



Extractive Industries
Transparency Initiative

EITI REQUIREMENT 1.4

Establishment and governance
of multi-stakeholder groups

Guidance Note

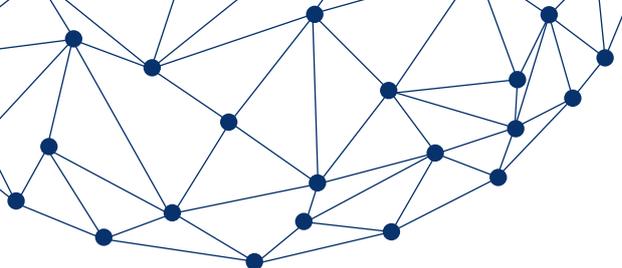


February 2022

This note has been issued by the EITI International Secretariat to provide guidance to implementing countries on meeting the requirements in the EITI Standard. Readers are advised to refer to the EITI Standard directly, and to contact the International Secretariat to seek further clarification.

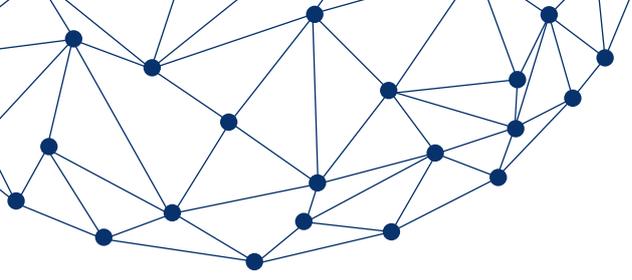
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Executive summary

The multi-stakeholder approach is central to the principles and operations of the EITI, and it is reflected in how the EITI is governed and implemented. EITI implementing countries establish a multi-stakeholder group (MSG) – comprised of representatives from government, companies, and civil society – to oversee EITI implementation. Although the mandate of the MSG varies across countries, it is the main decision-making body. It is responsible for setting objectives for EITI implementation and monitoring the disclosure of data in accordance with the EITI Standard, and it ensures that the data and analysis stemming from EITI reporting contributes to public debate and informs decision-making.

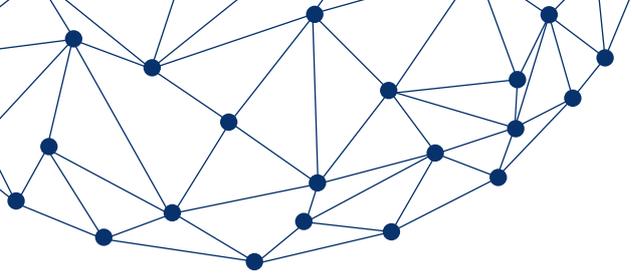
The EITI MSG is a crucial decision-making space for stakeholders to influence and shape decisions on natural resource governance in their country, and thereby provides opportunities for participation from a wide range of actors. EITI implementing countries should ensure that MSG nomination, selection and renewal procedures are in place to ensure inclusive participation and representation of all interested stakeholders. Doing so will help create conditions for a broader and more inclusive management of natural resources for the benefit of all citizens.

The MSG mandate must be clearly defined for a country to be accepted as an EITI implementing country and is critical for EITI implementation. While the MSG is mandated to determine the rules and procedures regarding its own work and decision-making, the EITI Standard contains minimum requirements related to the role, rights and responsibilities of the MSG that can help ensure efficient MSG oversight of the EITI implementation process.

This note provides guidance on how to establish and manage an effective EITI MSG, and [Annexe A](#) provides key considerations for developing Terms of Reference (ToRs) that establish the scope, roles and responsibilities of the MSG.

Overview of steps

Steps	Key considerations	Examples
Step 1: Conduct outreach to stakeholders	<ul style="list-style-type: none"> • Are invitations to participate in the MSG transparent and open? • Are outreach efforts being made to a wider group of stakeholders that have an interest in extractive sector management? • Are marginalised or remote groups being considered? 	<ul style="list-style-type: none"> • Mexico • United States
Step 2: Nominate MSG members	<ul style="list-style-type: none"> • Does the MSG have adequate and inclusive representation of key stakeholders (encompassing geographic and production areas, diverse civil society, key government agencies, key industry actors, gender balance)? • Do constituencies autonomously and independently nominate their representatives? • Are senior government officials represented? 	<ul style="list-style-type: none"> • Armenia • Ghana • Guinea • Nigeria
Step 3: Agree Terms of Reference (ToRs) for the MSG, including decision-making procedures	<ul style="list-style-type: none"> • Are the agreed ToRs clear and understood by all constituencies? • Do the ToRs cover all issues of MSG governance (i.e. role, responsibilities and rights, approval of work plan and oversight of implementation, internal rules and procedures)? 	<ul style="list-style-type: none"> • Ecuador • Madagascar • Philippines • Zambia
Step 4: Consider establishing a legal basis for the MSG	<ul style="list-style-type: none"> • What are the potential legal barriers to EITI implementation? • What legal instruments are available? 	<ul style="list-style-type: none"> • Liberia • Madagascar • Mauritania • Nigeria • Peru • Ukraine
Step 5: Consider establishing a national secretariat to support the MSG	<ul style="list-style-type: none"> • What kind of support does the MSG require from a EITI national secretariat? • What are the roles and responsibilities of the national secretariat? Are these included in the MSG ToRs? 	<ul style="list-style-type: none"> • Ecuador • Uganda



