

MINISTRY OF MINES AND OIL

REPUBLIC OF MALI

One People - One Goal - One Faith

Extractive Industries Transparency Initiative
(EITI) Steering Committee

**COMMENTS OF THE STEERING COMMITTEE
ON THE MALI VALIDATION REPORT,
FROM ITS ORDINARY MEETING OF
22 MAY 2019**

May 2019

1. Corrective action regarding requirement 1.4

▪ Clarifications

We noted that the International Secretariat worked on "**DECREE 2018/0685/PM-RM of 31 AUGUST 2018 ON THE ESTABLISHMENT, ORGANISATION AND OPERATION OF THE ORGANS FOR THE IMPLEMENTATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE IN MALI (EITI-Mali)**". This decree attributed nine (9) representatives to civil society, including trade unions and accountants. In Mali, however, trade unions and accountants are not part of civil society. For this reason, this decree was repealed in order to correct this deficiency. Thus, **DECREE 2019/006/PM-RM OF 10 JANUARY 2019 ON THE ESTABLISHMENT, ORGANISATION AND OPERATION OF THE ORGANS FOR THE IMPLEMENTATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE IN MALI (EITI-Mali)** was adopted and signed. This new decree gives six (06) seats to civil society composed, of non-governmental associations and organisations.

▪ Comments by the Steering Committee

The following statement in the draft report, "**Some of the stakeholders consulted in the Validation, particularly civil society and development partner stakeholders, expressed concern about the non-inclusive nature of the preparation of the code of conduct and the appointment process for the six (06) representatives of NGOs in the Multi-Stakeholder Group. These stakeholders noted that some NGOs with experience in the extractive industries (such as the Association of Women Miners in Mali - AFEMIN and ARACF/ASFA 21)**" calls for comments from the Civil Society Group.

In Mali, there are officially over **3000 NGOs and associations** grouped under umbrella organisations. It is difficult, or rather, impossible to reach all these NGOs without going through the large organisations called umbrellas. These are the Forum of Civil Society Organisations (**FOSC**), the National Civil Society Council (**CNSC**), **SECO-ONG**, **CCA-ONG**, etc.

The process of preparing the draft code of conduct commenced in November 2018. It was shared with many stakeholders and their comments were taken into account.

With regard to "**AFEMINE**", this is an organisation formed of women working in the fields of mining, gravel extraction, quarries, sand and gold panning; it operates in the District of Bamako and in the interior of Mali.

The president of AFEMINE wrote to the Minister of Mines and Oil the letter referenced **091/AFEMINE of 19 December 2018 asking to join the EITI Steering Committee**. In response to this request **from the president of AFEMINE, the Minister of Mines and Oil asked her to contact those responsible for civil society in letter referenced 000018 of 4 January 2019**. To date, no contact has been made by AFEMINE with civil society. We then learned that it is part of the Chamber of Mines of Mali, which is a member of the EITI-Mali Steering Committee. Within the Chamber of Mines of Mali, the president of AFEMINE holds the position of Secretary for External Relations. It should be recalled that the Chamber of Mines of Mali was created by **Law No. 04-006 of 14 January 2004**, which states in its

Article 2: "The role of the Chamber of Mines of Mali is the organisation and representation of natural and legal persons engaged in the different professional sectors of mining activities." For all these reasons, AFEMINE cannot sit within the Civil Society Group.

2. Corrective action regarding requirement 2.2

Requirement 2.2 obliges the Government to provide annual disclosure of mining, oil and gas licenses awarded and transferred during the year, emphasising the technical and financial requirements used, and also all non-trivial breaches of the legal and regulatory framework governing awards and transfers of licenses.

Conclusion of the first Validation (decision of the Board): Inadequate progress

Requirement 2.2 obliges the Government to disclose information on licenses awarded in the oil and mining sectors, as well as details on transfers made in the course of the accounting period covered by the EITI Report, including a description of the transfer or award process for said licenses; technical and financial criteria used; details of the beneficiaries of said licenses; and all discrepancies in relation to transfers and the award of licenses that might be of any interest whatever. The Multi-Stakeholder Group shall examine this work and fill any gaps in reporting. The Multi-Stakeholder Group is also encouraged to comment on the efficiency and effectiveness of the system for the award of licenses and to make recommendations for reforms, as necessary.

