



**COMMENTS OF THE NATIONAL EITI COUNCIL ON THE VALIDATION REPORT**

## **1. INTRODUCTION**

In February 2018, the Government of Côte d'Ivoire committed to implement the EITI and established a multi-stakeholder group.

After completing its first validation in 2010, Côte d'Ivoire only achieved compliance with the EITI Requirements with a second validation in May 2013, due to the political crisis of 2010-2011.

Following the decision of the EITI International Board of 25 October 2016, the Côte d'Ivoire validation process under the 2016 EITI Standard commenced on 1 April 2017 (EITI Board, 2016).

Thus, a mission to Abidjan by the International Secretariat of the EITI was conducted from 3 to 7 July 2017, after information gathering.

Also, a draft validation report was produced by the company ASI following a quality assurance review of the initial evaluation conducted by the EITI International Secretariat. The Validator broadly confirmed the initial evaluation of the EITI International Secretariat.

## **2. NOTES ON THE INITIAL EVALUATION BY THE INTERNATIONAL SECRETARIAT AND THAT OF THE INDEPENDENT VALIDATOR**

The EITI National Council (EITI-NC) finds that the overall evaluation of the Independent Validator is consistent with the conclusions of the initial evaluation made by the EITI International Secretariat.

On reading these evaluations, the members of the EITI-NC have decided to make the necessary clarifications below on the issues raised in relation to requirements that are not met and recommend a re-evaluation.

## **3. COMMENTS AND RESPONSES OF THE EITI NATIONAL COUNCIL**

### **3.1 REQUIREMENT 1**

Requirement 1 is for effective stakeholder monitoring of EITI. This particularly involves ensuring that the multi-stakeholder group is operational and includes government and business, and requires the full, independent, active and effective participation of civil society.



EITI Requirement	Comments by the International Secretariat and Validator	Observations by EITI-NC	Recommendations
MSG governance (1.4)	<p>The MSG does not offer appropriate representation of each college and the process for the appointment of representatives of each stakeholder group remains opaque. Most Government representatives no longer occupy the positions which earned them appointment to the MSG, while they continue to sit on it and collect per diems. The rules of the MSG are publicly available, but appear not to be applied in practice. In addition, the policy regarding per diems for members of the MSG remains ad hoc and opaque, creating tensions between the EITI focal points who do all the EITI declaration work without receiving per diems and the MSG members who continue to receive per diems even after leaving the organizations that they represented in the MSG.</p>	<p>The MSG takes note of these comments. During its last 2017 session, however, EITI-NC members decided to undertake deep reforms necessary in light of the new EITI guidelines. Thus, a workshop was planned for the first quarter of 2018 to propose amended texts and structures for governance, as evidenced by the ToR attached. Civil society has taken steps and has proposed draft texts which will be shared in the documentation for the workshop planned for the first quarter of 2018.</p> <p>The EITI-NC would, however, like to highlight that members receive a meeting allowance and not a per diem allowance.</p>	<p>In light of ongoing actions, we hope that this requirement will be changed from "inadequate progress" to "significant progress".</p>
Work plan (1.5)	<p>The EITI-Côte d'Ivoire work plans include goals that reflect national priorities, such as the extension of the field of application of the EITI declaration to artisanal mining activities. The activities in the work plans are measurable, but are not</p>	<p>The initial evaluation comments clearly show that the essential elements required were taken into account in the EITI-Côte d'Ivoire work plan, including objectives that reflect national priorities, such as the extension of the field of application of the EITI declaration to artisanal mining. The activities in the work</p>	<p>On the basis of the observations by EITI-NC, we recommend that this requirement change from "inadequate progress" to "significant progress".</p>

