

Validation of Guatemala

Report on initial data collection and stakeholder consultation

Abbreviations

APR	Annual Progress Report
ASM	Artisanal and Small-scale Mining
COCODES	Community Councils for Urban and Rural Development <i>(for its Spanish acronym: Consejos Comunitarios de Desarrollo Urbano y Rural)</i>
CODEDES	Departmental Councils on Development <i>(for its Spanish acronym: Consejos Departamentales de Desarrollo Urbano)</i>
COPRET	Presidential Commission on Transparency and E-Government <i>(for its Spanish acronym: Comisión Presidencial de Transparencia y Gobierno Electrónico)</i>
CSO	Civil Society Organisation
EITI	Extractive Industries Transparency Initiative
FONPETROL	National Economic Development Fund
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
Gremiex	Gremial de Industrias Extractivas (Chamber of the Mining Industry)
IA	Independent Administrator
INAB	National Forest Institute <i>(for its Spanish acronym: Instituto Nacional de Bosques)</i>
MEM	Ministry of Energy and Mines
MENR	Ministry of Environmental and Natural Resources
MIF	Ministry of Finance
MSG	Multi-stakeholder Group
NGO	Non-Governmental Organisation
OLADE	Latin American Organisation of Energy <i>(for its Spanish acronym: Organización Latinoamericana de Energía)</i>
RLIE	Latin American Network on the Extractive Industries <i>(for its Spanish acronym: Red Latinoamericana de Industrias Extractivas)</i>
SAT	Superintendence of Tax Administration <i>(for its Spanish acronym: Superintendencia de Administración Tributaria)</i>
PSC	Production Sharing Contract
SOE	State-owned enterprise
ToR	Terms of Reference

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Executive Summary

The Government of Guatemala committed to implement the EITI on 19 March 2010 by a letter sent by Vice-President Rafael Espada to the Chair of the EITI Peter Eigen. The country was accepted as an EITI Candidate on 1 March 2011¹ at the 15th EITI Board meeting in Paris.

On 25 October 2016, the Board agreed that Guatemala's Validation under the 2016 EITI Standard would commence on 1 April 2018. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures and applied the Validation Guide in assessing Guatemala's progress with the EITI Standard. While the assessment has not yet been reviewed by the MSG, the Secretariat's preliminary assessment is that 23 of the requirements of the EITI Standard have not been fully addressed in this Validation. 11 of these are unmet with inadequate progress. The recommendations and suggested corrective actions identified through this process relate to the engagement of government and CSOs, the functioning of the MSG and some other issues on disclosures and impact of the EITI.

Overall conclusions

In the recent years, EITI implementation in Guatemala has suffered from weak stakeholder engagement, gaps in reporting and lack of impact. The lack of engagement and progress relates to the wider context of the extractive industry in the country. Guatemala's extractive sector has declined significantly in recent years. Besides the closure of the largest mine (Marlin, owned by Goldcorp) and the suspension of another large mine (Minera San Rafael), there is a de facto moratorium on new oil, gas and mining licenses resulting from the 2017 Constitutional court ruling on Free Prior and Informed Consent (FPIC), as expected in the ILO 169 framework. Social opposition to mining activity is strong and prospects for a recovery of the sector are slim.

Stakeholders criticise the government, especially the Ministry of Energy and Mines, for lack of commitment and a tendency to dominate discussions in the MSG. The government could not get approval for its 2018 budget and is struggling to fund the EITI process. The MSG meets regularly but the constituencies lack clear nominations procedures and communications mechanisms.

The 2014-2015 EITI Report includes inconsistencies and gaps on subnational payments and transfers, comprehensiveness and data reliability, among others. The report is not comprehensible and is not contributing to public debate.

Re-energising EITI implementation requires that the Ministry of Energy and Mines demonstrates commitment and considers stakeholders as partners in the process, the quality of EITI reporting is improved and the process is linked to public debate and on-going challenges in the extractive sector.

¹ See: https://eiti.org/sites/default/files/migrated_files/Papers for the 15th EITI Board Meeting.pdf

Background

The 2014-2015 EITI Report was prepared in two separate parts. The Independent Administrator (IA) only did the reconciliation of payments and revenues, while the contextual data was prepared by the national secretariat. This was decided to reduce the cost of hiring the IA. Many requirements of the EITI Standard were unmet in this reporting exercise, as further described in this Initial Assessment.

In January 2018, the International Secretariat wrote to Minister of Energy Luis Chang to invite the government and MSG to consider many options, including voluntary suspension or recalibrating EITI implementation using the available mechanisms in the Standard (e.g. adapted implementation). The Secretariat also held several discussions with members and supporters of EITI Guatemala. However, so far there has been no interest to explore these alternatives.

On 24 January 2018, the International Secretariat sent to the Guatemalan Technical Secretariat a list of comments and questions regarding the 2014-2015 EITI Report and few other available documents. As a reaction to these preliminary comments, the Vice minister of Energy and Mines, Julio Salvador Contreras Amaya, and the Technical Secretariat, sent a letter dated as of 27 March 2018 requesting to extend until 30 April the timeframe to submit documentation for the Validation process. The request stated that they need more time to elaborate complementary and clarifying new documents. This extra month extension was granted by the Validation Committee. However, the MSG did not prepare nor approve any new document to complement the 2014-2015 EITI Report and/or address the International Secretariat's questions and comments.

The International Secretariat advised the MSG to prepare the APR for year 2017, however this was not done nor approved by MSG members.

Corrective Actions

- In accordance with **Requirement 1.1**, the government, especially the Ministry of Energy and Mines is required to demonstrate commitment to EITI implementation by ensuring that the MSG is supported by adequate human and financial resources and key documents and data are produced in a timely manner. The Ministry of Energy and Mines is encouraged to reiterate high-level commitment to EITI implementation and utilise the EITI to promote national objectives related to extractive sector governance. Reporting government agencies should comply with data assurances agreed by the MSG. The MSG is encouraged to engage with municipalities to ensure that they participate fully in EITI reporting.
- In accordance with **Requirement 1.2**, industry must be actively and effectively engaged in the EITI process. Thus, the Chamber of the extractive sector should be proactive and encourage companies to participate and comprehensively disclose their payments to the government, even prior to receiving any official request.
- In accordance with **Requirement 1.3**, the civil society constituency should fully and actively engage in overseeing EITI implementation and contributing to public debate related to extractive sector governance. The government should ensure that it treats civil society as an equal partner

in the EITI process in both regulatory and practical terms.

- In accordance with **Requirement 1.4**, the MSG should update its internal governance rules to cover all provisions of Requirement 1.4.b and publish procedures for nominating and changing MSG representatives, including the duration of mandates. Each constituency is required to select representatives to the MSG through an inclusive, transparent and well-documented process. The government is required to ensure that all constituency can effectively table issues for discussion.
- In accordance with **Requirement 1.5**, the MSG must elaborate a new **work plan** including its sections (a) to (g). This new work plan must set EITI Implementation objectives and ensure that they reflect national priorities for Guatemala. In elaborating this work plan, the MSG may wish to consider applying for an adapted implementation in accordance with Requirement 8.1. The Board encourages the MSG in Guatemala to evaluate a recalibration of the scope of its EITI process for the future, to ensure it is useful and aligned with the concerns and national priorities of the country. The International Secretariat should offer and provide support to this end.
- In accordance with **Requirement 2.2**, Guatemala is required to (1) disclose oil and mining licenses awarded or transferred in the year(s) under review, (2) describe the process of transferring a license, (3) highlight any non-trivial deviations in practice (4) clarify the technical and financial criteria used for assessing allocations and transfers of both oil and gas contracts and for mining licenses, and (5) disclose the list of applicants and bid criteria for licenses awarded through a bidding process. To strengthen implementation of requirement 2.2, the MSG may also wish to comment on the efficiency of the current contract allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.
- In accordance with **Requirement 2.3**, Guatemala should also ensure that the license holder names, dates of application, award and expiry, commodity(ies) covered and coordinates for all mining and petroleum licenses held by material companies are publicly available. Where this information is already publicly available, it is sufficient to include a reference or link in the EITI Report. Where such registers or cadastres do not exist or are incomplete, the EITI Report should disclose any gaps in the publicly available information and document efforts to strengthen these systems.
- To strengthen implementation of **Requirement 2.4**, Guatemala is encouraged to clearly document its policy on contract transparency and make voluntary royalty agreements publicly available.
- In accordance with **Requirement 2.5**, the MSG is encouraged to start working more proactively regarding beneficial ownership, which will be mandatory as of 1 January 2020. It is suggested to start preparing a publicly available register of the beneficial owners of the entities operating and investing in extractive assets. MSG may wish to consider piloting beneficial ownership reporting in the forthcoming EITI Report. Thus, the MSG should start creating awareness on this issue among participating companies and other stakeholders.
- In accordance with **Requirement 3.3**, the MSG is required to provide complete data on exports; specifically, on mining export volumes. Additionally, it is suggested to disclose how volumes and values documented in the EITI Report have been calculated.

- In accordance with **Requirement 4.1**, in advance of the reporting process the MSG is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds. A description of each revenue stream, related materiality definitions and thresholds should be disclosed. In establishing materiality definitions and thresholds, the MSG should consider the size of the revenue streams relative to total revenues. The MSG should document the options considered and the rationale for establishing the definitions and thresholds. The MSG is also required to clearly define material companies based on the materiality decisions taken. The EITI Report should clearly document non-reporting companies and assess whether their omission materially affects the comprehensiveness of reconciliation.

The government is required to ensure that all relevant government entities participate in EITI reporting and that the total figure of all government revenues is comprehensive. If there are significant practical barriers preventing full government disclosure, these should be documented in the EITI Report.

- In future reporting exercises it is recommended that the MSG affirms, justifies and explicitly agrees that **Requirements 4.2. to 4.5** are not relevant or applicable.
- In accordance with **Requirement 4.6**, the MSG is required to map and clearly define direct payments from extractive companies to subnational government entities. The MSG should discuss whether it considers the payments material and clearly document the decision and its rationale. If material, the MSG should ensure that the payments are comprehensively reconciled.
- In accordance with **Requirement 4.9**, the MSG is required to ensure that the EITI Report includes an assessment of whether payments and revenues are subject to credible, independent audits. The MSG is required to agree data quality assurances to be requested from reporting entities. The EITI Report should document whether reporting entities complied with the agreed assurances. The MSG is required to ensure that the Independent Administrator submits complete summary data based on the current template provided by the International Secretariat
- In accordance with **Requirement 5.2**, the MSG must fully disclose revenues generated by the extractive industries which are transferred between national and subnational government entities. A more complete and understandable explanation of income's distribution should be described, including the legal and real role of FONPETROL and the flows between this fund, the CODEDES and the COCODES. Also, the MSG must disclose the applicable revenue sharing formula, the amounts calculated according to such formula for transfers, and identify any discrepancy between the amounts calculated and the amounts transferred. Finally, if possible, these transfers should be reconciled.
- In accordance with **Requirement 6.1**, where material social expenditures by companies are mandatory, these must be disclosed and disaggregated by type of contribution and beneficiary and reconciled where possible.
- In accordance with **Requirement 6.3**, the EITI Report must disclose complete information about the contribution of the extractive industries to the economy. This information must include the employment in the extractive industries as a percentage of total employment (Requirement 6.3








(d)) and an estimate of informal sector activity (Requirement 6.3 (a)).

- In accordance with **Requirement 7.1**, Guatemala should ensure that EITI Reports are consistent, comprehensible, actively promoted, publicly accessible and contribute to public debate. The MSG should continue to seek to carry out outreach events to spread awareness of and facilitate dialogue about the EITI Report across the country. The MSG is required to agree an open data policy and make EITI Reports available in open data format.
- In accordance with **Requirement 7.3**, the MSG is required to take steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies with a view to strengthen the impact of EITI implementation on natural resource governance. In particular the MSG should consider improving its procedures to analyse and process recommendations resulting from EITI reporting.
- In accordance with **Requirement 7.4**, outcomes and impact of EITI implementation need to be reviewed; elaborating and approving the APRs for each year before each 1 July. The APR for 2017 must be prepared and approved, involving stakeholders in its elaboration. CSOs and extractive industries' involved organisations should contribute providing feedback on the EITI process and have their views reflected in the APR.

