



Clare's four challenges for the future

As I step down from five years as EITI Chair, I reflect on what has been achieved and set four challenges for the incoming Board.

- ① Integrate the EITI into government systems.**
Requiring that EITI Reports duplicate information that is readily available elsewhere is indefensible. In Timor-Leste, the government makes monthly disclosures online on the website of the National Petroleum Authorities. It therefore makes no sense to produce an EITI Report repeating the figures at a later date. Other countries have made progress in developing online repositories of data, publishing the required information in a more timely, accessible, and attractive manner. The changes to the Standard to shift the focus from EITI Reports to reporting are steps in the right direction. The EITI must go further, reducing the bureaucracy and cost of implementation.
- ② Use information to turn recommendations into reforms.**
Publishing reports is one thing. Using the information is another. Using the information to change policy and improve the lives of citizens is surely our ultimate goal. Recommendations in EITI Reports often guide policy makers on how to make improvements to extractive sector management. Experiences from Ghana and the Philippines show the impact that the EITI can have when the process does not stop at the publication stage. The EITI needs to focus more on turning reports into results.
- ③ Identify who owns companies and who benefits.**
In December 2015, the EITI Board decided to make beneficial ownership disclosure mandatory. The Democratic Republic of the Congo and other countries have already worked to identify the real owners – the 'beneficial owners' – of the companies that have acquired rights to extract oil, gas and minerals, who are often unknown and hidden behind a chain of corporate entities. Other countries must follow.
- ④ Ensure better participation by implementing governments and its citizens.**
A significant strength of the EITI is the emphasis it puts on implementing country ownership. The implementing country voice is essential to how the EITI is shaped, governed and used, and the citizens themselves must speak louder. The EITI should go further in strengthening implementing country ownership. The EITI must also ensure that it has the funding needed to deliver the support it has committed to.



EITI Reports should be less about compiling data and more about making recommendations for improved governance of the extractive sector.



Integrate the EITI into government systems

After five years working extensively with the EITI and visiting many countries that are using the EITI to help improve the management of their extractive industries, I conclude that the EITI has achieved a lot in recent years. But given that our aim is to improve the management of these resources for the benefit of the people of resource rich countries, much remains to be done.

The EITI has evolved from a narrow set of rules focused on revenue reconciliation, to a Standard covering all aspects of the extractive industry value chain, from licensing and contractual arrangements, to the operation of state owned enterprises and improved accountability on revenue management and expenditure. In 2015, 37 of the 49 member countries produced EITI reports. It is a very welcome development that each has a focus on the country's own priorities. This reporting has led to more informed debate and some clear reforms in implementing countries. Attitudes and practices on issues like contract transparency, beneficial ownership and commodity trading have evolved rapidly; and trust and cooperation have been built so that there is more agreement on the reform agenda.

Over the weeks leading up to the conference, I will reflect on the four challenges that I consider particularly important in the period to come. I begin today by commenting on the need to better integrate EITI reporting into transparent and robust government systems, rather than duplicate reporting that is already in place. I will then address how we must do better in turning recommendations into reforms; how we can make progress in reporting of who owns the companies and who benefits; and lastly the need for better participation by implementing governments, parliaments and citizens.

Annually around USD 50m is spent on EITI implementation across the world. This covers hundreds of billions of dollars of revenue and other information about the extractive sector in our 50 member countries. The reports cover much more than they previously did and are more comprehensible to interested citizens.

However we must not fall for the temptation of imposing increasingly burdensome requirements on our member countries, and generating more and more elaborate EITI reports that are used by very few people. The EITI is not an end in itself but a means to achieve reform and improved accountability in our member countries. Some EITI reports have become absurdly detailed, others unacceptably expensive compared to the size of the sector and payments made in country. The era of much reduced commodity prices is imposing new challenges that make the reform agenda even more urgent and EITI must help to drive it forward.

Requiring the duplication in EITI reports of information that is readily available elsewhere is indefensible. In Norway, the reconciliation process has not revealed a discrepancy for the past six years. No one doubts the figures, so requiring an expensively procured EITI report is not a good use of time or money. In Timor Leste, the government makes monthly disclosures online at the website of the National Petroleum Authorities (<http://www.anp-tl.org/>), it therefore makes no sense to produce an EITI report repeating the figures at a later date. Other countries such as Kazakhstan, Mongolia and Sierra Leone, have made progress in developing on-line repositories of data, publishing the required information in a more timely, accessible, and attractive manner than in long EITI tabular reports.

