE in May 2016 of its suspension of activities in 2015 due to technical problems. The report also cites the fine paid by Griffith Energy for its involvement in a bribe scheme of a Chadian diplomat between 2009 and 2011. The IA notes that it could not determine what impact the judgement had on the licenses held by the company.<sup>104</sup>

*Mining:* The report includes a letter from the Director General of Mines, noting that all licenses awarded in 2016 followed the statutory procedures<sup>105</sup>, but does not comment on transfers.

Comprehensiveness: The report provides lists of all active licenses, indicating award dates for each of the 42 mining licenses awarded in 2016 (see Requirement 2.3). The report covers several mining licenses awarded in 2017 and 2018, whereas the list of oil licenses seems to cover years up to 2016.

Commentary on efficiency: The report does not comment on the efficiency of the license allocation process.

## Stakeholder views

Government representatives noted that licenses are allocated according to the regulatory framework. They explained that the high number of pending mining licenses was the result of a moratorium on applications introduced after gold finds caused a rush to the north of the country. Many of these applications did not fulfil technical and financial requirement. No stakeholders consulted raised any particular issues related to the efficiency or accountability of the license allocation or transfer process.

## Initial assessment

The International Secretariat's initial assessment is that Chad has made meaningful progress towards meeting this requirement. The 2016 EITI Report provides a description for awarding and transferring licences in the oil and gas sector, albeit with incomplete information on technical and financial criteria assessed for the allocation of oil licenses by tender process. The report notes that there were no licenses awarded in the oil sector in 2016. does not comment explicitly on the absence of transfers, but there is evidence that no licenses were transferred in the year under review. The report provides a list of active licenses in the extractives sector and the names of license holders, as of April 2018 for the mining sector and as of December 2016 for the oil sector. However, the report does not clarify whether these were new

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<sup>103</sup> Idem, pp.46-47.

<sup>104</sup> Idem, p.35.

<sup>105</sup> Idem, p.3.

licenses or the result of transfers. The report confirms the absence of non-trivial deviations in the mining sector for the year under review.

In accordance with Requirement 2.2, Chad should ensure that the information on licenses awarded and transferred in both sectors is publicly accessible. Chad is required to disclose the technical and financial criteria used to award or transfer licenses. In the case of licenses awarded by bidding process, Chad is required to disclose the list of applicants and the bid criteria. In addition, Chad is encouraged to disclose comprehensive and timely information about licenses awarded before and after the year under review, drawing from the publication of decrees awarding licenses in the Official Gazette. Chad is encouraged to include additional information on the allocation of licenses in EITI reporting, including commentary on the efficiency and effectiveness of licensing procedures.

## License registers (#2.3)

### Documentation of progress

The Chad EITI website provides the most comprehensive repository to date of contracts and decrees awarding licenses in the extractive sector.<sup>106</sup> The 2016 EITI Report provides the list of licenses held by the 30 material companies, as well as licenses held by non-material companies. Annex 8 lists the 12 active exploration licenses in the oil sector, indicating the name of the license holder, the oil fields covered by the license, dates of award and expiry, and the surface in square kilometres. Annex 9 lists the five active production licenses according to the basin (Doba, Bongor, Doba, Krim and Kibea) and operator (Esso, CNPC, Petrochad and Griffiths Energy Chad). It indicates the year of signature of oil field-specific licenses, the surface in square kilometres, the operator and the shares held by the different companies.<sup>107</sup> The report does not indicate the application date for any of the licenses, nor the date of expiry for production licenses. While the report does not provide precise coordinates for each license or indicate whether both gas and oil are covered, the decrees awarding license provide these data points and are comprehensively disclosed on the Chad EITI website.<sup>108</sup>

Annex 10.1 lists mining licenses granted up to 2017. The table provides the type of permit, the name of the company, the commodity, the corresponding surface in square kilometres, the region and area, the date of award and expiry, and the nationality of the shareholders. It does not include dates of applications or license coordinates. Annex 10.2 lists applications in 2016, indicating the name of the company, the type of license requested and the date of application.

*Public cadastre/register:* In its letter to the EITI Chair, the government highlighted its decision to put in place a pilot version of a publicly accessible oil cadastre, as set out in its National Development Plan.<sup>109</sup>

<sup>106</sup> Chad EITI, Conventions, Contracts and Permits, op. cit.

<sup>107</sup> Chad EITI (August 2018), op. cit., pp. 133-134.

<sup>108</sup> See for example: Decree n.397/PR/PM/MPME/2015 of 28 January 2015, Art. 2, <http://itie-tchad.org/wp-content/uploads/2018/04/DECRET-397-PR-PM-MPE-2015-portant-attribution-dune-AEE.pdf>, accessed in September 2018.

<sup>109</sup> Former Minister of Petroleum and Energy, Béchir Madet, 'Communiqué portant sur la politique de publication des informations sur les contrats et licences dans le secteur pétrolier', op. cit.

Chad was awarded a USD 35m grant by the World Bank in July 2018, which includes funding for establishing an oil cadastre.<sup>110</sup> The MPE provides an online map of open and awarded oil blocs as of 13 July 2016.<sup>111</sup> For each bloc, the map indicates its reference number and name, its surface, the operator, the type of contract and date of signature if awarded. The map does not include dates of application and validity periods for rights corresponding to attributed blocs. The 2016 EITI Report includes the screenshot of the map and notes that it is possible to obtain further information at the MPE.<sup>112</sup>

There is no publicly accessible mining cadastre online. The 2016 EITI Report however notes that the MMGC is planning on setting up one. It notes that a map with the allocated and available mining licenses can be consulted for free at the Directory General of Mines. The report notes that the decrees approving the allocation of licenses are available in the Official Gazette, which can be downloaded for a small fee.

### Stakeholder views

Government representatives stated that modernising the oil and mining cadastres was high priority. They noted that both cadastres were being updated with more disaggregated information based on the EITI Standard and would be set and made publicly available with the support of donors. The MPE shared a paper copy of the latest version of the oil cadastre, updated on 1 October 2018, but not publicly available. Stakeholders from other constituencies did not express any views on the availability of license data.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made meaningful progress towards meeting this requirement. The Chad EITI website provides the most comprehensive repository to date of oil contracts and decrees approving mining licenses in Chad. The 2016 EITI Report lists active research and production licenses in the oil and mining sector, with minor gaps in dates of application and expiry for both oil and mining licenses, as well as coordinates and size for some mining licenses. Stakeholders highlighted that Chad aims to introduce publicly available cadastre systems in the short term, with up-to-date information already available upon request at the MPE.

In accordance with Requirement 2.3, Chad is required to maintain a publicly available register or cadastre system, providing comprehensive data on licenses for all oil, gas and mining companies. Chad might wish to build on the map currently available on the MPE website. In the interim, Chad should ensure that future EITI reporting provide the information set out under Requirement 2.3.b, including coordinates and dates of application and expiry, for all licenses held by material mining, oil and gas companies. EITI reporting should also document the government's efforts to strengthen its cadastral system.

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<sup>110</sup> See: World Bank (July 2018), Chad: World Bank helps strengthen domestic resource mobilization and management, <http://www.worldbank.org/en/news/press-release/2018/07/06/chad-world-bank-helps-strengthen-domestic-resource-mobilization-and-management>, accessed in September 2018.

<sup>111</sup> Ministry of Petroleum and Energy (last updated July 2016), Oil cadaster project, <http://mpe-td.com/>, accessed in September 2018.

<sup>112</sup> Chad EITI (August 2018), op. cit., p.131.

## Contract disclosures (#2.4)

### Documentation of progress

#### Government policy:

**Systematic disclosures:** The government did not have a clear policy on the disclosure of contracts until April 2018. Following recommendations issued from EITI reporting and outreach by EITI stakeholders, the MPE released a statement committing to adopt a law endorsing contract disclosure in the oil sector, requiring contracts and licenses<sup>113</sup> to be fully published online within 90 days of their approval in an accessible and open format (*see Requirement 1.1*).<sup>114</sup> This commitment is in line with Article 7 of the Transparency and Good Governance Code.<sup>115</sup>

**EITI reporting:** The 2016 EITI Report confirms the government's pro-disclosure policy but notes that confidentiality provisions still remain, as set by art.31 of the model PSA and art.18.5 of the model Convention.<sup>116</sup>

#### Actual practice and accessibility:

**Systematic disclosures:** Following the announcement of the new government policy, the Chad EITI published scans of over twenty oil contracts and related documents on its website.<sup>117</sup> It also published decrees approving the allocation of mining licenses, as well as all active ASM sector licenses, research licenses, semi-industrial production licenses and production licenses in the mining sector. A limited number of contracts and their annexes are also available on the Ministry of Finance website, including contracts between the State and the Esso Consortium. Some of these documents are as recent as 2017.<sup>118</sup> Four PSAs and one amendment are available on the ResourceContracts portal, three of which are annotated.<sup>119</sup>

**EITI reporting:** Annex 19 of the 2016 EITI Report lists all the published documents, indicating their date of publication, the name of the parties and the date of signature, and corresponding URLs. However, it is not

<sup>113</sup> including addenda, annexes and amendments.

<sup>114</sup> Minister of Petroleum and Energy, Béchir Madet (April 2018), op. cit. This commitment was made as the government's reiterated its engagement in implementing the EITI (see Requirement 1.1) and was first laid out in a letter to the EITI Chair, Fredrick Reinfeldt. Minister of Petroleum and Energy, Béchir Madet, Engagement de la mise en œuvre de l'ITIE, à Monsieur le Président du Conseil d'Administration de l'ITIE, 20 March 2018, <http://itie-tchad.org/wp-content/uploads/2018/03/Lettre-d-engagement-ITIE-Tchad.pdf>, accessed in September 2018.

<sup>115</sup> It sets that: "Contracts between the administration and public or private enterprises, in particular natural resource companies and companies operating public service concessions, are clearly established and made known to the public. These principles apply to both the contract award procedure and its content. These contracts are regularly reviewed by the Court of Auditors and the relevant Parliamentary Commissions. Government involvement in the private sector should be conducted in a transparent manner and on the basis of non-discriminatory rules and procedures." Law n.018/PR/2016, op. cit. Unofficial translation.

<sup>116</sup> See: 'Art.31: L'État preserve la confidentialité du présent Contrat ainsi que celle de tous les documents, rapports, relevés, plans, données, échantillons et autres informations transmis par le Contractant en vertu ou à l'occasion de l'exécution du présent Contrat. Art. 18.5 : (...) la Convention, ainsi que toutes les informations fournies par l'une des parties à l'autre à l'occasion de la Convention si elles portent la mention « Confidentiel » seront considérées comme confidentielle jusqu'à l'abandon de la surface à laquelle l'information se rapporte.' Chad EITI (August 2018), op. cit., p.36.

<sup>117</sup> Chad EITI, Conventions, Contracts and Licenses, op. cit.

<sup>118</sup> This list is not mentioned in the 2016 EITI Report. See for example: 2017 Memorandum of Understanding between the Republic of Chad and the ESSO Consortium, 9 June 2017, <http://www.finances.gouv.td/index.php/publications/codes-lois-textes?view=simplefilemanager&id=142>, accessed in September 2018. For other documents, see: Ministry of Finance, Codes, lois, textes, <http://www.finances.gouv.td/index.php/publications/codes-lois-textes>.

<sup>119</sup> This list is not mentioned in the 2016 EITI Report. 2013 PSA ERHC Energy (BVI) Limited, BDS-2008 Block, Amendment; 2012 PSA for Griffiths Energy (Chad) Ltd, Chari-Ouest-Chari-Doseo field; 2011 PSA Petrochad (Mangara) Limited, Doba Basin; 2011 PSA Griffiths Energy (DOH) Ltd., Bloc DOH (Doba Basin); 2004 PSA Esso Exploration and Production Chad Inc, Petronas Crigali (Chad EP) Inc, Chevron Petroleum Chad Company Limited. ResourceContracts, Search results for 'Chad', ResourceContrats, Chad, <http://resourcecontracts.org/search?q=chad+>, accessed in September 2018.

possible to determine from that list whether the list of published documents is exhaustive. It should be noted that physical copies of these documents have been available for consultation at the Chad EITI National Secretariat's office since 2014.

### Stakeholder views

Government officials emphasised that paper copies of most contracts had been available at the national secretariat library for many years. They explained that these copies were provided upon request by the MPE or SHT. Government and CSO representatives noted that there was still pushback within certain government agencies to publish contracts, with government agents invoking confidentiality clauses in contracts and arguing that some information was too commercially sensitive to disclose. Donors commended the government's decision to disclose contracts and noted that the operationalisation of the government's policy was expected to be complete within a year.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement with efforts to go beyond the minimum requirements. Following the announcement of new government policy in favour of the publication of oil production contracts in April 2018, Chad EITI published all contracts on its website and currently constitutes the most complete repository of contracts in Chad. It also published decrees approving the allocation of mining licenses, as well as all active ASM sector licenses, research licenses, semi-industrial production licenses and production licenses in the mining sector. Despite high stakeholder interest, the Glencore debt agreement has not been published to date, even if this is not strictly-speaking an extractives contract.

To strengthen implementation, Chad is encouraged to adopt clear legislation confirming the government's policy on contract transparency and to ensure its operationalisation through the EITI Chad or other government systems.

## Beneficial ownership disclosure (#2.5)

### Documentation of progress

*Government policy:* There is no existing legal framework for the disclosure of beneficial ownership. However, in its April 2018 letter to the EITI Chair Fredrik Reinfeldt, the government of Chad highlighted the publication of its beneficial ownership roadmap to ensure disclosures by 2020 and noted that legal ownership is publicly available.<sup>120</sup>

*Actual practice:* Chad EITI published its beneficial ownership roadmap in January 2017, which includes agreeing a definition of beneficial ownership, adopting a beneficial ownership law, publishing data online and setting up a public register.<sup>121</sup> The MSG agreed to adopt the definition of the 4<sup>th</sup> Directive of the

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<sup>120</sup> Former Minister of Petroleum and Energy, Béchir Madet, op. cit.

<sup>121</sup> Chad EITI (January 2017), 'Beneficial ownership roadmap', [https://eiti.org/sites/default/files/documents/projet\\_fr\\_tchad\\_sur\\_la\\_pr.pdf](https://eiti.org/sites/default/files/documents/projet_fr_tchad_sur_la_pr.pdf).

European Union on illicit financial flows,<sup>122</sup> included in the 2016 EITI Report. The MSG also requires that companies report politically exposed persons, both foreigners and nationals, as per the list of functions provided in the 2016 EITI Report.<sup>123</sup> There has been no progress on adopting beneficial ownership regulation or setting up a public register.

On disclosing beneficial ownership data, the 2016 EITI Report lists the information provided by the 30 material companies, of which 17 are either State-owned or publicly-listed. The report does not provide links to the corresponding stock-exchanges. Of the remaining 13, none discloses complete beneficial ownership data.<sup>124</sup>

*Legal owners of material companies:* While the April 2018 letter from the Chadian government mentions that legal ownership is available online, the IA notes that the information could not be found on the Ministry of Finance and Budget website. Annex 3 of the 2016 EITI Report however provides the list of legal owners of most material companies. Seven out of 30 companies did not disclose their shareholders, including CLIVEDEN which is part of the CNCP consortium.<sup>125</sup>

### Stakeholder views

MSG members explained that lack of funding had prevented the implementation of the beneficial ownership roadmap. They noted that ANIE had been identified as the government agency to host a public register, but that the Decree confirming it was pending. Government representatives noted that there were ongoing discussions with the DGI to host a legal ownership public register and that the European Union had agreed to support the implementation of the beneficial ownership roadmap starting in 2019.

Some industry representatives argued that beneficial ownership disclosures made little sense in the oil sector in Chad, given that the parent companies of all oil operators were listed on a stock-exchange. They added that there might be more concerns in the mining sector, even though the vast majority of mining activities were in the ASM sector. Other industry representatives noted however that the ownership structure of all companies should be clarified.

### Initial assessment

Implementing countries are not yet required to address beneficial ownership and progress with this requirement does not yet have any implications for a country's EITI status. Chad published its beneficial ownership roadmap in January 2017, which includes agreeing a definition of beneficial ownership,

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accessed in September 2018.

<sup>122</sup> See : Directive (EU) 2015/849 of the European Parliament and Council of 20 May 2015, [https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=OJ:L\\_2015\\_141\\_R\\_0003&from=ES](https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=OJ:L_2015_141_R_0003&from=ES), accessed in September 2018.

<sup>123</sup> "Toute personne qui, en dernier lieu, possède ou contrôle le client et/ou la personne physique pour laquelle une transaction est exécutée, ou une activité réalisée. Les bénéficiaires effectifs comprennent au moins dans le cas de sociétés (i) la ou les personnes physiques qui, en dernier lieu, possède(nt) ou contrôle (nt) une entité juridique, de par la possession ou le contrôle direct ou indirect d'un pourcentage suffisant d'actions ou de droits de vote dans cette entité juridique, y compris par le biais d'actions au porteur, autre qu'une société cotée sur un marché réglementé qui est soumise à des obligations de publicité conformes à la législation de l'Union Européenne ou à des normes internationales équivalentes. Un pourcentage de 25% des actions ou plus est une preuve de propriété ou de contrôle par participation, et il s'applique à tout niveau de participation directe ou indirecte ; (ii) s'il n'est pas certain que les personnes visées au point (i) soient les bénéficiaires effectifs, la ou les personnes physiques qui exercent le contrôle sur la direction de l'entité juridique par d'autres moyens » Chad EITI (August 2018), op. cit., p.63.

<sup>124</sup> Of these thirteen companies, a natural person is identified only for ETEP, said to be wholly owned by Jilani Attia of Tunisian nationality. It is unclear whether that is indeed the beneficial owner, and there no further details. Chad EITI (August 2018), pp.115-117.

<sup>125</sup> Cliveden Petroleum, SCHL, Société SERDAR TCHAD, MANAJEM COMPANY LTD, CGCOC GROUP, TEKTON MINERAL, and ARAB CONTRACTORS. Chad EITI (August 2018), op. cit., pp. 113, 114.

adopting a beneficial ownership law, publishing data online and setting up a public register. The MSG adopted the definition of the 4<sup>th</sup> Directive of the European Union on illicit financial flows and requires that companies report politically exposed persons. The 2016 EITI Report lists the information provided by oil and mining companies. Of the 30 material companies, 17 are either State-owned or publicly-listed, while the remaining 13 did not disclose complete beneficial ownership data.

To strengthen implementation, Chad is encouraged to publicly clarify its policy on beneficial ownership disclosures. It is encouraged to make progress on adopting a regulatory framework for the publication of beneficial ownership information and setting up a public beneficial ownership register. For publicly-listed companies, Chad might want to ensure that direct links to comprehensive information about their shareholders and company structure are disclosed in a centralised public location.

## State participation (#2.6)

### Documentation of progress

**Systematic disclosure:** Relevant documents accessible online include publications on the SHT website (presentations, press releases after Board meetings and General Assembly meetings and annual financial Statements) as well as laws and decrees published on the EITI-Chad website.<sup>126</sup>

**EITI reporting: *Materiality:*** The 2016 EITI Report identified three state-owned enterprises (SOEs): the national oil company (SHT, 100% owned by the state), a cement factory (SONACIM, 100% owned by the State) and the national oil refinery (SRN, 40% owned by the state).<sup>127</sup> For the purpose of EITI reporting under Requirement 2.6.a, SHT is the only entity considered a SOE, given that the state holds minority stakes in the oil refinery alongside China's CNPCI. While SONACIM is 100% owned by the state, its primary activity is not upstream extractives, but rather cement production. SONACIM was included as a mining company, even though there are no industrial mining activities in Chad. Neither SRN nor SONACIM represent the state in mining activities.

***Financial relations:*** The scope of the financial relationship between SHT and the state stems from its mandate to manage state participation in production sharing agreements, the sale of in-kind revenues on behalf of the State (*see Requirement 4.2*) and participate in both the upstream and downstream oil sector. The 2016 EITI Report provides a detailed description of SHT's mandate, state participation in the oil and gas sector and the financial relationship between SHT and the State.<sup>128</sup> The report describes SHT's mandate as a "Public Limited Liability Company" wholly-owned by the State and under the supervision of the MPE.<sup>129</sup> SHT's mission includes exploration, research, development, production and transport of crude

<sup>126</sup> SHT, Presentation; Minutes of General Assembly; Summary of annual accounts and balance sheet, op cit. Laws and decrees published on the EITI-Chad website; Chad EITI, Publications, <http://itie-tchad.org/declaration/>, accessed in October 2018.

<sup>127</sup> Chad EITI, pp.36-42 and 50.

<sup>128</sup> Chad EITI (August 2018), pp.36.42.

<sup>129</sup> Decree no.307/PR/2017 of 11 April 2017 on the Statutes of the SHT, <http://sht-tchad.com/fr/lois&statuts/Decret307-PR-2017-StatutsdelaSHT.pdf>; Ordonnance no.001/PR/2017 modifying Law no.27/PR/2006 of 23 August 2006 creating the SHT, and the management contract between the Republic of Chad and the SHT of February 15, 2011. Art. 2 of the contract regulates the management by SHT of State's assets and State's participations in the hydrocarbon sector, as well as the marketing of crude oil accruing to the State from Production Sharing

oil, as well as refining, transport, storage and distribution of petroleum products. Revenues from the sale of the state's shares of oil are transferred to an escrow account of the Public Treasury held at Citibank London (see *Requirements 4.2 and 5.1*).<sup>130</sup>

Since its creation in 2006, the mandate of the national oil company has subsequently been revised to expand the Board's prerogative and limit SHT's fiscal agent activities.<sup>131</sup> All payments from oil and gas companies other than in-kind revenues are directly paid to the state. The collection and sale of in-kind revenues are assigned to the national oil company SHT. A February 2011 management contract between the government and SHT further clarifies that SHT does not have a regulatory role and that only the state has the right to issue permits. However, SHT remains a member of the *Commission Nationale de Négociation des Contrats Pétroliers* (CNNCP).<sup>132</sup> SHT's revenues consist of a 2% commission on oil sales, net income from its own activities, loans and state subsidies. SHT is subject to the petroleum tax regime for its production activities and the general tax regime on profits for its marketing activities. It is not governed by any dividend rule, and its Articles of Incorporation give the General Assembly wide discretion to reinvest all net profits.<sup>133</sup>

The 2016 EITI Report describes the financial relationship with the state, including SHT's policy on securing loans from third-parties, subsidies from the state, investment policy, and dividend policy (see *Requirement 4.5*). While the report does not explicitly define the rules related to SHT's ability to raise equity from third-parties, it confirms that SHT is 100% owned by the state<sup>134</sup> and the publicly-accessible SHT statutes confirms that all SHT equity is to be owned by the state.<sup>135</sup>

The report notes that aggregate figures from the financial statements for 2015 and 2016 were published on the SHT website<sup>136</sup> and the IA confirmed receipt of the certified financial statements. The report describes the financial relationship between SHT and the state as well as between SHT and its subsidiaries.