Figure 1 – Initial assessment card

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

Legend to the assessment card

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

Introduction

Brief recap of the sign-up phase

In March of 2010, then Vice-President of Guatemala, Rafael Espada sent a formal communication to the EITI Chair regarding the Guatemalan government's commitment to implement the EITI. Guatemala became an implementing country in 2011. In 2012, Government Resolution 96-2012 was issued, creating the National Working Commission to implement the EITI. Guatemala became a Compliant country in 2014.

History of EITI Reporting

Guatemala published its first EITI Report in May 2013. Guatemala published the 2012 and 2013 reports in 2015 and released the latest report (2014 and 2015) in January 2017.

Key features of the extractive industry

The government faces paralysis on all expansions plans for the extractive sector. Local communities and regional stakeholders fiercely oppose mining developments. There is a de-facto moratorium on new oil, gas and mining licenses resulting from the 2017's Constitutional court ruling on free-and-prior-informed-consultations as expected in the OIT 169 framework. Some pilot consultations with indigenous communities conducted by the Ministry of Labour related to hydroelectric projects have concluded with unclear outcomes. The fiscal contribution of the extractive industries has fallen from a peak in 2011 of USD 230m to USD 93m in 2015 (the last year reported). The largest mining project, Goldcorp's gold mine Marlin, is closed and oil exploration and development plans in the Petén region are also delayed. All in all, the extractives industries are in decline and the prospects for a recovery are slim in the short run.

Guatemala's extractive sector represented 2% of GDP for 2014 and 2015, according to the latest EITI Report. The main commodity is silver, which accounts for more than half of the value of mining production in 2015.

Status of Progress before Validation

Given these wider trends, the EITI process was in "survival mode" in 2017. The MSG has not met for months, including failing to approve the APR 2016 due by July 2017. Although the government has indicated its intention to fund the next EITI Report, no progress has been made in mobilising the necessary funds. With EITI implementation at its weakest point since becoming candidate in 2011, Guatemala is due to be validated commencing on 1 April 2018. In January, the International Secretariat wrote to the Minister of Energy Luis Chang to invite the government and MSG to consider several options. These included going ahead with the Validation as scheduled, considering voluntary suspension or recalibrating EITI implementation using the available mechanisms in the Standard (including the limited engagement policy).

The government has yet to fully secure funding for the EITI Report due by the end of 2018. Partners are

encouraged to work with the government and the International Secretariat in exploring options for recalibrating its EITI process.

Explanation of the Validation process

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

The Validation process is outlined in chapter 4 of the EITI Standard². It has four phases:

- i. Preparation for Validation by the MSG.
- ii. Initial data collection and stakeholder consultation undertaken by the EITI International Secretariat.
- iii. Independent quality assurance by an independent Validator who reports directly the EITI Board.
- iv. Board review.

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

The Validation Guide includes a provision that: “Where the MSG wishes that Validation pays particular attention to assessing certain objectives or activities in accordance with the MSG work plan, these should be outlined upon the request of the MSG.”

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

- i. Desk Review

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

- The EITI work plan
- The MSG’s ToR, and minutes from MSG meetings;
- EITI Reports covering fiscal years 2014 and 2015;
- Communication materials;
- Annual progress reports (APRs)

In accordance with the Validation procedures, the International Secretariat has not considered actions

² See also <https://eiti.org/validation>.

undertaken after the commencement of Validation.

ii. Country visit

A country visit took place on 21-24 August 2018. The secretariat met with the MSG and its members, the IA and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the MSG. In addition to meeting with the MSG as a group, the International Secretariat met with its constituent parts (government, companies and CSOs) either individually or in constituency groups, applying appropriate protocols to ensure that stakeholders can freely express their views and that requests for confidentiality were respected. The list of stakeholders consulted is outlined in Annex D.

iii. Reporting on progress against requirements

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

The International Secretariat's team comprised: Santiago Dondo, Regional Director for Latin America and the Caribbean, and Jaqueline Terrel Taquiri, Technical Officer.

Part I – MSG Oversight

1. Oversight of the EITI process

1.1 Overview

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

1.2 Assessment

Government engagement in the EITI process (#1.1)

Documentation of progress

Even though, there have been some signs of initial commitment of the government to EITI, the subsequent unwillingness was increasingly evident. Indicators in the assessed documentation such as: the repeated lack of attendance of government officials in scheduled EITI meetings, the poor data quality provided by government entities, the failure to submit the complementary report for the 2014-2015 period despite their request for an extension, and the late submission of the 2017 APR; reflect this lack of real interest which was later reconfirmed in the mission to the country. Efforts to implement EITI are being put at risk by underestimating the importance of government commitment.

Public statement: The Government of Guatemala first committed to implement the EITI on 19 March 2010, when former Vice-President of Guatemala, Dr Rafael Espada, wrote to the Chair of the EITI Board, confirming the government's interest to join the EITI³. In February 2011, the Vice-President Rafael Espada declared the government's unequivocal support in a public press conference⁴. There was a high-level public statement delivered by the Vice-Minister of Sustainable Development in Sydney (2013) on Guatemala's continuing commitment to implement the EITI and expanding its scope⁵.

Senior lead: In June 2010, former Vice-President of Guatemala Rafael Espada wrote to the International Secretariat confirming Guatemala's commitment to the EITI by appointing the Executive Secretary of the

³https://www.dropbox.com/home/Requisito%201/Requisito%201?preview=2010_03_19_vp_espada_guatemala.pdf (TBC where the document is in their website)

⁴ See: <http://eitiguatemala.org.gt/Descargar/doceiti/infoanual/Informe-Anual-EITI-GUA-2013.pdf>

⁵ See: <https://eiti.org/news/country-leaders-pledge-to-eiti>. Also Guatemala Validation Report 2013 accessed on https://eiti.org/sites/default/files/documents/2013_guatemala_validation_report_en.pdf

Transparency and Anti-Corruption Commission in the Vice-Presidency Silvio Gramajo as the EITI Champion to lead EITI implementation. Jafeth Cabrera, Vice-President of the Republic of Guatemala, was appointed in January 2016 as the current EITI Champion. Whereas the MSG ToR⁶ provides a list of obligations and responsibilities for the EITI Champion (Articles 4 and 5 of the ToR), it does not state explicitly that the EITI Champion should be a representative of the Vice-Presidency.

Active engagement: Following a revision of MSG meeting minutes, it seems that three seats on the MSG are reserved for representatives of government institutions and agencies. This does not include the EITI Champion or the Executive Coordinator who, according to correspondence, should be the Vice-President and an official of the Ministry of Energy and Mines, respectively. According to Governmental Accord No. 96-2012⁷ (which originally created the MSG), the MSG is composed by the Ministry of Finance (MIF), the Ministry of Energy and Mines (MEM), the Ministry of Environment and Natural Resources (MENR) and the Secretary of Control and Transparency (currently the COPRET⁸). This composition corresponds to the list of current MSG members on the EITI-Guatemala. All government representatives on the MSG are senior and mostly attend meetings.

Analysis of MSG meetings attendance (see Annex B) shows that government attendance at meetings varies. Whereas the MEM's representatives have participated regularly during 2014 and 2015, the MIF and MENR representatives have not⁹. However, in 2016, the MENR has actively participated in 90% of the MSG meetings meanwhile the MIF and MEM's representative's participation decreased¹⁰.

The 2014-2015 EITI Report confirms full government reporting (see *Requirement 4.1*) except for the municipalities (pp. 9-10). However, the quality of data provided by government entities was considered poor by the Independent Administrator (see *Requirement 4.9*).

The government request a deadline extension for producing a supplementary report to complement the 2014-2015 EITI Report. The extension was granted, but the supplementary report was not produced. The 2017 Annual Progress Report (APR) was published in March 2019, despite the deadline being 30 June 2018.

There is no evidence of government agencies using data from EITI Reports. There is also no evidence of government representatives following up on recommendations. Although the government is not providing funding for EITI implementation, the government covers salaries of secretariat staff.

⁶ See: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/6.-Normas-internas-CNT-EITI-GUA_2.pdf

⁷ See: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/Acuerdo-96-2012-con-reformas-incluidas_2_2.pdf

⁸ On December 2012, Governmental Accord No. 360-2012 created this government agency. See: http://www.oas.org/juridico/pdfs/mesicic4_gtm_acu360.pdf

⁹ See: <http://eitiguatemala.org.gt/Descargar/doceiti/infoanual/INFORME-ANUAL-DE-ACTIVIDADES-ANCC830-2014.pdf> (p.2), and <http://eitiguatemala.org.gt/Descargar/doceiti/infoanual/INFORME-ANUAL-ACTIVIDADES-2015..pdf> (p.21).

¹⁰ See: https://eiti.org/sites/default/files/documents/informe_anual_de_progreso_2016.pdf (p.13)

Stakeholder views

There is consensus between almost all stakeholders consulted on two main points: (i) the MEM has, among all governmental entities, the main responsibility and capacity to lead the EITI implementation; and (ii) the MEM has demonstrated a lack of commitment and real willingness ensure an adequate EITI implementation during the last years, as of the publication of the 2014-2015 EITI Report in 2017 to date.

The stakeholders consulted provided extensive evidence and examples of this lack of commitment. These included the fact that EITI is notably under-resourced, not only in terms of funding, but also in personnel and technical capacity devoted to EITI from the MEM.

During the visit to the country, we learnt that in January 2017, the Vice-Minister of Energy and Mines, Rodrigo Cifuentes, sent a letter to the Vice-President of Guatemala, Jafeth Cabrera, proposing to withdraw from EITI. The alleged reason was the impossibility to comply with the annual financial contribution of USD 10,000 requested by the EITI Board. The letter proposed to continue with the process, but locally and with no participation from EITI International. This attempt was rejected by the MSG and several stakeholders consulted affirmed that the issue of requested contribution was only an excuse to delist Guatemala from EITI.

Also, some stakeholders mentioned that the Minister of Energy and Mines did not appear in the launch of the latest EITI Report, without giving prior notice, although his presence was confirmed and there were hundreds of invitees. Government representatives within and outside the MSG that were consulted, reconfirmed the relevance of the MEM, as the leading entity for the EITI Implementation.

Officials from some government entities that are MSG members knew little about the EITI and were not aware of the Validation process. The International Secretariat was not able to confirm whether information sent by the Secretariat was circulated to the MSG by the national secretariat.

The Vice-President of Guatemala and EITI Champion, Mr Jafeth Cabrera, is recognised by most stakeholders as supportive of the EITI. Although many recognised that this support has many times helped the EITI, it was not considered sufficient to ensure an adequate process. MEM is recognised as the most relevant governmental entity regarding EITI implementation, and the Vice-Presidency has no real competence on the matter.

Overall, the government is perceived by the civil society and industry constituencies as doubtful about the benefits that the EITI process could bring to the country, and hence not committed nor engaged.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made inadequate progress in meeting this requirement. Stakeholders expressed consistent concerns about lack of government commitment and engagement. The extent of senior government officials' support for the EITI appears to have decreased after Guatemala became an EITI compliant country in 2011. The EITI Chair, Vice-President Jafeth Cabrera has consistently made public statements in support of the EITI and is a senior government official. However, with few exceptions, the Executive Coordinator of EITI Guatemala and Minister of Energy and Mines Luis Alfonso Chang, has not taken an effective government leadership

role in the EITI. This has led to critical delays in the production of EITI Reports and other key documents, such as annual progress reports, as well funding shortages. Demonstrations of government engagement in the EITI are limited to government representatives' regular participation in the MSG and participation in EITI data collection upon request.