The EITI must seek to ensure that transparency is meaningful. Obviously reports should continue to demand independent information when it is not otherwise available, but where information and systems are reliable, reports should point to the information, summarise its significance and discuss the challenge of managing the resources for the benefit of the people. Embedding transparency into national systems will help to entrench permanent transparency and make the EITI process less expensive and more useful.

A successful EITI must not be measured by the number and length of reports and the amounts spent on implementation, but by whether the process has strengthened government and company transparency and accountability.

The agreement reached in Sydney to ensure that EITI reporting covered the whole value chain was essential to ensure that transparency drives reform and improved accountability. But there is a danger now that countries are being asked to deliver more and more elaborate, difficult and expensive reports. In the next period, there is a need for a strong focus on encouraging countries to integrate reporting into transparent government systems. The EITI must listen and learn from the experience of member countries and not seek to dictate from on high without taking full account of on the ground experience.

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Use information to turn recommendations into reforms.

EITI reports are much more comprehensive than they used to be and therefore include information that makes them more relevant to national debates about better management of the extractive sector. It is also important that they now often contain recommendations for reform. Publishing reports is not a goal in itself. We must do better in recommending necessary reform and trying to ensure that the reforms are implemented. Transparency is not an end in itself.

EITI reporting continues to improve. The reporting is better quality, with more timely information. 12 countries have already published reports covering 2014 data. But that is still two years old and not much help to parliaments when they are considering the national budget. Recommendations in EITI Reports increasingly discuss improvements needed to extractive sector management. The EITI reporting process can make an important contribution to policy reform and change. The extent to which the recommendations are followed up is crucial to the impact of the EITI. The EITI Standard recognises this - EITI Requirement 7.1 requires that the MSG considers the recommendations resulting from EITI Reports. Another requirement (5.3 f) gives the Independent Administrator a mandate to make recommendations based on the issues and findings identified in EITI reporting. Obviously these should reflect discussion in the MSG. The Independent Administrator is also asked to review progress in implementing recommendations from previous EITI Reports.

Some countries have started to act on their recommendations. In Ghana for example, EITI Reports revealed that extractive sector revenues earmarked for sharing between national, local government, traditional land-owning authorities and communities affected by mining, did not reach the intended beneficiaries. This was possible because of a lack of proper accounting for the use of these resources, and irregular transfers. The EITI report made recommendations which have been implemented and resulted in increased accountability at subnational levels and dedicated accounts set up for local governments.

As Orji Orji, Ag. Executive Secretary, Nigeria EITI, said:

// Many of the present reforms in the Nigerian oil sector – including the discontinuation of the oil swap arrangements, the review of fuel subsidies, the restructuring of the national oil company, the review of contracts and the management of the joint ventures – are recommendations from the NEITI reports. As well as the recovery of USD 2.4bn of unpaid taxes and royalties, NEITI's operations are on course to save Nigerians tens of billions of dollars through better management of the oil and gas sector.

Orji Orji, Ag. Executive Secretary, Nigeria EITI

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Use information to turn recommendations into reforms.

Another example comes from the Philippines where the Mining Industry Coordinating Council, which is tasked to implement reforms in the mining sector, has directed government agencies to develop concrete action plans based on EITI recommendations. The recommendations include giving local government units a clearer picture of how much they receive from extractive companies and eliminating delays in transfers.

Gay Ordenes, National Coordinator of Philippines EITI, described their aim:

“The goal should be transparency that translates to accountability and drives reform: the starting point towards that goal is to address gaps in existing systems that the report has identified.”

Gay Ordenes, National Coordinator

Despite these good examples, not many countries are following up the recommendations in EITI reports and addressing shortcomings identified in government systems. A review undertaken by the International Secretariat last year showed that only 8.5% of recommendations in the sample - 300 recommendations from ten countries over the past three years - have actually been implemented. There are several reasons for this. In some cases the firm tasked with producing the EITI Report may not have adequate knowledge or understanding of the local circumstances. Indeed, Ghana and the Philippines are examples where the multi-stakeholder group worked with the author of the EITI Report to propose recommendations. These were then put to the government for consideration and implementation. Of course the multi-stakeholder group cannot always ensure that the government acts on its recommendations but it can always try.