**Government ownership:** The 2016 EITI Report provides a comprehensive description of the state's participation in the oil and gas sector through SHT.<sup>137</sup> The report describes the terms associated with SHT's participation in the national refinery SRN, the transport companies managing the Chad-Cameroon pipeline, and clarifies that SRN dividends are paid directly to Treasury.<sup>138</sup> The report also explains that SHT holds shares in two consortiums, Esso-Petronas-SHT PCCL and PCM-Glencore-SHT. In June 2014 the state acquired Chevron's 25% stake through SHT in the largest producing oil field at the time (Esso-Petronas-Chevron for USD 1,45 billion). SHT also acquired 21.5% of the Chadian oil transport company managing the Chad-Cameroon pipeline, TOTCO, and 21.3% of its Cameroonian counterpart, COTCO. The report

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agreements,

<sup>130</sup> Chad EITI (August 2018), p.26.

<sup>131</sup> Decree 08-848 2008-07-17 PR/PM/MP of 17 July 2008 modifying Decree no.527/PR/PM/MP/2007 of 12 July 2007 on the Statutes of the SHT.

<sup>132</sup> in accordance with Decree n.795 of 28 August 2006. See Chad EITI (August 2018), p.34.

<sup>133</sup> IMF 8 July 2016, p.52. op. cit.

<sup>134</sup> Chad EITI, pp.36-42 and 50.

<sup>135</sup> Article 6, Decree no.307/PR/2017 of 11 April 2017 on the Statutes of the SHT, op.cit..

<sup>136</sup> Minutes of General Assembly, op. cit.

<sup>137</sup> Idem, p.37.

<sup>138</sup> Chad EITI (August 2018), pp.40-42.

explained that this acquisition was financed by an oil-backed loan from Glencore, which retained exclusive rights for the marking of in-kind revenues (*see Requirements 4.2 and 4.3*). Through this acquisition, SHT inherited a complex corporate structure from Chevron, including subsidiaries in the Bahamas and Bermuda that managed the assets on behalf of Chevron. While the report does not explicitly describe the terms associated with SHT's equity in the four Bermuda subsidiaries and the two Bahamas subsidiaries, it highlights the lack of financial flows through these subsidiaries following SHT's acquisition from Chevron and notes that SHT is reviewing the need for these subsidiaries as a consequence.<sup>139</sup>

As part of the operation that led to the acquisition of Chevron's shares, SHT also acquired 15% in the PCM-Glencore-SHT consortium and 25% in the PCM-Glencore-SHT consortium. Since 2011, SHT also holds 40% in the national refinery jointly owned with CNPCI. The 2016 EITI Report shows that SHT holds shares in the following companies and projects: 50% in Tchad Oil (distribution of petroleum products), 45% in Sotrada (waste treatment plant), 30% in General Gaz Tchad (production and transport of gas), 40% in a refinery under construction (Rig-Rig) and 25% of Banque de l'Habitat du Tchad (bank).<sup>140</sup> More recently, SHT also acquired 10% shares in the consortium CNPCI-Clividen-SHT partly in compensation for environmental damages and in addition to USD 600m cash payment in penalties for environmental violations.<sup>141</sup>

Ownership changes: The 2016 EITI Report shows that there were no ownership changes in 2016.

Loans and loan guarantees: The 2016 EITI Report confirms that there are no loans or loans guarantees from the state or from SHT to oil and gas companies, other than the sovereign guarantee on the oil-backed loan from Glencore to SHT (*see Requirements 4.2 and 5.1*), whose terms are described in the report.<sup>142</sup>

## Stakeholder views

There was general agreement within the MSG that SHT is more forthcoming with information under the new leadership. They commended ongoing reforms by SHT to improve accounting practices that are now held inside the company instead of being outsourced to a Cameroon based accounting firm (CAC).

Government officials explained the role and responsibility of SHT and recent reforms to improve management, stakeholders' relations and transparency of the SOE. They explained that SHT has primarily focused on the protracted debt renegotiation with Glencore to make the repayment more manageable and allow the state to receive some revenues. Under the previous agreement with Glencore, oil produced by the consortium Glencore-SHT was entirely allocated to debt repayment, at a high interest rate (Libor+6.5). They highlighted the publication of financial statements and minutes of key decisions made

<sup>139</sup> Chad EITI (August 2018), p.37.

<sup>140</sup> Chad EITI (August 2018), P.37.

<sup>141</sup> SHT (January 2018), La SHT entre dans le consortium CNPCIC, accessed in October 2018. "SHT entre dans le consortium CNPCI' Dans le cadre de la production de brut tchadien au niveau des trois nouveaux champs pétroliers par le consortium CNPCIC, la SHT a renégocié plusieurs accords. DANIELA, LANEA et RAPHIA et entrée de la SHT dans le consortium CNPCIC/Clividen – cérémonie de signature de ces accords le 11 janvier 2018. La SHT prend une participation de 10% dont une part de 5% dans le capital de la CNPCI et une part de 5% dans le capital de Clividen en ce qui concerne le transport de pétrole brut par pipeline qui relie Doba à Kribi. »

<sup>142</sup> Chad EITI (August 2018), p.52.

by its board as key achievements.

They explained that SHT kept the existing structures inherited from Chevron because shares held in Bermuda were used as collateral for the loans and current creditors to Chad. This justified maintaining a shell company in Bermuda to hold those shares and facilitate their transfers to creditors in case of default in loan repayment. They also explained that the acquisition of Chevron's shares in TOTCO and COTCO came on top of state participation in those two companies at their creation. They explained that despite their participation in the oil sector, they did not expect that companies would pay profit tax, let alone declare dividends. They explained that this was due to high cost of production, especially due to necessary investments to increase oil recovery in maturing oil fields. Development partners explained that SHT had requested support to audit costs and thereby improve the SOE's access to information from the consortiums producing oil in Chad.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The 2016 EITI Report as well as publications made on SHT's website provide a comprehensive overview of state participation in the oil and gas sectors, including a description of state participation and an overview of the financial relations, statutorily and in practice, between SHT and the government. The contracts and conventions, in which SHT hold shares are also public. The report describes the terms associated with SHT's participation in each project and company in which it holds equity, and how this is applied in practice including SHT commitment to cover its cost of production. Cash-calls for production cost and loan repayments are disclosed in the report (see requirement 4.2). SHT's primary role includes commercial operations related to the sale of crude oil on international markets. Revenues from the sale of the state's shares of oil are directly transferred to an escrow account of the treasury held at Citibank London. Payments of dividends due to the State are also directly paid to the treasury account (see requirement 4.2). The 2016 EITI Report describes the financial relationship with the state, including SHT's borrowing policy, subsidies from the state, investment policy, and the policy on the management of dividends from its participation. Aggregate figures from the financial statements for 2015 and 2016 were published on the SHT website and key decisions from its board meetings were published in a press release posted on the SHT website. The IA has reviewed the financial statement from SHT and confirmed that there are no loans or loans guarantees from the state or from SHT to oil and gas companies, aside from the sovereign guarantee on the Glencore loans (see Requirement 4.2), whose terms are described.

To strengthen EITI implementation, SHT is encouraged to publish its full audited financial statements, not just the aggregate figures. Chad is also encouraged to continue its work as part of the EITI's targeted efforts on commodity trading.

**Table 2- Summary initial assessment table: Award of contracts and licenses**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions
Legal framework (#2.1)	<p>The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement, with efforts to go beyond the minimum requirement. EITI reporting provides a clear explanation of the applicable fiscal regime and a description of each revenue stream. For the first time, the 2016 EITI Report also described potential fiscal exemptions and compared royalty rates for each producing company compared to what was paid in practice. A quarterly government report on the oil sector also tracks regulatory changes in the oil sector.</p>	Beyond
License allocations (#2.2)	<p>The International Secretariat's initial assessment is that Chad has made meaningful progress towards meeting this requirement. The 2016 EITI Report provides a description for awarding and transferring licences in the oil and gas sector, albeit with incomplete information on technical and financial criteria assessed for the allocation of oil licenses by tender process. The report notes that there were no licenses awarded in the oil sector in 2016. does not comment explicitly on the absence of transfers, but there is evidence that no licenses were transferred in the year under review. The report provides a list of active licenses in the extractives sector and the names of license holders, as of April 2018 for the mining sector and as of December 2016 for the oil sector. However, the report does not clarify whether these were new licenses or the result of transfers. The report confirms the absence of non-trivial deviations in the mining sector for the year under review.</p>	Meaningful progress
License registers (#2.3)	<p>The International Secretariat's initial assessment is that Chad has made meaningful progress towards meeting this requirement. The Chad EITI website provides the most comprehensive repository to date of oil contracts and decrees approving mining licenses in Chad. The 2016 EITI Report lists active research and production licenses in the oil and mining sector, with minor gaps in dates of application and expiry for both oil and mining</p>	Meaningful progress

	licenses, as well as coordinates and size for some mining licenses. Stakeholders highlighted that Chad aims to introduce publicly available cadastre systems in the short term, with up-to-date information already available upon request at the MPE.	
Contract disclosures (#2.4)	The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement with efforts to go beyond the minimum requirements. Following the announcement of new government policy in favour of the publication of oil production contracts in April 2018, Chad EITI published all contracts on its website and currently constitutes the most complete repository of contracts in Chad. It also published decrees approving the allocation of mining licenses, as well as all active ASM sector licenses, research licenses, semi-industrial production licenses and production licenses in the mining sector. Despite high stakeholder interest, the Glencore debt agreement has not been published to date, even if this is not strictly-speaking an extractives contract.	Satisfactory progress (Beyond)
Beneficial ownership disclosure (#2.5)	Implementing countries are not yet required to address beneficial ownership and progress with this requirement does not yet have any implications for a country's EITI status. Chad published its beneficial ownership roadmap in January 2017, which includes agreeing a definition of beneficial ownership, adopting a beneficial ownership law, publishing data online and setting up a public register. The MSG adopted the definition of the 4 <sup>th</sup> Directive of the European Union on illicit financial flows and requires that companies report politically exposed persons. The 2016 EITI Report lists the information provided by oil and mining companies. Of the 30 material companies, 17 are either State-owned or publicly-listed, while the remaining 13 did not disclose complete beneficial ownership data.	
State-participation (#2.6)	The 2016 EITI Report as well as publicly-accessible SHT publications provide a comprehensive overview of state participation in the oil and gas sector. This includes a description of state participation and an overview of the financial relations, statutorily and in practice, between SHT and the government, covering SHT's borrowing policy, subsidies from the state, investment policy, third-party funding and management of dividends	Satisfactory progress

	<p>from its participation. The contracts in which SHT holds shares are also public. The report describes the terms associated with SHT's participation in each project and company in which it holds equity, both statutorily and in practice. Cash-calls for production cost and loan repayments are disclosed in the report (see Requirement 4.2). Aggregate figures from the financial statements for 2015 and 2016 were published on the SHT website and key decisions from its board meetings were published in press releases on the SHT website. The IA has reviewed the financial statement from SHT and confirmed that there are no loans or loans guarantees from the state or from SHT to oil and gas companies, aside from the sovereign guarantee on the Glencore loans (see Requirement 4.2), whose terms are described.</p>	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• <i>To strengthen implementation, the MSG may wish to expand the assessment of the applied tax rate in practice beyond the royalty payments. The MSG may also wish to monitor and document ongoing and planned reform in the mining, oil and gas sectors.</i></li> <li>• <i>In accordance with Requirement 2.2, Chad should ensure that the information on licenses awarded and transferred in both sectors is publicly accessible. Chad is required to disclose the technical and financial criteria used to award or transfer licenses. In the case of licenses awarded by bidding process, Chad is required to disclose the list of applicants and the bid criteria. In addition, Chad is encouraged to disclose comprehensive and timely information about licenses awarded before and after the year under review, drawing from the publication of decrees awarding licenses in the Official Gazette. Chad is encouraged to include additional information on the allocation of licenses in EITI reporting, including commentary on the efficiency and effectiveness of licensing procedures.</i></li> <li>• <i>In accordance with Requirement 2.3, Chad is required to maintain a publicly available register or cadastre system, providing comprehensive data on licenses for all oil, gas and mining companies. Chad might wish to build on the map currently available on the MPE website. In the interim, Chad should ensure that future EITI reporting provide the information set out under Requirement 2.3.b, including coordinates and dates of application and expiry, for all licenses held by material mining, oil and gas companies. EITI reporting should also document the government's efforts to strengthen its cadastral system. To strengthen implementation, Chad is encouraged to adopt clear legislation confirming the government's policy on contract transparency and to ensure its operationalisation through the EITI Chad or other government systems.</i></li> <li>• <i>To strengthen implementation, Chad is encouraged to publicly clarify its policy on beneficial ownership disclosures. It is encouraged to make progress on adopting a regulatory framework for the publication of beneficial ownership information and setting up a public beneficial ownership register. For publicly-listed companies, Chad might want to ensure that direct links to comprehensive information about their shareholders and company structure are disclosed in a centralised public location.</i></li> <li>• <i>To strengthen EITI implementation, SHT is encouraged to publish its full audited financial</i></li> </ul>		

*statements, not just the aggregate figures. Chad is also encouraged to continue its work as part of the EITI's targeted efforts on commodity trading.*

## 3. Monitoring and production

### 3.1 Overview

This section provides details on the implementation of the EITI requirements related to exploration, production and exports.

### 3.2 Assessment

#### Overview of the extractive sector, including exploration activities (#3.1)

##### Documentation of progress

**Systematic disclosures:** The MFB quarterly notes on the oil sector include the latest information about investment plans by oil companies.<sup>143</sup> General information about the oil sector is available on the ANIE website, including the fact that oil amounts to 90% of Chad's exports.<sup>144</sup> The parent companies of the main oil operators also provide information on reserves and their exploration activities.<sup>145</sup>

**EITI reporting: Oil and gas:** The 2016 EITI Report provides an overview of the main actors and companies in the hydrocarbons sector, including the TOTCO-COTCO pipeline and the SRN. It cites estimated reserves of up to 1,5bn barrels and lists proven and estimated reserves for eight key oil fields. It describes oil and gas exploration activities in the Sédigui site, which led to the construction of an oil refinery and gas treatment plants, as well as several plans for building oil and gas pipelines.<sup>146</sup>

**Mining:** General information about existing mineral substances is available on the ANIE website, albeit without estimates of reserves.<sup>147</sup> The 2016 EITI Report provides a comprehensive overview of the mining sector and exploration activities, including in the ASM gold sector.<sup>148</sup>

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<sup>143</sup> For the first trimester of 2018 for example, the note mentions that the Esso is investing USD 93,9m in its polymer project, that CNPCI is investing USD 381,58m to develop new fields and has started production using three new wells, and that United hydrocarbon Chad Limited is investing USD 87,7m in exploration activities on bloc H and digging new wells. MFB (June 2018), op. cit., p.4.

<sup>144</sup> ANIE, 'Energy sector', <https://www.anie-tchad.com/fr/secteur/energie>, accessed in September 2018.

<sup>145</sup> See for example: EXXONMOBIL, (2017), 'Chad/Cameroon development project, Project update no.37', [https://cdn.exxonmobil.com/~media/global/files/chad-cameroon/chad\\_cameroon\\_project\\_update\\_37\\_ye2016\\_rpt\\_english.pdf](https://cdn.exxonmobil.com/~media/global/files/chad-cameroon/chad_cameroon_project_update_37_ye2016_rpt_english.pdf), accessed in October 2018; GLENCORE (2017), '2016 Annual report', <http://www.glencore.com/dam/jcr:79d87b60-d53a-4f1a-9d8e-4d523f27de83/GLEN-2016-Annual-Report.pdf%20See%20p.221>, accessed in October 2018.

<sup>146</sup> The report mentions the infrastructure agreement signed between the State and PanJin Liaoyou Chenyu for the construction of gas pipelines, and the start of the construction of a pipeline connecting Niger to the Kribi terminal in Cameroon in 2018. Chad EITI (August 2018), op. cit., pp.22-26, 41.

<sup>147</sup> ANIE, Mining sector, <https://www.anie-tchad.com/fr/secteur/mines>, accessed in September 2018.

<sup>148</sup> The report notes that the mining sector had been marginalised compared to the oil one, but that the government seeks to develop the sector to face the fall in oil prices. It highlights the country's geological potential with regards to gold, iron, and uranium, amongst others. It mentions a mining inventory project agreed in 2014 between the State and the Bureau de Recherches Géologiques et Minières (BGRM), as well as the partnership signed in 2017 between the State and Quaestec Gold Africa Resources to formalise geological information systems and establish a gold refinery. The report also notes that gold deposits were found in the Baathat zone and 2015, but that the government had blocked any industrial or artisanal and small-scale exploitation in the area since. Chad EITI (August 2018), pp.43-45. It can also be noted that a mining SOE was created in February 2018. See : Ordonnance no.2/PR/2018 of 9 February 2019 portant création d'une Société Nationale des Mines et de la Géologie. A copy shared with the International Secretariat in October 2018.

## Stakeholder views

Government representatives noted that representatives from the MSG and national secretariat were invited to annual reviews of oil companies' activities hosted by the MPE and MFB. While some government representatives were optimistic about general trends in the sector, highlighting the increase in production of the ESSO consortium, some industry representatives noted that the oil sector was at its height and that total production was expected to decrease in the medium-term. Industry representatives noted that there was too little support from the government in developing the mining sector and attracting investors.

## Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report provides an overview of the extractive industries, including the oil transportation and refining sectors, estimates of reserves for eight key oil fields and an overview of significant exploration activities.

To strengthen implementation, Chad is encouraged to improve the timeliness of disclosures on exploration activities and trends in the sector, working with government and companies to systematically disclose information through routine disclosure systems.

## Production data (#3.2)

### Documentation of progress

**Systematic disclosures:** The MFB quarterly note on the oil sector explains the evolution of the production volumes by consortium in the first trimester of 2018. It provides tables on projected and actual volume of production by consortium and in aggregate.<sup>149</sup> The 2016 CCSRP report also disclosed monthly production figures by consortium and by oil field.<sup>150</sup>

**EITI reporting: Oil and gas:** The 2016 EITI Report provides reconciled oil production figures by consortium. It presents how much of the total production is collected by the State, distinguishing between the different types of in-kind revenues and including equity oil. It compares total production, as well as by oil field and consortium, for 2015 and 2016.<sup>151</sup> The report provides aggregate production value for 2016, but not by consortium. The value of production was calculated using the annual average export price per barrel. The 'Chad Selected Issues' 2016 IMF report described SHT reporting to the State on prices and terms of sales and explained challenges in determining the pricing of the Doba crude.<sup>152</sup> Although this is not required by the 2016 EITI Standard, the 2016 EITI Report also disclosed production costs by cargos of the sale of the state's shares.<sup>153</sup>

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<sup>149</sup> MFB (June 2018), op. cit., p.2, 4.

<sup>150</sup> CCSRP (December 2017), op. cit.

<sup>151</sup> The report also indicates the percentage of production associated with each consortium for 2016: 46% for the fields operated by the Esso consortium; 42% for the fields operated by CNPCI, most of which is destined to SRN; and 11% for the Mangara and Badila fiels operated by PCM. Chad EITI (August 2018), op. cit., pp.22-25; 97-98.

<sup>152</sup> IMF (July 2016), op. cit., p.65.

<sup>153</sup> Chad EITI (August 2018), pp.38, 173.

*Mining:* There has been no industrial mineral production in Chad to this date. SONACIM, which is cement factory, reported a production of 166 904 tons of cement and no information on production was reported by the MMGC on ASM production.

### Stakeholder views

Government officials noted that the MPE received daily production figures by oil field from operators. They explained that there was no industrial mining company in the production phase and that the government faced challenges in collecting data about the AMS sector. Regarding the reconciliation of production figures, industry representatives noted that any discrepancies between SHT and company disclosures allowed companies to compare and adjust their data.

While the 2016 EITI Standard does not require the disclosure of production costs, some government officials argued that production costs should be disclosed for all oil operators, given that they influenced the level of fiscal revenues. Some industry representatives noted that production and transportation costs disclosed by the 2016 EITI Report were quite high and that they could be further explained through EITI reporting.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report disclosed total oil production volumes, as well as by consortium and field. It provides the total value of production and how that figure was calculated. Chad reconciled production volumes disclosed by SHT and oil operators and included production costs as disclosed by the ESSO consortium. Stakeholders noted that there was no industrial mining production and highlighted challenges in collecting data on the ASM sector. Despite the inclusion of ten material quarrying companies in the scope of EITI reporting, the report did not include figures on quarrying production volumes or values. The International Secretariat does not consider these gaps in quarrying production data to be significant given the relative size of the sector and the overall objective of the requirement.

To strengthen implementation, Chad is encouraged to disclose oil production values per project. Chad is also encouraged to provide production volumes and values in the mining sector. Chad is encouraged to improve the timeliness of disclosures on production through government and company systems, given the availability of that information internally. In response to significant stakeholder interest, Chad may wish to consider disclosing production costs per consortium.

## Export data (#3.3)

### Documentation of progress

**Systematic disclosures:** The MFB quarterly notes on the oil sector explains the evolution of the volume of exports by consortium. The latest note provides a table with projected and actual export volumes by

consortium and in aggregate for the first trimester of 2018.<sup>154</sup> The 2016 CCSRP report also disclosed quarterly export figures by consortium.<sup>155</sup>

**EITI reporting: Oil:** The 2016 EITI Report provides export volumes and values for 2015 and 2016 based on MPE data and distinguishing between CNPCI, Esso, PCM, Petronas and SHT (including SHT PCCL). The value of export was calculated using the average export price per barrel per consortium. The total volume for 2016 amounts to over 41m barrels for a total value of USD 1,571 billion. The report also provides export volumes by destination, comparing 2015 and 2016 data. The main markets in 2016 were the USA, India, China and the Netherlands as reported by all oil companies. The report also provides the destination by cargo of the State's shares of oil collected by SHT and SHT PCCL.<sup>156</sup>

The 2015 EITI Report disclosed for the first time cargo-by-cargo sales of SHT production to GLENCORE ENERGY UK Ltd, including the date of the sale, the volume, crude quality, sale price, total value and destination.<sup>157</sup> Similarly, the 2016 EITI Report discloses data for sales from January 2015 to December 2016, indicating, in addition: whether the sale concerns royalty or equity oil, the contract number, the incoterms, the export terminal, the revenues perceived by the government for each sale, information about tariffs, the date of reception of the payment and the destination.<sup>158</sup>

**Mining:** The MMGC did not report export data on industrial or ASM activities. The 2016 EITI Report references data from the Observatory of Economic Complexity (OEC) for gold exports, as well as the USGS National Minerals Information Centre for uranium exports.<sup>159</sup>

## Stakeholder views

Government officials noted that oil export data is collected by the DGD at the level of the Kribi terminal, but it is not made publicly available. On the absence of government data on mining exports, they noted that no industrial mining company was exporting as of 2018 and that the government did not have reliable data on ASM exports. They questioned the reliability of OEC and UGGS data on gold and uranium exports as mentioned in the 2016 EITI Report, explaining that gold was mostly smuggled outside Chad illegally and that uranium was not commercially produced. They mentioned plans to set up a government buying house for artisanal-mined gold, which would help with data collection.

## Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. Chad disclosed total export volumes and values by commodity and oil field for 2016, sources of the data, information on how the value of exports was calculated and main destinations. Chad disclosed granular and unique data about the sale of the state's share of oil to Glencore in 2016. As stakeholders explained, government data on mineral exports was unavailable due to the absence of industrial production. The EITI Board has taken the view in previous Validation cases that ASM exports

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<sup>154</sup> MFB (June 2018), op. cit., p.2, 5.

<sup>155</sup> CCSRP (December 2017), op. cit.

<sup>156</sup> Chad EITI (August 2018), op. cit., pp.98-99; 39.

<sup>157</sup> Chad EITI (December 2017), op. cit., pp.38-39.

<sup>158</sup> Chad EITI (August 2018) op. cit., pp.15-177.

<sup>159</sup> Idem, p.14.

were beyond the strict scope of Requirement 3.3.

To strengthen implementation, Chad might wish to improve the timeliness of disclosures on oil exports through routine government disclosures, by leveraging on the MSG quarterly note on the sector and harmonising data collected by different government entities. Chad is encouraged to monitor exports of minerals and disclose information about volumes and values.

**Table 3 - Summary initial assessment table: Monitoring and production**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions
Overview of the extractive sector, including exploration activities (#3.1)	The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report provides an overview of the extractive industries, including the oil transportation and refining sectors, estimates of reserves for eight key oil fields and an overview of significant exploration activities.	Satisfactory progress
Production data (#3.2)	The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report disclosed total oil production volumes, as well as by consortium and field. It provides the total value of production and how that figure was calculated. Chad reconciled production volumes disclosed by SHT and oil operators and included production costs as disclosed by the ESSO consortium. Stakeholders noted that there was no industrial mining production and highlighted challenges in collecting data on the ASM sector. Despite the inclusion of ten material quarrying companies in the scope of EITI reporting, the report did not include figures on quarrying production volumes or values. The International Secretariat does not consider these gaps in quarrying production data to be significant given the relative size of the sector and the overall objective of the requirement.	Satisfactory progress
Export data (#3.3)	The International Secretariat's initial assessment is that Chad has made	Satisfactory progress

	<p>satisfactory progress in meeting this requirement. Chad disclosed total export volumes and values by commodity and oil field for 2016, sources of the data, information on how the value of exports was calculated and main destinations. Chad disclosed granular and unique data about the sale of the state's share of oil to Glencore in 2016. As stakeholders explained, government data on mineral exports was unavailable due to the absence of industrial production. The EITI Board has taken the view in previous Validation cases that ASM exports were beyond the strict scope of Requirement 3.3.</p>	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• <i>To strengthen implementation, Chad is encouraged to improve the timeliness of disclosures on exploration activities and trends in the sector, working with government and companies to systematically disclose information through routine disclosure systems.</i></li> <li>• <i>To strengthen implementation, Chad is encouraged to disclose oil production values per project. Chad is also encouraged to provide production volumes and values in the mining sector. Chad is encouraged to improve the timeliness of disclosures on production through government and company systems, given the availability of that information internally. In response to significant stakeholder interest, Chad may wish to consider disclosing production costs per consortium.</i></li> <li>• <i>To strengthen implementation, Chad might wish to improve the timeliness of disclosures on oil exports through routine government disclosures, by leveraging on the MSG quarterly note on the sector and harmonising data collected by different government entities. Chad is encouraged to monitor exports of minerals and disclose information about volumes and values.</i></li> </ul>		

## 4. Revenue collection

### 4.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue transparency, including the comprehensiveness, quality and level of detail disclosed. It also considers compliance with the EITI Requirements related to procedures for producing EITI Reports.

### 4.2 Assessment

#### Materiality (#4.1)

##### Documentation of progress

**Systematic disclosures:** The MFB quarterly notes on the oil sector provide unilateral disclosures by the government of revenues from the oil sector, disaggregated by revenue stream, in XAF both for direct and indirect oil revenues. It also provides a table summarising revenues and production as of the end of the period under review, comparing projections with actual figures, as reported by the MFB and presented by the CESGRP, in barrels or in XAF million. Repayments to Glencore are indicated, disaggregated between interest payment, principal repayment and restructuring fee (*see Requirement 4.2*).<sup>160</sup> Glencore's 2017 'Payment to Governments' report also provides payments by oil field and by revenue stream for a total of USD 43,9 m.<sup>161</sup> The ResourceProject portal provides data per project as disclosed by Glencore on the Toronto Stock Exchange.<sup>162</sup>

**EITI reporting: Materiality threshold for revenue streams:** The MSG agreed to include all revenue streams above USD 25 000 in the oil and gas sector, apart from in-kind revenues, and above USD 5000 in the mining sector, including all the revenue streams mentioned under Requirement 4.1b. This includes two in-kind revenue streams and 36 taxes and levies. For in-kind revenues, the MSG required disclosures of all volumes transferred by the three consortiums to SHT and SHT PCCL as in-kind revenues, as well as oil exported by SHT and SHT PCCL by cargo, by buyer, by type of sales contract, indicating the pricing method and revenues derived from the sale (*see Requirement 4.2*).

**Descriptions of material revenue streams:** The 2016 EITI Report lists all material revenue streams and provides descriptions for each (*see Requirement 2.1*). It indicates which ones apply to the hydrocarbons,

<sup>160</sup> It also includes revenues from the downstream sector. MFB (June 2018), op. cit., pp.5-7. The report on the execution of the general State budget for the first trimester of 2017 was made available in September 2018. It noted that XAF 10,065 billion in oil revenues were mobilised (approximately USD 18m), against an annual projection of XAF 44,700bn (approximately USD 80m. See: MFB (September 2018), 'Rapport d'exécution du budget 2017', <https://www.cabri-sbo.org/en/documents/state-general-budget-execution-report-in-the-first-quarter-2017>, accessed in October 2018.

<sup>161</sup> It covers the Badila Field Project, DOB/DOI, DOH Project, Doseo/Borogop Project, Kibea EXA, Krim EXA and Mangara field project, and provides payments for the following revenue streams: production entitlements, taxes on income, royalties, customs/import/excise/export tax and duties, license fees/rental fees/entry fees, and infrastructure improvements. GLENCORE, 2017 Payments to Government Report, June 2018, <http://www.glencore.com/sustainability/reports-and-presentations>, accessed in September 2018.

<sup>162</sup> ResourceProjects, Chad, <https://resourceprojects.org/country/Chad>, accessed in September 2018.

mining, refinery or transport sectors.<sup>163</sup>

**Materiality threshold for companies:** The MSG agreed that all companies in the oil and gas sector that made payments above USD 25 000 should be included in the scope of reporting, as well as all companies that were included in the scope for the year 2015, based on the principle of continuity. For the mining sector, the oil transportation and the refinery sectors, companies that made payments above USD 5 000 were considered material, as well as companies included in the scope for the year 2015.

**Material companies:** Based on the above, the report lists 16 oil and gas companies, ten mining companies and four transport or refinery companies as material.<sup>164</sup>

**Material company reporting:** Of the material companies, SCHL and Société SERDAR TCHAD did not provide reporting templates. Their joint contribution representing 0,09% of total government revenues. The IA concludes that it does not affect the overall comprehensiveness of data.<sup>165</sup> Given that none of the payments made by non-material companies were above USD 5000 each, there are no reasons to doubt the comprehensiveness of data for the year under review.

Based on data after adjustments, the 2016 EITI Report provides the share of total payments by company in each sub-sector, for both cash and in-kind payments (*see Requirement 4.2*). Using the table listing revenues by level of significance, the eight most significant revenues account for over 90% of total revenues.<sup>166</sup>

**Material government entities:** The report notes that seven central government entities that collect revenues participated in EITI reporting: DGTCP, DGDDI, CNPS, SHT, MPE, MMGC, ARSAT. In addition, the MFB, the Commune of Doba and the Authority for the management of the Koudalwa region were requested to participate in reporting for subnational transfers.

**Government reporting:** All government entities provided reporting templates, except for the Ministry of Finance and Budget, the Commune of Doba and the Authority for the Management of the Koudalwa region.<sup>167</sup> These omissions do not affect the overall comprehensiveness of financial data, given that these government entities were included in the scope of reporting for unilateral disclosures of subnational

<sup>163</sup> Chad EITI (August 2018), op. cit., pp.66-70.

<sup>164</sup> Oil and gas sector: SHT, MEITI INTERNATIONAL, PETROCHAD MANGARA, CNPC, ESSO, GRIFFITH ENERGY DOH and GRIFFITH EVERNGY CHAD, PETRONAS, REGALIS PETROLEUM, UHC, OPIC, GLENCORE Energy, Cliveden Petroleum, SHT PCCL, GLENCORE Exploration (Doséo/Borogop) Limited and GLENCORE Exploration (DOB/DOI) Limited. Mining sector: SOTEC, SCHL, CHAD CONSTRUCTION MATERIAL S.A. "CCM", Société SERDAR CHAD, SONACIM, MANAJEM COMPANY LTD, CGCOC GROUP, TEKTON MINERAL, ETEP, ARAB CONTRACTORS. The report notes that ARAB CONTRACTORS, CGCOC GROUP, CHAD CONTRCUTION MATERIAL S.A. "CCM" and ETEP do not conduct activities primarily in the extractive sector, but that they were included in the scope of reporting as license holders that made payments above US\$ 5,000 in 2016. Transport and refinery sector: SRN, TOTCO, COTCO, PETROCHAD transportation Ltd. See: Chad EITI, 2016 EITI Report, op. cit., pp.65-66.

<sup>165</sup> Chad EITI, 2016 EITI Report, op. cit., p.17.

<sup>166</sup> It shows that in-kind royalties represented 53% of the State's share of oil, while SHT PCCL's share of equity oil represented 41%, tax oil amounted to 5% and SHT's share of profit oil represented 1%. In terms of revenues collected by the government in cash, the report notes that sales of oil collected by SHT and sales of oil collected by SHT PCCL amounted to 33,77% and 29,05% of total revenues respectively. The report also shows that SHT made 82% of payments in cash to the government; that TOTCO made 73,86% of payments in the transportation sector; and that SOTEC, SCHL and SONACIM made payments amounting to 59%, 21% and 13% respectively of total payments in the mining sector. Idem, pp.94-97.

<sup>167</sup> Idem, p.17 and Annex 12, p.171.

transfers.

**Discrepancies:** The MSG agreed that a reasonable margin of error for reconciliation after adjustment was 1% of total revenues disclosed by government entities and sets a materiality threshold of USD 2000 for investigating discrepancies. The report describes the process for investigating discrepancies and presents discrepancies by company and revenue flow, as well as by government entity and revenue flow. It provides an overview of the main reasons for discrepancies.<sup>168</sup> Non-reconciled discrepancies for the oil, gas, mining and transportation sectors after adjustments amounted to USD 371,683, or 0,07% of total revenues excluding the refinery sector. Discrepancies in the refinery sector amounted to 4,47% of total revenues disclosed by the State. However, downstream activities are not covered by the EITI Standard and the IA noted that it does not have an impact on the assessment of overall data reliability.<sup>169</sup>

The 2016 EITI Report also reconciles EITI data and the *Tableau des Opérations Financières de l'État* (TOFE) for three revenue streams, as well reconciliation between contractual in-kind royalty rates and applied rates (see *Requirements 2.1, 4.9 and 7.2*).<sup>170</sup>

**Full government disclosure:** The 2016 EITI Report provides full government disclosure by company, but not by revenue stream. All oil companies were included in the scope of reporting, while fifteen mining companies were listed as the only ones under the materiality threshold.<sup>171</sup> In the oil and gas sector, reconciled government reporting is therefore the same as full government disclosure. The IA provided full government disclosure per company and per revenue stream in Excel format to the International Secretariat upon request on 22 October, after the start of Validation. The file was uploaded on the Chad EITI website on 3 January, after the commencement of Validation.<sup>172</sup> It confirms that the only revenue streams that were not reconciled were the ones made by the fifteen mining companies below the materiality threshold. Chad EITI also published summary data files in open data format for the year 2016, which includes full government disclosure of total revenues for each of the revenue streams (see *Requirements 4.9 and 7.2*).<sup>173</sup>

## Stakeholder views

MSG members noted that they had approved materiality thresholds. The rationale for using low materiality thresholds was to be as exhaustive as possible. They were satisfied with the reconciliation coverage and noted that all material payments and companies had been adequately covered by EITI reporting. On recurring discrepancies related to VAT and IRPP, government representatives noted they were not aware that these taxes had to be included in disclosures. On discrepancies related to SRN, they

<sup>168</sup> It notes that main discrepancies arise from the following: paid taxes that were not reported by companies; taxes reported by companies but not by government entities; payments not specific to the extractive sector as reported by companies that do not conduct extractive activities primarily; mistakes in reporting; payments reported but not in the scope of reconciliation Chad EITI, 2016 EITI Report, op. cit., pp.80-92.

<sup>169</sup> The report also shows discrepancies per sub-sector, all under 1% for in cash and in-kind oil revenues, the mining sector and the transport sector. Idem, p.15.

<sup>170</sup> Idem, pp.92-93.

<sup>171</sup> Idem, p.172.

<sup>172</sup> Chad EITI (2018), Liste de paiements à la phase de cadrage, <http://itie-tchad.org/wp-content/uploads/2019/01/Tchad-2016-Listes-des-paiements-phase-de-cadrage.xlsx>; Liste des paiements à la phase de réconciliation, <http://itie-tchad.org/wp-content/uploads/2019/01/Tchad-2016-Liste-des-paiements-initiaux-phase-de-r%C3%A9conciliation.xlsx><http://itie-tchad.org/wp-content/uploads/2019/01/Tchad-2016-Liste-des-paiements-initiaux-phase-de-r%C3%A9conciliation.xlsx>, accessed in January 2018.

<sup>173</sup> Chad EITI, 2016 Summary data files, [http://itie-tchad.org/wp-content/uploads/2018/08/Fr\\_EITI-Summary-Data-Template-Chad-2016.xlsx](http://itie-tchad.org/wp-content/uploads/2018/08/Fr_EITI-Summary-Data-Template-Chad-2016.xlsx), accessed in October 2018.

also noted that they did not know that these revenues were to be included in the scope. On the *Redevance ARSAT*, they noted that it was a tax on derived products on consumers, not on oil operators. Some wondered why ARSAT was being included in the EITI reporting process given its exclusively downstream activities.

Government representatives highlighted several challenges in collecting revenue data and ensuring its reliability. They noted that available IT systems did not register data in the same way as EITI reporting templates. The Standard Integrated Government Tax Administration System (SIGTAS) was often still used in its pilot version and not installed in all services, hampering interconnectivity and information-sharing. In addition to SIGTAS, government agencies maintained a parallel manual accounting system. Provincial offices also registered data manually. Several representatives of reporting entities noted that adjustments made in the EITI reporting process were helpful in verifying and improving their own data. Some government representatives noted challenges related to monitoring companies' fiscal obligations given the differences found from one contract to another.

### Initial assessment

The International Secretariat's assessment is that Chad has made satisfactory progress towards meeting this requirement. The MSG agreed materiality definitions and thresholds and included the main revenues streams in the extractive sector. Based on this scope, the 2016 EIT Report provided a comprehensive reconciliation of government revenues and company payments, including payments to and from SOEs. All material companies and government entities included in the scope of reporting comprehensively disclosed their payments and revenues, with gaps from three government entities' lack of reporting relating only to subnational transfers, not extractives revenues (*see Requirement 5.2*). The 2016 EITI Report provided full government disclosure by company, showing that only 15 mining companies were below the materiality threshold. Full unilateral government disclosure by company and revenue stream was publicly available on the Chad EITI website, disclosed after the start of Validation. The International Secretariat considers that the broader objective of the requirement is met given the very low value of payments from the 15 non-material companies (around USD 15,000).

To strengthen implementation, Chad is encouraged to improve systematic disclosures of government revenues through government and companies' system, leveraging on existing publications by the Ministry of Petroleum and Energy.

### In-kind revenues (#4.2)

#### Documentation of progress

Chad participated in the targeted efforts for transparency in commodity trading and implemented an action plan between March 2017 to January 2018 to improve transparency in commodity trading.<sup>174</sup> As

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<sup>174</sup> See: Chad EITI (March 2017), *Projet de feuille de route pour le projet pilote sur la transparence pour le commerce des matières premières*, <http://itie-tchad.org/wp-content/uploads/2018/02/Projet-de-feuille-de-Route-pour-le-Projet-pilote.docx>, accessed in October 2018.

part of this project, Chad agreed to use the reporting templates designed by the commodity trading working group and Guidance Note 26 to improve transparency in commodity trading.<sup>175</sup> In accordance with an agreement with the IMF, the government also publishes a quarterly report which includes monthly forecast of estimated revenues from the sale of in-kind revenues.<sup>176</sup>

***Materiality:*** The 2016 EITI Report identifies material revenue streams that are paid in-kind to SHT. All payments from oil and gas companies above USD 25 000 were deemed material. These in-kind revenues consist of tax oil, royalties and the share of production for SHT's equity shares in the producing consortium (equity oil). The report shows that 82% of government revenues in 2016 came from the sale of in-kind revenues.<sup>177</sup>

***Volumes collected:*** The 2016 Report shows the volume of in-kind revenues collected by SHT from each operator (Esso, CNPCI, and Petrochad). The report shows that, collectively, SHT received 11 344 937 barrels of oil, or 24% of the total production of 47 033 411 barrels. The report also shows the cash-calls to cover production costs first paid by the operators and then re-invoiced to SHT in proportion to its shares in the consortium.<sup>178</sup> The 2016 EITI Report also reconciles in-kind revenues delivered to SHT by oil producers. Adjusted figures after reconciliation shows an outstanding discrepancy of 170 563 barrels, which represents 1.5% of total in-kind revenues received by SHT. The reconciled export figures between operators and the MPE also include reconciliation of in-kind revenues between SHT and the MPE.<sup>179</sup>

***Volumes sold:*** The report notes that Glencore has exclusive rights to buy crude oil accruing to the state and to SHT in accordance with a long-term marketing agreement signed in 2014. Glencore UK Ltd which sells the oil behalf of the state disclosed detailed information on these sales, including the volume sold cargo-by-cargo.<sup>180</sup>

***Sales proceeds:*** In accordance with a long-term marketing agreement between SHT and Glencore signed in 2014, Glencore has the exclusive rights to sale the oil produced or collected in-kind by SHT. The 2016 EITI Report shows the value of each shipment, the deductions from transport cost, cash-calls, loan repayments and fees deducted by SHT from the proceed of the sale, and transfers of the remaining balance to the treasury.

Concurrent with the marketing agreement, SHT and Glencore also signed loans agreements in 2013 and 2014. The report provides a detailed analysis of the oil-backed loans from Glencore contracted in 2013 (USD 600m) and in 2014 (USD 1.45bn). The report provides an overview of the terms of the loan, including dates and values of the successive loan agreements and amendments, disbursement dates, interest rates and associated fees, repayment schedule, including amount reimbursed and outstanding

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<sup>175</sup> EITI (May 2017), Guidance note 26 – reporting on first trades in oil, <https://eiti.org/GN26>, accessed in October 2018.

<sup>176</sup> Quarterly notes on oil revenues published by MFB, op. cit.

<sup>177</sup> Chad EITI (August 2018), pp.66, 70, 95.

<sup>178</sup> Idem, pp.10, 13, 94, 173.

<sup>179</sup> Idem, pp.74, 92.

<sup>180</sup> Idem, pp.18, 176-178.

debts.<sup>181</sup>

*Discrepancies:* Reconciliation of oil sales is not applicable in the context of Chad, because of a long-term marketing agreement between SHT and Glencore, which gives Glencore exclusive rights to sell the oil on behalf of the state for the duration of the oil-backed loan. In practice, Glencore is both the seller and the buyer of crude oil accruing to the state. Therefore, Glencore remains the primary source of information for the oil sold as both the seller and the buyer. However, both Glencore and SHT discloses identical figures of oil sales by Glencore on behalf of SHT.<sup>182</sup>

*Disaggregation:* The disclosed information is disaggregated by shipment, i.e. by cargo, and covers all sales of in-kind revenues for the period 2014-2017.

*Additional information:* In addition to volumes sold and revenues received, the 2016 Report (annex 17, pp.176-178) shows the type of oil sold, the quality of the oil, pricing option, official selling price, the contract type, the invoice number, the date of sale, date of payment and the destination of the shipment.<sup>183</sup>

## Stakeholder views

All stakeholders met agreed that Glencore played a crucial role in the oil industry in Chad as it was involved in oil exploration, production and the sale of crude oil accruing to the State. Glencore was also the State's single largest creditor. Civil society representatives on the MSG expressed bafflement on why the government had entered in such a contract, which was clearly detrimental to the state.

Government officials explained that it was possible that those who negotiated the loan with Glencore to acquire Chevron's shares did so in good faith but made the assumptions that oil prices would remain at their peak level in 2013-2014. They explained that Chad was unlucky, because oil prices collapsed soon after it had borrowed heavily to increase its stakes in the oil industry, which meant that as revenues collapsed, a larger share of revenues from the oil and gas sector went to cover costs and repay the outstanding loans that had both high interest rates (Libor+6.5%) and a tight repayment schedule. It also made Chad's debts unsustainable, complicating its relationship with its creditors, including the IMF.<sup>184</sup> Some civil society representatives rejected this explanation and argued that it was something more nefarious that led to this unfortunate situation. They lamented that those who signed the agreements were not held accountable, while ordinary citizens were paying the price of their mistakes.

A government official explained that SHT had the mandate to market the state's share of production, and that it fulfilled its mandate through the long-term sales agreement with Glencore. They explained that SHT collected market data from Platts and monitored the sale of crude oil by Glencore closely. They

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<sup>181</sup> Idem, description of the oil-backed loans (pp.52-54); framework of disclosure (p. 71) and disclosure of key terms of the agreement by Glencore Annex 16, p.173, 175.