In accordance with Requirement 1.1, the government, especially the Ministry of Energy and Mines is required to demonstrate commitment to EITI implementation by ensuring that the MSG is supported by adequate human and financial resources and key documents and data are produced in a timely manner. The Ministry of Energy and Mines is encouraged to reiterate high-level commitment to EITI implementation and utilise the EITI to promote national objectives related to extractive sector governance. Reporting government agencies should comply with data assurances agreed by the MSG. The MSG is encouraged to engage with municipalities to ensure that they participate fully in EITI reporting.

Industry engagement in the EITI process (#1.2)

Documentation of progress

Active engagement: MSG meeting minutes demonstrate that three seats on the MSG are reserved for representatives of the industry. The ToR does not set minimum requirements for MSG industry members and leave up to the different constituencies to determine a specific process to select their representatives and to determine obligations and responsibilities. There is no evidence on the selection procedure applicable within the industry. Analysis of MSG minutes (see Annex B) shows that industry participation is among the most consistent. MSG minutes demonstrate active participation of industry participants during discussions¹¹. According to 2012-2017 MSG meeting minutes, Perenco Guatemala Limited and the Chamber of the Mining Industry in Guatemala, GREMIEX (which includes Montana Exploradora S.A., Compañía Guatemalteca de Niquel S.A. and Minera San Rafael), are the hydrocarbons and mining representatives on the MSG, respectively. The 2014-2015 EITI Report confirms the government's invitation to those companies to participate in the EITI implementation (p. 20). Guatemala's APR 2016 full and active industry participation in EITI implementation, including the EITI-Guatemala's website link in their corporate websites¹². However, it confirms the decrease in participation of companies in the 2014-2015 EITI Report in comparison with the past 2012-2013 EITI Report. While the 2012-2013 EITI Report had twelve companies reporting for the EITI, the 2014-2015 EITI Report has nine participating companies. (p.14 and see *Requirement 4.1*). According to the APR 2016, industry participation declined due to "*short time given to provide information among other factors*"¹³. There is no evidence that the Chamber of the Mining Industry has proactively engaged its members prior to receiving any official invitation from the government. There is also no evidence of industry participating in outreach activities related to the EITI.

¹¹ For example, see the following Meeting Minutes:

<http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2016/1.-ACTA-NO.-01-2016-CNT-EITI-GUA-16-MARZO.pdf>,
<http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2016/3.-ACTA-NO.-03-2016-CNT-EITI-GUA-07-JUNIO1.pdf>,
<http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2015/7.ACTA-NO-7-2015-CNT-EITI-GUA.pdf>.

¹² See: https://eiti.org/sites/default/files/documents/informe_anual_de_progreso_2016.pdf (p.7)

¹³ Ibid. P.10

Companies did not fund any EITI-related activities. There is little evidence of public statements on company's commitment to the EITI implementation in Guatemala. GREMIEX's website declare as a main objective "to participate in the EITI process in Guatemala". GREMIEX has issue a briefing note "*Impacto Económico y Fiscal de Proyectos Mineros en Guatemala*"¹⁴ where it mentioned the EITI as a source.

Enabling environment: It appears that the Government of Guatemala ensured an enable environment for company participation in the EITI implementation regarding laws, regulation and administrative rules. There is no evidence that fundamental rights of company representatives engaged in the EITI were not respected. Tax confidentiality is a taxpayer right in Guatemala established in the Tax Code¹⁵. In accordance with established procedures, however, during the reporting process the companies provided the data accompanied by a letter of authorisation signed by the Legal Representative of each company for SAT (Tax Administration) to deliver copies of the tax returns to the Independent Administrator.

Stakeholder views

Stakeholders consulted, not only from the industry side, confirmed that companies have been actively participating and properly engaged with the EITI process. An aspect to highlight is that the representatives from Minera San Rafael and Montana Exploradora have continued participating in meetings and providing support, although their mining projects are not producing any more. The first because of a controversial judicial decision and the second because of depletion. On the decline of the number of participating companies, we confirmed that it was mainly due to the delay in getting the data request. Senior representatives from GREMIEX mentioned that although it is composed by twenty-two members, there were less than five companies engaged in large-scale mining activities. A number of industry representatives expressed willingness to provide funding to help Guatemala enhance its EITI implementation.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made meaningful progress in meeting this requirement. There is an enabling environment for company participation. Industry is engaged in the EITI process and works closely with the MSG. However, five out 14 companies invited to participate in reporting failed to submit data for the 2014-2015 EITI Report.

In accordance with Requirement 1.2, companies making material payments are required to participate in EITI reporting.

Additionally, industry is encouraged to help re-energise the process and increase the EITI's value and impact. The Chamber of the Mining Industry (GREMIEX) is encouraged to engage its members in outreach activities related to the EITI. Companies could also fund EITI-related activities and use EITI data more

¹⁴ See: <https://gremiext.org/wp-content/uploads/2018/04/INFORME-CABI.pdf>

¹⁵ See: <http://leydeguatemala.com/codigo-tributario-de-guatemala/confidencialidad/991/>

actively.

Civil society engagement in the EITI process (#1.3)¹⁶

Documentation of progress

The 1985 Constitution of Guatemala¹⁷, the 2003 Law of NGOs¹⁸ approved by Decree No. 02-2003 and other laws, protect civil liberties for CSOs to freely express themselves, associate with one another and operate in Guatemala.

Whereas not specifically related to the participation of CSOs in EITI implementation, according to CIVICUS Monitor, the *“killing of human rights defenders is a particularly serious problem (...) in Guatemala”*¹⁹ for example *“...14 activists were reported assassinated between January and November 2016”*²⁰. It also reported that *“in Guatemala, (...) seven indigenous leaders were held in prison for between one and three years for taking part in a peaceful protest against energy project[s] in their territories”*²¹ and qualifies Guatemala as an “obstructed” country in terms of civic space²². There is evidence that activists opposing mining projects have been killed²³.

Expression: Article 5 of the 1985 Constitution of Guatemala states that no person should be persecuted or harassed for their opinions. There is no evidence that, in practice, CSOs engaged in EITI implementation have been censored or restricted to participate in the EITI process because of coercion or reprisal. MSG minutes demonstrate that CSOs are able to express critical views, including of the government²⁴. Non-participating CSOs frequently make public declarations on different topics such as a recent intent of

¹⁶ The first Validation under the EITI Standard (Azerbaijan 2016) established precedent for the Validation of requirement 1.3. The CSO protocol “operationalises” requirement 1.3. Each part of the CSO protocol speaks to specific parts of Requirement 1.3:

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

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

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

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

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

¹⁷ See: https://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf

¹⁸ See “Entidades Inscritas” here: <https://mingob.gob.gt/repeju/>

¹⁹ CIVICUS Monitor (2017). Civic space under threat in EITI Countries. Pp.3.

²⁰ Ídem p.11

²¹ Ídem p.13

²² Ídem. P.5

²³ See: https://www.lainformacion.com/economia-negocios-y-finanzas/atentan-contr-activista-que-se-opone-a-explotacion-minera-en-guatemala_RwOUKi2hPR9j9iY0JS71E2/. See: <https://ejatlas.org/conflict/el-escobal>

²⁴ See: <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2015/8.-ACTA-NO.-08-2015-CNT-EITI-GUA-05-JUNIO1.pdf>, <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2015/9.-ACTA-NO.-09-2015-CNT-EITI-GUA-10-JUNIO.pdf>, <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2016/2.-ACTA-NO.-2-2016-CNT-EITI-GUA-22-DE-ABRIL.pdf>, <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2015/6.-ACTA-NO.-06-2015-CNT-EITI-GUA-26-ABRIL.pdf>

modification of the NGO's Law²⁵. There is however no evidence of CSOs expressing critical views in the media about extractive industries. In the launch of EITI Reports and EITI related activities, CSOs were able to speak freely²⁶.

Operation: The 2003 Law of NGOs²⁷ distinguishes between associations, foundations, and NGOs. NGOs are defined as *"those constituted with cultural, educational, sporting, social service, assistance, charity, promotion and economic and social development interests"* (Article 2 of the NGO Law). NGOs are registered at the Civil Public Register of Guatemala, which lists all NGOs in its website²⁸. Article 1 of the NGOs Law²⁹ affirms that the Government of Guatemala will facilitate inscription and registration of NGOs within the country. It also lists the legal requirements to constitute an NGO (Article 7) and the registration procedure before the Civil Public Register (Article 10 to 12). There is no evidence of CSOs working on extractive industries having trouble registering as NGOs. Article 17 of the NGO Law states that NGOs may deposit funds in the Guatemala Bank or banks in the national system. There is no evidence on legal barriers to international contact or access to resources. For example, there is evidence that Accion Ciudadana, the Transparency International Chapter in Guatemala, receives foreign funding³⁰. There is no evidence that CSOs were not able to protest freely regarding mining.

Article 5 of the Governmental Accord No. 96-2012 updated by Governmental Accord No. 100-2014³¹ (which originally created the MSG) states that CSOs and the industry will participate as "invitees" by the government in the MSG. This has been a frequent concern for CSOs. The Governmental Accord No. 96-2012 may be understood as a regulatory obstacle affecting the ability of CSOs representatives to participate in the EITI process as a member instead of as an invitee. Article 2 of the "Normas Internas de la Comision Nacional de Trabajo para la Implementacion de EITI-Guatemala" (the ToR of the MSG) states that "Members of the Commission, representatives of the governmental sector, are integrated and exercise their functions in accordance with the provisions of Governmental Agreement 96-2012; and, the interested parties, will be designated by their own corporate mechanisms". Therefore, as an interested party, CSOs have the ability to select their MSG representatives.

Association: Freedom of association is enshrined in Article 34 of the Political Constitution of Guatemala. There is no evidence suggesting restrictions or limitations on CSOs in terms of their ability to associate, communicate and cooperate with other national or international CSO organisations. In practice, CSOs were capable of communicate with CSOs within the region. For example, on March 2017, CSO's Latin American representatives including Guatemala made a statement on the transparency of social and

²⁵ See: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/comunicado-internacional-sobre-la-propuesta-de-ley-de-ongs-en>.

²⁶ See: <http://eitiguatemala.org.gt/galeria-de-imagenes/>

²⁷ See "Entidades Inscritas" here: <https://mingob.gob.gt/repeju/>

²⁸ See: https://mingob.gob.gt/repeju/index.php?option=com_k2&view=item&layout=item&id=345&Itemid=1104

²⁹ See: http://www.oas.org/juridico/spanish/mesicic3_gtm_02.pdf

³⁰ See: <http://accionciudadana.org.gt/donantes/>

³¹ See: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/Reforma-acuerdo-Gubernativo-96-2012_2.pdf

environmental topics³².

There is evidence of the existence of a CSO platform called “Grupo Ampliado”, which presumably coordinates the nomination of MSG members and serves as a general platform for extractive CSOs to participate in the EITI³³. The Latin American Network on the Extractive Industries (RLIE per its Spanish acronyms) was formed in 2009. The network is currently made up of 13 organisations from eight countries including Guatemala. It joined PWYP in 2014 and represents the region on the PWYP Global Council. While this platform does not serve as a general platform for extractive CSOs to participate in the EITI, it responds to concerns by Latin American CSOs about the impact of mining and oil extraction in region.

Article 13 of the “Reglamento de Participacion de la Sociedad Civil en la Iniciativa de Transparencia en las Industrias Extractivas en Guatemala”³⁴ (CSOs Regulations) sets how civil society communicate on EITI-related matters. Article 3 of the CSOs Regulations guarantee that all interested CSOs are able to engage in the EITI process.

Engagement: Civil society representatives participated in trainings and communication activities organised by the Government of Guatemala to improve the participation of CSOs in the EITI implementation³⁵. They also took part in triangular cooperation with different EITI-MSGs within the region to “*strengthen its organisational structures*”³⁶. However, there is no evidence of dissemination event and campaign efforts.