Requirement 1.4

The objective of this requirement is to ensure that there is an independent MSG that can exercise active and meaningful oversight of all aspects of EITI implementation that balances the three main constituencies' (government, industry and civil society) interests in a consensual manner. As a precondition for achieving this objective, the MSG must include adequate representation of key stakeholders appointed based on open, fair and transparent constituency procedures, make decisions in an inclusive manner and also have the ability to report to wider constituencies.¹

- a) The government is **required** to commit to work with civil society and companies and establish a multi-stakeholder group to oversee the implementation of the EITI. In establishing the multi-stakeholder group, the government **must**:
 - i. Ensure that the invitation to participate in the group is open and transparent.
 - ii. Ensure that stakeholders are adequately represented. This does not mean that they need to be equally represented numerically. The multi-stakeholder group **must** comprise appropriate stakeholders, including, but not necessarily limited to: the private sector; civil society, including independent civil society groups and other civil society such as the media and unions; and relevant government entities which can also include parliamentarians. Each stakeholder group **must** have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse representation. The nomination process **must** be independent and free from any suggestion of coercion. The multi-stakeholder group and each constituency **should** consider gender balance in their representation to progress towards gender parity.
 - iii. Consider establishing the legal basis of the group.
- b) The multi-stakeholder group is **required** to agree clear public Terms of Reference (ToRs) for its work. The ToRs **should**, at a minimum, include provisions on:

The role, responsibilities and rights of the multi-stakeholder group:

 - i. Members of the multi-stakeholder group should have the capacity to carry out their duties.

¹ EITI (2021), *Validation Guide*, <https://eiti.org/document/2021-eiti-validation-guide#req14>.

- ii. The multi-stakeholder group **should** undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society. The multi-stakeholder group **should** also widely disseminate the public information that results from the EITI process.
- iii. Members of the multi-stakeholder group **should** liaise with their constituency groups.
- iv. Members of the multi-stakeholder group are **expected** to abide by the EITI Association code of conduct.

Approval of work plans and oversight of implementation:

- v. The multi-stakeholder group is **required** to approve annual work plans in accordance with Requirement 1.5.
- vi. The multi-stakeholder group **should** oversee the EITI reporting process and engage in Validation.

Internal governance rules and procedures:

- vii. The EITI **requires** an inclusive decision-making process throughout implementation, with each constituency being treated as a partner. Any member of the multi-stakeholder group has the right to table an issue for discussion. The multi-stakeholder group **should** agree and publish its procedures for nominating and changing multi-stakeholder group representatives, decision-making, the duration of the mandate and the frequency of meetings. This **should** include ensuring that there is a process for changing group members that respects the principles set out in Requirement 1.4(a). Where the multi-stakeholder group has a practice of per diems for attending EITI meetings, or other payments its members, this practice **should** be transparent and should not create conflicts of interest.
- viii. There **should** be sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption.
- ix. The multi-stakeholder group **must** keep written records of its discussions and decisions

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How Requirement 1.4 is assessed in Validation

The EITI Validation Guide provides further guidance on how countries should ensure adherence to Requirement 1.4. Key areas include:

- Nomination and replacement procedures of appropriate stakeholders.
- Engagement with a diverse range of stakeholders to ensure adequate representation (including gender balance).
- Independence and representation of civil society organisations and avoidance of conflict of interest.
- Compliance with EITI Code of Conduct.²
- Adherence to the MSG's adopted rules (Terms of Reference).

² EITI (2014), *EITI Association Code of Conduct*, <https://eiti.org/document/eiti-association-code-of-conduct>.



Common challenges in MSG governance and oversight

Many countries face challenges with ensuring efficient multi-stakeholder governance in EITI implementation. Common challenges include:

1. Challenges in representation, nomination and participation:

- **Frequent reshuffling.** Representatives from government may not serve their full terms on the MSG due to changes in political appointments. Reshuffling may also occur within other constituencies. It is recommended that MSGs agree clear selection procedures, including procedures for changing constituency members within the term of the MSG.
- **Unclear nomination procedures.** The absence of clear and transparent mechanisms for constituency coordination and nominations can result in unbalanced representation and the exclusion of certain stakeholders, such as women and representatives from marginalised groups.
- **Limited engagement with broader constituencies.** Inadequate engagement will limit MSG representatives' ability to gather views and channel concerns from relevant stakeholders in their constituencies.
- **Absence of diversity in member selection.** This may result when there is limited knowledge on the value of diversity and inclusion, and there no clear timeline and nomination procedures, and pluralism in their selection and nomination processes.

2. Challenges in effective decision-making and governance:

- **Sporadic MSG meetings, low attendance and lack of meaningful participation.** It is important that MSG representatives are committed to participate in, and contribute effectively to, MSG meetings. However, MSG members may find it challenging to meet regularly due to multiple commitments. It is recommended that MSG meetings are held on a regular basis with sufficient notice and that the national secretariat prepares papers well in advance to maximise discussion and participation.
- **Difficulties in reaching consensus.** In some cases, EITI implementation has stalled because decisions have been taken without agreement by all constituencies, leading to a breakdown of trust and confidence in the EITI process. While consensus requires time, effort and willingness to compromise by all stakeholders, it is essential for a sustainable and inclusive EITI process.
- **Protracted decision-making.** Clear decision-making rules are key to ensure good governance. In cases where there are difficulties in convening MSG meetings due to the COVID-19 pandemic, or where consensus has not been reached, it is important that MSGs agree alternative ways to reach decisions to avoid stalling the EITI process.