	<p>always time-limited or fully costed. The work plans also include activities to mitigate the capacity problems and activities to implement the roadmap on beneficial ownership and the Government's openness policy.</p>	<p>plans are measurable. The work plans also include activities to mitigate the capacity problems and activities to implement the roadmap on beneficial ownership and the Government's openness policy. Successive 2014, 2015 and 2016 progress reports show implementation of several activities in the 2013-2014, 2015-2017 and 2017-2019 work plans (<a href="http://www.cnitie.ci">www.cnitie.ci</a>).</p> <p>Furthermore, a work plan development workshop was held on 22 and 23 March 2017 in the presence of all stakeholders, resource persons and the press. The work plan was updated on this occasion, and this updated plan is available at <a href="http://www.cnitie.ci">www.cnitie.ci</a>.</p> <p>Also, as part of the annual work plan update process, the EITI National Council undertook to address those aspects that are not yet included. As can be seen, initiatives are under way, even though the specific objective has not yet been fully achieved.</p>	
	<p>EITI-NC recommendations to the Secretariat:</p> <p>Reconsider the evaluation of points 1.4 and 1.5 to change them from "inadequate progress" to "significant progress".</p>		

### **3.2 REQUIREMENT 2**

**Requirement 2** is for the disclosure of information related to the rules governing the management of the extractive sector, enabling stakeholders to understand the laws and procedures for the allocation of production and exploration licenses, the legal, regulatory and contractual framework applicable to the extractive sector and the institutional responsibilities of the State in the management of the sector.

EITI Requirement	Comments by the International Secretariat and Validator	Observations by EITI-NC	Recommendations
License allocations (2.2)	<p>The 2015 EITI Report does not disclose the whole of the licensing process for the 90 licenses allocated in 2015 in the mining sector. The technical and financial criteria used in the PSA signed in September 2015 with Anadarko have not been published. Neither does the report disclose the technical and financial criteria used for the transfers of licenses allocated in the hydrocarbons sector in 2015.</p>	<p>In the mining sector, the implementing Decree, No. 2014-397 of 25 June 2014 determining the modalities of application of Law 2014-138 of 24 March 2014 on the Mining Code provides in its title II the technical and financial criteria for the allocation of licenses. These criteria apply to all applicants for licenses.  <a href="http://www.gouv.ci/doc/accords/1449057553code-minier-2014.pdf">www.gouv.ci/doc/accords/1449057553code-minier-2014.pdf</a>  <a href="http://www.industrie.gouv.ci/themes/default/doc/decret_application.pdf">www.industrie.gouv.ci/themes/default/doc/decret_application.pdf</a></p> <p>In the oil sector, the generally-used practice is that of private contract for all contracts. The 2015 EITI Report explained on page 31 that this was a negotiation between all the parties, namely the Ministry responsible for hydrocarbons, the Ministry responsible for the economy and finance, the Ministry of the Budget, the General Directorate of Hydrocarbons, PETROCI and Anadarko.</p> <p>In general terms, the implementing Decree, No. 96-733 of 19 September 1996 (<a href="http://www.cnitie.ci/doc/43-code-ptrolier.html">http://www.cnitie.ci/doc/43-code-ptrolier.html</a>/ <a href="http://san-cnitie.blug.com/files/CODE-PETROLIER-DECRET-APPLICATION.pdf">http://san-cnitie.blug.com/files/CODE-PETROLIER-DECRET-APPLICATION.pdf</a>) on the general modalities of application of the law on the oil code provides in its article 10 the conditions and technical, financial and legal criteria for the granting of a reconnaissance license, an exploration permit or an oil contract, regardless of the</p>	<p>In light of the observations by the EITI-NC, we recommend that this requirement change from "inadequate progress" to "significant progress".</p>