<sup>182</sup> Chad EITI (August 2018), August 2018, (SHT disclosure p. 173), (Glencore disclosure, pp. 176-178).

<sup>183</sup> Idem, pp.176-178.

<sup>184</sup> IMF: First review under the extended credit facility arrangement, and a request for a waiver non-observance of performance criteria – press release, staff report, and Statement by the Executive Director for Chad (April 2018), <https://www.imf.org/en/Publications/CR/Issues/2018/04/27/Chad-First-Review-Under-the-Extended-Credit-Facility-Arrangement-and-Request-for-a-Waiver-of-45817>, accessed in October 2018.

confirmed that Glencore was not selected through tender but rather through direct negotiations.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement, with efforts to go beyond the minimum requirements. The 2016 EITI Report has clearly identified and reconciled material revenue collected in-kind. In addition to volumes sold and revenues received, the report shows the type of oil sold, the quality of the oil, pricing option, official selling price, the contract type, the invoice number, the date of sale, date of payment and the destination of the shipment. The disclosed information is disaggregated by shipment and covers all sales of -in-kind revenues for the period 2014-2017. The report reconciled revenues collected in-kind with each producer and evaluated whether oil companies complied with their contractual obligations in terms of royalty rates. The report also shows the transfer of proceeds to cover cash-calls from oil producers, loan repayments, fees for the sale and the balance paid to the treasury. It can also be noted that the EITI Report is the only publicly available source of information with such detailed disclosures about the Glencore oil-backed loans, including the terms of the loan repayment.

## Barter and infrastructure transactions (#4.3)

### Documentation of progress

The 2016 EITI Report identifies two contracts that could qualify as either barter agreements or infrastructure projects: an oil backed loan from Glencore and a framework agreement for the supply of crude oil at a fixed price for the production of electricity supplied by the national oil refinery to the state owned power company at below-market prices.<sup>185</sup> For the purpose of this assessment, the oil backed loan, which is contingent on a marketing agreement with Glencore, is considered under Requirement 4.2 above. The framework agreement of crude oil and electricity at fixed prices is covered more extensively under Requirement 6.2.

***Barters:*** While the report describes the framework agreement for the supply of crude oil by CNPCI to the national refinery SRN, categorising the agreement as including a barter arrangement with the oil and gas company CNPCI.<sup>186</sup> Under the June 2011 framework agreement, the report describes that CNPCI supplies crude oil to the national refinery at a fixed price of USD 68 per barrel, a price that was reduced to USD 46.85 per barrel following a contract amendment in June 2015.<sup>187</sup> In addition, a share of SHT's in-kind revenues (as royalty) is also transferred to the refinery.<sup>188</sup> The SRN refinery is subsequently required to sell excess electricity produced by its power plant (that which it does not consume itself) to the state-owned power producer SNE on a "take-or-pay" basis at a fixed price of USD 0.0048 per MWH.<sup>189</sup> While the fixed price at which CNPCI is required to sell crude oil to the SRN was below that at which SHT crude

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<sup>185</sup> Chad EITI (August 2018), August 2018, pp. 54-55 and p. 71,

<sup>186</sup> Chad EITI (August 2018), August 2018, pp. 54-55.

<sup>187</sup> Chad EITI (August 2018), August 2018, p. 41.

<sup>188</sup> Chad EITI (August 2018), August 2018, p. 54.

<sup>189</sup> Chad EITI (August 2018), August 2018, p. 54.

oil was sold on international markets<sup>190</sup>, the price at which SRN sells electricity to the SNE is well below market prices.<sup>191</sup> Although the report categorises this agreement as a barter agreement<sup>192</sup>, it does not appear to consist of an agreement “*involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities*” in the sense of Requirement 4.3.

**Infrastructure:** There is no evidence of any infrastructure projects in exchange for oil and/or gas or physical delivery of such commodities.

### Stakeholder views

A government official explained that that national refinery was created as part of a bilateral agreement between the governments of Chad and China represented by their respective SOEs, SHT and CNPCI Ltd. The agreement was signed on 20 September 2007, and stated that SHT held 40% of the shares, while CNPCI owned 60% in the created joint venture. In addition to petroleum products, SRN was tasked with supplying electricity to N’Djamena. SRN has been in service since 10 July 2011.

### Initial assessment

The International Secretariat’s initial assessment is that this requirement was not applicable to Chad in the year under review (2016). The MSG’s definition of materiality with regards to infrastructure provisions and barter arrangements includes an oil backed loan, which is assessed under Requirement 4.2 above. While the MSG considered the framework agreement for the provision of crude oil by CNPCI to the national refinery at a fixed price and the refinery’s supply of electricity to the state-owned power company at below-market prices as a material barter agreement, the arrangement does not seem to constitute an agreement “*involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities*” in the sense of Requirement 4.3. Coverage of this arrangement is nonetheless commendable and is considered a form of quasi-fiscal expenditures in this assessment (see Requirement 6.2).

## Transport revenues (#4.4)

### Documentation of progress

An overview of the transport sector is provided in the 2016 EITI Report (see Requirement 3.1).<sup>193</sup> The description of revenue flows shows that nine revenue flows are applicable to the transport sector and are collected by the DGTCP, DGDDI, CNPS, SHT, MFB, the Doba commune and the *Autorité de gestion de la*

<sup>190</sup> SHT crude oil was sold at an average of USD 36 per barrel in 2016 (p.12), while CNPCI sells crude oil to the SRN refinery at a fixed prices of USD 46.85 per barrel in 2016.

<sup>191</sup> On average, the price of a KWH varies from USD 0.08 in India to 0.41 in Denmark according to public data. Ovo Energy, Average electricity prices, <https://www.ovoenergy.com/guides/energy-guides/average-electricity-prices-kwh.html>, accessed in October 2018.

<sup>192</sup> Chad EITI (August 2018), August 2018, pp.41,54.

<sup>193</sup> Chad EITI, 2016 EITI Report, op. cit., p.61

*region de Koudalwa*.<sup>194</sup> The MSG decided to reconcile transport revenues and volumes in the extractive sector. Using the same materiality thresholds as for the oil sector (*see Requirement 4.1*), the MSG included TOTCO, Petrochad Transportation Ltd and COTCO in the scope of reconciliation. Total revenues from the oil transportation sector amounted to USD 33m, or 12,4% of total government revenues. Reconciliation of revenues in this sector reached 99,9% of revenues, with a discrepancy of 0,004%.<sup>195</sup>

TOTCO collects rights of way which are destined to the State according to the contract on transit rights in the Chadian pipeline. The 2016 EITI Report provides the volumes of crude oil that transited through the pipeline in barrels and disaggregated by month, as well as the value of each month based on the unitary tariff of USD 1,0162119 per barrel. In total, the equivalent of 21 195 884 barrels transited through the pipeline in 2016, for total revenues of USD 21 539 509. The report notes that the volumes declared by TOTCO only include the volumes on which the rights of way apply, and therefore exclude the quantity produced by the ESSO consortium as per its convention. The report notes that COTCO is a Cameroonian company and does not pay taxes related to transportation in Chad.<sup>196</sup>

The report also discloses transport costs withheld by TOTCO and COTCO on sales of SHT PCCL's share of oil for transport to the Kribi terminal, amounting to USD 105m for 2016, or 31% of total withheld revenues. Notably, these costs vary from USD 1,9m to USD 24,3m for 11 cargoes of similar volumes, with costs associated with PCCL cargoes systematically much higher than RIK ones.<sup>197</sup> The report also provides transport costs withheld on the sale value of cargoes on the State's shares of oil, which vary between USD 2 m and USD 3,8 m.<sup>198</sup>

## Stakeholder views

Industry representatives noted that transportation revenues per barrel were introduced only once basic tariffs were not financially sustainable anymore for the pipeline operators. Regarding transport costs withheld on sales of SHT's share of oil, both government and industry representatives noted that the variation in costs between cargoes of similar volumes deserved to be further explained. Industry representatives noted that transport costs per barrel should decrease as total volume increases.

## Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The 2016 EITI Report disclosed revenues received from the transportation of oil, disaggregated by company and revenue flow. In addition, it included a description of transportation arrangements, a definition of relevant revenues collected and tariffs, the disclosure and reconciliation of volumes of transported oil, and the reconciliation of transportation revenues. The report also included

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<sup>194</sup> IS libérateur, IRPP, Taxe d'apprentissage et de formation professionnelle, Dividendes versés à l'Etat, Redressements fiscaux, Droits de passage, Paiements directs aux communes et aux préfectures, Cotisations patronales and Autres paiements significatifs. Chad EITI (August 2018), op. cit., pp. 66-70.

<sup>195</sup> Idem, pp.10-16.

<sup>196</sup> Idem, pp.41-42.

<sup>197</sup> Idem, pp.10, 173.

<sup>198</sup> Idem, p.39.

transportation costs applied to the state's share of oil.

## Transactions between SOEs and government (#4.5)

### Documentation of progress

The 2016 EITI Report describes the role of SHT, the only SOE that collects in-kind revenues on behalf of the state, as well as the financial flows between SHT and the state.<sup>199</sup> The transfer of proceeds from the sale of oil by the national oil company is described under Requirement 4.2 above. Dividends paid to SHT or directly to the state as a result of its shareholding are disclosed and reconciled in the EITI Report (pp.79-80). The national refinery SRN and the Chadian transport company TOTCO paid dividends of USD 25 455 360 and USD 1 481 155 respectively directly to the treasury. COTCO paid dividends of USD 1 340 222 directly to the treasury and USD 7 128 758 to SHT.<sup>200</sup>

### Stakeholder views

Government officials explained that companies operating upstream rarely declared dividends. They noted that the transfer of dividends directly to Treasury from the national refinery was unusual and reflected the collapse of state revenues from oil and gas.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The EITI Report describes the role of the SOE, SHT operating in the oil and gas sector. Material revenues collected on behalf of the State and financial transfers between SHT and government entities have been fully disclosed in accordance with Requirement 4.5. The Secretariat concludes that all aspects of this requirement have been implemented and the underlining objectives have been achieved.

## Subnational direct payments (#4.6)

### Documentation of progress

The 2016 EITI Report notes that seven taxes and levies are paid directly to the communes according to Article 759 of the General Tax Code. It mentions that they are paid directly to the state budget for locations where communes do not exist.<sup>201</sup> The January 2018 self-assessment established however that Requirement 4.6 was not applicable to Chad. It noted that EITI reporting had historically not included information about payments directly to communes and regions. It also pointed out that land taxes were defined by the General Tax Code and therefore usually paid directly to the Treasury. Companies

<sup>199</sup> The report also notes that SHT received a subvention of USD 653 448 426 from the State at the creation of the company in 2007. Idem, pp.40, 57.

<sup>200</sup> Idem, pp.42, 79-80, p.86.

<sup>201</sup> Contribution foncière des propriétés bâties (CFPB) ; contribution foncière des propriétés non bâties (CFPNB); contribution des patentes ; contribution des licences ; taxe sur les spectacles, jeux et divertissements ; taxe sur la valeur locative des locaux professionnels ; taxe des services publics. Chad EITI (August 2018), op. cit., p.55.

participating in the self-assessment stated they had never reported subnational payments within the EITI process. Land taxes collected by the city of N'Djamena were transferred directly to the Treasury.<sup>202</sup> The IA also noted in the 2016 EITI Report that the fact that LGUs do not submit reporting templates does not affect the comprehensiveness of revenues disclosed by the state. The flow chart on payments in the mining and oil sector does not include payments directly to LGUs.<sup>203</sup>

Of the seven revenue flows, *Contribution de la patente* is the only one included in the list of material revenues. The six other revenue flows are not described in the revenue nomenclature. They are listed in the reporting templates filled out by companies but without indication on whether they were collected at the central or local level. In analysing the share of individual revenue flows compared with total reconciled revenues, the report shows that none of these six revenues was material in 2016.<sup>204</sup>

### Stakeholder views

Stakeholders noted that local government units could not be associated to the EITI reporting process, due to lack of funding and logistical challenges. Government representatives noted that revenues collected at the local level could therefore not be verified nor reconciled and implied that a lack of clarity surrounded the mechanism for collecting these revenues. Based on these comments, it appears that *Contribution de la patente* was not collected at the local level but at the central one.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made inadequate progress towards meeting this requirement. The 2016 EITI Report lists the taxes and levies that should be collected at the local level based on the regulatory framework. The report reconciles one of them, the '*Contribution de la patente*', but does not clarify whether it was collected solely at the central level in practice. Gaps in subnational reporting are due to challenges in associating subnational governments to the EITI process, as confirmed by stakeholder views. It can be noted that none of the direct subnational payments applicable in Chad are extractive sector-specific.

In accordance with Requirement 4.6, Chad is required to reconcile and disclose revenues collected at the local level where material. Chad should allocate the adequate means to reach out to subnational governments and associate them to the reporting and reconciliation process. Chad should also disclose figures from companies that operate in producing regions and are required to make subnational direct payments as per the regulatory framework. Chad should also clarify in which areas payments are made directly to the treasury in the absence of a local government.

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<sup>202</sup> Chad EITI (January 2018), op. cit.

<sup>203</sup> Chad EITI (August 2018), op. cit., pp. 58-59.

<sup>204</sup> Idem, pp.93-95.

## Level of disaggregation (#4.7)

### Documentation of progress

The 2016 EITI Report provides financial data disaggregated by company and by revenue stream. The model reporting templates requested companies to disaggregate payments by revenue flow and government entity. Data disaggregated by company, revenue flow and government entity is available in the corresponding summary data.<sup>205</sup> Without having formally adopted project-level reporting, Chad is disclosing in-kind revenues by interconnected project. It is disaggregated by consortium and by type of in-kind revenue (royalty, tax oil and equity oil).<sup>206</sup> The 2016 EITI Report also provides disaggregated data of the sale of the State's share of oil, showing how much the country received from the sale of each cargo.<sup>207</sup> The MFB's quarterly notes on the oil sector disclose data by revenue flow but not by company.

### Stakeholder views

Stakeholders did not express any views on the subject.

### Initial assessment

The International Secretariat's initial assessment is that Chad made satisfactory progress in meeting this requirement. Chad provided financial information disaggregated by individual company, government entity and revenue stream. In addition, it reported data on the sale of the State's share of production and revenues collected in-kind by cargo.

To strengthen implementation, Chad may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of sector-specific levies and taxes ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.

## Data timeliness (#4.8)

### Documentation of progress

***Systematic disclosures:*** The latest MFB quarterly note on the oil sector published in June 2018 covered the first trimester of 2018. The first available quarterly note covered the second trimester of 2017 (see *Requirement 5.1*).<sup>208</sup> Amongst companies, Glencore published its *Payments to Government* report covering the year 2017 in June 2018 (see *Requirement 4.1*).<sup>209</sup>

***EITI reporting:*** The 2016 EITI Report was published in August 2018. The 2015 EITI Report was published in December 2017, despite concerns echoed in the January 2018 self-assessment that the 2015 EITI Report

<sup>205</sup> Idem, pp. 141-170. See: Chad EITI (August 2018), 2016 Summary Data, op. cit.

<sup>206</sup> Chad EITI (August 2018), op. cit., p.38.

<sup>207</sup> This table provides the name of the seller, the oil grade and quality, date of sale, type of State-owned oil (royalty or equity), the contract number, the name of the buyer, the beneficial owner of the buyer, the volumes sold, the revenues received for the sale, the official selling price, pricing information, the contract type, the payment receipt date and the destination per cargo. Idem, pp.178-180.

<sup>208</sup> MFB, 'Notes trimestrielles sur le secteur pétrolier', op. cit.

<sup>209</sup> GLENCORE (June 2018), '2017 Payments to Governments report', op. cit.

would not be published ahead of the December 2017 deadline due to delays in disbursement of government funding for EITI. The MSG agreed the accounting period covered by the EITI Report through approval of the TORs for the Independent Administrator (*see Requirement 4.9*).

### Stakeholder views

Government representatives explained that there had been discussions around whether individual EITI reports should cover one fiscal year at the time or provide more timely data where possible. Industry representatives noted that the aim was to publish EITI reports within the first half of the following fiscal year. Stakeholders agreed that securing funding for producing EITI reports substantially delayed their publication.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report was published within two years of the end of the fiscal period covered and the MSG approved the reporting period.

To strengthen implementation, Chad is encouraged to pursue its efforts to publish timelier EITI data by leveraging existing publications by government entities, such as the Ministry of Finance, and companies.

## Data quality (#4.9)

### Documentation of progress

*Appointment of the Independent Administrator (IA):* The process for recruiting the Independent Administrator for both the 2015 and 2016 EITI Reports started in May 2017 with a call for tenders. A commission for the assessment of technical and financial bids met in July 2017. The office of public procurement confirmed the selection of Moore Stephens in August 2017. The contract was signed in November 2017 to produce the 2015 and the 2016 EITI Reports.<sup>210</sup>

*Terms of Reference for the Independent Administrator:* The Terms of Reference (ToR) for the IA annexed to the contract use the standard ToR available on the EITI international website.<sup>211</sup> It further details the tasks of the IA and the support that will be provided by Chad EITI, including facilitating collaboration with reporting entities. Detailed language is included on the IA's role in collecting and disclosing beneficial ownership information.<sup>212</sup>

*Agreement on the reporting templates:* The TORs note that reporting templates were proposed by the IA based on a review of the existing framework for reporting and suggestions for improving it. The adoption of the inception report on 9 November 2017 confirms the MSG's approval of the scope of the report and

<sup>210</sup> A copy of the terms of reference, the call for tenders, the minutes of the minutes of the commission for selection, the letter from the public procurement authorities, the contract and the calendar were shared with the International Secretariat in October 2018. The initial calendar scheduled the publication of the 2015 EITI Report in December 2017 and the publication of the 2016 EITI Report in January 2018.

<sup>211</sup> EITI (July 2016), Termes de Référence Standard pour les services des Administrateurs Indépendants, <https://eiti.org/fr/document/termes-reference-standard-pour-services-administrateurs-independants>, accessed in October 2018.

<sup>212</sup> A copy of the TORs was shared with the International Secretariat in October 2018.

reporting templates.

Review of audit practices:

Systematic disclosures: Article 43 of the Law on the Transparency and Good Governance Code stipulates that public finances are under the external control of the CdC. Article 44 stipulates that the CdC publishes all the reports that it transfers to the Presidency, the National Assembly and the Government, in at least two newspapers. The article also mentions the follow-up of its recommendations, the result of which should be publicly available.<sup>213</sup> Art.21 of the Law no.002/PR/2014 on the management of oil revenues confirms the role of the CdC in monitoring State expenditures and the distribution of revenues between the central and local levels.<sup>214</sup> However, in practice, these reports are not publicly available.

EITI reporting: The 2016 EITI Report briefly describes audit practices in Chad. For companies, it notes that all non-financial companies are expected to adhere to the OHADA accounting rules. The IA notes that most of the extractive companies active in Chad are subsidiaries of multinational companies and that their financial statements are audited according to ISA international standards.<sup>215</sup> Annex 12 of the 2016 EITI Report lists a table itemising the level of company submission of reporting templates and quality assurance.<sup>216</sup> Of the nine companies that declared having certified financial statements, four of them shared the documents with the IA, including SHT and SHT PCCL. The report notes that the 2015 and 2016 audited financial statements of the SHT are available online,<sup>217</sup> although the auditor's reports are not.

The report provides an overview of statutory audit procedures of government accounts by the CdC.<sup>218</sup> The CdC was created in 2014 and has the mandate to audit public financial accounts, based on the relevant laws and according to international INTOSAI standards.<sup>219</sup> The report describes the CdC's core tasks, and more information can be found on its website.<sup>220</sup> It does not clarify whether the CdC completed its audit of public accounts for 2016. It can be noted that the CdC had the status of *Cour* between 2014 and 2018, until reforms in April 2018 saw its status go back to *Chambre*, with the restructuring having an impact on the fulfilment of its statutory audit functions (*see stakeholder views below*).

Assurance methodology: As confirmed by the report, the MSG agreed procedures to ensure data reliability. For companies, it required each reporting template to be signed by a person authorised by the

<sup>213</sup> The 2016 EITI Report does not mention this law. Law n.018/PR/2016, op. cit.

<sup>214</sup> Law no.002/PR/2014, op. cit.

<sup>215</sup> Chad EITI, 2016 EITI Report, op. cit., p.61. Not mentioned in the 2016 EITI Report, the 2016 IMF 'Chad Selected Issues' report includes a section on audit responsibilities for oil companies and the SHT. IMF (July 2016), op.cit.

<sup>216</sup> The table checks: whether complete reporting templates were submitted, whether they were signed by the Direction, whether they were certified by an auditor, whether they were certified according to international standards, the auditor's opinion, the name of the auditor, the name of the signatory, whether 2016 audited financial Statements exist, whether the 2016 financial Statements were shared with the IA and finally the name of the CAC. Chad EITI (August 2018), op. cit., pp. 169-170.

<sup>217</sup> SHT (2017), 2016 and 2015 audited financial reports, op. cit.

<sup>218</sup> It mentions Article 32 in Law 017/PR/2014 of 19 May 2014 on organisation, attributions and functioning of the CdC, which stipulates that the CdC is tasked with verifying the accounts and management of public entities of industrial or commercial nature, of national companies, of companies of mixt economy or limited companies where the State owns a majority share. Law 017/PR/2014 of 19 May 2014 on the organisation, attributions and functioning of the Cour des Comptes, [http://courdescomptes.td/Fr/documents/loi\\_organique\\_17.PDF](http://courdescomptes.td/Fr/documents/loi_organique_17.PDF), accessed in September 2018.

<sup>219</sup> INTOSAI, About, <http://www.intosai.org/fr/sur-lintosai.html>, accessed in September 2018.

<sup>220</sup> Cour des Comptes, Organisation and functioning, [http://www.courdescomptes.td/Fr/organisation\\_et\\_fonctionnement.php](http://www.courdescomptes.td/Fr/organisation_et_fonctionnement.php), accessed in September 2018.

company to certify, to be certified by an external auditor or an internal auditor (*Commissaire aux Comptes*). Companies were also required to submit their audited financial statements or a letter from their internal auditor stating that the financial statements were audited. For government entities, the MSG agreed that reporting templates should be signed by a duly authorised representative of the reporting entity. The CdC is responsible for certifying the figures provided by government entities and to publish a letter certifying that reported revenues correspond to revenues collected and accounted for by the Treasury. Companies and government entities are required to submit receipts for disclosed payments.<sup>221</sup>

**Confidentiality:** The IA confirms that work was undertaken in line with ISRS 4400, the IFAC Code of Ethics and TOR agreed by the MSG, with *pro forma* caveats regarding the limitations of the IA's work. The report considers all information received until 15 August 2018. The confidentiality of information pre-reconciliation can be inferred from the reference to ISRS 4400.<sup>222</sup>

**Reconciliation coverage:** The reconciliation of financial data in the 2016 EITI Report covers 99,93% of total government extractives revenues, including transportation but excluding refining activities, with final net unreconciled discrepancies of 0,07%<sup>223</sup> of total reconciled revenues. The report also provides detailed unreconciled discrepancies by sub-sector.