As mentioned, after the approval of the Governmental Accord 92-2012 and subsequent modification in 2014, CSO’s frequently stated their concerns on establishing equality rules per each constituency and therefore modify the mentioned Governmental Accord. It appears that this situation considerably diminished the CSO’s participation on the MSG³⁷. The latest modification to the Governmental Accord (May 2018) does not include any changes on constituencies’ rights³⁸. However, according to the 2016 APR, it seems that in practice there is equality between constituencies when taking decisions within the

³² Red Latinoamericana sobre las Industrias Extractivas. Sociedad Civil de Latinoamérica y el Caribe exige transparencia socioambiental en las industrias extractivas. See: <http://redextractivas.org/pronunciamiento-sociedad-civil-latinoamerica-caribe-exige-transparencia-socio-ambiental-las-industrias-extractivas/>

³³ See: <http://www.mem.gob.gt/wp-content/uploads/2013/03/19.-Acta-encuentro-Sociedad-Civil-18-y-19-octubre-2012.pdf> , <http://eitiguatemala.org.gt/Descargar/doceiti/actaseci/2015/2.-ACTA-NO.-02-2015-CNT-EITI-GUA-23-DE-FEBRERO.pdf>

³⁴ See: <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>

³⁵ World Bank (2014). Improving civil society engagement in EITI in Guatemala: summary of training and communication activities: Guatemala. See: <http://documents.worldbank.org/curated/en/786751468030338659/pdf/ACS97140WP0SPA0Box385394B00PUBLC0.pdf>

³⁶ GIZ (2017). Triangular cooperation Peru, Guatemala, Germany: transparency in extractive industries. See: <https://www.giz.de/en/worldwide/42770.html>

³⁷ See: <https://www.plazapublica.com.gt/content/eiti-la-iniciativa-para-la-transparencia-fiscal-en-la-industria-extractiva-que-no-se-cumple>

³⁸ See Governmental Accord No.85-2018 here: https://leyes.infile.com/index.php?id=175&id_publicacion=77727

MSG (p. 4)³⁹.

In November 2015, EITI-CSOs approved its constituency regulations (*"Reglamento del Sector Civil pertenecientes a EITI-GUATEMALA"*⁴⁰) to regulate the participation of CSOs (*"Organizaciones"*) in Guatemala as members and observers during the implementation of the EITI (Article 2 and 3). CSOs Regulations were approved by GUATECIVICA, CONADUR, CONGAV and Acción Ciudadana (MSG members), having as observes the former EITI National Coordinator, Marcos Garcia, and a representative of GIZ.

It includes guiding principles (Article 1), participation levels (Article 3), minimum requirements to participate in the MSG (Article 4), and official members and alternate members regulations (Articles 5 to 10).

MSG minutes demonstrate some engagement by CSO representatives in discussions and decision-making⁴¹. CSOs use the EITI as a platform to raise its concerns regarding mining. CSOs sent observations and comments to the Independent Administrator (IA) regarding EITI-Guatemala first cycle of reporting⁴². It appears some civil society representatives do not have adequate capacity to participate in the EITI. There is no evidence of CSOs representatives showing a clear understanding of the information and data from the reports.

Access to public decision-making: There is no evidence that CSOs have a space or access to public-decision making. There is no evidence on CSOs participating in parliamentary hearings. According to the Decree No.57-2008 which approved the Law of Access to Public Information in Guatemala, CSOs have the right to request information, and to have access to public information in possession of governments entities⁴³. However, there is no evidence on CSOs exercising their right in practice.

There are some examples where CSOs produced publications or participated in topics to influence public decision making⁴⁴. CSOs also participated in roundtable discussions with sector ministers⁴⁵. CSOs publish

³⁹ See: https://eiti.org/sites/default/files/documents/informe_anual_de_progreso_2016.pdf

⁴⁰ See "Sectores Participantes: Reglamento del Sector Civil pertenecientes a EITI-GUA" here: <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>

⁴¹ See: <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2015/11.-ACTA-NO.-11-2015-CNT-EITI-GUA-03-NOVIEMBRE.pdf>,

⁴² See: <http://eitiguatemala.org.gt/Descargar/doceiti/infoanual/INFORME-ANUAL-ACTIVIDADES-2015..pdf> (pp.12-13)

⁴³ See: http://www.minfin.gob.gt/images/laip_mfp/docs/decreto_5708b.pdf

⁴⁴ Transparency International. (2017). Herramienta para la evaluación de riesgos de corrupción en los otorgamientos del sector minero. 2nd. Edición. Acción Ciudadana is a Transparency International's chapter in Guatemala. See: http://accionciudadana.org.gt/download/tia_macra_tool_spanish_vf_web/?wpdmdl=3637, Acción Ciudadana (2017). Transparencia en el sector extractivo. See: <http://accionciudadana.org.gt/areas-tematicas/transparencia-en-sector-extractivo/#>,

⁴⁵ Ministerio de Energía y Minas – Gobierno de la República de Guatemala. (2015). CONADUR presenta Base para la Actualización de la Política Minera. See: <http://www.mem.gob.gt/2015/08/presentan-base-para-la-actualizacion->

briefing notes on transparency in the extractive sector⁴⁶.

Stakeholder views

CSO representatives can operate freely in relation to the EITI process, with no restraints. However, MSG members commented that they are not given the participation they would like to have in meetings' agenda. It was even said that they would attend meetings as "listeners", lacking strength of representation, partly because the government does not have an attitude of openness towards them. They are that the topics to be discussed in the meetings are imposed by the government.

CSO members appear to be discouraged, and explain they perceive EITI Implementation as a poor-quality process with weak government commitment. Some representatives regretted that it seemed that the sole purpose of EITI Guatemala is to produce the report on time. Partly for this reason, organisations that had once been involved in the EITI process are now less interested and focused on other issues. This is accentuated by the fact that the extractive sector has little relevance in the country's economy. A number of stakeholders also mentioned that they proposed several times to incorporate the hydroelectrical sector to the EITI process in Guatemala, given the country's high potential in this renewable energy.

It was also mentioned in stakeholders' meetings that CSO representatives showed contradictions among themselves, revealing the existence of some level of conflict between the organisations that are members of the MSG.

Everything explained above, is reflected in Meeting Minutes (see Annex B), which show a decrease in CSOs attendance and participation. All MSG members agreed that to regain interest and participate there should be a radical change led by the government and reconsider the approach to the EITI scope to get more positive outcomes and impacts.

Another concern mentioned, is a new bill for an NGO Law (Law 5257)⁴⁷, which is currently being reviewed by the Guatemalan Congress. This legislation would establish new legal and institutional norms for NGOs, both national and international, limiting the organised expressions of CSOs, through legal and administrative requirements and controls. If approved, this might imply that their work becomes effectively inoperable⁴⁸.

There were some reports of the government not being supporting of development partners' efforts to contribute to civil society capacity-building.

[de-la-politica-minera/](#).

⁴⁶ Poitevin, Rafael. Blog GUATECIVICA. (2017). Iniciativa para Transparencia Internacional EITI-GUA.

<https://guatecivica.wordpress.com/blog/>

⁴⁷ See: <https://www.congreso.gob.gt/noticia/?COMISI%C3%93N-DE-COOPERATIVISMO-Y-ORGANIZACIONES-NO-GUBERNAMENTALES-PEDIR%C3%81-AL-PLENO-LE-REMITA-INICIATIVA-5257-9513>

⁴⁸ See International Federation for Human Rights webpage: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/comunicado-internacional-sobre-la-propuesta-de-ley-de-ongs-en>

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made meaningful progress in meeting this requirement. There are no suggestions of any legal, regulatory or practical barriers to civil society's ability to engage in EITI-related public debate, to operate freely, to communicate and cooperate with each other, to fully, actively and effectively engage on EITI-related matters. While activists involved in the mining sector have faced threats, it seems that this has not had an effect on CSOs involved in the EITI process. They can speak freely on transparency and natural resource governance issues. CSOs working on extractives have formed both national and regional coalitions and documented their internal procedures. However, weak government commitment and lack of momentum in EITI implementation is reducing civil society's interest in the process.

In accordance with Requirement 1.3, the civil society constituency should fully and actively engage in overseeing EITI implementation and contributing to public debate related to extractive sector governance. The government should ensure that it treats civil society as an equal partner in the EITI process in both regulatory and practical terms.

MSG governance and functioning (#1.4)

Documentation of progress

Guatemala EITI approved its ToR at the 5th meeting of the MSG⁴⁹ on 22 August 2012. The ToR is available on the EITI-Guatemala website⁵⁰. It seems that the ToR was not subsequently amended by the MSG. The Governmental Accord No. 96-2012 (which complemented the ToR) updated by Governmental Accord No. 100-2014⁵¹ (which originally created the MSG) and Governmental Accord No. 85-2018⁵² sets key provisions on the MSG governance. For example, it contains the MSG's composition, the Executive Coordinator's responsibilities, the MSG's attributions, and the term limit of the MSG.

MSG composition and membership: The MSG ToR does not mention how many seats on the MSG are allocated to each constituency. Minutes show that there is no consistency on the number of seats allocated to each constituency since 2011 to 2017. Minutes show that two to three seats were allocated to each constituency, not including the position of EITI Chair attributed to the Vice-minister of Energy and Mines and the position of Executive Coordinator⁵³. EITI-Guatemala's website indicates that each constituency has three seats⁵⁴. The ToR does not set minimum requirements for MSG members and

⁴⁹ See: <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2012/1.-ACTAS-Nos.-02-03-04-05-2012-CNT-EITI-GUA.pdf>

⁵⁰ Acuerdo No. 1-2012. Normas Internas de la Comisión Nacional de Trabajo para la Implementación de EITI-Guatemala. See: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/6.-Normas-internas-CNT-EITI-GUA_2.pdf

⁵¹ See: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/Reforma-acuerdo-Gubernativo-96-2012_2.pdf

⁵² See: https://leyes.infile.com/index.php?id=175&id_publicacion=77727

⁵³ Minute 01-2012 of the MSG discuss the convenience of appointing the Vice-Presidency as Champion.

⁵⁴ See: "Sectores Participantes" in the following link: <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>

leaves up to the different constituencies to determine a specific process to select their representatives. However, the ToR establishes that government representatives should strictly follow the Governmental Accord No. 96-2012⁵⁵ (Art.2 ToR). As mentioned (See *Requirement 1.3*), CSOs' rules are set in the CSOs' Regulations ("*Reglamento de participación de la Sociedad civil en la Iniciativa de Transparencia en las Industrias Extractivas en Guatemala*")⁵⁶ approved in November 2015. Article 4 of the CSOs' rules describes the minimum requirements for CSOs to participate on the MSG. There is no evidence of previous rules for CSOs before November 2015. The ToR does not establish a term for each member in each constituency and does not specify if there is the possibility to allow members to nominate an alternate to attend MSG members in their absence⁵⁷. However, MSG composition is listed by constituency on the EITI-Guatemala website and sets alternates per each constituency. Responsibilities of MSG members are not clarified in detail by constituency. The Governmental Accord No. 96-2012 updated by Governmental Accord No. 100-2014 (which originally created the MSG) states that CSOs and the industry will participate as "invitees" by the government in the MSG.

⁵⁵See: <http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/Acuerdo-96-2012-con-reformas-incluidas.2.2.pdf>

⁵⁶ See: "*Sectores Participantes – Reglamento*" here: <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>

⁵⁷There is evidence (Minute No. 2-2011) that members and alternates have equal vote rights. See: <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2011/2.-Acta-No.-02-2011-CNT-EITI-GUA-30-de-mayo.pdf>

Table 1 – Member Organisations of the MSG

Government constituency	Ministry of Energy and Mines (Executive Coordinator) Ministry of Finances Ministry of Environment and Natural Resources
Civil society constituency	Acción Ciudadana Acción y Propuesta CONADUR Guatecivica CONGAV Convergencia Tezulutlán
Industry constituency	Gremial de Industrias Extractivas GREMIEXT PERENCO Guatemala Ltd.