		<p>procedure chosen (private contract or invitation to tender).</p> <p>The 2015 EITI Report also makes recommendations to improve the disclosure of information related to the allocation criteria for future reports. To this end, EITI-NC undertakes to take the consequent measures.</p>	
Register of licenses (2.3)	<p>Côte d'Ivoire does not have a publicly available register or cadastre system for its oil, gas and mining sectors, but the EITI Report contains full information on mining licenses, in accordance with EITI Requirement 2.3, including the names of the license holders, and the locations, surface areas and coordinates of each license. It should be noted that the report also provides detailed information on the licenses held by artisanal diamond and coltan miners, as well as on those held by enterprises involved in the semi-industrial production of gold. Nonetheless, the report does not, disclose full information for licenses in the hydrocarbons sector.</p>	<p>The mining sector currently has a public interactive on-line register.  <a href="http://portals.flexicadastre.com/CoteDivoire/FR/">http://portals.flexicadastre.com/CoteDivoire/FR/</a>.</p> <p>With regard to the oil sector, the regularly updated map of oil blocks made it possible to have information on license holders, locations and surface areas. The map of oil blocks is on page 24 of the 2015 EITI Report. Also, a portal is being designed for the downstream oil sector which will be extended to the upstream sector (extractive oil companies) for the oil sector in accordance with Requirement 2.3.</p>	<p>In light of the observations of the EITI-NC, we recommend that the score of "significant progress" should move to "satisfactory progress".</p>

<p>State participation (2.6)</p>	<p>The report clearly describes the rules and practices applicable to the financial relationship between the Government and SODEMI, but the description of the financial relationship between the State and the national oil company (PETROCI) remains unclear and not exhaustive. The rules and practices governing the transfers of funds between PETROCI and the State, retained earnings, reinvestments and financing by third parties cannot be fully assessed without the PETROCI financial statement, which is not published.</p>	<p>According to the initial comments by the International Secretariat, the rules and practices applicable to the financial relationship between the Government and SODEMI are clearly described.</p> <p>Transfers of funds between the State and PETROCI concern, in addition to the State's crude oil or gas share in the Consortium, dividends paid to the State. PETROCI is responsible for marketing the State's share of crude oil and gas and for transferring the revenues from these sales to the State.</p> <p>With respect to the distribution of profits, this is the subject of negotiation between the State Portfolio Directorate (DPE), which represents the State, and PETROCI; reinvestments are the prerogatives of the PETROCI Board of Directors, in line with OHADA rules and according to national priorities. It should be noted that the Board of Directors is composed of statutory members including those from supervisory ministries and the Presidency of the Republic of Côte d'Ivoire.</p>	<p>In light of the observations by the EITI-NC, [we recommend] that this requirement change from "inadequate progress" to "significant progress".</p>
<p>EITI-NC recommendations to the Secretariat: Reconsider the assessment of the requirements above, moving from "inadequate progress" to "significant progress" for 2.2 and 2.6 and from "significant progress" to "satisfactory progress" for 2.3.</p>			

**Commented [IM1]:** "We recommend" inserted by translator.

### **3.3 Requirement 4**

For compliance with Requirement 4 the EITI-NC needs to allow better understanding of companies' payments and State revenues in order to inform public debate around governance of the extractive industries. The EITI requires a comprehensive reconciliation of companies' payments and State revenues from the extractive industries.

EITI Requirement	Comments by the International Secretariat and Validator	Observations by EITI-NC	Recommendations
Revenues in kind (4.2)	<p>The 2015 EITI Report reconciles the volumes collected by PETROCI on behalf of the State with payments of revenues in kind by enterprises and it discloses the volumes of the State's revenues in kind sold by PETROCI, as well as transfers of revenues from sales to the Public Treasury. The volumes of oil and gas received by PETROCI have been disaggregated by oil block, but the amounts of oil sold and the income received have been broken down by purchaser, except in the case of the national refinery (SIR) and delivery of natural gas to CI Énergies.</p>	<p>The current process of data reconciliation covers crude oil produced in Côte d'Ivoire. Insofar as SIR is concerned, this is a trading operation. PETROCI, in supplying SIR with crude oil, does so as a trader. In 2013 and exceptionally, PETROCI, SIR and CI-Énergies complied with a request from the Government to bring in HVO to compensate for a shortfall in gas supply. It should be noted that the import of HVO does not form part of PETROCI's activity.</p>	<p>In light of these observations, we recommend moving from "significant progress" to "satisfactory progress".</p>
Infrastructure provisions and barter arrangements (4.3)	<p>Despite the conclusions of the Independent Administrator and the MSG, according to which barter arrangements were not significant in 2015, the 2015 EITI Report seems to describe two barter agreements (exchanging crude oil for natural gas and exchanging natural gas for electricity - the swap process). However, the report does not provide sufficient information on the terms of the contracts or the parties involved. The 2015 EITI Report is not sufficiently clear on the terms of these swap agreements, which require the valuation of the two products at market price for the exchange to be authorized and that the parties are involved over the long</p>	<p>The 2015 EITI Report explains the swap process and the actors involved, on pages 88 and 89. Furthermore, EITI-NC takes note of the fact that a swap is considered to be a barter. Thus, the 2016 EITI Report will take this into account.</p>	<p>In light of these observations, we recommend that the score be "significant progress" leaning towards "satisfactory progress" for this requirement.</p>