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- **Lack of provisions related to the EITI Code of Conduct:** Avoiding real and perceived conflicts of interest is a key aspect of good governance. Without an appropriate and robust grievance mechanism, MSGs may be unable to resolve conflicts, tensions or complaints that arise from the EITI process. For example, per diem policies should be transparent and commensurate with the nature of members' contributions. Concerns related to possible conflicts of interest arising from MSG members changing roles or organisations within their MSG term (i.e. a problem known as “revolving doors”) should be addressed by the MSG.
- **Poor record-keeping.** The MSG must document its discussions and meeting attendance of each member, including the capacity in which they participate, their constituency and their gender. These records should also indicate whether meetings were quorate. MSG minutes should be made publicly available.

3. Challenges in capacity and adequate expertise for effective oversight of implementation:

- **Lack of capacity to engage in technical discussions.** Limited capacity can often result in delays with EITI implementation and work plan activities, and limit scope for analysis and dissemination of EITI data. The MSG is advised to carry out an assessment of capacity constraints and include actions on addressing capacity gaps in its work plan. When technically challenging issues are likely to be discussed, the MSG can consider seeking briefings for MSG members from subject specialists, while keeping diversity and inclusion in mind.
- **Limited support from national secretariats.** Most EITI implementing countries establish a national secretariat to support the functioning of the MSG. MSGs should ensure a clear division of responsibilities between the MSG and the national secretariat. The MSG is responsible for strategic oversight and decision-making (as per the responsibilities outlined in the EITI Standard and MSG ToRs), while the national secretariat is responsible for the implementation of decisions and execution of activities agreed by the MSG. MSGs should avoid assuming responsibilities beyond their scope, as well as deferring high-level decision-making to the national secretariat, as these situations could lead to capacity constraints.
- **Weak national secretariat capacity.** To ensure proper functioning of the MSG, the national secretariat should be adequately funded and staffed to support the MSG and ensure the implementation of the MSG work plan. The MSG should ensure that resources are properly allocated so that the MSG can focus on strategic issues, dissemination and public debate of findings and recommendations derived from EITI reporting.
- **Not leveraging expertise and knowledge outside the MSG.** MSGs could draw on other stakeholders' knowledge and capacity to address key issues related to the EITI disclosures and debate. The MSG could establish an observers' policy to allow for participation from other stakeholders in MSG meetings and discussions.

KEY CONSIDERATION

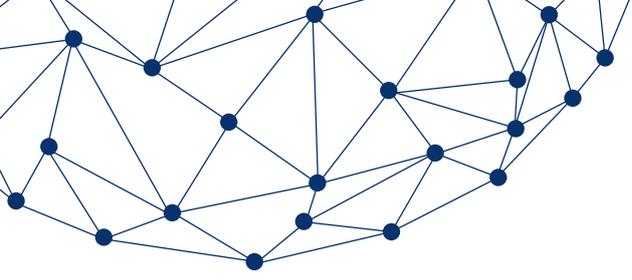
Gender representation in MSGs

The extractive industries can have significant social, economic and environmental impacts on communities that host extractive activities, such as effects on the natural environment, access to jobs, cost of living and social dynamics. Men and women often experience these impacts differently.

When striving to ensure that natural resource wealth benefit all citizens, it is important to address the structural barriers that impede women, girls and other marginalised groups from equally contributing to, and benefitting from, natural resource management. In the context of EITI implementation, this includes taking purposeful action to support women's representation on MSGs in accordance with Requirement 1.4.a.ii of the EITI Standard. The EITI can ensure that women play a meaningful role in the EITI's consultation and decision-making processes at both the global and national level.

In October 2021, a study by the EITI International Secretariat showed that women make up an average of 24% of MSG representatives, and that 19% of MSG chairs and 36% of National Coordinators were women. In 19 countries, fewer than a fifth of representatives were women and 30 MSG constituencies were comprised of only men. The analysis indicated that opportunities remain to strengthen women's participation in MSG nomination and selection processes. The study offered three key recommendations for MSGs:

1. Increase efforts to ensure that all MSG constituencies reflect the EITI Standard's expectation on gender balance.
2. Document and disseminate good practices in addressing gender balance and its impact on MSG governance, including practices related to nominations, inclusiveness and meaningful participation.
3. Consider providing gender-disaggregated employment data at a project level to inform local dialogue on women's participation in the sector.



How to implement Requirement 1.4



Step 1 Conduct outreach to stakeholders

In establishing the MSG, the government must ensure that the invitation to participate in the group is open and transparent (Requirement 1.4.a.i). In practice, the invitation to participate in the EITI process is often made in the early stages of preparing for implementation. It generally begins with the government announcing its intention to implement the EITI and inviting relevant industry and civil society stakeholders to participate in the process.

In some cases, an informal working group or interim MSG is formed to oversee the country's EITI candidature process. This typically involves conducting outreach to stakeholders, establishing procedures for nominating MSG members, forming MSG constituencies and developing the MSG ToRs and work plan. Special attention should be given towards including women's organisations, indigenous groups and historically marginalised groups throughout the process of establishing an MSG. Some countries have found it useful to commission stakeholder assessments, political economy studies, feasibility studies and legal reviews as part of the preparations for EITI candidature.

CASE STUDY

Mexico Reaching out to stakeholders and forming an MSG

Mexico conducted a thorough outreach process by raising awareness and consulting stakeholders from government, industry and civil society. The process was supported by external organisations with expertise in civil society engagement and policy-making.