**Assurance omissions:** The IA notes that the absence of certified disclosures from seven companies does not significantly affect the overall reliability of data, given that their payments represent only 0,17% of total revenues. The materiality of payments from each company can be calculated based on data disclosed in the report, as well as summary data files.<sup>224</sup> The report describes the specific case of the disclosures by Glencore Energy UK Ltd, which were signed by its management but not certified. The IA explains that there were no discrepancies between Glencore Energy UK Ltd's disclosures and those of SHT on the volumes and value of crude oil marketed by Glencore on behalf of SHT and on the value of reimbursements in the framework of the oil-backed loan. The IA therefore concludes that Glencore Energy UK Limited's disclosures are reliable.

The IA did not express any particular concerns over the comprehensiveness or reliability of data disclosed by reporting government entities. It further notes that the absence of certified disclosures by the DGDDI and the CNPS did not affected overall reliability significantly, accounting for only 1% of total government revenues.<sup>225</sup>

**Data reliability assessment:** The IA notes that the significance of the discrepancy in the refinery sector does not have an impact on the overall reliability of EITI data, given that the downstream sector is not covered by the 2016 EITI Standard (*see Requirement 4.3*).<sup>226</sup> The IA concludes 'with reasonable assurance'

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<sup>221</sup> Chad EITI (August 2018), op. cit., p. 21, 72.

<sup>222</sup> Idem, p.7.

<sup>223</sup> USD 370 000.

<sup>224</sup> The IA also provided copies of the Excel files compiling initial disclosures from all government entities to the International Secretariat in November 2018.

<sup>225</sup> The share per government agency can be calculated based on the summary data files for the year under review. Idem, pp.17-18.

<sup>226</sup> Idem, pp.15-16.

that the data disclosed in the 2016 EITI Report present a sufficient level of reliability and comprehensiveness.<sup>227</sup>

*Sourcing of information:* All information in the 2016 EITI Report seems to be clearly and consistently sourced. There does not appear to be views included from others than the IA. X

*Summary tables:* Chad published summary data tables for its 2007-2016 Reports both on the Chad EITI website and the country page of the EITI global website.<sup>228</sup>

*Recommendations:* The IA suggests five areas for improvement in the 2016 EITI Report linked to broader sector reforms.<sup>229</sup> The report also lists 17 recommendations from previous EITI Reports. While no significant progress was observed for eight of them, nine were partially or fully addressed (see *Requirement 7.3*).<sup>230</sup>

### Stakeholder views

Stakeholders did not express any views on the recruitment of the Independent Administrator or the approval of TORs, although MSG members expressed broad confidence in the IA's professionalism and the integrity of the IA procurement process. Some MSG members considered that there was no reason to doubt the reliability of EITI data and that they had been closely associated with data collection and drafting of the report. Other MSG members noted that the IA had not fully integrated all the information received from reporting entities in the final version of the 2016 EITI Report. Government and industry representatives consulted noted that information was requested by the IA at very short notice, usually in the last three months of the fiscal year, which impacted the quality of reporting.

Representatives of the CdC noted that the CdC was a member of the International organisation of Supreme Audit Institutions (INTOSAI) and therefore applied international standards in its certification work, with many capacity building activities planned in the short term. They noted that Chad had been the first country in the CEMAC region to put in place a *Chambre des Comptes* as a Supreme Audit Institution (SAI), and lamented the return to the *Cour* status. The CdC retains the mandate to certify government accounts, including those of local governments. They noted that all CdC reports should be publicly available according to the regulations and that reports were being compiled for publication. They noted that all companies are required by OHADA law and the General Tax Code to submit a copy of audited financial statements, which were accessible to the CdC.

Government representatives noted that the CdC did not conduct certification work per say in the framework of the EITI, but rather compared invoices to receipts to issue a declaration of conformity. They noted that three reports had been drafted about government disclosures in the framework of the EITI, including recommendations for improving the reliability of data. However, these reports were first and foremost destined to the President of the Supreme Court and were not shared with EITI-Chad. They

<sup>227</sup> Idem, p.18.

<sup>228</sup> Chad EITI, Summary data 2008-2016, op. cit.; EITI, Chad country page, op. cit.

<sup>229</sup> The following: the harmonisation between the government's policy on contract transparency and practice; undertaking outreach activities with reporting entities to improve data collection; undertaking a study on the notion of beneficial ownership in Chadian legislation; improving data collection on the ASM sector; and including dates of application for all licenses in cadastres.

<sup>230</sup> Chad EITI (August 2018), op. cit., pp.101-107.

recommended that the CdC be involved at all stages of the EITI reporting process, with equal access to company and government disclosures.

Industry representatives noted that members of the Chadian association of chartered consultants were required to follow international standards, such as INTOSAI, and International Financial Reporting Standards (IFRS). They added that only two of the auditing firms mentioned in the 2016 EITI Report as having certified company disclosures were part of the Chadian association of chartered accountants.

Donors noted that Chad underwent a Public Expenditure and Financial Accountability (PEFA) assessment in 2018 but that the final report was not yet publicly available at the time of consultations (see *Requirement 5.3*). They added that the reliability of figures published by the government was limited. Some government and industry representatives considered EITI data more reliable than government data, given the quality assurance provided by the reconciliation of government and company data. Some government representatives noted that adjustments made during the EITI reconciliation process helped government entities improve the quality of their data collection and reporting. Industry representatives noted efforts by SHT to disclose information, including the online publication of its audited financial Statements for the years 2015 and 2016, which represented a significant improvement for the SHT.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The MSG oversaw the procurement of the IA, approved the TORs in line with the standard TORs and adopted reporting templates. The 2016 EITI Report included an overview of statutory audit procedures and actual practice in 2016 and described the assurance methodology agreed by the MSG. The report provided an assessment of the materiality of omissions and the IA's clear assessment of the overall comprehensiveness and reliability of reconciled financial data. All stakeholders consulted expressed their confidence in the reliability of EITI data. The EITI Report clearly sourced data and provided an overview of follow-up on past recommendations as well as a new set of recommendations for 2016. Summary data files for the year under review are publicly accessible.

To strengthen implementation, Chad EITI is encouraged to work closely with the *Cour des Comptes* to ensure that EITI disclosures are adequately certified, integrating the CdC's certification of government EITI reporting into its systematic audit and assurance of government extractives revenues. Chad is encouraged to disclose the CdC's full certification of government EITI reporting and associated recommendations with a view to strengthening government systems.

**Table 4- Summary initial assessment table: Revenue collection**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions
Comprehensiveness (#4.1)	The International Secretariat's assessment is that Chad has made satisfactory progress towards meeting this requirement. The MSG agreed materiality definitions and thresholds	Satisfactory progress

	<p>and included the main revenues streams in the extractive sector. Based on this scope, the 2016 EIT Report provided a comprehensive reconciliation of government revenues and company payments, including payments to and from SOEs. All material companies and government entities included in the scope of reporting comprehensively disclosed their payments and revenues, with gaps from three government entities' lack of reporting relating only to subnational transfers, not extractives revenues (<i>see Requirement 5.2</i>). The 2016 EITI Report provided full government disclosure by company, showing that only 15 mining companies were below the materiality threshold. Full unilateral government disclosure by company and revenue stream was publicly available on the Chad EITI website, disclosed after the start of Validation. The International Secretariat considers that the broader objective of the requirement is met given the very low value of payments from the 15 non-material companies (around USD 15,000).</p>	
In-kind revenues (#4.2)	<p>The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement, with efforts to go beyond the minimum requirements. The 2016 EITI Report has clearly identified and reconciled material revenue collected in-kind. In addition to volumes sold and revenues received, the report shows the type of oil sold, the quality of the oil, pricing option, official selling price, the contract type, the invoice number, the date of sale, date of payment and the destination of the shipment. The disclosed information is disaggregated by shipment and covers all sales of -in-kind revenues for the period 2014-2017. The report reconciled revenues collected in-kind with each producer and evaluated whether oil companies complied with their contractual obligations in terms of royalty rates. The report also shows the transfer of proceeds to cover cash-calls from oil producers, loan repayments, fees for the sale and the balance paid to the treasury. It can also be noted that the EITI Report is the only publicly available source of information with such detailed</p>	Satisfactory progress (Beyond)

	disclosures about the Glencore oil-backed loans, including the terms of the loan repayment.	
Barter and infrastructure transactions (#4.3)	The MSG's definition of materiality with regards to infrastructure provisions and barter arrangements includes an oil backed loan, which is assessed under Requirement 4.2 above. While the MSG considered the framework agreement for the provision of crude oil by CNPCI to the national refinery at a fixed price and the refinery's supply of electricity to the state-owned power company at below-market prices as a material barter agreement, the arrangement does not seem to constitute an agreement <i>"involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities"</i> in the sense of Requirement 4.3. Coverage of this arrangement is nonetheless commendable and is considered a form of quasi-fiscal expenditures in this assessment ( <i>see Requirement 6.2</i> ).	Not applicable
Transport revenues (#4.4)	The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The 2016 EITI Report disclosed revenues received from the transportation of oil, disaggregated by company and revenue flow. In addition, it included a description of transportation arrangements, a definition of relevant revenues collected and tariffs, the disclosure and reconciliation of volumes of transported oil, and the reconciliation of transportation revenues. The report also included transportation costs applied to the state's share of oil.	Satisfactory progress
Transactions between SOEs and government (#4.5)	The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The EITI Report describes the role of the SOE, SHT operating in the oil and gas sector. Material revenues collected on behalf of the State and financial transfers between SHT and government entities have been fully disclosed in accordance with Requirement 4.5. The Secretariat concludes	Satisfactory progress

	that all aspects of this requirement have been implemented and the underlining objectives have been achieved.	
Subnational direct payments (#4.6)	The International Secretariat's initial assessment is that Chad has made inadequate progress towards meeting this requirement. The 2016 EITI Report lists the taxes and levies that should be collected at the local level based on the regulatory framework. The report reconciles one of them, the ' <i>Contribution de la patente</i> ', but does not clarify whether it was collected solely at the central level in practice. Gaps in subnational reporting are due to challenges in associating subnational governments to the EITI process, as confirmed by stakeholder views. It can be noted that none of the direct subnational payments applicable in Chad are extractive sector-specific.	Inadequate progress
Level of disaggregation (#4.7)	The International Secretariat's initial assessment is that Chad made satisfactory progress in meeting this requirement. Chad provided financial information disaggregated by individual company, government entity and revenue stream. In addition, it reported data on the sale of the State's share of production and revenues collected in-kind by cargo.	Satisfactory progress
Data timeliness (#4.8)	The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report was published within two years of the end of the fiscal period covered and the MSG approved the reporting period.	Satisfactory progress
Data quality (#4.9)	The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The MSG oversaw the procurement of the IA, approved the TORs in line with the standard TORs and adopted reporting templates. The 2016 EITI Report included an overview of statutory audit procedures and actual practice in 2016 and described the assurance methodology agreed by the MSG. The report provided an assessment of the materiality of omissions	Satisfactory progress

	<p>and the IA's clear assessment of the overall comprehensiveness and reliability of reconciled financial data. All stakeholders consulted expressed their confidence in the reliability of EITI data. The EITI Report clearly sourced data and provided an overview of follow-up on past recommendations as well as a new set of recommendations for 2016. Summary data files for the year under review are publicly accessible.</p>	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• <i>To strengthen implementation, Chad is encouraged to improve systematic disclosures of government revenues through government and companies' system, leveraging on existing publications by the Ministry of Petroleum and Energy.</i></li> <li>• <i>In accordance with Requirement 4.6, Chad is required to reconcile and disclose revenues collected at the local level where material. Chad should allocate the adequate means to reach out to subnational governments and associate them to the reporting and reconciliation process. Chad should also disclose figures from companies that operate in producing regions and are required to make subnational direct payments as per the regulatory framework. Chad should also clarify in which areas payments are made directly to the treasury in the absence of a local government.</i></li> <li>• <i>To strengthen implementation, Chad may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of sector-specific levies and taxes ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.</i></li> <li>• <i>To strengthen implementation, Chad is encouraged to pursue its efforts to publish timelier EITI data by leveraging existing publications by government entities, such as the Ministry of Finance, and companies.</i></li> <li>• <i>To strengthen implementation, Chad EITI is encouraged to work closely with the Cour des Comptes to ensure that EITI disclosures are adequately certified, integrating the CdC's certification of government EITI reporting into its systematic audit and assurance of government extractives revenues. Chad is encouraged to disclose the CdC's full certification of government EITI reporting and associated recommendations with a view to strengthening government systems.</i></li> <li>• <i>To strengthen implementation, Chad is encouraged to pursue its efforts to publish timelier EITI data by leveraging existing publications by government entities, such as the Ministry of Finance, and companies.</i></li> </ul>		

## 5. Revenue management and distribution

### 5.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue management and distribution.

### 5.2 Assessment

#### Distribution of revenues (#5.1)

##### Documentation of progress

The 2016 EITI Report explains that Law N.001/PR/99 of 11 January 1999 and its subsequent amendments classify revenues from the oil sector into two categories (direct and indirect revenues). Direct revenues are paid in cash to the central bank (BEAC) or to Treasury accounts held in commercial banks. Indirect revenues, i.e. revenues collected in-kind, are sent first to an escrow account at Citibank in London, then loan repayments to foreign creditors are deducted before the transfer of the remaining amount to the treasury. These payments therefore represent off-budget revenues. The report also compares revenues disclosed in EITI Reports with revenues as recorded in the national budget (*tableau des opérations financières de l'État, TOFE*) and identifies discrepancies (*see Requirement 4.9*).<sup>231</sup> The report refers to national revenue classification systems.

##### Stakeholder views

An IMF report published in July 2016 explained the reasoning behind the account at Citibank in London into which all direct revenues must be paid. It was originally an escrow account designed to ensure the debt service to the World Bank and other creditors for the loan to build the pipeline. According to Law 001 of January 1999, it is the only bank account into which companies can make royalty payments, a rule that has been extended to the proceeds of the sale of all in-kind revenues sold abroad. Only the treasury has access to this offshore account.<sup>232</sup>

##### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The 2016 EITI Report indicates the specific extractives revenues recorded in the national budget and the revenues recorded in the Citibank account in London. The deductions for loan repayments prior to transferring the net balance to the Treasury represent off-budget revenues. Chad's EITI reporting and the MFB quarterly reports provide detailed information on the repayments of the loan off-budget. The allocation of revenues that are not recorded in the budget has been explained under Requirement 4.2.

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<sup>231</sup> Chad EITI (August 2018), pp.57-60.

<sup>232</sup> IMF (July 2016), p.48.

## Sub-national transfers (#5.2)

### Documentation of progress

Based on Law n.002/PR/14 on the management of oil revenues,<sup>233</sup> 50% of royalties and 50% of dividends are earmarked for priority investments (*see Requirement 5.3*), 45% of royalties and 50% of dividends are destined to cover functioning expenses by the state, and 5% of remaining royalties are to be transferred to the local government units (LGUs) in producing regions. The report does not clarify how individual shares by local government are calculated.

The report does not explain why the general revenue sharing formula is based on total direct oil revenues and not on royalties as per the regulations. The report includes the amount of cash calls based on direct oil revenues, as reported by the DGTCP in 2016. It shows that a total of USD 1,700,315 should have been transferred initially to producing regions but does not provide this sum broken down per local government. The report then notes that USD 2,316,100 in total should have been transferred according to the 2016 supplementary budget, indicating the shares per local government provided without explanation of the calculations: 14,56% for the *Comité Provisoire de Gestion de la Région de Doba*, 49,88% for the *Région de Koud-Alwa*, 24,86% for the *Comité Provisoire de Gestion de la Région de Koud-Alwa* and 10,70% for other regions (not disaggregated by region).

Based on data from the CCSRP, the report concludes that USD 1,700,314 were transferred to the Doba and Koud-Alwa regions in total for 2016.<sup>234</sup> The report notes that the CCSRP was in charge of verifying the budgetary allocation and the use of oil revenues in compliance with the law (*see Requirement 5.3*).<sup>235</sup> Based on the CCSRP's 2016 annual report, approximately USD 6m (or 95,06% of total government commitments, including for previous years in addition to the 2016 statutory share) were effectively paid out to the Doba region in 2016, whereas no share was effectively transferred to the Koud-Alwa region.<sup>236</sup> The CCSRP 2016 report does not mention other regions that were eligible for transfers of the 5%.

The IA notes that the subnational transfers could not be reconciled, given that no reporting templates were sent to LGUs. There is no evidence of the MSG discussing a particular materiality threshold for subnational transfers. A recommendation from a previous EITI Report noted the need to harmonise legislation on transfers to LGUs and reimbursement of pre-financing agreements, and thereby clarify the order of priority. The report notes that no action was undertaken by the MSG.<sup>237</sup>

### Stakeholder views

Government and industry representatives noted that the information provided in the 2016 EITI Report was only partially correct. They explained that the disbursement of the 5% depended on the reimbursement of the Glencore oil-backed loan, which had priority over other government expenditures. Stakeholders noted that, in practice, 5% of total direct oil revenues represent the basis for calculating

<sup>233</sup> Law no.002/PR/2014 of 27 January 2014, modifying Law no.002/PR/06 of 11 January 2006 modifying Law n.016/PR/2000 of 18 August 2000, op. cit.

<sup>234</sup> Chad EITI, (August 2018), op. cit., pp.99-100.

<sup>235</sup> Chad EITI, (August 2018), op. cit., p.26.

<sup>236</sup> CCSRP (June 2017), 'Rapport annuel 2016', op. cit., pp.87-88.

<sup>237</sup> Chad EITI (August 2018), op. cit., p.105.

statutory shares to local governments, rather than 5% of royalties. They explained that the 2016 EITI Report looked at government commitments based on the Finance laws and budgets, but not at effective transfers due to gaps in information. CSO representatives noted that local committees for the management of projects funded by the 5% transfers had appealed to them several times for technical assistance, given that they faced budget constraints in the large number of planned projects. Stakeholders highlighted the absence of adequate funding to allow for the monitoring of subnational transfers and for the participation of subnational governments in the reporting process.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made inadequate progress towards meeting this requirement. The 2016 EITI Report provides the general statutory revenue-sharing formula for direct oil revenues in aggregate, as well as disaggregated figures for government allocations based on the supplementary budget. However, the report does not clarify the specific revenue-sharing formula to calculate each local government's share and does not provide the value of executed transfers per local government. It uses data from the CCSRP 2016 annual report, but with a lower level of disaggregation.

In accordance with Requirement 5.2, Chad should ensure that effective subnational transfers are disclosed by government agencies, where material. Chad should provide the specific revenue-sharing formula for calculating statutory shares to individual local governments, the value of executed transfers per local government and an assessment of deviations with the value of subnational transfers calculated according to the formula. Chad is encouraged to ensure that any material discretionary or ad hoc transfers are also disclosed and where possible reconciled. In light of the dissolution of the CCSRP in April 2018 and its mandate to report on the disbursement and allocation of the 5%, Chad is encouraged to clarify which government agencies are tasked with these prerogatives from 2017 onwards. Chad is also encouraged to engage with local governments receiving extractives subnational transfers with a view to reconciling subnational transfers with a view to reconciling such payments and enhance outreach to local communities.

## Additional information on revenue management and expenditures (#5.3)

### Documentation of progress

**Systematic disclosures:** The MFB provides documents about the state's general budget for the period 2013-2018, with the latest one published in March 2018.<sup>238</sup> It also provides access to national budgets since 2006 and associated reports such as the report on the draft 2018 national budget published in December 2017, as well as reports on budget execution.<sup>239</sup> These reports include projected non-fiscal revenues, including direct oil revenues, and projected expenses linked to debt repayment. It published a citizens' budget in 2016, including a report and flyer explaining the budget's development and the

<sup>238</sup> Ministry of Finance and Budget, 'State General Budget, 2013-2018', <http://finances.gouv.td/index.php/publications/budget-general-de-l-etat>, accessed in September 2018.

<sup>239</sup> Ministry of Finance and Budget (December 2017), 'Finance Laws, accessed here; Report on the draft 2018 Finance Law', <http://finances.gouv.td/index.php/publications/lois-des-finances?view=simplefilemanager&id=128>; 'Budget Execution Reports', <http://finances.gouv.td/index.php/publications/rapports-d-execution-budgetaire>, accessed in September 2018.

allocation of revenues in an accessible way.<sup>240</sup> The OTFIP was created in January 2017 as part of Chad's commitment to improve transparency of its public finance management.<sup>241</sup> It aims to implement provisions<sup>242</sup> of the Code on Transparency and Good Governance, which require comprehensive publicly-available information on all budgetary and extrabudgetary activities (*see Requirement 1.1*).<sup>243</sup> Chad underwent a PEFA assessment in 2017, the second time since 2009. The final report was finalised in June 2018 and was published after the start of Validation on 30 November 2018.<sup>244</sup>

A detailed description of the role of CCSRP is available on the CROSET website.<sup>245</sup> The CCSRP's reports provided detailed information about activities of the main oil operators, production and export figures per consortium, dividends and royalties collected, the level execution of the Finance Law based on direct oil revenues including for earmarked expenditures and in producing regions, as well as the CCSRP's contribution in consultations on the draft annual budget. The Chad EITI website provides links to the CCSRP annual reports for the years 2014, 2015 and 2016.<sup>246</sup>

**EITI reporting:** The 2016 EITI Report includes a succinct description of the budgetary process in Chad, from setting the framework to budget execution. The report also includes a description of the revenue sharing mechanism of direct oil revenues put in place by Law 002/PR/14 of 27 January 2014 on the management of oil revenues.<sup>247</sup> The report provides Treasury (DGTCP) data on cash calls for investments in priority sectors and those destined to cover government functioning expenses.<sup>248</sup>

## Stakeholder views

Several government representatives questioned why the EITI was not an active contributor to the work of the OTFIP, given that the EITI collected data directly from government agencies. Donors noted that the Fund for future generations was not active anymore but that the government had agreed the creation of a sovereign fund for strategic investment in June 2018, to which a share of oil revenues would be transferred.<sup>249</sup>

## Initial assessment

Implementing countries are not yet required to address revenue management, and progress with this requirement does not yet have any implications for a country's EITI status. It is encouraging that Chad has included some information on the budget-making process in EITI reporting and that the MFB website

<sup>240</sup> Ministry of Finance and Budget, 'Budget citoyen 2016', <http://finances.gouv.td/index.php/publications/budget-citoyen?view=simplefilemanager&id=79>, accessed in September 2018.