	term in long-term agreements for the purchase of natural gas for electricity generation.		
EITI-NC recommendations to the Secretariat: Reconsider the evaluation of the above requirements to move from "inadequate progress" to significant progress for 4.2 and 4.3.			

### **3.4 Requirement 5**

Requirement 5 means that the EITI-NC needs to disseminate information related to the allocation of revenues, enabling stakeholders to understand how revenues are recorded in national and, where applicable, subnational budgets and find social expenditures by enterprise.

EITI Requirement	Comments by the International Secretariat and Validator	Observations by EITI-NC	Recommendations
Subnational transfers (5.2)	The 2015 EITI Report describes subnational transfers of revenues to the municipalities, but does not state the amounts actually paid. The International Secretariat concludes that statutory subnational transfers were significant in 2015 but that they were not declared by the Treasury.	<p>According to the companies' statement included in the scope of the reconciliation, no payment was made under the heading of municipal duties and contributions to community development funds in 2015 (see page 95 of 2015 EITI Report). The absence of the contribution to community development was explained by the delay in the establishment of the Local Mining Development Committees (CDLM). Furthermore, the payments made annually and calculated on the basis of 2015 turnover were made in 2016 by the companies. The 2016 EITI Report to be prepared in 2018 will include the CDLM declarations.</p> <p>Transfers and grants arising from DGTCP (General Directorate of the Treasury and Public Accounts) declarations are detailed and explained on page 95 of the 2015 EITI Report.</p>	On the basis of the observations by EITI-NC, we recommend that this requirement change from "inadequate progress" to "significant progress".
Revenue management and expenditures (5.3)	EITI-Côte d'Ivoire has made an effort to include information on the State budgeting process in the EITI Report. The MSG, on the other hand, has not made any effort to include additional	At the level of the Local Mining Development Committees (CDLMs), payments are made annually and are calculated on the basis of 2015 turnover. These payments were made by the	

	information on extractive revenues not included in the budget and reserved for specific regions (CDLM) and specific Government agencies (General Directorate of Hydrocarbons, DGH).	companies in 2016. This explains why revenues from CDLM are not shown in the 2015 EITI Report. The 2016 EITI Report to be prepared in 2018 will include the CDLM declarations.	
<p>EITI-NC recommendations to the Secretariat:</p> <p>The EITI-NC takes note of the recommendations relative to this requirement. In light of the comments made, however, the EITI-NC recommends that the Validator reconsider its assessment of Requirement 5.2 and awards "significant progress" to Côte d'Ivoire.</p>			

### **3.5 Requirement 6**

Requirement 6 means that the EITI-NC should disseminate information related to social expenditures and the impact of the extractive sector on the economy, helping stakeholders to assess whether the extractive sector is leading to desirable social and economic impacts.