The EITI in the past has not placed adequate emphasis on the discussion and implementation of recommendations. Rather the focus has tended to be on producing the next report. We need to change the emphasis, we must not produce reports for their own sake but in order to encourage reform and improved accountability. The 2016 EITI Standard will require that MSGs document the reasons for not implementing the recommendations from their EITI Reports. Hopefully this will lead to more emphasis on using the EITI to encourage reform.

From recommendations to action

Publishing reports is not a goal in itself. Rather, the EITI should work to use reports to trigger debate about better management of the oil, gas and mining sector in order to contribute to improvements in the lives of citizens.

The EITI itself needs to shift from a predominant focus on compliance with the rules and issuing of annual reports, to support for governments in taking on the more difficult and longer term reforms. In these times of low commodity prices, the EITI needs to work harder to produce more useful information that helps in the management of current challenges.

My second challenge to the EITI is therefore that the EITI needs to ensure that the information in EITI Reports is useful in providing recommendations for reform. And that every effort is made to try to ensure that the recommendations are considered and acted upon by policy-makers, parliamentarians and others. Unless the EITI shifts its focus in this way EITI will continue to create transparency, but this transparency will have limited practical impact.

3

Identify who owns companies and who benefits.

The identity of the real owners – the ‘beneficial owners’ – of the companies that have obtained rights to extract oil, gas and minerals is often unknown, hidden by a chain of unaccountable corporate entities. This problem affects other sectors and often helps to feed corruption and tax evasion. There has been a series of moves in the G8, G20 and OECD to encourage countries to require the real owners of companies to be made clear. People who live in resource rich countries are at particular risk of losing out as extractive assets are too often misallocated for corrupt reasons.

It has been estimated that developing countries lose USD 1 trillion each year as a result of corrupt or illegal deals, many of which involve anonymous companies. In 2013, the Africa Progress Panel suggested that the Democratic Republic of Congo (DRC) in the period 2010-2012 lost at least USD 1.36 billion from five mining deals hidden behind a structure of complex and secret company ownership. According to DRC’s EITI Reports, this is about the same as the country’s average annual revenue from oil, gas and mining in the same time period. Disclosure of beneficial ownership will help lower the risk of financial misconduct.

In the last three years, the fight against secret company ownership has gained great momentum. The G8 and G20 have made transparency in beneficial ownership a key priority. The EU has required member states to establish registers. Several countries have passed national legislation and are working towards public registers. Yet, to date, there is relatively little beneficial ownership information out in the open. The EITI is one of few organisations that has delivered practical results through annual collection and publication of beneficial information in EITI reports. So far 27 EITI countries have begun to address beneficial ownership. Of these, 22 countries have already asked the oil, gas and mining companies in their countries to disclose who own them. The results are mixed. Only eight countries having been able to get one or more companies to comply.

While the EITI still has a long way to go to make these disclosures complete and comprehensible, more than a dozen EITI reports have now resulted in clear recommendations to resource rich governments to establish public beneficial ownership registers. The fight against corporate secrecy is thus moving forward in EITI member countries.

The draft of the new 2016 EITI Standard, is proposing that beneficial ownership disclosure will become mandatory for implementing countries. From 1 January 2020, all companies operating in EITI countries will have to disclose the name and identity of the owners of the companies that bid for, invest in, or operate extractive projects. The EITI should thus contribute considerably to the global movement against anonymous companies. While no one doubts the importance of the EITI moving in this direction, we should not underestimate the effort that it will require. As one of our Board members from implementing countries reminded us when we all met in Kiev: “no one doubts the desirability of this reform but collecting and maintaining beneficial ownership information is a significant institutional reform for our government. It will require consultation across government agencies and potential legislative changes, for which the timetable is of course beyond the EITI’s control.” The United Kingdom has set out to provide leadership on beneficial ownership disclosure, but it is almost three years since the government made its first commitment, and yet the public register is still not available. The EITI must be careful not to demand of our members that reforms be implemented more quickly than is practically possible. Many countries will need support and technical assistance in order to make progress.

Of course, getting the information about who owns the extractive companies out in the open is only half of the job. The EITI and in particular civil society representatives in our implementing countries then need to scrutinise what the data means and work out how to use it effectively. More transparency in beneficial ownership is likely to reveal past malpractice and make such behaviour less likely in future. Encouraging action to hold malpractice to account and prevent it in future is not an easy task. MSG members will have to work hard to reach out to parliamentarians, journalists, academics and others who lead public opinion in their countries so that corrective action is taken.