Civil society representation: As part of the preparations to apply to the EITI, the government invited many individuals representing CSOs to a round table (called “*Multipartes interesadas*”)⁵⁸. CSOs created a CSO Group (called “*Grupo ampliado de la sociedad civil*”) to implement the EITI on local level. The process by which the CSOs were initially selected and how representation has changed during EITI implementation is not clear. Two CSOs attended the first MSG meeting⁵⁹. However, since September 2011 five CSOs have seats in the MSG including “*Acción Ciudadana*”. There is a letter wrote by *Acción Ciudadana* to EITI-Guatemala confirming their members⁶⁰.

Article 2 of the ToR of the MSG states the process for nominating civil society representatives: “Members of the Commission, and, the interested parties, will be designated by their own corporate mechanisms”. Article 7 of CSO’s Regulations states that principal and alternate members will be appointed after a meeting with more than a half of CSOs represented in the MSG. CSO members represented in the MSG are not strictly related to the extractive industries, however the representation is pluralistic and diverse. There is no evidence that shows that CSOs are not operationally and in policy terms independent from

⁵⁸ See: https://eiti.org/sites/default/files/documents/2010-2011_guatemala_eiti_report_es.pdf

⁵⁹ Asociación de indígenas para el desarrollo integral comunitario, See: Minute 1-2011 here: <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2011/1.-Acta-No.-01-2011-CNT-EITI-GUA-14-de-abril.pdf>

⁶⁰ See: <https://www.dropbox.com/home/Requisito%201/Requisito%201/Nombramientos?preview=Nombramiento+EITI+Acci%C3%B3n+Ciudadana.pdf>

government and companies.

Industry representation: As with CSOs, as part of the preparations to apply to the EITI, the government invited many individuals representing companies to a round table (called “*Multipartes interesadas*”)⁶¹. The process by which the companies were initially selected and how representation has changed during EITI implementation is not clear. There is a letter written by *Perenco* to EITI-Guatemala confirming their representative members. GREMIEX (which includes the main mining companies operating in Guatemala) and *Perenco* are included in the MSG. It seems the companies represented in the MSG are the appropriate ones. GREMIEX is the platform companies use to communicate with the wider constituency, in close partnership with *Perenco*.

Government representation: On May 2012, the government created the MSG through the Governmental Accord No. 96-2012⁶². It sets five government representatives within the MSG: three Ministers, the Vice-presidency of the Republic, and the Control and Transparency Secretary. The first MSG Meeting included only representatives from the Ministry of Finance. Subsequent MSG Meetings included also the MEM, MENR, and SAT⁶³ representatives. The 016 APR includes the Vice-presidency, the Ministry of Energy and Mines, the Ministry of Finance, and the Ministry of Environment and Natural Resources as members representing the government in the MSG.

Terms of reference: The ToR is available on the EITI-Guatemala website (in Spanish only)⁶⁴. The ToR confirms the responsibility of the MSG to oversee the EITI implementation in Guatemala. The Governmental Accord No. 96-2012 (which complemented the ToR) also confirms the MSG’s ability to promote politics to implement the EITI, to coordinate programs and activities derived from the EITI in an interinstitutional manner, to approve annual work plans and EITI Reports, appoint the IA, publish information required by the EITI Standard, and to implement capacity building for the MSG members (Article 6). The ToR does not establish the responsibilities of the MSG.

Internal governance and procedures: The ToR set a minimum expectation that meetings be held at least every month on the same day when possible (Article 8 of the ToR). Meeting minutes should be distributed ten days before each session (Article 12 of the ToR). Meeting minutes show that the MSG has consistently met at least quarterly (except for 2012 when there were no meetings between January and July). The ToR confirms the Chair’s (Articles 4 and 5 of the ToR) and Executive Coordinator’s (Articles 6 and 7 of the ToR) obligations before the MSG. Article 12 of the ToR confirms the circulation of documents ahead of MSG meetings and the process of approval. While the ToR does not give the MSG a mandate to approve work plans, the appointment of the Independent Administrator including the Terms of Reference for the Independent Administrator’s work, EITI Reports and annual activity reports, the MSG approve all

⁶¹ See Footnote 14.

⁶² See: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/1.-Acuerdo-Gubernativo-96-2012_2.pdf

⁶³ Minute No.4-2011 mentioned that independent agencies (such as the Tax Administration) will have a seat in the MSG by invitation according to the Governmental Accord. See: <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2011/4.-Acta-No.-04-2011-CNT-EITI-GUA-29-de-septiembre.pdf>

⁶⁴ See footnote 7.

documents in practice.

Decision-making: The ToR establishes that resolutions are to be “adopted by a qualified majority” with individual opinions stating on record (Article 11.6). It also states that all members may express opinions during meetings (Article 11.1). There is not provision on a “consensual” way to take decisions. Even though all members may consult individual or groups of their interest, they must give notice to the MSG in advance (Article 11.2). MSG Minutes show that MSG vote to take decisions and all constituencies have the right to express opinions.

Record-keeping: The ToR states that minutes should be shared with the MSG members within 48 hours of a meeting being held (Article 11.4). The ToR also appoint the Executive Coordinator in charge of keeping record of decisions (Article 11.5) and establish the possibility of collecting opinions through emails (Article 11.7). The ToR establishes that once the minutes meetings are approved, they will be published on the official EITI-Guatemala website (Article 12). At the beginning of Validation, the EITI-Guatemala website included minutes from MSG meetings for the period 2011-2017⁶⁵. MSG Minutes from 2018 were not published in the EITI Guatemala website.

Capacity of the MSG: The ToR does not establish that MSG members must require special capacity to carry out MSG duties. As mentioned, CSOs and industry procedures for selecting MSG members are not clear. The 2018-19 work plan as provided to the International Secretariat includes Q 25,000 (USD 3340 approx.) “to train and update the members of the CNT-EITI-Guatemala on topics related to the EITI initiative” (see Requirement 1.5). It appears that all members have the necessary capacity with the exception of some CSO representatives.

Per diems: Although not explicitly stated in the MSG’s ToR or on EITI-Guatemala website, there are no provisions for per diems to be paid or evidence that any such payments are made in practice.

Attendance: The ToR for the MSG establish that missing more than three consecutive MSG meetings or more than 50% of the total annual meetings will lead the MSG to conclude that the member’s participation was abandoned (Article 3). Attendance is often noted in MSG minutes, although not consistently. Although an analysis of attendance in MSG meetings based on available minutes suggests that meetings always include at least one representative from each of the constituencies, there are absences (see Annex B). There is no record of any MSG representative having been expelled due to repeated consecutive absences as prescribed by the ToR. The analysis of MSG meeting attendance suggests that some observers such as the GIZ and the World Bank consistently participated in MSG meetings.

National secretariat: On August 2012, Chair of the MSG, Ms Veronica Taracena, wrote to World Bank’s representatives confirming the delegation of the national secretariat’s (“Executive Coordinator”) role to the MEM⁶⁶. The ToR does not establish the MSG’s obligation to ensure that EITI-Guatemala secretariat is

⁶⁵ See: “Actas de Sesiones” <http://eitiguatemala.org.gt/documentos-e-informacion-2/>

⁶⁶ See: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/4.-Oficio-nombramiento-de-MEM-como-Coordinador-Ejecutivo-EIT_2.pdf

fully funded and staffed. Article 6 establishes the secretariat's obligation through the Executive Coordinator to *"prepare and monitor implementation of resolutions, deliverables and other relevant documents assign by the MSG members"*. Article 7 sets the specific obligations for the Executive Coordinator including the elaboration of the MSG minutes (7.2), monitor the execution of the work plan (7.5), monitor the financing execution and implementation (7.7), and update the EITI-Guatemala website (7.9). According to Ministerial Accord No. 20-2016, a Working Group was created to support the national secretariat⁶⁷. The ToR requires meeting documents to be submitted at least 48 hours before each MSG meeting. The EITI-Guatemala 2018-19 work plan, as provided to the International Secretariat, does not confirm any budget allocation to cover the salaries of secretariat staff. MSG meeting minutes from April-June 2017 show that the selection of a new National Coordinator has been regularly discussed by the MSG.

Stakeholder views

Stakeholders confirmed that the invitation to participate in the MSG was open and transparent, in addition to the fact that current MSG membership reflects the diversity of each constituency. However, stakeholders argued that there was not enough advance notice of meetings and timely circulation of documents prior to the meeting. Stakeholders agreed that there have been few or no EITI awareness-raising activities during the last years.

Most of the stakeholders consulted confirmed that the agenda for the meetings was exclusively defined by the MEM. Any proposals by other stakeholders on issues to be included were approved or rejected by MEM's sole discretion, before the meeting. Civil society representatives have expressed repeated concern about Governmental Accord No. 96-2012 that states that CSOs and the industry will participate as "invitees" by the government in the MSG.

A technical commission was set up as a sub-group of the MSG, but unfortunately did not do much to prepare for Validation, given the lack of government commitment with the EITI.

Vice-President Jafeth Cabrer appears to attend all MSG meetings. All stakeholders considered his attendance as a positive sign because it helps in supporting EITI's political strength. However, some stakeholders considered that it becomes more difficult to discuss technical issues if the Vice-President is present given his political position. Stakeholders confirmed that based on the need to have a space to discuss these issues, the technical group was created, but it has never worked well because there is no serious commitment. In addition, stakeholders mentioned that the presence of the Vice-president makes the meetings open to the press demonstrating valuable transparency, but the downside is that there is little discussion on EITI. Meetings are therefore unproductive. Furthermore, stakeholders confirmed that the presence of all journalists discourages stakeholders to openly and freely discuss all issues.

Most stakeholders agreed that the national secretariat has little operational capacity. Despite good intentions, it is conditioned by the lack of interest of the government.

⁶⁷ See: "Creación del Grupo de Trabajo". <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made inadequate progress towards meeting this requirement. Stakeholders do not appear to be treated as equal partners and agenda-setting is largely controlled by the Ministry of Energy and Mines (MEM).

The MSG includes self-appointed representatives from each stakeholder group with no suggestion of interference or coercion. However, clear nominations and replacement procedures appears to be lacking or are not sufficiently documented. The composition of the MSG appears to be defined ad hoc. MSG members appear to be lacking mechanisms for communication with their broader constituencies. The MSG ToR does not include all elements required by the Standard. The MSG ToR is outdated and there appear to be significant deviations from it in practice.

In accordance with Requirement 1.4, the MSG should update its internal governance rules to cover all provisions of Requirement 1.4.b and publish procedures for nominating and changing MSG representatives, including the duration of mandates. Each constituency is required to select representatives to the MSG through an inclusive, transparent and well-documented process. The government is required to ensure that all constituency can effectively table issues for discussion.

The MSG may wish to consider keeping public attendance records and posting MSG minutes online. The industry constituency may wish to consider establishing constituency guidelines and mechanisms to ensure coordination of mining, oil and gas companies as a constituency. The civil society constituency may wish to update their regulations taking steps towards broader civil society participation.

Work plan (#1.5)

Documentation of progress

The 2018-2019 work plan includes tasks to be completed by the end of 2019 and is therefore the work plan that has been reviewed under this requirement.

Publicly accessible work plan: EITI-Guatemala published its work plans on the EITI-Guatemala website. The latest work plan agreed by the MSG in its Meeting No. 10-2017⁶⁸ is available online⁶⁹.

Objectives for implementation: EITI-Guatemala's objectives for implementation have remained relatively constant since the 2016-17 work plan. The 2018-2019 work plan's main objective is to strengthen the capacity of MSG members (i) to continue with national efforts to establish transparent mechanisms in the extractive sector through the disclosure of government revenues, and (ii) to maintain the EITI compliant country status. It also includes the following sub-objectives for implementation: have an MSG based on institutionalised rules created by the three sectors and guided by clear procedures; communicate the

⁶⁸ This Act Meeting was shared with the International Secretariat, but it is not published in the EITI-Guatemala website.