EITI Requirement	Comments by the International Secretariat and Validator	Summary of main conclusions	Initial evaluation by the International Secretariat of progress made in respect of the EITI provisions (to be completed for "required" provisions).
SOE quasi-fiscal expenditures (6.2)	Revenues in kind received by the DGH and allocated to training activities or the purchase of equipment and which have not been recorded in the national budget should have been declared as quasi-fiscal expenditures. Similarly, revenues in kind in the form of natural gas used to compensate for electricity invoices and which were not recorded in the same year's national budget should have been declared as quasi-fiscal expenditures. The budget of the PETROCI Foundation, which also makes quasi-fiscal expenditures, has not been published.	The EITI-NC takes note of this observation. The corrective measures will be taken in the case of the PETROCI Foundation and DGH revenues and the operation of compensation will be accounted for as quasi-fiscal expenditures. However, given that these revenues were declared in the 2015 EITI Report, the EITI-NC considers that this really is a case of understanding and classification that can be corrected in future reports.	On the basis of the observations by EITI-NC, we recommend that this requirement change from "inadequate progress" to "significant progress".
<p>EITI-NC recommendations to the Secretariat:</p> <p>The EITI-NC takes note of the recommendations relative to this requirement. In light of the comments made, however, the EITI-NC recommends that the Validator reconsider its assessment of Requirement 6.2 and awards "significant progress" to Côte d'Ivoire.</p>			

### **3.6 Requirement 7**

Requirement 7 means that the EITI-NC should act in such a way that the regular disclosure of extractive industry data raises public awareness of the meaning of the figures published and fosters public debate on the effective use of the revenues from the resources. This is a matter of acting to ensure that stakeholders are engaged in dialogue about natural resource revenue management. It is also vital that lessons learned during implementation are acted upon, that discrepancies identified in EITI Reports are explained and, if necessary, addressed, and that EITI implementation is on a stable, sustainable footing.

EITI Requirement	Comments by the International Secretariat and Validator	Observations by EITI-NC	Recommendations
<p>Outcomes and impact of implementation (7.4)</p>	<p>The 2016 annual progress report is well structured and it emphasizes the fact that the implementation of the EITI fosters dialogue among stakeholders on governance and transparency. This report lists all the recommendations of the reconciliation and validation reports. It also states, for each recommendation, the entity responsible, timescales and the response by the MSG. The 2016 Annual Progress Report does not, however, provide sufficient information on outreach activities and their impact.</p>	<p>The 2013 and 2014 EITI Reports were published in 2016. An awareness-raising film was made with the support of GIZ. The EITI-NC waited for publication of the 2015 EITI Report to update the film. Thus, dissemination activities for the 2013, 2014 and 2015 EITI Reports were conducted throughout 2017. Discussions were organized in more than 17 towns and villages in the mining regions of Côte d'Ivoire. The EITI Reports have been simplified into the form of films and sketches by actors, which has sparked debates in the course of the various meetings, depending on the realities and particular issues of each location visited.</p> <p>In the mining sector, the EITI contributed to harmonizing the points of view of the EITI-NC and the ministry responsible for mines on access to certain information and its availability to the public. Thus, a letter was sent on 14 November 2016 from the Chair of the EITI-NC to the Director-General of Mines for the EITI Requirements to be taken into account in the computerization of the mining cadastre. Several meetings to this effect took place in 2016 and 2017 between the EITI-NC and the General Directorate of Mines and Geology (DGMG). The discussions enabled the DGMG and the EITI-NC to have a better understanding of the challenges and obstacles in connection with publication of the</p>	<p>In light of all these observations, we recommend that this requirement be changed from "significant progress" to satisfactory progress".</p>

		<p>cadastre and to find appropriate solutions. Thus, EITI contributed to making the mining cadastre public and accessible.  <a href="http://portals.flexicadastre.com/CoteDivoire/FR/">(http://portals.flexicadastre.com/CoteDivoire/FR/)</a>.          (See letter from the Chair to the Directorate-General of Mines and Geology.)          Furthermore, according to the initial report, the quality of the EITI declaration has considerably improved following implementation of the EITI Standard. The EITI Reports have become more comprehensive and more useful, providing reliable information on production, exports, government revenues, employment, mandatory and voluntary social expenditures and the overall contribution of the extractive sector to the economy.</p>	
<p>EITI-NC recommendations to the Secretariat:          In light of the comments made, the EITI-NC recommends that the Validator reconsider its assessment of Requirement 7.4 and awards "satisfactory progress" to Côte d'Ivoire.</p>			