4 Insure better participation by implementing governments, companies and citizens

In my last message as I step down from being the EITI Chair, I reflect on what the EITI might consider doing to better achieve its aims in the future.

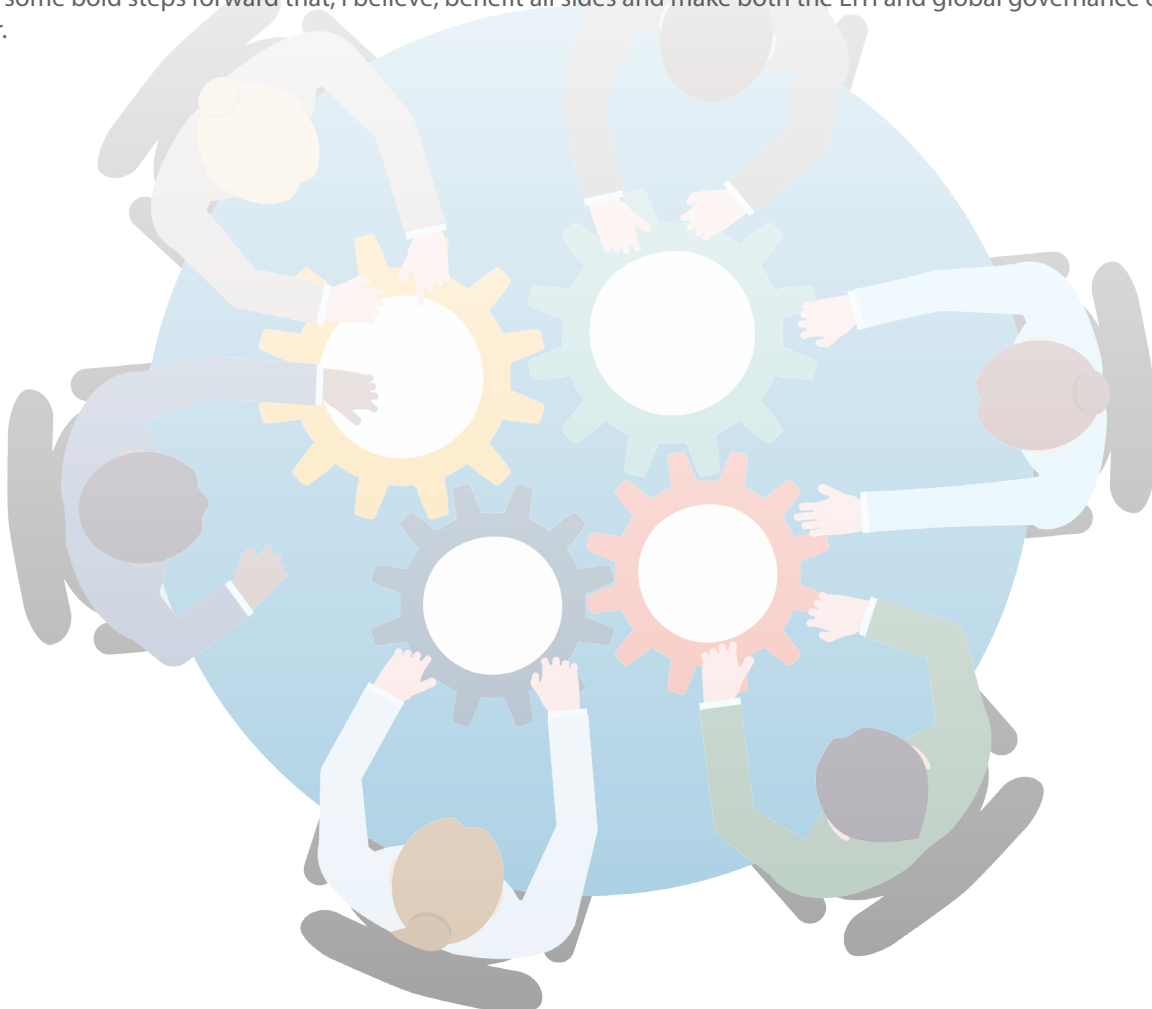
All who have worked in development or have managed significant reform are aware that lasting and real change depends on a desire from within to do better. Yet there is often a failure in development and international policy to respect this basic truth. From the outside, we can encourage and assist, but we must avoid hectoring and prescribing.