⁶⁹ See: <http://eitiguatemala.org.gt/Descargar/doceiti/docsopera/Plan-de-Trabajo-EITI-2018-2019vf-1.pdf>

objectives, benefits and progress of the EITI-Guatemala implementation to different groups, mainly to communities surrounding companies in the extractive industries; improve the national secretariat members' skills regarding transparency in the extractive industries; and, improve the management capacities of the national secretariat as a support unit to the MSG.

A key priority for the government is to strengthen the governance of Guatemala's extractive industry. Thus, the work plan's main objective to establish transparency mechanisms in the extractive industries, through the disclosure of revenues and royalties from the extractive sector corresponds to national priorities, as well as EITI Principles.

Measurable and time-bound activities: EITI-Guatemala's work plans since 2011 have included sub-objectives and specific tasks for each objective, with clear timelines and outputs. With some exceptions concerning the approval of the Governmental Accord to extend the term of the MSG, the update of the MSG's regulations and the maintenance of the EITI Guatemala's website, which are scheduled for completion by end 2018, most activities listed are due for completion by the end of 2019.

Activities aimed at addressing any capacity constraints: The 2018-19 work plan includes activities aimed at capacity building of the MSG members and local stakeholders such as the municipalities related to data collection. It clarifies that constraints on lack of capacity regarding beneficial ownership, EITI Standard, and MSG governance should be addressed. The work plan also includes the intention of preparing trainings for the MSG and exchanges of experiences with other MSGs in the region but does not clarify specific steps for the achievement of this sub-objective.

Activities related to the scope of EITI reporting: Whereas the 2018-19 work plan includes the elaboration and publications of the 2016, 2017 and 2018 EITI Reports by December 2019, it does not provide specific activities related to the scope of EITI reporting.

Activities aimed at addressing any legal or regulatory obstacles identified: The 2018-19 work plan does not clarify if legal or regulatory obstacles were identified when implementing the EITI in the country. Moreover, it does not identify specific tasks aimed at addressing those gaps.

Plans for implementing the recommendations from Validation and EITI reporting: The 2018-19 work plan does not outline plans to follow up on recommendations of past EITI Reports.

Costings and funding sources, including domestic and external sources of funding and technical assistance: Although the published work plan does not include a column to specify the budget, the national secretariat shared with the International Secretariat a draft version of their 2018-19 work plan which specifies costs⁷⁰. The 2018-19 work plan's budget amounts to USD 34,995 (Q 261,000) for the period in question. More than 50% of the budget costs (USD 24,135 = Q 180,000) in the draft work plan is linked to specific tasks outlined in Objective II "Dissemination/Communication". Although previous work plans identified specific budgets, not all activities were covered. Funding sources were identified with the World

⁷⁰ The draft version of the 2018-19 work plan can be requested to the International Secretariat.

Bank indicated as the main source.

Stakeholder views

Stakeholders agreed that the lack of commitment from the government, lack of capacity and lack of funds led to some activities in the work plan being set aside. However, there were activities such as the publication of companies' contributions in their webpages, and the launch of the communication strategy that have been undertaken. A MEM representative recognised that lack of funding is a critical concern; since the 2018 budget has not been approved in Congress and therefore the 2017 budget remains in force.

MSG representatives claim that the work plan is elaborated as a mere formality and does not address the their true concerns.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made meaningful progress towards meeting this requirement. The work plan includes clear objectives for the EITI, linked to national priorities for the extractive sector. However, it does not appear to reflect constituencies' priorities. The work plan is publicly available but lacks a clear account of costs and details on funding sources. The latest version of the work plan is yet to be made publicly available. The work plan does not address the scope of EITI reporting or follow-up of recommendations. This reflects deficiencies in the MSG's work, detailed in the assessment of Requirement 1.4. Implementation of the work plan's activities is lagging behind due to funding constraints.

In accordance with Requirement 1.5, the MSG is required to agree a revised and fully costed work plan that addresses the scope of EITI reporting and the follow-up of recommendations. Its objectives should reflect stakeholders' priorities and it should include specific and measurable activities. The work plan should be made publicly available.

The MSG is encouraged to consider whether the EITI could contribute to resolving social conflicts related to mining by producing relevant information or providing a platform for fact-based debate. In light of the decreased importance of the mining sector in Guatemala, the MSG is also encouraged to consider including, for example, the hydropower sector in the scope of EITI implementation.

Table 1 – Summary initial assessment table: MSG oversight

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Government oversight of the EITI process (#1.1)	The government does not seem to be interested in the EITI Implementation; thus, the MEM is not committed to properly run the process. There is a lack of sufficient resources to sustain EITI implementation and execute the workplan; both financial and technical capable staff. Government representatives are not fully, actively and effectively engaged in the design and monitoring of the EITI process.	Inadequate progress
Company engagement (#1.2)	Industry is engaged in the EITI. Extractive companies were eager to contribute with the report, and have therefore provided all required information to IA. There is an enabling environment for companies' participation in the EITI, in terms of laws and regulatory framework. Industry constituency should proactively participate in the disclosure process, as to ensure more comprehensiveness.	Meaningful progress
Civil society engagement (#1.3)	Civil societies are not restraint and are able to engage in public debate. However, they are not given the possibility to propose topics for discussion at meetings and are advised of meetings with very short notice. They can operate freely but are completely discouraged because of the lack of openness of the government towards them. There has been a notable decrease in CSO	Inadequate progress

	representative's attendance at meetings.	
MSG governance and functioning (#1.4)	<p>MSG agreed TOR for their work, however responsibilities of MSG members are not clarified in detail by constituency. In addition, the MSG's ToR does not mention how many seats on the MSG are allocated to each constituency. Minutes show that there is no consistency on the number of seats allocated to each constituency since 2011 to 2017.</p> <p>Stakeholders' agreed that there is no advance notice of meetings and timely circulation of documents prior to their debate either.</p>	Inadequate progress
Work plan (#1.5)	Guatemala has an up-to-date workplan which is published in their EITI website, which includes costing and funding sources. Yet, the work plan does not include activities related to agreeing the scope of EITI reporting nor outlines plans to follow up on recommendations of past EITI Reports	Meaningful progress
<p>Corrective actions:</p> <ul style="list-style-type: none"> • In accordance with Requirement 1.1, the government should fully commit to EITI and involve governmental entities to do so as well. Particularly, the MEM must actively participate in the design, implementation, monitoring and evaluation of the EITI process. This includes providing adequate funding, ensuring sufficient operational capacity to provide support to the MSG and then committing its best efforts to address the corrective actions included below. • In accordance with Requirement 1.2, industry must be actively and effectively engaged in the EITI process. Thus, the Chamber of the extractive sector should be proactive and encourage companies to participate and comprehensively disclose their payments to the government, even prior to receiving any official request. • In accordance with Requirement 1.3, the civil society should review and reconsider their participation in the EITI and discuss their representation in the MSG, in order to ensure their full, active and effective engagement. 		

- In accordance with **Requirement 1.4**, the **MSG** must oversee the implementation of EITI, reconsidering responsibilities of its members and ensuring these are being accomplished. CSOs, companies and the government should commit and work together. Even though the invitation to participate in the MSG has been open and transparent, enough advance notice of meetings and timely circulation of documents prior to debates must be given. The MSG should elaborate an updated ToR according to Requirement 1.4. (b), being clear in treating each constituency as a partner and giving any member of the MSG the right to table an issue for discussion. These includes, for example, procedures for nominating and changing MSG representatives, defining number of seats allocated to each constituency and more clearly defined roles of alternate members.
- In accordance with **Requirement 1.5**, the MSG must elaborate a new **work plan** including its sections (a) to (g). This new work plan must set EITI Implementation objectives and ensure that they reflect national priorities for Guatemala. In elaborating this work plan, the MSG may wish to consider applying for an adapted implementation in accordance with Requirement 8.1. The Board encourages the MSG in Guatemala to evaluate a recalibration of the scope of its EITI process for the future, to ensure it is useful and aligned with the concerns and national priorities of the country. The International Secretariat should offer and provide support to this end.

Following some suggestions collected during stakeholders' consultations, this eventual adapted implementation might include: (i) explore innovative approaches to extending EITI implementation (e.g. including the hydroelectric power generation sector, some aspects of the indigenous consultation process); and (ii) a justified decision on how to apply the Requirements 2 to 6 of the EITI Standard, so its implementation is useful and aligned with the concerns and national priorities of the country.

Part II – EITI Disclosures

2. Award of contracts and licenses

2.1 Overview

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

2.2 Assessment

Legal framework (#2.1)

Documentation of progress

Legal framework: The 2014-2015 EITI Report includes a description of the legal framework in the mining and hydrocarbons sector. It lists the main laws, regulations, and government and ministerial agreements regulating the extractive industries. The 1997 Minerals Law and its 2001 Regulations, the 1983 Hydrocarbons Law and its 1983 and 2005 Regulations, and other important texts are mentioned (pp. 58-59)⁷¹. Links are provided to the ministry's database of laws and regulations applicable to the mining and hydrocarbon sector⁷². In the oil sector, the report also refers to the PSC Template⁷³.

Government agencies' roles: The report briefly describes the roles of the key agencies involved in licensing in the mining and oil sector, including the General Mining Directorate and the General Hydrocarbons Directorate who are responsible for auditing (p.59). Both are supervised by the MEM (p.29)⁷⁴. More specifically, it mentions the Department of Mining Control ("*Departamento de Control Minero*")⁷⁵ and the Audit Unit ("*Unidad de Fiscalización*") which supervise the mining and hydrocarbons sector respectively (p.65).

Fiscal regime: For mining and oil, the 2014-2015 EITI Report provides an overview of fiscal terms including the royalties, fees and taxes rates (pp. 59-60) but does not refer to any specific rates applicable to mining contract. The report also confirms the PSCs regime in the oil sector (pp. 60-61), though specific fiscal

⁷¹ All references to (p.) in the Initial Assessment are to EITI (30 December 2016), '2014-2015 EITI Report' accessed [here](#) in May 2018.

⁷² For mining, see: <http://www.mem.gob.gt/quienes-somos/marco-legal/marco-legal-hidrocarburos/marco-legal-mineria/>. For hydrocarbons, see: <http://www.mem.gob.gt/quienes-somos/marco-legal/marco-legal-hidrocarburos/>

⁷³ Approved by Governmental Accord No.190-2005. See: <https://www.mem.gob.gt/wp-content/uploads/2015/06/7. MODELO DE CONTRATO EXPLORACION Y EXPLOTACION 190 2005.doc>

⁷⁴ It was created in 10 September 1983 by Law Decree No. 106-83.

⁷⁵ Dirección General de Minería. Manual de Funciones y Descripción de Puestos. See: <http://www.mem.gob.gt/wp-content/uploads/2012/05/MANUAL-DE-PROCEDIMIENTOS-DIRECCI%C3%93N-GENERAL-DE-MINERIA.pdf>

terms for these are not mentioned.

Degree of fiscal devolution: The report explicitly mentions that there were direct subnational payments to municipalities and the Community Councils for Development (COCODES) (p. 81 – pp. 97-99).

Municipalities and COCODES receive a number of payments including municipal royalties and property tax, respectively (see *Requirement 5.1*).

Reforms: The report briefly lists planned reforms (bills) to the extractive industries legal framework including the revision of 1997 Minerals Law on mining royalty's regime. However, it does not describe effective recent reforms or status of reforms being discussed (p.61).

Stakeholder views

Legal framework: Most stakeholders did not express any particular views about the 2014-2015 EITI Report's coverage of extractives-related laws. Civil society and industry representatives requested for EITI reporting to express clearly the impacts of the constitutional courts resolutions which were considered to have undermined legal certainty and created instability in the sector, thereby deterring investment. A senior government official explained that the 1997 Minerals Law and its 2001 Regulations do not include provision on key topics such as closure of mines, for example. In this context, government stakeholders are currently working on reforms to include provisions on relevant topics.