The MSG's government constituency included representatives from key ministries who agreed to rotate leadership of the constituency. The industry constituency included the state-owned enterprise PEMEX, the hydrocarbon companies' association AMEXHI and the mining companies' association CAMIMEX. The civil society constituency was formed on the basis of a thorough selection process coordinated by a steering group composed of three leading organisations and facilitated by a third party, Colaboración Cívica. The process included several preparatory meetings and open applications.



CASE STUDY

United States

Conducting outreach to establish an MSG

In establishing the EITI MSG in the United States, the US government, with the help of a neutral facilitator, conducted extensive public outreach to identify relevant stakeholders in the country and understand how to form a representative and inclusive MSG. The process involved public listening sessions in areas hosting extractive activities and companies, a webinar to engage stakeholders remotely, workshops and a public comment period.



Step 2

Nominate MSG members

The MSG must be comprised of appropriate stakeholders (Requirement 1.4.a.ii), including but not necessarily limited to:

- Relevant government entities, which can also include parliamentarians.
- Industry, including private companies and state-owned enterprises.
- Civil society, including independent civil society groups and other groups such as unions and media outlets.

All stakeholders should be adequately represented. The concept of adequacy may be relevant where there is significant diversity of geographical areas and commodities produced. However, constituencies do not necessarily need to be equally represented numerically. Some countries that have numerous and diverse extractive companies, government agencies involved in revenue collection, or civil society groups working on extractives governance have applied a weighting system to determine the number of representatives from each constituency. Where a country has many interested stakeholders, the MSG can include full members as well as alternate members to maximise inclusion while ensuring efficiency in decision-making.

Each stakeholder group must have the right to appoint its own representatives (Requirement 1.4.a.ii). In addition, the government is required to ensure that senior government officials are represented on the MSG. In many countries, civil society coalitions and companies select their own representatives to join the MSG, for example by caucus or through an industry association. Sometimes public notices are issued requesting nominees.

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Gender representation

Government, industry and civil society constituencies all have a responsibility to consider adequate gender representation on the MSG in accordance with the EITI Standard. MSGs may wish to track gender composition of members and alternates on a regular basis to report on progress towards gender inclusion. MSGs could also identify and document the limitations in achieving gender balance and outline key steps needed to overcome them. The EITI's guidance on gender³ provides further examples of how MSGs can improve gender representation in EITI implementation.

EXAMPLES

Diversity and inclusion in MSGs

Nigeria

To guarantee regional diversity, Nigeria's NEITI Act 2007 Section 6(v) provides for the representation of geo-political zones and regions in the MSG. Of the 15 MSG members, six are selected from different political zones.

Armenia

In Armenia, the civil society constituency is composed of one representative from the scientific community, one from a regional civil society group and three from national civil society groups.

Ghana

Ghana's MSG guarantees two seats for subnational representatives. In 2021, the MSG included members from the Ellembelle District, representing oil and gas communities, and the Tarkwa Nsuem Municipal Assembly, representing mining communities. The MSG has also considered including traditional authorities (chiefs) into its subnational representation.

Guinea

In 2021, the civil society constituency in Guinea amended its ToRs to include a formal requirement that a third of MSG representatives be women.

³ EITI (2019), *Guidance Note: Requirements 1.4, 6.3, 7.1 and 7.4: Towards gender-responsive EITI implementation*, <https://eiti.org/document/guidance-note-eiti-requirements-14-63-71-74>.



Step 3

Agree Terms of Reference for the MSG, including decision-making procedures

Consensual decision-making is a core element in multi-stakeholder processes, and the MSG should agree and specify procedures for decision-making in the ToRs (Requirement 1.4.b.vi). The ToRs should at a minimum include: provisions on the role, responsibilities and rights of the MSG (Requirement 1.4.b.i-iii); the approval of work plans, EITI Reports and annual progress reports (Requirement 1.4.b.iv-v); and internal governance rules and procedures (Requirement 1.4.b.vi- viii).

Collaboration and cooperation to reach general agreement among all MSG members on all decisions is a fundamental part of the EITI process. The EITI Standard requires an inclusive decision-making process throughout implementation with each constituency being treated as a partner (Requirement 1.4.b.vi). Experience with implementation shows that where decisions are taken without consensus, stakeholders could lose trust in the EITI process and implementation may be jeopardised.

In agreeing procedures for decision-making, the MSG may wish to specify voting rules. Where the MSG decides that voting rules are needed, it is recommended that resolutions are adopted by a qualified majority⁴ and include support from all the constituencies. This is essential to ensure inclusive decision-making, including in cases where stakeholders have unequal numerical representation on the MSG. The MSG is also advised to agree quorum rules.

See [Annexe A](#) for considerations and guidance on developing MSG ToRs.

⁴ In general, a qualified majority is a majority in a vote that reaches a pre-set threshold value larger than 50% and, often, follows rules on a minimum of votes from each of the constituent parts of the decision body. A qualified majority is often required instead of a simple majority for reaching a decision on important matters.

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Zambia

Establishing clear selection and decision-making processes

In 2019, Zambia's Validation found that the invitation to participate in the MSG was open and transparent, stakeholders were being adequately represented and the MSG ToRs were being followed. The ToRs and the MSG selection process were clear and understood by the MSG members, and decision-making was conducted in an inclusive way that treated each constituency as a partner.