A significant strength of the EITI is the emphasis it puts on the ownership by implementing countries. The reporting and the dynamics in each of the implementing countries are different reflecting local realities. The EITI is a global minimum standard and the international network encourages mutual learning. Countries join of their own volition and use the EITI to drive the reforms that are needed. The EITI model, with governments themselves leading and with the multi-stakeholder groups having a critical role in overseeing implementation, is sound.

Implementing countries therefore need a strong voice in how the EITI is shaped and governed. They are the ones who know the reality of implementation. In addition, it would be desirable if the Board heard more directly the opinions of companies and citizens from implementing countries. All constituencies need to work harder to ensure that these voices are properly represented. I am concerned that the desire to exercise power through constituency consensus too often squeezes out the Southern voice. Better representation of the implementing country voice may be difficult but is essential to the future development of the EITI. It is notable how often the opinions one hears when visiting implementing countries differ from those expressed on the Board.

A good process leading to good results

In the run up to the launch of the 2013 Standard, I was impressed with the collaborative and consultative approach in all constituencies. The changes were largely drawn from the experiences and practice of many of the implementing countries and they showed their peers what was possible. Strong leadership was shown by the companies who made some bold decisions. Civil society shone the torch for the direction for many of the progressive changes and, alongside the World Bank and bilaterals, did a lot of research to ensure that the requirements were clear and relevant. Multiple voices came out from the constituencies – different angles, circumstances and experiences – which enriched and informed the final conclusions. It was a long and often tortuous process. There were many arguments. However, the Board was ultimately able to come together to make some bold steps forward that, I believe, benefit all sides and make both the EITI and global governance of the sector stronger.



Addressing narrow representation

Since then, we have seen too much narrow representation at the Board level. The implementing country voice has been not been strong enough. The civil society voice has often been dominated by a campaigning few. The companies could do better in bringing the perspectives of the country offices to the table. This narrow representation means that we have at the level of the Board sometimes lost sight of country experience. There needs to be a major effort to ensure that the constituencies function better.

I am delighted that implementing countries will in the future have an extra Board seat – a Board initially designed for 12 implementing countries is no longer appropriate for over 50. More importantly, I am pleased that implementing countries have set up coordination and communication procedures to ensure that their voice is as strong as that of other constituencies. It will be a challenge for them to reflect the views of the wide range of countries we now have in membership.

I also note some improvements on the civil society side. The next EITI Board will have more civil society representatives from implementing countries. Publish What You Pay has been important in the development of the EITI. The original - much smaller - PWYP can rightly claim credit for the EITI existing at all. PWYP have coordinated hundreds of civil society organisations and networks to support EITI work and have helped move the agenda forward. However, there is a need to recognise that as the EITI has grown, there are now many NGOs working on extractive issues that are not part of Publish What You Pay and that the range of voices expressed by PWYP members are not always reflected at the Board. I am afraid that The Publish What You Pay's Global Council can no longer define itself as the full civil society constituency. I hope that in the future, civil society from our implementing countries will collectively design and oversee how civil society should be represented on the EITI Board. I cannot for the life of me see why there can't be a process of regional nomination from civil society MSG members, and then on line regional voting. This would produce a much more representative civil society voice on the Board

We are fortunate that the companies on our Board have been represented by senior and dedicated individuals. Many of the companies have served on the Board for a long time. Although this continuity has been very helpful, change will come soon and there is a need to try to ensure that the experience of company representatives working in implementation is brought to the table. My experience from visiting implementing countries is that this local voice is often quite different from that at headquarters. The views of new and powerful actors such as state-owned companies and trading companies also need to be heard. And the companies who serve on the Board need to take more seriously the need to comply with the EITI rules they help to impose on others. Indeed the EITI itself needs to consider how this should be enforced.