Conclusion of the second Validation: Meaningful Progress accompanied by substantial improvements

▪ Comments by the Steering Committee

The technical and financial criteria laid down by Malian mining law and used during the award and/or transfer of licenses are clearly specified in the 2016 EITI Report (page 41). The addendum published on the EITI-Mali website on the description of the technical and financial criteria gives further details. The National Directorate of Geology and Mines (DNGM) received the approval of the Steering Committee at the ordinary meeting of 21 February 2019 to produce this addendum. We propose that **Satisfactory Progress be awarded for requirement 2.2**, instead of **Meaningful Progress**.

3. Corrective action regarding requirement 5.2

Requirement 5.2 states that the Multi-Stakeholder Group shall ensure that taxes paid by companies and funds transfers between central and local government be fully disclosed.

Conclusion of the first Validation (decision of the Board): Inadequate Progress

Requirement 5.2 states that the Multi-Stakeholder Group shall ensure that taxes paid by companies and funds transfers between central and local government be fully disclosed.

Conclusion of the second Validation: Progress beyond the requirements of the EITI Standard.

▪ Comments by the Steering Committee

We believe that the content of corrective action 5.2 changed during the second Validation. We also believe that any payment generated by the extractive industries for which the legal framework provides for a partial or total handover for the benefit of communities affected by the extraction of natural resources constitutes a subnational transfer. We cite the content of requirement 5.2 on subnational transfers: "Where transfers between national and subnational government entities are related to revenues generated by the extractive industries and are mandated by a national constitution, statute or other revenue sharing mechanism, the multi-stakeholder group is required to ensure that material transfers are disclosed. Implementing countries should disclose the revenue sharing formula, if any, as well as any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity. The multi-stakeholder group is encouraged to reconcile these transfers."

We also recall that the insufficiency with regard to corrective action 5.2 during the first Validation concerned the disclosure of subnational transfers by the Government of Mali. The EITI Standard requires disclosure and encourages reconciliation. The National Directorate of the Treasury and Public Accounting disclosed subnational transfers in all EITI reports following publication of the 2013 EITI Report, the subject of the first Validation. This disclosure was in compliance with Law No. 2011-036, of 15 July 2011 on the tax resources of the municipalities, circles and regions of Mali, available at the EITI-Mali website.

With a view to exceeding the requirements of the EITI Standard, the Steering Committee decided to go beyond a simple unilateral declaration, by reconciling subnational transfers.

Conclusion: We ask that the patents paid by extractive companies in Mali be considered as subnational transfers and thus to award a score of Satisfactory Progress to corrective action 5.2.

4. Corrective action with regard to follow-up on recommendations (7.3)

Requirement 7.3 obliges the Multi-Stakeholder Group to review the recommendations of EITI reports and agree on appropriate measures for their follow-up and implementation. The Multi-Stakeholder Group is recommended to analyse the impact of implementation in order to determine how this impact can be strengthened.

Conclusion of the first Validation (decision of the Board): Meaningful Progress

Conclusion of the second Validation: Meaningful Progress accompanied by substantial improvements

▪ Comments by the Steering Committee

We believe that the matrix or dashboard for implementation of EITI report recommendations approved by the Steering Committee on 21 February 2019 reviews all the findings and recommendations made by the Independent Administrator in the 2014, 2015 and 2016 EITI Reports. Discussions on the causes of reporting discrepancies have taken place and possible solutions advocated (see dashboard for implementation of 2014, 2015 and 2016 EITI report recommendations, published on the EITI-Mali website). This dashboard also sets out actions to be taken, implementation schedules, organisers involved and possibly the costs of implementing each recommendation.

Conclusion: We propose that corrective action 7.3 be scored as Satisfactory Progress.

5. Corrective action on outcomes and impact of implementation (7.4)

Requirement 7.4 obliges the Multi-Stakeholder Group to provide an opportunity for all stakeholders, including those who are not among its members, to participate in the production of annual progress reports and to assess the impact of implementation of the EITI.

Conclusions of the first Validation

The first Validation concluded that Mali had made meaningful progress with regard to requirement 7.4. The Multi-Stakeholder Group had published annual progress reports documenting progress and the outcomes of implementation. Even so, further efforts towards assessing the impact needed to be made.

Conclusion of the second Validation: Meaningful Progress accompanied by substantial improvements

▪ Comments by the Steering Committee

We have taken careful note of the conclusion of this second Validation and we will continue efforts by conducting a study into the impact of implementation of the EITI. The European Union is willing to support us to do this study. The ToR have been approved, a funding request has been made and the study will be conducted before 31 December 2019.

N.B.: Corrective actions 1.5, 2.3, 4.1, 4.9 and 7.1 have achieved the status of Satisfactory Progress and have not been the subject of comments.

Bamako, 22 May 2019

The Steering Committee