Source: Republic of Zambia (2011), "[Terms of Reference of the Zambia EITI Council \(ZEC\)](#)".

CASE STUDY

Madagascar

Establishing processes, roles and responsibilities for MSG constituencies

Established by presidential decree in 2017, Madagascar's MSG ToRs include calls for applications to be part of the industry and civil society's constituencies. The roles of the MSG and national secretariat are clearly defined, as are processes related to working groups and observers. Constituencies appoint leads who are mandated to mobilise each constituency position after broader consultations. The ToRs also explain key terms such as Independent Administrator, EITI Champion, EITI, EITI Report and Validation.

Source: EITI Madagascar (2017), "[Décret n° 2017-736 du 30 août 2017 portant institutionnalisation de l'Initiative pour la Transparence des Industries Extractives](#)".

CASE STUDY

Philippines

Establishing principles of engagement

The PH-EITI ToRs outline the mission and detailed objectives for EITI implementation as well as the principles for engagement between government, business and civil society stakeholders. These include integrity, inclusivity, commitment to consult, capacity building and empowerment. They also define the roles of the MSG as a whole and by each constituency and link the MSG's work to national priorities.

Source: PH-EITI (2013), "[Multi-Stakeholder Group \(PH-EITI MSG\) Amended Terms of Reference](#)".

CASE STUDY

Ecuador

Establishing constituency autonomy and independence

Ecuador's MSG ToRs establish that representatives of each constituency are to be autonomous and independent. They also define the role of the MSG and the members' rights and responsibilities. The ToRs include the obligation to declare potential conflicts of interest, define the observers' policy and the functioning of selected working groups to ensure efficient MSG work, and regulate the functioning of a national secretariat to support the MSG.

Source: Ecuador EITI, "*Reglamento de operación del Grupo Multipartícipe EITI – Ecuador*", <https://eiti.org/document/ecuador-eiti-candidature-application>.



Step 4

Consider establishing a legal basis for the MSG

In establishing the MSG, the government must consider establishing a legal basis for the group (Requirement 1.4.a.iii). In some countries, the EITI operates without a statutory basis (e.g. where stakeholders agree a Memorandum of Understanding). In other cases, presidential decrees or amendments to existing regulations and/or legislation have been necessary. When signing up to the EITI, governments should consider whether a formal legal basis is needed. Undertaking a legal review might help to identify potential legal obstacles to EITI implementation and what kinds of legal instruments, if any, are necessary to support implementation.

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Legal instruments for establishing MSGs

Several countries have used legal instruments to establish the EITI MSG. For example, the MSGs in Madagascar, Mauritania and Peru were created by presidential or ministerial decrees:

- Madagascar: [Décret n° 2017-736 du 30 août 2017 portant institutionnalisation de l'Initiative pour la Transparence des Industries Extractives](#)
- Mauritania: [Décret n° 2009-231 portant création, organisation et fonctionnement du comité national de l'initiative sur la transparence des industries extractives](#)
- Peru: [Decreto Supremo que crea la Comisión Multisectorial Permanente para el Seguimiento y Supervisión de la Transparencia en el empleo de los recursos que obtiene el Estado por el desarrollo de la Industrias Extractivas Minera e Hidrocarburífera](#)

MSGs in Liberia, Nigeria and Ukraine are established within a broader law that regulates EITI implementation:

- Liberia: [LEITI Act \(2009\)](#)
- Nigeria: [NEITI Act \(2007\)](#)
- Ukraine: [Law 2545-VIII On ensuring transparency in extractive industries](#)



Step 5 Consider establishing a national secretariat to support the MSG

In the majority of EITI implementing countries, the government establishes a national secretariat to support the MSG in carrying out the day-to-day activities related to EITI implementation. The national secretariat is often housed within the line ministry responsible for EITI implementation. The financial and human resources allocated to the activities of the national secretariat vary considerably across countries. In some cases, two or three staff members are sufficient to support implementation, while in other countries national secretariats include up to 50 staff.

The EITI has no requirements related to the establishment and operation of national secretariats, but in many countries the MSG has found it useful to specify the role and responsibilities of the national secretariat in the MSG ToRs.⁵ In the absence of a dedicated national secretariat, some MSGs are supported by staff from the host government agency or ministry which provide secretarial and coordination support.

⁵ For further guidance, see EITI (2016), *Guidance Note: EITI Requirement 1.1 (national secretariats)*, <https://eiti.org/document/guidance-note-eiti-requirement-11-national-secretariats>.

CASE STUDY

Ecuador

Establishing the roles and responsibilities of the national secretariat

Ecuador's MSG ToRs establish that representatives of each constituency are to be autonomous and independent. They also define the role of the MSG and the members' rights and responsibilities. The ToRs include the obligation to declare potential conflicts of interest, define the observers' policy and the functioning of selected working groups to ensure efficient MSG work, and regulate the functioning of a national secretariat to support the MSG.

Source: Ecuador EITI, "[Reglamento de operación del Grupo Multipartícipe EITI – Ecuador](https://eiti.org/document/ecuador-eiti-candidature-application)",
<https://eiti.org/document/ecuador-eiti-candidature-application>.