<sup>241</sup> Observatoire Tchadien des Finances Publiques (OTFIP), 'About', op. cit.

<sup>242</sup> Axis 8 of Law 018/PR/2016, op. cit.

<sup>243</sup> Ministry of Finance and Budget, Observatoire Tchadien des Finances Publiques, <http://finances.gouv.td/index.php/le-ministere/le-ministre/item/78-observatoire-tchadien-des-finances-publiques>, accessed in September 2018.

<sup>244</sup> PEFA, 'Chad 2018', <https://pefa.org/assessments/chad-2018>, accessed in December 2018. Overall results per pillar from the assessment are rather low. For more information about PEFA: PEFA, 'About', <http://finances.gouv.td/index.php/publications/budget-citoyen?view=simplefilemanager&id=79>, accessed in September 2018.

<sup>245</sup> CROSET (December 2015), op. cit.

<sup>246</sup> Chad EITI, 'Rapports annuels du CCSRP, 2014, 2015 et 2016', op. cit..

<sup>247</sup> As follows: 50% of royalties and 50% of dividends are destined to investments in priority sectors, including the health sector, social affairs, education, infrastructures; 35% of royalties and 50% of dividends are destined to cover functioning expenses of the government; the remaining 5% of royalties are to be transferred to oil producing regions (*see Requirement 5.2*). Chad EITI (August 2018), op. cit., pp.56-57.

<sup>248</sup> *Idem*, p.99.

<sup>249</sup> See: MFB (June 2018), 'Les deputes votent avec 135 voix pour la creation du Fonds Souverain d'Investissements Stratégiques', <https://finances.gouv.td/index.php/le-ministere/le-ministre/item/287-les-deputes-votent-avec-135-voix-pour-la-creation-du-fonds-souverain-d-investissements-strategiques>, accessed in October 2018.

provides key documents about the management of public finances, including forecasted oil revenues.

To strengthen implementation, Chad is encouraged to identify another public institution to reprise the CCSRP's mandate to monitor expenditures based on oil revenues and the transfer of 5% of direct oil revenues to producing regions. Chad EITI is encouraged to provide links to publicly available information on budgeting, expenditures and audit reports, leveraging on publications by the MFB and OTFIP.

**Table 5 – Summary initial assessment table: Revenue management and distribution**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions
Distribution of revenues (#5.1)	The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The 2016 EITI Report indicates the specific extractives revenues recorded in the national budget and the revenues recorded in the Citibank account in London. The deductions for loan repayments prior to transferring the net balance to the Treasury represent off-budget revenues. Chad's EITI reporting and the MFB quarterly reports provide detailed information on the repayments of the loan off-budget. The allocation of revenues that are not recorded in the budget has been explained under Requirement 4.2.	Satisfactory progress
Sub-national transfers (#5.2)	The International Secretariat's initial assessment is that Chad has made inadequate progress towards meeting this requirement. The 2016 EITI Report provides the general statutory revenue-sharing formula for direct oil revenues in aggregate, as well as disaggregated figures for government allocations based on the supplementary budget. However, the report does not clarify the specific revenue-sharing formula to calculate each local government's share and does not provide the value of executed transfers per local government. It uses data from the CCSRP 2016 annual report, but with a lower level of disaggregation.	Inadequate progress
Information on revenue management and	Implementing countries are not yet required to address revenue management, and	

expenditures (#5.3)	progress with this requirement does not yet have any implications for a country's EITI status. It is encouraging that Chad has included some information on the budget-making process in EITI reporting and that the MFB website provides key documents about the management of public finances, including forecasted oil revenues.	
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> <li>1. In accordance with Requirement 5.2, Chad should ensure that effective subnational transfers are disclosed by government agencies, where material. Chad should provide the specific revenue-sharing formula for calculating statutory shares to individual local governments, the value of executed transfers per local government and an assessment of deviations with the value of subnational transfers calculated according to the formula. Chad is encouraged to ensure that any material discretionary or ad hoc transfers are also disclosed and where possible reconciled. In light of the dissolution of the CCSRP in April 2018 and its mandate to report on the disbursement and allocation of the 5%, Chad is encouraged to clarify which government agencies are tasked with these prerogatives from 2017 onwards. Chad is also encouraged to engage with local governments receiving extractives subnational transfers with a view to reconciling subnational transfers with a view to reconciling such payments and enhance outreach to local communities.</li> <li>2. <i>To strengthen implementation, Chad is encouraged to identify another public institution to reprise the CCSRP's mandate to monitor expenditures based on oil revenues and the transfer of 5% of direct oil revenues to producing regions. Chad EITI is encouraged to provide links to publicly available information on budgeting, expenditures and audit reports, leveraging on publications by the MFB and OTFIP.</i></li> </ol>		

## 6. Social and economic spending

### 6.1 Overview

This section provides details on the implementation of the EITI requirements related to social and economic spending (SOE quasi-fiscal expenditures, social expenditures and contribution of the extractive sector to the economy).

### 6.2 Assessment

#### Social expenditures (#6.1)

##### Documentation of progress

**Systematic disclosures:** A number of publications summarise activities carried out by companies at the community level, although they do not specify the value of expenditures nor whether contributions are mandatory or voluntary. Glencore presents its activities in its 2017 Sustainability report,<sup>250</sup> while Exxon Mobil provides information around community engagement in a 2016 report about its operations in Chad and Cameroon.<sup>251</sup> The CCSRP's 2016 report includes a list of activities carried out by OPIC and United Hydrocarbon Chad Ltd.<sup>252</sup>

**EITI reporting:** There is no evidence in meeting minutes of the MSG discussing the materiality of mandatory and voluntary social expenditures. The 2016 EITI Report seeks to cover both types of payments, although the IA notes that a review of the applicable legal and contractual texts did not identify statutory mandatory social expenditures. This implies that SONACIM's reporting of USD 22,767 worth of social expenditures marked as mandatory in the report was incorrectly categorised.<sup>253</sup> It is unclear whether these expenses were in cash or in kind. The 2015 EITI Report presents social expenditures reported by four companies<sup>254</sup> totalling USD 737,168, albeit without specifying whether these were mandatory or voluntary, nor whether these were in cash or in kind.<sup>255</sup>

##### Stakeholder views

There was consensus amongst stakeholders consulted, included from industry, that there were no mandatory social expenditures, only voluntary ones. Although reporting of social expenditures was required in reporting templates, company representatives noted that they had not been asked to report their activities. They pointed out that their own annual reports provided descriptions of the latter and that companies were required to report them during the annual reviews hosted by the government. They

<sup>250</sup> GLENCORE (2018), Sustainability report 2017, <http://www.glencore.com/sustainability/reports-and-presentations>, accessed in October 2018.

<sup>251</sup> EXXON MOBIL (2017), Project update n.37 – Year-end 2016, [https://cdn.exxonmobil.com/~media/global/files/chad-cameroon/chad\\_cameroon\\_project\\_update\\_37\\_ye2016\\_rpt\\_english.pdf](https://cdn.exxonmobil.com/~media/global/files/chad-cameroon/chad_cameroon_project_update_37_ye2016_rpt_english.pdf), accessed in October 2018.

<sup>252</sup> CCSRP (November 2017), op. cit., pp.19, 38.

<sup>253</sup> Chad EITI (August 2018), op. cit., p.69, 98.

<sup>254</sup> PETROCHAD MANGARA, GRIFFITHS ENERGY CHAD, SHT and SONACIM.

<sup>255</sup> Chad EITI (December 2017), op. cit., p.90.

noted that EITI reporting on the issue would be perceived as more credible by CSOs and local beneficiaries than reporting from companies themselves. CSO representatives noted the importance of reporting such expenditures at the community level, including investment in infrastructure and compensations related to the use of land or environmental degradation.

While environmental reporting is not required by the EITI Standard, the USD 1.2bn fine that Chad imposed on CNPC in 2014 for violating environmental standards represents a landmark case in company compensation of local communities hosting extractive operations. As a result, the ESSO consortium, CSOs and local beneficiaries agreed on the disbursement of financial compensations to individuals.<sup>256</sup> This issue was mentioned by many CSO representatives during stakeholder consultations.

### Initial assessment

The International Secretariat's initial assessment is that Requirement 6.1 is not applicable in Chad. The 2016 EITI Report implies and stakeholders consulted confirmed that mandatory social expenditures did not exist for extractives companies in Chad in 2016. Nonetheless, the report discloses some information on companies' voluntary social expenditures.

To strengthen implementation and given the importance of the subject for stakeholders, Chad is encouraged to assess the materiality of discretionary social expenditures and, if applicable, to disclose them through unilateral company and/or government disclosures, leveraging data provided by companies in their annual CSR reports.

## SOE quasi fiscal expenditures (#6.2)

### Documentation of progress

The 2016 EITI Report does not mention quasi-fiscal expenditures. The budget execution reports published by the Ministry of Finance do not include the repayment of oil-backed loans, which are directly deducted from the sale of oil revenues (*see Requirements 4.2 and 5.1*).<sup>257</sup>

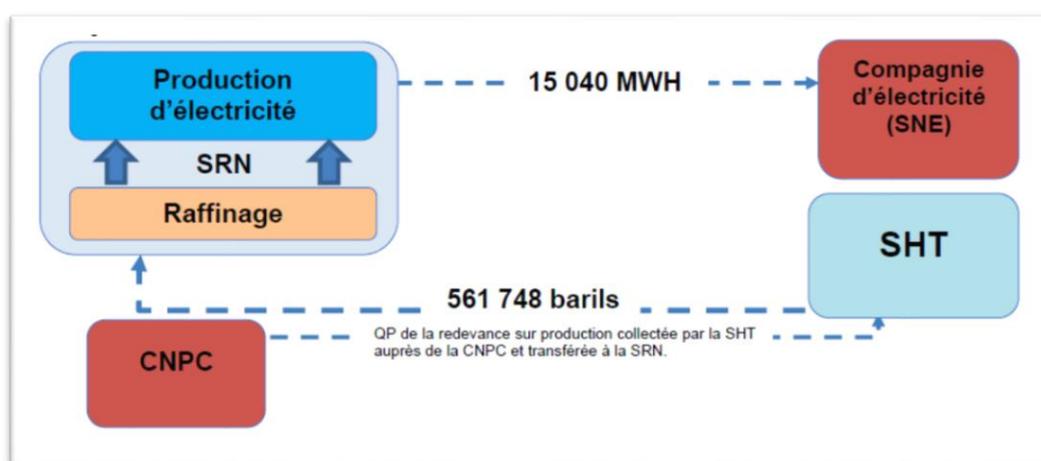
The report describes the framework agreement for the supply of crude oil by CNPCI to the national refinery SRN and the supply of electricity by the refinery to the state-owned power company SNE at fixed prices, although it categorises the agreement as including a barter arrangement with the oil and gas company CNPCI.<sup>258</sup> However, the description of the arrangement does not involve the exchange of goods and services as it involves (cash) sales of crude oil and electricity, albeit at fixed prices (*see Requirement 4.3*). Under the June 2011 framework agreement for crude oil sales to the refinery, the report describes that CNPCI supplies crude oil to the SRN at a fixed price of USD 68 per barrel, a price that was reduced to

<sup>256</sup> See: Reuters (March 2014), 'Chad fines China's CNPC unit USD 1.2 billion for environmental damage', <https://uk.reuters.com/article/us-chad-cnpc-fine/chad-fines-chinas-cnpc-unit-1-2-billion-for-environmental-damage-idUKBREA2K1NB20140321>, accessed in October 2018; Mabali Aristide and Mantobaye Moundigbaye (March 2017), 'Oil and Regional Development in Chad: Assessment of the Impact of the Doba Oil Project on Poverty in the Host Region', <https://onlinelibrary.wiley.com/doi/abs/10.1111/1467-8268.12232>, accessed in October 2018.

<sup>257</sup> Ministry of Finance and Budget (October 2018), Rapport d'exécution budgétaire de 2015 au 2ème trimestre 2018, <http://finances.gouv.td/index.php/publications/rapports-d-execution-budgetaire>, accessed in October 2018.

<sup>258</sup> Chad EITI (August 2018), August 2018, pp.41,54.

USD 46.85 per barrel following a contract amendment in June 2015.<sup>259</sup> In addition, a share of SHT's in-kind revenues (as royalty) is also transferred to the refinery.<sup>260</sup> The SRN refinery is subsequently required to sell excess electricity produced by its power plant (that which it does not consume itself) to the state-owned power producer SNE on a "take-or-pay" basis at a fixed price of USD 0.0048 per MWH.<sup>261</sup> The SNE then sells this electricity to the market in the capital N'Djamena. While the fixed price at which CNPCI is required to sell crude oil to the SRN was below that at which SHT crude oil was sold on international markets<sup>262</sup>, the price at which SRN sells electricity to the SNE is well below market prices.<sup>263</sup> The report does not explain whether the value of crude oil allocated to the national refinery for electricity production was registered both as a revenue to the state treasury and as an expenditure for the acquisition of the electricity supplied by the refinery.



*Source: Chad EITI (August 2018), 2016 EITI Report, p.54.*

The report provides the volumes of crude oil sold by CNPCI to the SRN in 2016 (3 502 899 barrels)<sup>264</sup> and the volumes of SHT's in-kind crude oil revenues transferred to the SRN in 2016 (561 748 barrels)<sup>265</sup>, although it does not provide the value at which SHT in-kind revenues were sold to the refinery. The report also provides the volumes of electricity supplied by the SRN to SNE in 2016 (15 040 MWH).<sup>266</sup> However, the reconciliation results for SRN transactions<sup>267</sup> indicate significant adjustments in both SRN and government reporting during reconciliation and large net unreconciled discrepancies, which raise significant concerns over the reliability of reported figures.

## Stakeholder views

Partners explained that Chad's revenues were purposely directed toward an escrow account at Citibank

<sup>259</sup> Chad EITI (August 2018), August 2018, p. 41.

<sup>260</sup> Chad EITI (August 2018), August 2018, p. 54.

<sup>261</sup> Chad EITI (August 2018), August 2018, p. 54.

<sup>262</sup> SHT crude oil was sold at an average of USD 36 per barrel in 2016 (p.12), while CNPCI sells crude oil to the SRN refinery at a fixed prices of USD 46.85 per barrel in 2016.

<sup>263</sup> On average, the price of a KWH varies from USD 0.08 in India to 0.41 in Denmark according to public data. Ovo Energy, Average electricity prices, <https://www.ovoenergy.com/guides/energy-guides/average-electricity-prices-kwh.html>, accessed in October 2018.

<sup>264</sup> Chad EITI (August 2018), August 2018, p.41.

<sup>265</sup> Chad EITI (August 2018), August 2018, p.54.

<sup>266</sup> Chad EITI (August 2018), August 2018, p.54.

<sup>267</sup> Chad EITI (August 2018), August 2018, p.75.

London to guarantee loan repayment to foreign creditors. The 1999 Law allowed for the repayment of such loans before registering the remaining amount to the treasury account and therefore the national budget. Stakeholders did not express any concerns over other potential quasi-fiscal expenditures undertaken by SHT.

Government officials confirmed that royalty on production from Bloc H that were due to SHT were transferred directly to SRN for electricity production at the power plant associated with the refinery. Through a long-term sales agreement, the state-owned electricity company SNE committed to buy all excess electricity produced by SRN on a “take or pay” basis at a pre-negotiated fixed price.

### Initial assessment

The International Secretariat’s initial assessment is that Chad has made inadequate progress towards meeting this requirement. EITI Reports provide detailed reporting of loan repayments, which are deducted from oil revenues. These payments are not recorded to the national budget but are authorised by law (*see Requirement 5.1*). Although the report includes a detailed description of the framework agreement for the sale of crude oil by CNPCI to the SRN refinery at fixed prices and the sale of electricity by SRN to SNE at below-market prices, it lacks sufficient information on the value of crude oil delivered to the national refinery and the value of electricity subsequently supplied by SRN to SNE. The reliability of the disclosed data was also a concern given significant changes between the initial declaration and the certified data, which led to substantial discrepancies. The reporting templates submitted by the national refinery appear inadequate to capture the transactions involving CNPCI’s supply of crude oil and SRN’s supply of electricity to the SNE.

In accordance with Requirement 6.2, Chad is required to develop a reporting process for fuel subsidies and national debt servicing that are not recorded on the national budget. Chad should undertake a comprehensive review of all expenditures of oil revenues, which are not recorded on the national budget. Chad should develop a reporting process for these expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams. In particular, it is recommended that Chad designs appropriate reporting templates that can capture the volume and value of crude oil delivered to the refinery for electricity production as well as the amount of electricity and equivalent value delivered to the State.

## Contribution of the extractive sector to the economy (#6.3)

### Documentation of progress

Share of GDP: The 2016 EITI Report provides the nominal value of the contribution of the sector to GDP and notes that the sector represented 8,7% of total GDP in 2016, down from 12,15% in 2015. The report does not provide estimates on the informal sector or the artisanal and small-scale mining sector. One of the report’s recommendation is to improve data collection and reporting on this sector.

Government revenues: The report provides the contribution of extractives to total government revenues in absolute and relative terms, respectively 6,95% of total government revenues and USD 51m, compared to 24,35% in 2015. It shows that while total government revenues decreased by 26% between 2015 and 2016, oil revenues decreased by 79%.

**Exports:** The report provides the value of extractive exports in absolute terms and relative to total exports, respectively 49,84% and USD 1 530m. The report uses data from the Observatory of Economic Complexity (OEC), rather than data disclosed by government agencies or companies participating in the EITI process.

**Employment:** The report notes that the extractive sector represents 0,9% of total employment in Chad, or 2,125 employees, based on government data. Based on unilateral disclosures by companies, the report provides the number of employees by nationality and by subsector. However, twelve out of 30 companies did not provide employment figures, and four companies reported 0 employees.<sup>268</sup> The report also compares these figures to data from the *Institut de la Statistique des Etudes Economiques et Démographiques* (ISEED), which registered 725 employees in the extractive sector. The report notes that there was no significant progress made on a recommendation from previous EITI reports on disclosing more comprehensive employment data through EITI reporting.<sup>269</sup>

**Location:** The main producing regions are listed in the 2016 EITI Report (see *Requirements 3.1 and 3.2*).<sup>270</sup>

### Stakeholder views

Industry representatives noted that it was not possible to provide employment figures as the number of employees per fiscal year, given variations throughout the year and the differences in employee status. They recommended that EITI reporting rather considered the total number of hours worked and clarify whether subcontractors and other service providers be included in reporting. Industry representatives mentioned the Forum for Economic Recovery that was held in September 2018 and noted that the Forum's outcomes included a roadmap to improve the investment climate and thereby attract foreign investments.<sup>271</sup>

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report provides the contribution of the extractive industries, in absolute and relative terms, to GDP, government revenues and exports, as well as a list of key producing regions. Despite concerns over the reliability of employment figures unilaterally disclosed by companies, industry representatives explained challenges behind reporting the number of employees and the EITI Report is transparent about constraints on disclosing comprehensive employment figures.

<sup>268</sup> Chad EITI (August 2018), op. cit., pp.12, 59-60, 103, 112.

<sup>269</sup> Chad EITI (August 2018), op. cit., pp. 59, 107.

<sup>270</sup> Chad EITI (August 2018), op. cit., pp.22-26, 43-44.

<sup>271</sup> Companies requested that the government address: "La lutte contre la corruption et l'impunité ; l'absence de compétition ou la fausse compétition dans les marchés publics, les marchés de gré à gré ; l'amélioration de l'accès à internet, aussi bien au niveau des coûts et que de la qualité de l'accès ; un harcèlement fiscal incompréhensible dès la création d'une entreprise ; l'accès et le coût de l'énergie ; l'ignorance des règles de l'Administration et l'abus de l'autorité de l'Etat par les agents contrôleurs ; la dette intérieure non payée ; sur le plan juridique, le non-respect des termes des contrats et conventions et le refus d'appliquer les textes de l'OHADA, de la CIMA, de la CEMAC créant une instabilité juridique très préjudiciable aux affaires ; longueur excessive des délais des dédouanements très préjudiciables aux finances, à la production et au rendement des entreprises ; l'abus de pouvoir des responsables à tous les niveaux dans les provinces : civils, militaires et coutumiers, avec des taxes, amendes et arrestations arbitraires, des humiliations. » See: La Tribune Afrique (October 2018), Tchad : le président Déby plaide pour la diversification de l'économie, <https://afrique.latribune.fr/economie/strategies/2018-10-05/tchad-le-president-deby-plaide-pour-la-diversification-de-l-economie-792960.html>; Tchad Infos (October 2018), Tchad : Retour sur la clôture du forum sur la relance économique, <https://tchadinfos.com/tchad/tchad-retour-sur-la-cloture-du-forum-sur-la-relance-economique/>, accessed in October 2018.

To strengthen implementation, Chad is encouraged to ensure that reliable and comprehensive employment data is disclosed, clarifying whether subcontractors and service providers are included. Given the growing importance of the ASM sector, Chad is encouraged to publicly disclose estimates of informal extractives activities.

**Table 6 – Summary initial assessment table: Social and economic spending**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions
Social expenditures (#6.1)	The International Secretariat's initial assessment is that Requirement 6.1 is not applicable in Chad. The 2016 EITI Report implies and stakeholders consulted confirmed that mandatory social expenditures did not exist for extractives companies in Chad in 2016. Nonetheless, the report discloses some information on companies' voluntary social expenditures.	Not applicable
SOE quasi fiscal expenditures (#6.2)	EITI Reports provide detailed reporting of loan repayments, which are deducted from oil revenues. These payments are not recorded to the national budget but are authorised by law ( <i>see Requirement 5.1</i> ). Although the report includes a detailed description of the framework agreement for the sale of crude oil by CNPCI to the SRN refinery at fixed prices and the sale of electricity by SRN to SNE at below-market prices, it lacks sufficient information on the value of crude oil delivered to the national refinery and the value of electricity subsequently supplied by SRN to SNE. The reliability of the disclosed data was also a concern given significant changes between the initial declaration and the certified data, which led to substantial discrepancies. The reporting templates submitted by the national refinery appear inadequate to capture the transactions involving CNPCI's supply of crude oil and SRN's supply of electricity to the SNE.	Inadequate progress
Contribution of the extractive sector to the economy (#6.3)	The International Secretariat's initial assessment is that Chad has made satisfactory progress towards meeting this requirement. The 2016 EITI Report provides	Satisfactory progress

	<p>the contribution of the extractive industries, in absolute and relative terms, to GDP, government revenues and exports, as well as a list of key producing regions. Despite concerns over the reliability of employment figures unilaterally disclosed by companies, industry representatives explained challenges behind reporting the number of employees and the EITI Report is transparent about constraints on disclosing comprehensive employment figures.</p>	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• <i>To strengthen implementation and given the importance of the subject for stakeholders, Chad is encouraged to assess the materiality of discretionary social expenditures and, if applicable, to disclose them through unilateral company and/or government disclosures, leveraging data provided by companies in their annual CSR reports.</i></li> <li>• <i>In accordance with Requirement 6.2, Chad is required to develop a reporting process for fuel subsidies and national debt servicing that are not recorded on the national budget. Chad should undertake a comprehensive review of all expenditures of oil revenues, which are not recorded on the national budget. Chad should develop a reporting process for these expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams. In particular, it is recommended that Chad designs appropriate reporting templates that can capture the volume and value of crude oil delivered to the refinery for electricity production as well as the amount of electricity and equivalent value delivered to the state.</i></li> <li>• <i>To strengthen implementation, Chad is encouraged to ensure that reliable and comprehensive employment data is disclosed, clarifying whether subcontractors and service providers are included. Given the growing importance of the ASM sector, Chad is encouraged to publicly disclose estimates of informal extractives activities.</i></li> </ul>		

## Part III – Outcomes and Impact

### 7. Outcomes and Impact

#### 7.1 Overview

This section assesses implementation of the EITI Requirements related to the outcomes and impact of the EITI process.