Government agencies' roles: Several stakeholders from all constituencies and development partners highlighted the key role assigned to the MEM in overseeing the mining sector, most notably in license allocations. Senior government and industry representatives confirmed that although the role played by the Vice-Presidency had increased in recent years, it did not allow a focus on extractive industries' key issues. Most stakeholders considered that the Presidential Commission on Open Public Management and Transparency (ex COMPRET) has a key role on promoting transparency and accountability in Guatemala and should therefore have a crucial role in supporting the EITI implementation. However, the role of the agency remains unclear.

Fiscal framework: Although all stakeholders from all constituencies confirmed that legal and voluntary royalty rates differed by contract, albeit within broad guidelines for different minerals, there was no agreement on currently effective voluntary royalty's payments by mining companies. While industry stakeholders confirmed that all voluntary royalty agreements were publicly available, it was not possible for the International Secretariat to verify the existence of those agreements through publicly-available sources. Government stakeholders explained that mining companies have two options to calculate their Corporate Income Tax: as a percentage based on either gross income or profits. They also highlight the lack of tax incentives such as accelerated depreciations or tax holidays for extractive companies. Although government representatives confirmed that they have a complete list of all mining companies operating in Guatemala for tax purposes (self-declared by companies), they expressed concerns about the lack of coordination between the Tax Administration and the Minister of Mines and Energy in relation to what should be considered as a "mining company" in Guatemala for EITI Reporting purposes. While the Tax Administration relies on a self-declaration of the taxpayer, the MEM relies on a "license authorization".

Degree of fiscal devolution: Industry stakeholders confirmed that there were direct extractive-specific

subnational payments to municipalities.

Reforms: Government representatives said that a new revision of the law was planned for the end of 2018.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made satisfactory progress in meeting this requirement. The 2014-2015 EITI Report provides a comprehensive description of the legal framework and fiscal regime governing the extractive industries and addresses reform efforts. It also includes a description of the roles of the main regulatory body as well as the degree of fiscal devolution.

To strengthen the implementation of Requirement 2.1, the MSG may wish to include in EITI Reports an overview of the key terms of the main laws, publish voluntary royalty agreements and summarise the fiscal terms of relevant PSCs.

License allocations (#2.2)

Documentation of progress

Award/transfer: For mining, the 2014-2015 EITI Report provides a summary of the number of reconnaissance, exploration and production licenses awarded from 2003 to 2015. For 2014 and 2015, the report reveals that six exploration licenses and six production licenses were granted, but without providing any additional information (e.g. license name and location). No reconnaissance licenses were awarded in either year (p. 64). It raises concerns over the decrease of licenses awarded after 2009 because of different moratorium processes in granting mining rights⁷⁶. However, the mining cadastre provides a list of all the licenses granted before and after 2014-2015 disaggregated per each of the 22 departments in Guatemala⁷⁷. While it includes the date of grant of the licence, licenses are not searchable by year.

For oil, the report does not clearly state whether any oil contract was awarded in 2014-2015, although it includes links to the MEM's hydrocarbon exploration and production contracts depository⁷⁸. Based on the MEM website's list of hydrocarbons contracts, it appears that two hydrocarbons contracts were awarded in 2014-2015: Contract No. 1-15 to Island Oil Exploration Services⁷⁹ and Contract 2-2014 to Greenfields Petroleum Limited. It also includes a list of the hydrocarbon's exploration and production contracts in force during 2014 and 2015 including the Governmental Accords that approved them, the publication

⁷⁶ See: <https://www.americaeconomia.com/negocios-industrias/gobierno-plantea-moratoria-de-dos-anos-para-mineria-metalica-en-guatemala>

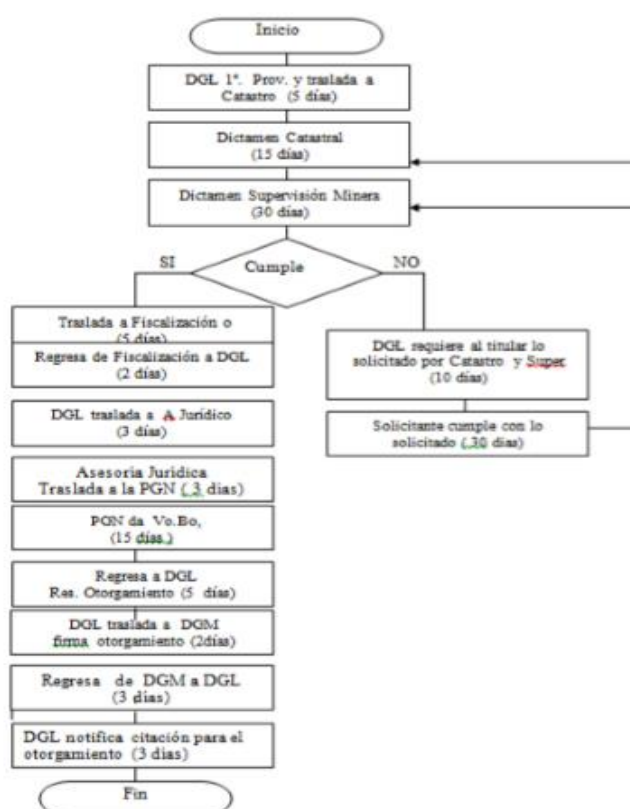
⁷⁷ See: <http://www.mem.gob.gt/mineria/catastro-minero/derechos-mineros-otorgados-por-depto/>

⁷⁸ For exploration contracts, see: <http://www.mem.gob.gt/hidrocarburos/exploracion/contratos-en-fase-de-exploracion/>, and for production contracts, see: <http://www.mem.gob.gt/hidrocarburos/explotacion/contratos-en-fase-de-explotacion/>

⁷⁹ See: <http://www.mem.gob.gt/hidrocarburos/exploracion/contratos-en-fase-de-exploracion/>

date and the contract holder (p. 62).

Award/transfer process: According to the 1997 Mining Law, for *mining*, there are three types of licenses in Guatemala awarded through first-come-first-serve application: reconnaissance (Chapter III), exploration (Chapter IV), and production licenses (Chapter V). However, the MEM may also award exploration or production licenses through a special bidding process in the case of “Special Areas of Mining Interest” (*Áreas Especiales de Interés Minero*) upon approval of the General Mining Directorate (Title II). The 2014-2015 EITI Report briefly lists the types of mining licenses in Guatemala. Environmental requirements to be requested by the mining authority on each mining right and a briefly mention of the mining holder’s rights (exclusivity, extensions, among others) are available (p. 45 and 59).



Process of award a mining license. 2014-2015 EITI Report (p. 65)

For oil, the report describes the only type of hydrocarbon contract in Guatemala: The PSC or “*Contrato de Participación en la Producción*” and explains briefly general features such as the duration of the contract (25 years), the contract holder’s works commitment, and the authority that approves the contract (Presidency of the Republic and Cabinet) (pp. 60-62 and 103). It is not clear whether any oil license was awarded in the period under review.

In mining, neither the 2014-2015 EITI Report nor the 1997 Mining Law and Regulations disclosed the required information regarding transfer of mining licenses. In oil, while Article 281 of the Hydrocarbons Law reveals a plan for the transfer of oil exploitation operations including contracts, the EITI Report does not disclose the required information regarding transfer of oil licenses.



Process of award a PSC. 2014-2015 EITI Report (P.63)

Technical and financial criteria: For mining, the technical and financial criteria for awarding or transferring mining licenses is not included in the report. Criteria for reconnaissance, exploration and production licenses awarded through direct application or for the licenses awarded through the bidding process in the scenario of “Special Areas of Mining Interest” are not included. Criteria for transfer of mining and oil licences are not included. Article 33.b) of the 1997 Mining Law mentions the importance of considering general technical and financial capacities for companies seeking for a license, however it does not explain the specific criteria assessed during the application process⁸⁰. In oil, the report only refers that bidders need to meet the technical criteria and financial and legal requirements established in the Minimum Basis elaborated by the MEM (p. 61). Article 21.3 of the “Invitation to Tender to conclude Contracts for the Exploration and Production of Hydrocarbons”⁸¹ mentioned that bids will be rejected if the bidder does not comply with the technical and financial capacity.

License awardee information: In mining, the 2014-2015 Report refers to the mining cadastre website which contains a list of the companies that received mining licenses, however it does not include a list of the specific license awardee companies that received mining licenses in 2014-2015. It includes the name of the mining right, the number of registers, the area, the type of license, the license holder, the commodity granted, the municipality/district and department. To identify this information, it will be necessary to go through the 22 carpets/per departments (PDFs) in the MEM’s website. For oil, the report provides the license awardee information of the operator for the existing hydrocarbon exploration and production contracts in 2014-2015. (P.62).

Non-trivial deviations: The report does not refer to any non-trivial deviations from statutory procedures in

⁸⁰ 1997 Minerals Law of Guatemala, accessed [here](#) in May 2018. P.11

⁸¹ Approved by Governmental Accord No.764-92. See: http://www.mem.gob.gt/wp-content/uploads/2015/06/6.CONVOCATORIA_PARA_PRESENTAR_OFERTAS.doc

the allocation of the mining licenses granted in 2014-2015.

Comprehensiveness: The report does not reveal if reporting companies hold licenses that were awarded prior to 2014-2015. However, it provides general references to the award of Marlin I in 2003 and Mina Escobal in 2013, among others (pp. 45-46). On mining, whereas it provides the MEM's link on the number of licenses applications in process, it is not disaggregated per company but per type of mining (metallic, not metallic and construction materials)⁸². The MEM's link only provided licenses awarded up to January 2017.

Bidding process: According to the 2014-2015 EITI Report, for mining, it seems there were not any special bidding processes related to "Special Areas of Mining Interest" ("*Áreas Especiales de Interés Minero*"). For oil, while the report briefly describes the general process for awarding hydrocarbons contracts through competitive bidding (p.63), albeit without guidance on public access to bid criteria or unsuccessful bidders, it appears that two hydrocarbons contracts were awarded in 2014-2015, based on the MEM website's list of hydrocarbons contracts: Contract No. 1-15 to Island Oil Exploration Services⁸³ and Contract 2-2014 to Greenfields Petroleum Limited. The list of applicants and the bid criteria were not disclosed.

Commentary on efficiency: While the report provides brief descriptions of the general process for awarding licenses in the mining and hydrocarbons sector, it does not include any comments on the efficiency of the mining and oil license allocation process.

Stakeholder views

Licensing moratorium: While all stakeholders consulted confirmed that there had been a suspension of mining licensing activity in the recent period, there was not clarity over whether this reflected a formal government policy since 2009, or/and it was consequence of a Constitutional Court decision on the suspension of Minera San Rafael's Escobal mine license. Operations at the mine have been halted since June 2017 as a result of a roadblock and license suspension following a legal challenge by local NGO CALAS⁸⁴. The claim refers to the lack of proper indigenous consultation according to International Labor Organisation Convention 169. Development partners confirmed that the licensing moratorium in place in Guatemala is a significant problem for the country's extractive sector. All stakeholders from the three constituencies highlighted their concern on the delay of the Constitutional Court decision which brings instability to the country.

Award/transfer: Although government representatives did not provide clarity about mining license awards during 2014 and 2015, the International Secretariat is aware that government representatives consulted did not participate in the elaboration of the EITI Report 2014-2015. In any case, stakeholders confirmed that the mining cadastre lists all mining licenses awards to date. There was consensus among

⁸² See: <http://www.mem.gob.gt/mineria/estadisticas-mineras/licencias-vigentes-y-solicitudes-en-tramite/>

⁸³ See: <http://www.mem.gob.gt/hidrocarburos/exploracion/contratos-en-fase-de-exploracion/>

⁸⁴ See: <https://subscriber.bnamerica.com/en/myaccount/login?error=login&back=%2Fen%2Fnews%2Fminingandmetals%2Fguatemala-politicians-call-for-prompt-ruling-on-tahoe-license%2F&position=1&aut=true&idioma=en>

all consulted stakeholders that there were two oil and gas license awards in the 2014-2015 period. None of the stakeholders consulted could confirm whether any mining and/or oil license was transferred within 2014-2015.