CASE STUDY

Uganda

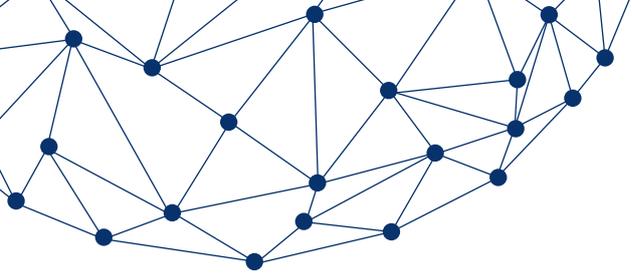
Leveraging the national secretariat for technical support

To support the MSG in developing and implementing a work plan that is aligned to national priorities and the EITI Standard, Uganda established a national secretariat with the requisite technical capacity. The Uganda national secretariat provides technical support and includes two economists, a governance specialist, a legal officer, a statistician and a communications officer. The MSG has established technical committees that work on various thematic issues.

EXAMPLES

Absence of a national secretariat

As Mexico does not have an EITI national secretariat, the MSG is supported by staff in the government's Secretary of Economy. In Cote d'Ivoire, the ToRs for the MSG establishes a "Technical Secretariat" but in practice this role is filled with officials from the host government agency. In Norway, staff in the Ministry of Petroleum coordinate EITI activities.



Mainstreaming multi-stakeholder consultation and oversight

In cases where EITI disclosures are systematically disclosed via government and company systems, implementing countries may consider opportunities for multi-stakeholder consultation and oversight using representative bodies outside of the EITI MSG. Using alternative and established channels for consultations and oversight (e.g. fora such as parliamentary committees and other public bodies that engage with extractives governance) can allow the MSG to transition from overseeing EITI reporting to holding wider discussions about governance reforms, embedding transparency and accountability mechanisms in government systems, and informing public debates and policy-making. For countries considering mainstreamed implementation, the role of the MSG is likely to evolve and vary from country to country. As more data is disclosed systematically, MSGs might consider undertaking more analysis and use of the data provided.

Integrating existing bodies into the consultation and oversight process of the EITI may be possible under certain conditions (see examples below). The approach should have the potential to increase stakeholder engagement and make strengthen constituencies' participation. Such bodies must still maintain the same level of commitments, roles and responsibilities as set out in the EITI Standard.

A mainstreamed approach to MSG oversight would also require a request for adapted implementation.⁶ Where proposals for mainstreamed implementation do not retain conventional MSG oversight, care should be taken to ensure that the alternative processes for multi-stakeholder consultation and dialogue encompass:

- Opportunities for stakeholders to shape the scope and nature of extractives transparency;
- Opportunities for stakeholders to make recommendations for governance reform and be more involved in public policy processes;
- That all stakeholders have an opportunity to shape decisions, be heard and contribute.

Where these conditions are not met, adapted implementation requests to mainstream multi-stakeholder oversight will not be approved.

6 See Section 4, Article 1 of the EITI Standard: <https://eiti.org/document/eiti-board-oversight-of-eiti-implementation#Article1>.

In addition to the above criteria, MSGs may also wish to consider stakeholders' capacity to engage in extractives governance in their proposals for adapted implementation. Countries are encouraged to consider whether other institutions, bodies or mechanisms could be engaged in the multi-stakeholder approach.

Regular disclosure of extractive industry data is of little practical use without public understanding of what the figures mean and debate about how natural resource revenues can be used effectively. Relevant stakeholders should be engaged in dialogue about EITI data and findings emerging from EITI implementation. Countries could consider alternative ways of using existing bodies, fora or channels at both national and subnational levels to spur debate and analysis of EITI data.

EXAMPLES

Opportunities to use existing bodies for consultation and dissemination of EITI data and findings

In **Kazakhstan**, there have been discussions about delegating the MSG's responsibilities of disseminating and promoting use of data to public councils, which are comprised of government and civil society representatives and established by law at the regional and local levels. Although these councils do not adopt a multi-stakeholder approach, local stakeholders appear to consider them appropriate for the purpose of discussion and debate about EITI data.

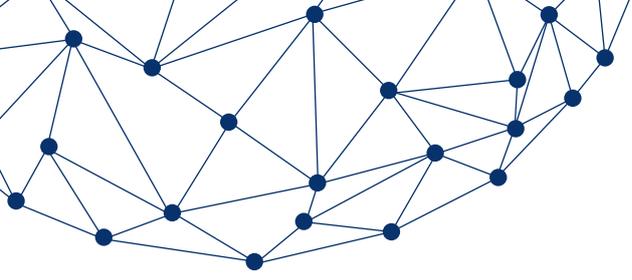
In **Mexico**, the hydrocarbon licensing and regulatory body CNH (Comisión Nacional de Hidrocarburos) established a consultative body with external members to advise on the commission on licensing, contracting and monitoring of contract obligations by operators.

In various **Latin American** countries, the national Open Government Partnership (OGP) bodies are addressing governance and accountability issues in areas interlinked with the EITI. In **Mexico**, OGP commitments related to beneficial ownership are monitored by stakeholders also active in EITI work. In **Honduras**, the Ministry of Transparency and EITI Champion and civil society organisations engaged in the MSG are also involved in other initiatives like OGP and the Infrastructure Transparency Initiative (CoST).

In **Norway**, stakeholders agreed that various industry and civil society fora, conferences, parliamentary hearings and debates are better avenues for stakeholder input on natural resource governance than a designated EITI MSG. Norway's request for adapted implementation, that does not include a designated EITI MSG, was approved by the EITI Board.

In the **Philippines**, provincial multi-stakeholder bodies are tasked to oversee the governance of the mining sector. These bodies are consulted and participate in the EITI's dissemination activities at the subnational level.