#### 7.2 Assessment

##### Public debate (#7.1)

###### Documentation of progress

***Public accessibility and comprehensibility:*** Up until the 2014 edition, all EITI Reports were available in both French and Arabic. All EITI Reports are available online on the EITI Chad website and the EITI International website.<sup>272</sup> The Chad EITI website is a key source of information for citizens seeking to learn more about the extractive sector in Chad. It is the only publicly available and most comprehensive repository of licenses and contracts in the country and provides access to key regulatory texts (*see Requirements 2.1 and 2.4*). It provides data in open data format.<sup>273</sup> EITI Reports, sector regulation and documentation issued from EITI implementation can also be consulted in paper format at a documentation centre hosted by the Chad EITI office.

***Open data policy:*** Chad published its open data policy in December 2017.<sup>274</sup> The first agreed step was for all data found in Chad EITI Reports and documents related to the MSG's functioning to be published on the Chad EITI's website. The document implies that these documents will be published in open data format where possible. It does not set a particular policy for the re-use of EITI data. The second agreed step is for the MSG to promote routine disclosures of EITI data through government and company systems.

***Promotion:*** In addition to online platforms, Chad EITI has promoted the EITI and disseminated EITI data through the local press, local radios, press conferences, exhibitions at the Chad EITI office or at the *Centre d'Études et de Formation pour le Développement* (CEFOD) facilities. MSG members and national secretariat staff also regularly travelled to regions around the country up until September 2016, including production regions like Western Logone, Eastern Logone and Moyen Chari, using local EITI representatives as relays to dissemination information. All these activities are documented through

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<sup>272</sup> Chad EITI, Rappports, op. cit.; EITI International, Country page: Chad, op. cit. There are no other publications based on these reports available on the Chad EITI website, such as blogs.

<sup>273</sup> Chad EITI (August 2018), Open data covering the year 2016, <http://itie-tchad.org/les-donnees-resumees-du-rapport-itie-tchad-2016/>, accessed in September 2018.

<sup>274</sup> Chad EITI (December 2017), 'Open Data Policy', <http://itie-tchad.org/politique-des-donnees-ouvertes/>, accessed in September 2018.

reports and copies of press releases, which are publicly available on the EITI Chad website. Reports on dissemination and outreach activities in the regions systematically include questions around the management of oil revenues and accountability of oil companies, raised during public debates attended by local officials and representatives of communities.<sup>275</sup> Lack of funding prevented from pursuing these activities.

*Contribution to public debate:* There was limited written documentation available online as of October 2018 to assess the extent to which EITI data was used to foster public debate. Notable examples included sector reports by the IMF and other international bodies, investigations by international NGOs including the SWISSAID report on the role of Glencore in the sale of the state's share of oil, critical articles about the management of oil revenues from local think tank CROSET, academic articles about the oil sector, and financial analysis based on a fiscal model developed by OpenOil of the Badila-Mangara fields.<sup>276</sup> Stakeholders consulted provided examples of different communications channels for EITI data, including community radios, university professors, and CSOs (*see stakeholder views below*). However, many of these instances discussed the EITI as a process and the objectives of EITI implementation, rather than specific issues related to the management of the extractive industries.

### Stakeholder views

All stakeholders consulted expressed concerns about funding gaps that had led to a stark decrease in dissemination activities over the past two years. They mentioned the high number of press briefings produced and the regular organisation of press conferences and open-door days at the EITI Chad office or the CEFOD facilities. They also highlighted the importance of the Chad EITI website and of the documentation centre hosted at the Chad EITI office as key sources of documentation, including on contracts.

MSG members noted that dissemination activities took place regularly in the regions until 2016. They explained that high illiteracy rates, very limited access to online content and the complexity of the data made it necessary for EITI Chad to 'digest' the EITI Report for the wider public. They cited the role of community radios, such as *Radio FM Liberté* or *Radio Arc-en-ciel*, in fostering debate about the extractive sector through regular shows about the EITI process. CSO representatives noted the key role of some more specialised CSOs in using EITI data, for example GRAMP-TC, or examples of university courses using EITI data.<sup>277</sup> On the 2016 EITI Report specifically, MSG members noted that they had not had the time yet

<sup>275</sup> Chad EITI, Articles, <http://itie-tchad.org/articles/>, accessed in October 2018.

<sup>276</sup> See for example: IMF (July 2016), op. cit.; CNUCED (March 2018), Rapport d'analyse du contexte socio-économique en vue de la mise en oeuvre du projet au Tchad, [http://unctad.org/en/PublicationsLibrary/sucmisc2017d5\\_en.pdf](http://unctad.org/en/PublicationsLibrary/sucmisc2017d5_en.pdf), accessed in September 2018; CROSET (June 2017), Gros plan : Analyse critique de la gestion de la crise économique au Tchad, <http://www.croset-td.org/2017/06/gros-plan-analyse-critique-de-la-gestion-de-la-crise-economique-au-tchad/>, accessed in September 2018; Zoutenet, Mathieu, Magrin, Géraud (2017), Le contenu local et la société civile dans le secteur pétrolier au Tchad: un verre à moitié plein?, <http://catchas.mmsh.univ-aix.fr/n/Pages/n01/09.aspx>, accessed in September 2018; OpenOil (March 2015), Modelling the Mangara-Badila field, <http://openoil.net/wp/wp-content/uploads/2014/09/Chad-Mangara-Narrative-Report-150330.pdf>, accessed in September 2018. While the SWISSAID report is not available anymore, some online articles discuss it, including Le Monde (June 2017), Les liens troubles de la multinationale suisse Glencore au Tchad, [https://www.lemonde.fr/afrique/article/2017/06/13/les-liens-troubles-de-glencore-au-tchad\\_5143814\\_3212.html](https://www.lemonde.fr/afrique/article/2017/06/13/les-liens-troubles-de-glencore-au-tchad_5143814_3212.html); and La Tribune Afrique (June 2017), Tchad S.A. : le rapport accablant de SWISSAID sur le clan Déby, <https://afrique.latribune.fr/finances/commodities/2017-06-15/tchad-s-a-le-rapport-accablant-de-swissaid-sur-le-clan-deby-739474.html>, accessed in September 2018.

<sup>277</sup> The GRAMP-TC website was not functioning in October 2018. The International Budget Partnership website notes that GRAMP-TC was established in 2001 with the aim to 'build civil society interventions in the budget process through (...) collating and analyzing information on oil revenues flows; building a regionally-based team to assist with data collection, processing and analysis; (...)'. International Budget Partnership, About: GRAMP-TC, <https://www.internationalbudget.org/groups/groupe-de-recherches-alternatives-et-de-monitoring-du-projet-ptrole-tchad-cameroun-gramp-tc/>, accessed in October 2018.

to organise dissemination activities.

Some government representatives noted that the wider public might not know what the aim of the EITI is, given that it was perceived rather as linked closely to the Treasury and as an entity requesting information from the government and companies rather than an information provider. Some government representatives argued that the role of the EITI was primarily to produce reliable and comprehensive information and to make it available, but that it was first and foremost CSOs' role to identify red flags and encourage public debate. Others were in favour of a broader mandate for Chad EITI, which could act in a monitoring and oversight role by taking over some of the former CCSPR's prerogatives monitoring direct and indirect oil revenue management. They considered that Chad EITI could also help build capacities to improve the sector's performance, through increasing Chad's capacity to negotiate contracts and conduct audits of the extractive sector.

Industry representatives noted the usefulness of the EITI Reports in better understanding the companies operating in Chad and their activities. They noted that company associations were very interested in the content of the reports to gather reliable information on the sector.

Amongst topics of particular interest for civil society, CSOs consulted highlighted the 5% subnational transfers of oil revenues to producing regions, environmental damage caused by oil production, direct compensations to local populations, local content and allegations of the government's repression of ASM activities in the north of the country. They explained that the Glencore oil-backed loans used to be considered a taboo topic with no available information, but that people could now draw on information in EITI Reports. They noted that recent developments such as the release of the Panama Papers, the publication of the SWISSAID report, the 2013 trial Griffiths had faced in Canada regarding a bribery case involving Griffiths<sup>278</sup> and the commitment of the Chadian diaspora in investigating issues surrounding the management of the oil sector had contributed to strengthening local CSOs' capacities and interest in the sector. However, some CSOs noted that local CSOs' limited technical capacity to analyse data and constraints linked to the broader environment for civil society engagement (*see Requirement 1.3*) constrained substantial debate about the extractive sector. Some CSOs also lamented the lack of interest by most journalists and young people, including university students, in using EITI data to foster debate about the extractive sector.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made meaningful progress in meeting this requirement. EITI Reports are accessible online and for consultation at the Chad EITI office. Chad has agreed an open data policy and publishes summary data files in open format, although the policy does not cover re-use of data. However, EITI Reports are not necessarily comprehensible for a wider audience, including some local CSOs, and have not been translated into local languages since the 2014 EITI Report. While there is evidence of significant efforts to disseminate EITI data both in the capital N'Djamena and in regions up until 2016, funding gaps have limited such activities in the past two years, especially in producing regions. Despite the use of online platforms, the radio, the press and activities at the Chad EITI office, the level of public debate drawing on EITI data is not commensurate with the significance of Chad

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<sup>278</sup> See: RFI (January 2013), le pétrolier Griffiths Energy plaide coupable, <http://www.rfi.fr/afrique/20130125-affaire-corruption-le-petrolier-griffiths-energy-plaide-coupable>, accessed in November 2018.

EITI data nor with the importance of the oil sector in the Chadian economy more broadly. There is strong stakeholder demand for further capacity development for analysing complex data and fostering greater interest in the media and broader youth in extractives transparency issues.

In accordance with Requirement 7.1, Chad should ensure that EITI reporting is comprehensible, including by ensuring that it is written in a clear, accessible style, and that executive summaries or thematic sub-reports are made available and translated into Arabic. Chad should also ensure that adequate funding is available for outreach events, including to regions and communities hosting extractive activities, and that local stakeholders benefit from capacity building activities aiming at improving their understanding of the management of the oil sector. Chad should also encourage government agencies, companies and civil society to fully engage in disseminating EITI Reports, including bilaterally. To strengthen implementation, Chad is encouraged to improve public accessibility of key information on the management of the extractives through systematic disclosure of information required under the EITI Standard through routine government and company systems.

## Data Accessibility (#7.2)

### Documentation of progress

Chad published data from all its EITI Reports in machine-readable format on the Chad EITI website.<sup>279</sup> The 2016 EITI Report summarises and compares the share of the most significant revenue streams to the total amount of revenue that accrues at the central level.<sup>280</sup> The MFB quarterly notes on the oil sector do not use an open data format but provide key information about sector in a timely manner (*see Requirement 4.8*).<sup>281</sup> Chad EITI has undertaken capacity building activities to increase awareness of the process and encourage use of information by citizens and the media (*see Requirement 7.1*). The 2016 EITI Report also reconciles EITI data and the *Tableau des Opérations Financières de l'État* (TOFE) for three revenue streams, revenues net of royalties on production, corporate tax and statistical royalties, with discrepancies of 18%, -7% and 26% respectively (*see Requirements 4.1 and 4.9*).<sup>282</sup>

### Stakeholder views

Stakeholders noted challenges related to levels of Internet access and digital literacy.

### Initial assessment

Requirement 7.2 encourages the MSGs to make EITI reports accessible to the public in open data formats. Such efforts are encouraged but not required and progress with this requirement does not yet have any implications for a country's EITI status. Chad published machine-readable EITI reports and compared EITI data with the TOFE.

To strengthen implementation, Chad is encouraged to enhance its efforts to analyse and simplify EITI data

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<sup>279</sup> Chad EITI, Summary data, 2007-2016 EITI Reports, [http://itie-tchad.org/rapport/itie-tchad\\_pan\\_2015-2017/](http://itie-tchad.org/rapport/itie-tchad_pan_2015-2017/), accessed in September 2018.

<sup>280</sup> Chad EITI (August 2018), op. cit., pp. 93-96.

<sup>281</sup> Ministry of Finance and Budget, op. cit.

<sup>282</sup> Idem, pp.92-93.

to improve the public's understanding of the management of the extractives.

## Lessons Learned and follow-up on recommendations (#7.3)

### Documentation of progress

The 2016 EITI Report lists eight recommendations based on EITI reporting for the year under review (*see Requirement 4.9*). Five are related to EITI reporting and three to wider reforms, including harmonising the government's official policy on contract disclosure and its practice and the operationalisation of the SAI's mandate. It also provides an update on 17 recommendations from previous EITI Reports. The IA concludes that no significant progress was made on 16 of those.

*MSG input:* There is no indication in MSG meeting minutes of MSG input in the drafting of recommendations, but the MSG approved the final 2016 EITI Report.

*Follow-up:* The Chad EITI 2017 annual progress report lists the recommendations arising from EITI reporting, indicating measures taken by the MSG (*see Requirement 7.4*). It highlights that working groups were set up to work on inconsistencies identified in the review of the Glencore pre-financing agreement and on the systematic follow-up of recommendations. It notes that the national secretariat is monitoring the evolution of the state's participation in the extractive sector.

MSG minutes include accounts of meetings between a Chad EITI delegation and high-level officials to address key recommendations, including the Office of the President, the MMGC and the MPE, on issues such as the disclosure of contracts and establishing an oil cadastre.<sup>283</sup> There is evidence that the MSG regularly discusses recommendations at its meetings, for instance on the creation of a database on the extractive sector within the National Secretariat.<sup>284</sup>

*Discrepancies:* Recommendations related to the investigation of discrepancies point to the need to build the capacity of reporting entities and ensure that reporting templates are submitted on time. There is evidence that Chad EITI has undertaken outreach activities with reporting companies, through the Association of Oil Operators which sits on the MSG. There is evidence of the MSG investigating discrepancies surrounding the barter agreement involving SHT, CNCP and SRN (*see Requirement 4.3*).

*Reforms:* Recommendations to clarify the government's policy on contract transparency led high-level representatives to consider disclosing all contracts, a policy which became official in April 2018 through a letter signed by the former MSG Chair and Minister of Petroleum and Energy Béchir Madet. Chad EITI started operationalising this policy as soon as it was announced by uploading contracts, annexes and addendums online. As of October 2018, it constitutes the most comprehensive online database on oil

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<sup>283</sup> Chad EITI, MSG minutes, 4 April 2017, 16 May 2017.

<sup>284</sup> Chad EITI, MSG minutes, 18 May 2017.

contracts in Chad (*see Requirements 1.1 and 2.4*).

In addition, the CCCSRE was created in 2014 within the Treasury Department of the Ministry of Finance and Budget, following-up on a recommendation from the 2012 EITI Report and outreach led by the Chad EITI. The CCCSRE helped improve data collection for the 2013 EITI Report and has since had a key role in centralising data about tax collection from several government agencies.<sup>285</sup> Outreach by the MSG also contributed to the harmonisation of the fiscal identifier number (NIF) of license holders, which improved revenue traceability.

### Stakeholder views

MSG members confirmed the creation of a committee that ensured the follow-up of EITI recommendations through identifying actors that the MSG should reach out to. They mentioned several instances where an EITI delegation discussed recommendations with high-level officials. They also noted that a working group had been set up in spring 2018 to assess progress against EITI recommendations from previous reporting. Its conclusions are included in the 2017 annual progress report.

All stakeholders noted that some of the recommendations from previous EITI Reports were outdated and had been fully addressed, citing the disclosure of terms surrounding the Glencore oil-backed loan and the clarification of the government's policy on contract transparency. Industry representatives noted the active participation of Chad EITI in discussions on the revision of the Mining and Oil Codes, as well as on establishing a mining and an oil cadastre. They noted that the 2017 Mining Code contained several provisions that reflected EITI principles due to the active participation of government representatives that sit on the MSG.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. There is evidence of follow-up of recommendations and investigation of discrepancies through discussions within the MSG, the creation of internal committees to identify actors and areas for improvement, and active outreach to decisionmakers to push for reforms. Stakeholders noted the involvement of Chad EITI in consultations about key sector reforms.

To strengthen implementation, Chad is encouraged to document its investigation of discrepancies and to publicly disclose all the steps it takes to act upon lessons learnt. Chad might also wish to better document the role of the EITI in contributing to data collection and wider sector reforms.

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<sup>285</sup> Chad EITI (July 2016), Rapport de l'atelier d'échange par les pairs, p.25.

## Outcomes and impact of implementation (#7.4)

### Documentation of progress

Chad EITI adopted its 2017 annual progress report (APR) in June 2018 and published it on its website.<sup>286</sup>

***Summary of activities:*** The APR includes a summary of activities in the year 2017. It outlines the local context and how it affected EITI implementation. It highlights the 2018 January self-assessment undertaken by the MSG and Chad EITI's participation in a pilot project on commodity trading disclosures.

***Progress with meeting EITI Requirements:*** The APR includes a summary of the result of the January 2018 self-assessment, requirement by requirement. It points out gaps in disclosures, such as the allocation of licenses or social expenditures, but also highlights progress, such as the disclosure of disaggregated data on oil sales, the government's commitment to disclosing oil production contracts, and the identification of the ANIE as the host for a beneficial ownership register.

***Progress in addressing recommendations:*** The APR lists 18 recommendations from the 2015 EITI report and previous ones. It notes which entity is in charge of implementing each recommendation and which measures the MSG has taken to address including securing funding for the implementation of the beneficial ownership roadmap. This summary shows the important role played by the MSG and the national secretariat in facilitating and improving the data collection process.

***Work plan objectives:*** The APR highlights that 24% of activities included in the 2017 work plan were carried out, while 18% were ongoing and the remaining 58% had not been implemented. Funding gaps were the main reason behind limited implementation, including outreach and dissemination activities.

***Narrative account of efforts to strengthen implementation:*** The APR provides a detailed list of strengths, weaknesses and opportunities for EITI implementation, including a discussion of the outcome and impacts of implementation objectives. Strengths include strong institutional structures which foster dialogue between national and international stakeholders, and disclosures shedding light on complex mechanisms in the extractive sector. Weaknesses include limited financial resources, limited capacities within the MSG and insufficient debate about the extractive sector. Opportunities include establishing public oil and mining cadastres and improving the monitoring of the disbursement of subnational transfers. For each of these areas, the APR indicates which measures were taken by the MSG to address challenges.

***Additional observations:*** The APR includes a detailed table comparing budgeted costs and actual funding received for EITI implementation, distinguishing between government subventions and partners' contributions (AfDB, EU and World Bank). This table shows how challenging mobilising resources is. Annexes of the APR include the minutes of the MSG meeting for the adoption of the APR and a detailed

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<sup>286</sup> Chad EITI (June 2018), Rapport annuel d'avancement 2017, <http://itie-tchad.org/wp-content/uploads/2018/10/Rapport-annuel-davancement-ITIE-TCHAD-2017-Final.docx>, accessed in October 2018.

list of acting MSG members as of June 2018.

Chad EITI carried out an impact assessment which led to the publication of an impact study in September 2016, available in French and English.<sup>287</sup> Much of the assessment of strengths and weaknesses of EITI implementation in the 2017 APR follow-up from the September 2016 impact study. The later recognised the role of Chad EITI in pushing for institutional reforms and improving the capacity of authorities and companies in publishing financial data. Key recommendations from the impact study were addressed since, including the disclosure of information by the SHT on its role in marketing the State's share of oil.

### Stakeholder views

Stakeholders did not express any particular views about the 2017 APR, except that the MSG had planned to use it in dissemination activities to raise awareness about the impact of EITI implementation. All stakeholders consulted noted that they had been given the opportunity to participate in drafting the APR or to review the impact of EITI implementation.

### Initial assessment

The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The 2017 annual progress report includes a summary of EITI activities, an assessment of progress with meeting EITI Requirements, in addressing recommendations from reconciliation and Validation and with achieving objectives set out in the work plan. The narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance is particularly detailed and follows up closely on previous efforts to document the impact of EITI implementation, including through an impact assessment in September 2016.

To strengthen implementation, Chad is encouraged to regularly update its assessment of the strengths and weaknesses of EITI implementation and to ensure that stakeholders that are not members of the MSG have the opportunity to comment on the impact of the EITI process. Chad is encouraged to widely disseminate its annual progress reports and to foster debate around the role and impact of disclosures on the extractive sector.

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<sup>287</sup> CAC75 (September 2016), op cit.