A funding crisis

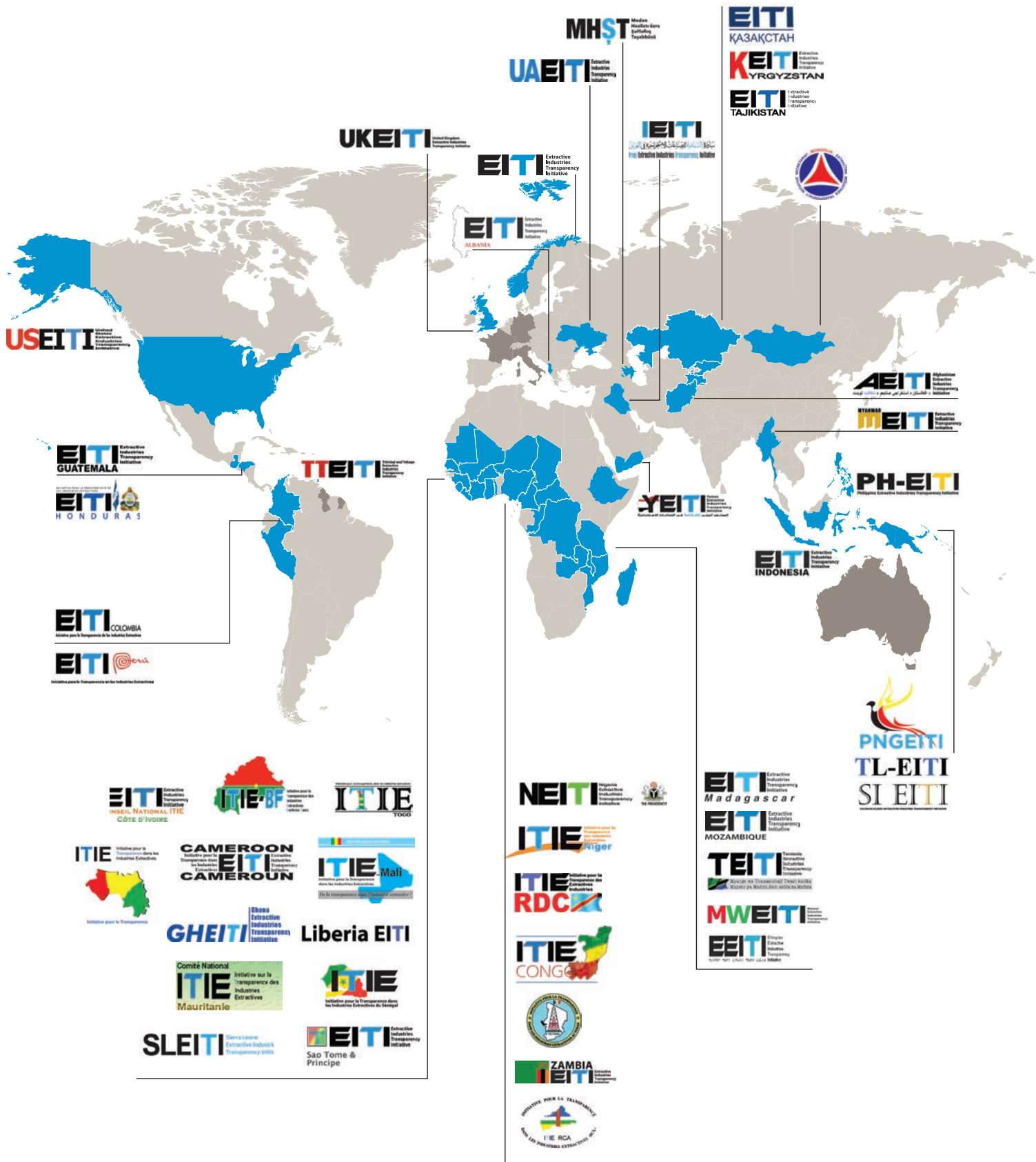
The EITI is facing a funding crisis because as we must all recognise, the sector is under immense pressure. It is obvious that cuts - perhaps drastic ones - in the EITI's activities will be necessary. But the Board must squarely face this reality. The mandate of the EITI keeps expanding to new member countries and to new areas such as beneficial ownership. This is not sustainable unless the consequences are accommodated on the revenue side of the EITI. I wish the incoming Board good luck with its review of funding.

Concluding thought

I leave with this. I have enjoyed most of my time with the EITI. I think that it is now stronger, more useful and more relevant than it was five years ago. But it remains fragile. The unpleasantness that has developed on the Board in recent months is extremely unfortunate, and the attacks on the secretariat nasty and unwarranted. It is unsurprising that there are differences on a Board representing such a wide range of interests but the allegations of bad faith are not justified. I am delighted to hand over to Fredrik Reinfeldt, who has enormous experience in handling coalitions. I hope that the new Board will make a renewed effort to be a major force for better global governance and improvements in the lives of the billions who live in resource rich countries. We must all constantly remember that this is the purpose of the EITI.

Clare Short
Chair of the EITI Board





Connect with us to see how natural resources are managed and used.

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