In **Timor-Leste**, a multi-stakeholder consultative council advises parliament on the management of the Petroleum Fund. The council is comprised of representatives from government, industry, civil society and parliament. It has a statutory role in overseeing and advising on the policies and practices regarding the management of the revenue from oil and gas, and could constitute an alternative platform for future EITI-related dialogue.



Flexible reporting

The COVID-19 pandemic has posed new challenges for most EITI implementing countries, such as limitations on convening in-person meetings and disseminating information. In recognition of these challenges, the EITI Board agreed several measures to provide flexibility in EITI implementation and reporting,⁷ including guidance on convening MSGs.

In cases where MSGs are unable to convene meetings due to unexpected crises such as the COVID-19 pandemic, the EITI Board will take this into account during Validation when assessing whether the MSG approved key decisions relating to the EITI process. However, MSG chairs must demonstrate that they have taken “reasonable steps” to continue MSG activities, which could include:

- Circulating documents with sufficient notice prior to meetings or conference calls;
- Reaching out to MSG members by phone or online;
- Providing sufficient time for MSG members to provide input to draft documents;
- Requesting confirmation from MSG members from each constituency to approve decisions.

The approach approved by the Board on flexible reporting will be effective until the end of 2022. This allows countries to learn from lessons from implementing the EITI Standard through innovative ways during this time. Some early lessons have highlighted the increased engagement of MSGs in ensuring data is timely disclosed and disseminated. This, in turn, has improved the MSG oversight of the implementation of the EITI.

⁷ See the EITI’s webpage “EITI reporting during COVID-19”, <https://eiti.org/eiti-reporting-during-covid19>.

CASE STUDY

Argentina

Adopting a flexible approach to reporting

EITI-Argentina adopted a flexible approach for its 2018 EITI Report. The MSG was directly responsible for the oversight of data collection, drafting and preparing the report, with assistance from an external consultant who fulfilled a limited number of functions normally assigned to the Independent Administrator. The MSG's approach combined systematic disclosure and the collection and publication of missing data points in a shorter report. This was supplemented with information on how COVID-19 impacted the extractive industries in 2020. The adoption of the flexible approach provided an opportunity to the MSG to be more directly involved in the EITI implementation beyond its oversight mandate.

Source: *EITI-Argentina (2020)*, [Informe EITI-Argentina 2018](#).

CASE STUDY

Zambia

Adopting a flexible approach to reporting

Zambia EITI adopted a flexible approach for its 2019 EITI Report, which includes a risk-based approach to reconciliation and the impacts of COVID-19. The MSG administered a questionnaire to assess the government relief measures for companies. In preparation for the 2020 EITI Report, the MSG decided to be more involved in the production of the report, without the support of an external Independent Administrator. This has given the MSG an opportunity to strengthen its oversight and scrutiny of EITI disclosures.

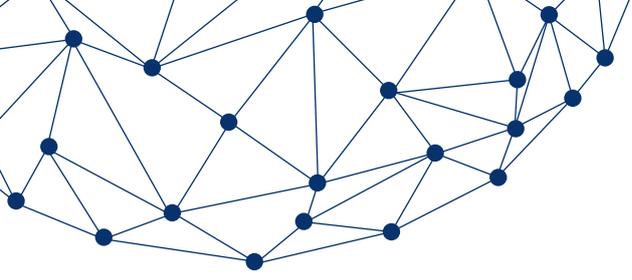
Source: *Zambia EITI (2020)*, [Zambia EITI Report 2019](#).



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Annexe A:

Key considerations for developing MSG Terms of Reference

1. Open statement on the purpose of the EITI

The MSG may wish to open the ToRs with agreed principles setting out the purpose and objectives of the EITI in the country.

2. Roles, rights and responsibilities of the MSG

It is important to clarify the roles, rights and responsibilities of the MSG to ensure that the MSG has a clear mandate to avoid confusion and overlaps (Requirement 1.4.b i-iii).

- i. **Responsibilities and functions of the MSG:** The ToRs should specify its functions and responsibilities of the MSG. In accordance with Requirement 1.4(b), this should include but not necessarily be limited to: approval of work plans; oversight of the EITI reporting process, including the appointment and approval of the Terms of Reference of the Independent Administrator, and endorsement of the EITI Reports; development of annual activity reports; the role of the MSG in the Validation process; outreach and liaison with constituency groups; and communication activities.

EXAMPLE

The [ToRs](#) for the Ecuador MSG (Chapter III) include a thorough and clear description of the roles, responsibilities and function of the MSG. The [ToRs](#) for the Philippines MSG include a detailed description of the roles and responsibilities for each constituency.

- ii. **Responsibilities of MSG members:** The MSG may wish to define the specific role of MSG members, e.g. the MSG chair. If constituencies have different responsibilities, these can also be defined. If necessary, the MSG may wish to address capacity issues related to meeting responsibilities.
- iii. **MSG subgroups:** Many implementing countries have established MSG subgroups to handle specific tasks that the MSG needs to carry out (e.g. EITI reporting or communications). This can help ensure that progress is made in between MSG meetings.

The MSG may wish to specify whether permanent subgroups should be established, including their roles and responsibilities, or whether the ToRs should provide for establishment of subgroups on an ad hoc basis.