**Table 7 - Summary initial assessment table: Outcomes and impact**

EITI provisions	Summary of main findings	Validator's recommendation on compliance with the EITI provisions
Public debate (#7.1)	<p>The International Secretariat's initial assessment is that Chad has made meaningful progress in meeting this requirement. EITI Reports are accessible online and for consultation at the Chad EITI office. Chad has agreed an open data policy and publishes summary data files in open format, although the policy does not cover re-use of data. However, EITI Reports are not necessarily comprehensible for a wider audience, including some local CSOs, and have not been translated into local languages since the 2014 EITI Report. While there is evidence of significant efforts to disseminate EITI data both in the capital N'Djamena and in regions up until 2016, funding gaps have limited such activities in the past two years, especially in producing regions. Despite the use of online platforms, the radio, the press and activities at the Chad EITI office, the level of public debate drawing on EITI data is not commensurate with the significance of Chad EITI data nor with the importance of the oil sector in the Chadian economy more broadly. There is strong stakeholder demand for further capacity development for analysing complex data and fostering greater interest in the media and broader youth in extractives transparency issues.</p>	Meaningful progress
Data accessibility (#7.2)	<p>Requirement 7.2 encourages the MSGs to make EITI reports accessible to the public in open data formats. Such efforts are encouraged but not required and progress with this requirement does not yet have any implications for a country's EITI status. Chad published machine-readable EITI reports and compared EITI data with the TOFE.</p>	
Lessons learned and follow up on recommendations (7.3)	<p>The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. There is evidence of follow-up of recommendations and investigation of discrepancies through discussions within the MSG, the creation of internal committees to identify actors and areas for improvement, and active outreach to decisionmakers to push for reforms. Stakeholders noted the involvement of Chad EITI in consultations about key sector reforms.</p>	Satisfactory progress

<p>Outcomes and impact of implementation (#7.4)</p>	<p>The International Secretariat's initial assessment is that Chad has made satisfactory progress in meeting this requirement. The 2017 annual progress report includes a summary of EITI activities, an assessment of progress with meeting EITI Requirements, in addressing recommendations from reconciliation and Validation and with achieving objectives set out in the work plan. The narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance is particularly detailed and follows up closely on previous efforts to document the impact of EITI implementation, including through an impact assessment in September 2016.</p>	<p>Satisfactory progress</p>
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• <i>In accordance with Requirement 7.1, Chad should ensure that EITI reporting is comprehensible, including by ensuring that it is written in a clear, accessible style, and that executive summaries or thematic sub-reports are made available and translated into Arabic. Chad should also ensure that adequate funding is available for outreach events, including to regions and communities hosting extractive activities, and that local stakeholders benefit from capacity building activities aiming at improving their understanding of the management of the oil sector. Chad should also encourage government agencies, companies and civil society to fully engage in disseminating EITI Reports, including bilaterally. To strengthen implementation, Chad is encouraged to improve public accessibility of key information on the management of the extractives through systematic disclosure of information required under the EITI Standard through routine government and company systems.</i></li> </ul> <ol style="list-style-type: none"> <li>1. To strengthen implementation, Chad is encouraged to enhance its efforts to analyse and simplify EITI data to improve the public's understanding of the management of the extractives.</li> <li>2. To strengthen implementation, Chad is encouraged to document its investigation of discrepancies and to publicly disclose all the steps it takes to act upon lessons learnt. Chad might also wish to better document the role of the EITI in contributing to data collection and wider sector reforms.</li> </ol> <ul style="list-style-type: none"> <li>• <i>To strengthen implementation, Chad is encouraged to regularly update its assessment of the strengths and weaknesses of EITI implementation and to ensure that stakeholders that are not members of the MSG have the opportunity to comment on the impact of the EITI process. Chad is encouraged to widely disseminate its annual progress reports and to foster debate around the role and impact of disclosures on the extractive sector.</i></li> </ul>		

## 8. Impact analysis (not to be considered in assessing compliance with the EITI provisions)

### Impact

On assessing the impact of the EITI, all stakeholders consulted highlighted that the EITI had proven to be a necessary tool for strengthening dialogue and improving transparency. Government representatives noted that adjustments in the framework of reconciliation had improved government's agencies in collecting and verifying its own data. They noted that the discrepancies in transport revenues had been identified once through the EITI reconciliation process, which had led to the removal of several government agents. Industry representatives lauded the change in culture operated within the SHT. They noted that the SHT's commitment to transparency and information-sharing encouraged other companies and government entities to share their data. They argued that government agencies should all have access to the same level of information, leading to more accountability, which had been made possible partly through the EITI process. They noted that implementing the EITI did not only imply an obligation to be transparent, but also to take on a pedagogic role and to ensure the traceability of revenues.

While some industry representatives believed that the EITI reporting process took too much of their time for little benefits in return, others highlighted that EITI reports had more credibility compared to company reports and therefore helped manage expectations about companies' contribution to the economy. They also noted that a good quality EITI Report would attract serious investors to Chad and was a useful tool to all companies operating in Chad. Donors noted that the EITI process in Chad had established itself as a credible one and was the subject of high expectations. EITI reporting represents a unique source of data, for instance on the mechanisms surrounding the GLENCORE oil-backed loans. Some MSG members recommended that Chad EITI be financially independent to ensure its own autonomy and increase the impact of its work.

*Constructive engagement:* As documented under Requirements 1.1 and 1.2, government and industry representatives are fully and actively engaged in the EITI process. Despite the limitations to civic space, civil society representatives played a key role in Chad becoming a member to the EITI. They used the EITI platform effectively to advocate for transparency and accountability in the oil and gas sector. MSG meetings are most often led by companies or civil society representatives and the tone of the debate has become less accusatory and more constructive throughout the years.

*Economic contributions:* EITI reports provide independently verified information on the economic contribution of the oil, gas and mining sector, including the sector's contribution to GDP, export, government revenues and employments. Chad's economy grew rapidly after production began in 2003. Economic growth hit a record 34.3% in 2004 and became highly dependent on the oil sector thereafter. Chad's poverty headcount ratio also decreased substantially from 62.9% when oil production began in 2003 to 38.4% in 2011.<sup>288</sup> However, the oil sector contribution to the economy has declined significantly in recent years. This is due to multiple factors, including falling oil prices, high borrowing cost from oil backed loans and increasing cost of oil production from maturing oil fields. The share of the oil sector

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<sup>288</sup> World Bank data accessed [here](#), in October 2018.

contribution to GDP declined from 12% in 2015, to 9% in 2016. The oil sector accounted for 50% of total export in 2016, down from 65% in 2015. Government revenues from the oil sector as a share of total government revenues also declined to 7% of government revenues in 2016 down from 25% in 2015.

*Public understanding:* EITI reporting has become a trusted source of information on the oil, gas and mining sector for all stakeholders. EITI has contributed in greater understanding by the public of key issues such as contracts, oil-backed loans and the applicable fiscal regime. EITI reports describes the fiscal regime in accordance with the relevant laws and contracts and the how certain legal provisions, such as royalties are applied in practice.

Since April 2018, Chad EITI published all contracts on its website and currently constitutes the most complete repository of contracts in the oil and gas sector in Chad. Chad EITI also published decrees approving the allocation of mining licenses, as well as all active ASM sector licenses, research licenses, semi-industrial production of quarrying licenses in the mining sector. Chad adopted the Code for the Transparency and Good Governance of the Management of Public Finance<sup>289</sup> on 24 November 2016. While the Code itself does not mention the government's commitment to implement the EITI, it sets standards for the public accessibility of information on key issues, such as taxation and fiscal exonerations, contracts, public debt, guarantees to public or private entities, and natural resources assets. The Chadian Observatory for Public Finances was created in January 2017 as part of the government's commitment to disseminate data about the management of public finances, particularly Chapter VIII of the 2016 Code for the Transparency and Good Governance of the Management of Public Finances. In practice, the EITI Chad website provides the most comprehensive repository of information in the oil, gas and mining sector.

In addition, the CCCSRE was created in 2014 within the Treasury Department of the Ministry of Finance and Budget, following-up on a recommendation from the 2012 EITI Report and outreach led by the Chad EITI. The CCCSRE helped improve data collection for the 2013 EITI Report and has since played a key role in centralising data about tax collection from several government agencies.

Together with the IMF, the World Bank and CEMAC, the EITI is a key driver of reforms in government systems. The EITI also provides a platform for dialogue between state and non-state actors to monitor progress on government commitments and implementation of agreed upon government policies.

## Sustainability

EITI achievements in Chad remain fragile. Frequent changes of senior government officials, including Ministers and the Director General of the national oil company lead to changes in government policy, and sometimes contradictory or inconsistent government policy.

*Funding:* The Government of Chad provided substantial funding for the construction of the Chad EITI office. The government remains the primary source of funding for EITI implementation in Chad. However, access to funding remains a concern, because government funding is highly dependent on volatile

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<sup>289</sup> Law 018/PR/2016.

government revenues from the oil and gas sector. Industry representatives considered providing funding for EITI implementation, but they expressed concerns about conflict of interest that may arise from such funding. The national oil company, SHT, also provided funding to Chad EITI. In addition to government funding, the AfDB, the European Union and the World Bank provide funding to EITI implementation.

*Institutionalisation:* Early in the EITI implementation process, the MSG commissioned a study of legal barriers to EITI implementation, which recommended to the government to “*eliminate restrictions of confidentiality with respect to agreements and contracts themselves, and add provisions requiring contractors to participate in the EITI process*”. In May 2014, the MSG reached a consensus on the principle to include an EITI clause in all new contracts. Provisions in the 2016 Transparency and Good Governance Code enshrine transparency on the collection and management of government revenues in Chad’s legislative framework. This includes clarifying the state of the country’s internal and external debt, guarantees provided to public or private companies and fiscal obligations and exonerations. Such disclosures through EITI reporting and support to improving disclosures through government systems constitute important tools to operationalise this commitment. Regarding sector legislation, the new Mining Code also references EITI principles. The government has also firmly committed to publishing oil and gas contracts as encouraged by the EITI Standard, through the adoption of standalone law.

## Annexes

### Annex A - List of MSG members as at 7 January 2019

#### **Government (9)**

Boukar Michel, Minister of Petroleum (Chair of the MSG)

Dr Alhadji Hamit Elemi Moutaye, Senior Advisor to the President of the Republic

Hon. Birwoué Wassi Kaibaina, Member of Parliament

Abdoulaye Souleyman Béchir, Government Secretary General

Nepidé Dossoum Popee, Chamber of Account

Bladé Maurice, Ministry of Finance and Budget

Mbainodoum Desiré, Ministry of Economy, Planning and Development

The Director General of the Minister of Petroleum of Energy (tbc)

The Director General of the Minister of Mine (tbc)

#### **Companies (7)**

Yolla Zongré, Association of Petroleum Producers (AOP)

Ricelle Armand Tueguen United Hydrocaron

Franck Beausaert, Consortium Glencore

Zheng Xuping, CNPCIC-Cliveden

Mahat Tahir Mahamat, SHT

Ali Djadda kampard, SOTEC

Director General of the new national mining company (tbc)

#### **Civil society (7)**

Mme Clarisse Nehoudamadji Nailar, CELIAF

Brahidel Deba, APAD

Mme Mekoumbé Thérèse, AFJT

Nodjitouloum Salomon, ACAT-Thad

Me Bangah Yengding Nathan, UST

Nadjirambaye Nelngar Maxime, Swissaid

Nadji Nelambaye, CCPL

## Annex B – Cost of EITI Reports and State funding to Chad EITI (2016-2018)

Date	Year covered by the EITI Report	Independent Administrator	Funding	Cost in USD, including inception reports
February 2016	2013	Fair Links	AFDB	60,800
December 2016	2014	Moore Stephens	State	98,000
December 2017	2015	Moore Stephens	State	148,591
August 2018	2016	Moore Stephens	State	
<b>Total</b>				<b>307,391</b>

## Treasury transfers to Chad EITI:

Date	Amount in USD (approx..)
15.09.2016	86,900
15.12.2016	86,900
10.01.2017	90,400
18.05.2017	90,400
29.09.2017	14,550
12.10.2017	12,160
12.10.2017	15,650
29.12.2017	14,550
12.01.2018	8,690
29.01.2018	39,500
21.03.2018	71,250
23.05.2018	147,750
12.10.2018	37,240
<b>Total</b>	<b>715,940</b>

## Annex C - List of stakeholders consulted

Name	Organisation	Function	Telephone (+235)	Email
<b>Government</b>				
Boukar Michel	Ministre du Pétrole et de l'Énergie	Président du HCN	66 29 26 01/ 99 91 19 06	<a href="mailto:Boukar_m@yahoo.fr">Boukar_m@yahoo.fr</a>
Dr Moutaye Hamit Ali	Présidence de la République	Membre HCN	66 29 25 28	<a href="mailto:moutayehaem@yahoo.fr">moutayehaem@yahoo.fr</a>
Djedouboum Emmanuel Ambroise	Ministère des Mines, DG	Membre HCN	66 02 57 34/ 99 23 89 38	<a href="mailto:ambroisedjed@gmail.com">ambroisedjed@gmail.com</a> <a href="mailto:djed_emma@yahoo.fr">djed_emma@yahoo.fr</a>
Bladé Maurice	Ministère des Finances	2 <sup>ème</sup> rapporteur	66 29 93 71	
Biroué Wassi Kaibaina	Assemblée Nationale	Membre HCN	62 55 27 12	<a href="mailto:biroue.wassi@yahoo.fr">biroue.wassi@yahoo.fr</a>
Mahamat Abdoulaye Issa	Ministère de Communication	Membre HCN	66 81 12 17	<a href="mailto:mai_toufa@yahoo.fr">mai_toufa@yahoo.fr</a> <a href="mailto:k_toufa@hotmail.com">k_toufa@hotmail.com</a>
Kalzeube Pahimi Deubet	Présidence de la République	Ministre/Secrétaire d'État		
Moutaye Ellimi	Présidence de la République	Conseiller aux Mines		
Ousman Abderaman	Présidence de la République	Conseiller aux Infrastructures et Transport		
Mahamat Ngartoumya	Présidence de la République	Conseiller aux médias		
Blade Maurice	DGTCP		66 29 93 71	
Ahmat Djegoudga	DGE	DG	66 22 79 49	<a href="mailto:Ahmatmalikdj2005@yahoo.fr">Ahmatmalikdj2005@yahoo.fr</a>

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Balla Balla	Douanes		66 26 29 53	<a href="mailto:balla-djaba@yahoo.fr">balla-djaba@yahoo.fr</a>
Idriss Djibia	Douanes		66 93 32 33	<a href="mailto:idriss_djibia@yahoo.fr">idriss_djibia@yahoo.fr</a>
Moussa Angou Younous	DGTCP		66 42 12 30	<a href="mailto:moussa_younous2003@yahoo.fr">moussa_younous2003@yahoo.fr</a>
Gabnon Dawi Bozabe	PF/DGI		66 34 99 51	<a href="mailto:gdawib@yahoo.fr">gdawib@yahoo.fr</a>
Nepide Dossoum Popee	Cour Suprême		66 27 57 92	<a href="mailto:ndoubahidi.francois@yahoo.fr">ndoubahidi.francois@yahoo.fr</a>
Zara Brahim Itno	Chambre des Comptes	Présidente/ Ch	66 18 94 94	<a href="mailto:zara.brahim@gmail.com">zara.brahim@gmail.com</a>
Nepidé Dossoum Popée	Chambre des Comptes	Pdte Section Contrôle Finances	66 27 57 92	<a href="mailto:nepidepopee@yahoo.fr">nepidepopee@yahoo.fr</a>
Ousman Mamadou Affono	Chambre des Comptes	Pdt Section Jugements des Comptes	66 28 59 82 / 99 28 59 82	<a href="mailto:oaffono@hotmail.com">oaffono@hotmail.com</a>
Adamou Oumarou	Chambre des Comptes	Pdte Section Discipline Budgetaire	66 29 35 10	<a href="mailto:amadououmaou38@yahoo.fr">amadououmaou38@yahoo.fr</a>
Hamit Atim	Chambre des Comptes	Conseiller à la Chamb des Comptes		<a href="mailto:hamitatim@yahoo.fr">hamitatim@yahoo.fr</a>
Ratou Ando	Chambre des Comptes	Avocat Général	66 23 01 79	
Ndoubahidi Samadingar François	Chambre des Comptes	Conseiller Sect Affaires Finance Budget	66 29 44 61	<a href="mailto:ndoubahidi.francois@yahoo.fr">ndoubahidi.francois@yahoo.fr</a>
<b>Industry</b>				
Mahamat Taher Mahamat Abdoulaye	SHT	Membre HCN	66 34 34 45	<a href="mailto:mahamattahermahamat@gmail.com">mahamattahermahamat@gmail.com</a>
Ali Djadda Kampard	SOTEC	Membre HCN	66 24 35 48	<a href="mailto:ali@sotec-tchad.com">ali@sotec-tchad.com</a>

## Validation of Chad: Report on initial data collection and stakeholder consultation

Mahamat Tidjani	ARSAT	DGA	66 27 66 88	<a href="mailto:mtidjanisoul@gmail.com">mtidjanisoul@gmail.com</a>
Djelem Deounodji	SONACIM		62 15 05 33	<a href="mailto:deounodjid@yahoo.fr">deounodjid@yahoo.fr</a>
Biani Ramadan	SONACIM		66 27 57 80	<a href="mailto:ramadanbiani@sonacim.com">ramadanbiani@sonacim.com</a> <a href="mailto:biaramzi@yahoo.fr">biaramzi@yahoo.fr</a>
Alain Pillevuit	Tekton Minerals	DG	68 85 06 77	<a href="mailto:alain.pillevuit@tektionminerals.com">alain.pillevuit@tektionminerals.com</a>
Hamid Abdelgueou	TOTCO	DGA	99 98 63 24	<a href="mailto:hamidteoula.abdelgueou@exxonmobil.com">hamidteoula.abdelgueou@exxonmobil.com</a>
Gotram Ngaralbaye	ESSO-Tchad		66 24 32 89	<a href="mailto:ngaralbaye.gotram@exxonmobil.com">ngaralbaye.gotram@exxonmobil.com</a>
Ali Djadda Kampard	SOTEC		66 24 35 48	<a href="mailto:ali@sotec-tchad.com">ali@sotec-tchad.com</a>
<b>CSO</b>				
Mme Mekombé Thérèse	AFJT / CELIAF	Member HCN	66 29 16 95	<a href="mailto:calebasse_45@yahoo.fr">calebasse_45@yahoo.fr</a>
Brahidil Deba	APAD	Membre HCN	66 68 35 90	<a href="mailto:debafrederic@gmail.com">debafrederic@gmail.com</a>
Me Bangah Yending Nathan	UST	Membre HCN	66 28 28 80	<a href="mailto:bangahy@yahoo.fr">bangahy@yahoo.fr</a>
Abée Raymond Madjira	PWYP	1 <sup>er</sup> Vice-président	66 29 15 52	<a href="mailto:madjiror@yahoo.fr">madjiror@yahoo.fr</a>
Nadjirambaye Nelngar Maxime	SWISSAID	Membre HCN	66 30 27 28/ 99 89 44 44	<a href="mailto:n.nadjirambaye@swissaidtchad.org">n.nadjirambaye@swissaidtchad.org</a>
Mekondo Banhoudel	GRAMP-TC	2ème rapporteur	66 26 23 19	<a href="mailto:Banhoudel@gmail.com">Banhoudel@gmail.com</a>
Ndoukolngoné Naty Rachel	CPPN	Membre HCN	66 322 21 59	<a href="mailto:cppnplaidoyernational@gmail.com">cppnplaidoyernational@gmail.com</a>
Hamla Douksia Senghor	CAMOJET		66 49 89 06	<a href="mailto:khalidosbenwalid@yahoo.fr">khalidosbenwalid@yahoo.fr</a>
Khalid Daoud Mahamat Salem	DYPRODAMIT		66 89 62 82	<a href="mailto:khalidosbenwalid@yahoo.fr">khalidosbenwalid@yahoo.fr</a>

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Madjiharebeye Sylvain	DYPRODAMIT		66 37 41 99	dyprodamit17@gmail.com
Doulgué Mbailassem	CADRA		66 27 49 24/ 66 28 28 80	innocentdoulgue85@gmail.com innocentdg@yahoo.fr
Am-Aboua Ahmat Chakra	CCIAMA	Conseillère HCN	66 27 13 34	<a href="mailto:amaboua26@yahoo.fr">amaboua26@yahoo.fr</a>
Mekondo Sony	URTP/Radio FM Liberté		66 29 59 08	<a href="mailto:MekondoSony@gmail.com">MekondoSony@gmail.com</a>
Djim Sassem Babaye	CNCJ		66 79 46 81	<a href="mailto:Pierratnabaye@yahoo.fr">Pierratnabaye@yahoo.fr</a>
Allahoudoum Juda Doulgué	Le Visionnaire		66 47 26 47	<a href="mailto:judabenyacoub@gmail.com">judabenyacoub@gmail.com</a>
Issakha Dounia Haroun	COPEs		66 23 66 88/ 92 90 10 90	<a href="mailto:issakhadounia@yahoo.fr">issakhadounia@yahoo.fr</a>
<b>Donors/partners</b>				
Hyacinthe Mbaidiguin	UE	Économiste	63 09 03 97	<a href="mailto:delegation-chad@eeas.europa.eu">delegation-chad@eeas.europa.eu</a>
Rémi Barson	UE	Économiste Chargé de programme		<a href="mailto:Remi.Sordo@ec.europa.eu">Remi.Sordo@ec.europa.eu</a>
Andria Morero	UE			<a href="mailto:Adrian.morero@eeas.europa.eu">Adrian.morero@eeas.europa.eu</a>
Frederik Materne	UE		63 61 80 12	<a href="mailto:Frederik.materne@eeas.europa.eu">Frederik.materne@eeas.europa.eu</a>
Wim Schaerlaekens	UE		66 00 14 27	<a href="mailto:Wim.schaerlaekens@eeas.europa.eu">Wim.schaerlaekens@eeas.europa.eu</a>
Kandi Magendo	World Bank	Spécialiste en gestion financière	65 43 06 16	<a href="mailto:kmagendo@worldbank.org">kmagendo@worldbank.org</a>
Yaye Ngouye Diagne	World Bank	Chargé des opérations	65 43 06 10	<a href="mailto:ynda@worldbank.org">ynda@worldbank.org</a>
Lanre Kassim	World Bank	Économiste pays/macroéconomie et gestion	65 43 06 28	<a href="mailto:okassim@worldbank.org">okassim@worldbank.org</a>

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François Nankobogo	World Bank	Représentant résident	22 52 33 60	<a href="mailto:fnankobogo@worldbank.org">fnankobogo@worldbank.org</a>
<b>National secretariat</b>				
Mme Amina Mahamat	STP	Coordonnatrice	66 26 12 13	<a href="mailto:aminamahamat2510@gmail.com">aminamahamat2510@gmail.com</a>
Hissene Wadi Omoko	STP	Coordonnateur adjoint	66 29 42 99	<a href="mailto:hbenwadi@yahoo.fr">hbenwadi@yahoo.fr</a>
Abadam Abakar Maina	STP	Statistique	66 93 97 28	<a href="mailto:abamaina@gmail.com">abamaina@gmail.com</a>
Benzaki Younous	STP	Expert en Communications	99 2157 87/ 66 2157 87	<a href="mailto:benzaki2@gmail.com">benzaki2@gmail.com</a>
Abraham Guidimti	STP	Expert audit	66 29 23 79	<a href="mailto:abraham.guidimti@yahoo.fr">abraham.guidimti@yahoo.fr</a>

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