EXAMPLES

The [ToRs](#) of the UK MSG state that the MSG may decide that particular issues should be developed by a subgroup. Each such subgroup must be led by an MSG member who will be supported by one or more other MSG member(s). The subgroup leader may also invite outside experts to participate in the subgroup, but only with the agreement of all MSG members of the subgroup. The subgroup makes recommendations to the MSG.

According to the [NEITI Board Charter](#), the Nigeria MSG has six Standing Committees: Audit and Risk Committee, Human Resource Committee, Finance and General Purpose Committee, Communications Committee, Board Tender Committee and Ethics Committee. Ad hoc committees can be established as the need arises.

- iv. National secretariat:** Most implementing countries decide to establish a national secretariat to support the work of the MSG and carry out day-to-day EITI activities. The MSG may wish to define the MSG's relationship with the national secretariat, including the roles and responsibilities.

EXAMPLE

The [ToRs](#) of the Philippines MSG state that the MSG supervises the national secretariat. In Nigeria, the Executive Secretary is appointed by the President upon the recommendation of the MSG and is also a full member of the MSG.

- v. Code of conduct:** The MSG may wish to include guidelines on the conduct of MSG members. This typically includes disclosure of conflicts of interest, treatment of confidential information, and could include provisions for safeguarding against discrimination, sexual harassment and gender-based violence. All EITI office holders are also subject to the EITI Association Code of Conduct.¹
- vi. Payments to MSG members:** The practice of giving per diems for attending EITI meetings or other payments to MSG members should be discouraged in favour of payments for expenses. Where this practice occurs, it should be modest, transparent, should not create conflicts of interest, and should allow for geographically diverse constituencies to participate (Requirement 1.4.b.vi.).

¹ EITI (2014), "EITI Association Code of Conduct", <https://eiti.org/document/eiti-association-code-of-conduct>.

EITI REQUIREMENT 1.4

Establishment and governance of multi-stakeholder groups

Guidance Note

3. MSG membership

The MSG should agree procedures for nominating and changing MSG representatives and the duration of the mandate (Requirement 1.4.b.vi). In accordance with Requirement 1.4.a, each stakeholder group must have the right to appoint its own representatives and should consider pluralistic and diverse representation, including gender balance. All stakeholders must also be adequately represented. This does not mean that there must be an equal number of members from each constituency.

- i. **Nominations and terms of membership:** The MSG is advised to specify the total number of MSG members and the number of members from each constituency. It is required that the ToRs: clarify the mechanism for selecting and replacing MSG members; determine the length of the term of the MSG and whether members can be re-appointed after the term ends; and specify whether MSG member have alternates and how they are selected. Also, the ToRs can provide conditions for gender-inclusive nominations per constituency to strengthen women's representation in the MSGs. This may be codified in national law, EITI-specific laws or customary practice.

EXAMPLES

The [ToRs](#) of the Philippines MSG specify that each constituency group can change their members according to their own governance rules.

Term lengths vary from country to country. A typical MSG term is two to three years (e.g. Indonesia, the Philippines and Timor-Leste).

MSGs typically have 12 to 24 members. Several countries have equal numerical representation (e.g. Mongolia or Kazakhstan) while others have unequal numerical representation (e.g. Cameroon or Nigeria).

In Norway, the law requires an equal gender distribution for any committee convened to advise the government, which was reflected in the Norway MSG in 2015. In Tanzania, the country's EITI's founding law required that the composition of the MSG (TEITI Committee) was gender balanced.

- ii. **Observers:** The MSG may wish to specify a policy on observers, i.e. how observing parties can contribute to MSG discussions. Such a policy can help ensure the EITI process accounts for additional subject matter expertise, diversity and participation of national secretariat staff that could enhance MSG discussions.

EXAMPLES

The ToRs of the Mongolia MSG specify that “citizens, representatives of national and foreign agencies and organisations are entitled to participate in the MSG meeting, make speech, make proposal, ask questions and get responses.”

The [ToRs](#) of the UK MSG state that up to six observers are welcome at each meeting. Observers may engage in the MSG discussion but do not have a right to vote. Observers for each meeting are nominated by MSG members in advance, and an additional standing observer slot is allocated to the EITI International Secretariat.

4. MSG operations and proceedings

The ToRs should set out the internal governance rules and procedures of the MSG (Requirement 1.4.b.vi-viii).

- i. **Frequency and notice of meetings:** Requirement 1.4.b.vii states that there should be sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption. This enables MSG members to prepare for meetings and discussions. Any MSG member has the right to table an issue for discussion (Requirement 1.4.b.vi). The MSG is advised to ensure that the ToRs specify the minimum notice of meetings, quorum, the frequency of meetings and the process for calling meetings.

EXAMPLES

The [ToRs](#) of the Philippines MSG specify that the MSG should meet quarterly or as often as required. The chair should call meetings with a minimum of one week’s notice.

In Mongolia, the MSG chair and the deputy chair call meetings, and the secretary of the National Council has the responsibility to prepare for the meetings. The agenda and associated materials must be sent to all members at least three days before each National Council meeting.

- ii. **Decision-making:** The EITI Standard requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner (Requirement 1.4.b.vi). The ToRs should specify the agreed procedures for decision-making. This could include guidelines on quorum, voting rules and procedures for decision-making in between MSG meetings.
- iii. **Record keeping:** The MSG must keep written records of its discussions and decisions (Requirement 1.4(b)(viii)). It is recommended that the MSG ToRs clarify the procedures for circulating and agreeing MSG meeting minutes, and whether the minutes should be made public.