Award/transfer process: For mining, stakeholders confirmed that all types of mining licenses were awarded under the first-come, first-served system. Government stakeholders also agreed that no mining contracts for were awarded for “Special Areas of Mining Interest”. Apart from highlighting the case of “revolving doors” in Guatemala, the latest Transparency International Report “Combatting corruption in mining approvals: Assessing the risks in 18 resource-rich countries”,⁸⁵ confirms that the duration and timing of each step of the license award process in Guatemala can be highly manipulated (p. 95). It also mentions that there is low risk of external interference in the cadastre agency’s awarding of licenses in Guatemala (p. 95). For oil, all stakeholders consulted confirmed that all licenses are generally awarded through competitive tenders which seems to follow a transparent process. They also highlighted the PSC as the only type of hydrocarbon contract in Guatemala. Perenco’s PSC was recognized as the main agreement, which represented more than 90% of oil production in the country.

Technical and financial criteria: Senior government officials confirmed that specific technical and financial criteria for mining license grants existed but were not disclosed. In oil, stakeholders were not able to confirm whether technical criteria and financial and legal requirements established in the Minimum Basis elaborated by the MEM were put in place.

Non-trivial deviations: None of stakeholders consulted refer to any non-trivial deviations from statutory procedures in the allocation of the mining licenses granted in 2014-2015 or in the hydrocarbons contracts grants.

Comprehensiveness: Government officials explained that the planned mining cadastre project would ensure that all licenses were posted online and would facilitate the identification of any non-trivial deviations from licensing procedures in future, although the project appeared not clearly implemented at the time of Validation.

Initial assessment

The International Secretariat’s initial assessment is that Guatemala has made inadequate progress towards meeting this requirement. It remains unclear, which mining licenses were awarded in 2015 and whether any license transfers took place. The process for transferring mining and oil licenses is not described. The technical and financial criteria for awarding or transferring oil or mining licenses is not disclosed. There is no indication that the MSG has considered possible non-trivial deviations from the licensing framework.

In line with Requirement 2.2, Guatemala is required to (1) disclose oil and mining licenses awarded or transferred in the year(s) under review, (2) describe the process of transferring a license, (3) highlight any non-trivial deviations in practice (4) clarify the technical and financial criteria used for assessing

⁸⁵ See: https://www.transparency.org/whatwedo/publication/combating_corruption_in_mining_approvals Pp.27

allocations and transfers of both oil and gas contracts and for mining licenses, and (5) disclose the list of applicants and bid criteria for licenses awarded through a bidding process.

To strengthen implementation of requirement 2.2, the MSG may also wish to comment on the efficiency of the current contract allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.

License registers (#2.3)

Documentation of progress

The publicly available mining cadastre system does not reveal timely and comprehensive information regarding each license. While the last update of the Map of the Mining Cadastre was on January 2017⁸⁶, the lists of licenses granted per department were updated in January 2018.

Licenses held by material companies: The 2014-2015 EITI Report briefly mentions exploration and production licenses held by the eight reporting companies (pp. 26-28). General information such as the location of the mine, the date of starting production, and the commodities extracted in the mines were revealed. Neither the report nor the mining cadastre is clear on the date of application, date of award and duration of license for material companies.

License-holder names: Whereas the report does not provide the license-holder names for all mining licenses, the mining cadastre make this information available disaggregated per department. For oil, the report discloses the names of PSC's operaTOR (p. 62) and provides links to the PSCs on the MEM website, where the names of parties to the contracts are available⁸⁷.

License coordinates: For mining, the 2014-2015 EITI Report briefly affirms that the mining cadastre includes coordinates of the license area (mining polygons) which is sourced by mining applications, alterations of previous areas, subsequent banned areas for mining operations, excluded areas, among others (p.63)⁸⁸. For oil however, the report provides links to the PSCs on the MEM website, which include coordinates of the blocks.

Dates: In mining, the MEM database of mining licenses provides dates of "starting". However, it is not clear if this refers to the date of application or the date of award. It does not include the duration of licenses. In oil, the PSCs to which links are provided in the 2014-2015 EITI Report include the dates of award and period of validity, but do not provide the dates of application.

Commodity: For mining, the license cadastre on the MEM's website provides the types of commodity(ies) being produced by each mining license granted. For oil, the report provides links to the PSCs, which

⁸⁶ See: http://www.mem.gob.gt/wp-content/uploads/2015/06/MapaRepublica_web1.pdf

⁸⁷ See: <http://www.mem.gob.gt/hidrocarburos/exploracion/contratos-en-fase-de-exploracion/> and <http://www.mem.gob.gt/hidrocarburos/explotacion/contratos-en-fase-de-explotacion/>

⁸⁸ See: <http://www.mem.gob.gt/mineria/catastro-minero/>

confirm that the licenses cover oil.

Licenses held by non-material companies: The license cadastre on the MEM's website includes licenses held by non-material companies and individuals.

Public cadastre/register: For mining, the report provides a brief and general description of the MEM's mining cadastre specifying a link to its access. It does not express any concerns over government record-keeping and quality assurance. For oil, the report only references the oil and gas exploration and production contracts website which is accessible to the public.

Stakeholder views

Oil and gas licenses: All stakeholders consulted confirmed that there have only been three important oil license awards to date. An industry representative stated that the status of the Perenco license was clear. While stakeholders explained that the MEM does not maintain a cadastre system for its oil licenses, the full-text of contracts is accessible on its website.

Mining cadastre: There was consensus amongst stakeholders consulted that Guatemala does not yet have a suitable mining cadastre. Government representatives were not able to clarify whether the current system reveals timely and comprehensive data regarding each license. Stakeholders however recognised that there is an ongoing plan on developing a robust cadastre system in order to make it more accessible and timelier in a context of a reduced budget allocated to the MEM. Although government stakeholders confirmed that the current Mining Cadastre includes information of the most relevant mining companies, there was no clarity whether the date of application, date of award and duration of license are publicly available. None of the stakeholders consulted could explain how they will address the gap related to the duration of licenses not being included in the mining cadastre. Stakeholders also highlighted that during 2016 and 2017, the MEM has been recognised as the principal agency in Guatemala in terms of public information access.

License information: All stakeholders consulted considered that the list of licenses published on the MEM's website in August 2018 was comprehensive of all legal licenses at that time. A government official who works directly with the Mining Cadastre confirmed that there were no mechanisms in place to maintain it updated. While the list of licenses provides the location of the mine, the date of starting production, and the commodity(ies) covered and name of license-holders, it does not disclose the dates date of application, date of award and expiry. Although stakeholders confirmed that the Mining Cadastre map contains license coordinates, the International Secretariat could not identify the location of each license..

Comprehensiveness: Government stakeholders consulted highlighted the existence of illegal mining mainly in the construction field and the jade industry. Several stakeholders from all constituencies also considered that the suspension of new licensing contributed to the growth of illegal mining, given that license-holders tended to continue operating their mines while they awaited the renewal of their license(s). A government official highlighted some discrepancies between different lists from various government entities of companies holding mining licenses, including between lists of companies paying royalties and lists of those paying tax which in most cases is auto declared. Within the MEM, a

government official mentioned that there is a plan in place to qualify metallic mining companies from non-metallic mining companies considering their different impact. While the MEM is currently implementing technological methods (the use of drones) to tackle illegal mining, the official did not confirm that there have been tangible reductions in illegal mining. On oil, all stakeholders consulted considered that the full set of contracts was available.

Active/inactive licenses: While there was consensus that a majority of the licenses on the MEM website were inactive, none of the stakeholders confirmed whether there is a public source information where to verify the situation of each license. Moreover, the International Secretariat verified that each list of licenses expressly mentions that “licenses could be under an extension procedure or other administrative procedure” without specifying which licenses were active or inactive.

Initial assessment

The International Secretariat’s initial assessment is that Guatemala has made meaningful progress towards meeting this requirement. The Mining Cadastre provides a list of mining licenses active in 2014-2015 and reveals general information such as the license-holder name, the commodities extracted in the mines and license coordinates. For oil, each Production Sharing Contract provides the same information. However, in mining, the Mining Cadastre does not appear to include dates of application or award. Moreover, the Mining Cadastre does not include the duration of the license.

In accordance with Requirement 2.3, Guatemala should also ensure that the license holder names, dates of application, award and expiry, commodity(ies) covered and coordinates for all mining and petroleum licenses held by material companies are publicly available. Where this information is already publicly available, it is sufficient to include a reference or link in the EITI Report. Where such registers or cadastres do not exist or are incomplete, the EITI Report should disclose any gaps in the publicly available information and document efforts to strengthen these systems.

Contract disclosures (#2.4)

Documentation of progress

Government policy: The 2014-2015 EITI Report does not refer to legal provisions requiring the publication of mining (when applicable) and hydrocarbons contracts on the MEM website or any reforms that are planned or underway. It does not clarify the government’s policy on contract disclosure in the oil and mining sector, aside from a general description of PSCs in the oil sector and the “Special Areas of Mining Interest” ‘contracts in the mining sector. Article 6 of the Hydrocarbons Law mentions that all hydrocarbon contracts are effective as of the date of publication in the gazette.

Actual practice and accessibility: The 2014-2015 EITI Report includes relevant links to the MEM’s

hydrocarbon exploration and production contracts depository⁸⁹. It also mentions a list of the hydrocarbon's exploration and production contracts in force during 2014 and 2015 including the Governmental Accords that approved them, the publication date and the operator (p. 62). For mining, the report does not reveal any contract related to a "Special Area of Mining Interest" agreed during 2014 or 2015 and does not provide any reference/link.

Stakeholder views

Government policy: Stakeholders from all constituencies confirmed that there are no mining agreements in place in Guatemala. However, industry stakeholders mentioned there were public special voluntary royalties' agreements which contain different royalty rates. The International Secretariat was not able to track those special agreements. Stakeholders also confirmed that government's policy in oil was to publish all contracts through the Official Gazette to make them valid.

Practice and accessibility: None stakeholders showed uncertainty over whether the contracts published in the MEM's website represented the full list of oil agreements considering that the published contracts were comprehensive.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made satisfactory progress towards meeting this requirement. The Government of Guatemala supports and practices contract transparency. Contractual arrangements in the mining sector do not exist. Oil and gas contracts are published in the official gazette and in the Ministry of Energy and Mines' portal.

To strengthen implementation of Requirement 2.4, Guatemala is encouraged to clearly document its policy on contract transparency and make voluntary royalty agreements publicly available.

Beneficial ownership disclosure (#2.5)

Documentation of progress

Government policy: The EITI Report does not document government's policy and MSG's discussion on disclosure of beneficial ownership.

Actual practice: The 2014-2015 EITI Report states that the MSG frequently discussed the approval of a beneficial ownership roadmap (p.22). On December 2016, the beneficial ownership roadmap for the period 2017-2019 has been published on the EITI-Guatemala website⁹⁰. The roadmap is structured in five points covering aspects recommended in the EITI International Secretariat's guidance (analysis of institutional framework and sources, data collection and dissemination). Most activities in the roadmap

⁸⁹For exploration contracts, see: <http://www.mem.gob.gt/hidrocarburos/exploracion/contratos-en-fase-de-exploracion/>, and for production contracts, see: <http://www.mem.gob.gt/hidrocarburos/explotacion/contratos-en-fase-de-explotacion/>

⁹⁰See: <http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/Hoja-de-Ruta-GT-FINAL-28-03-17.pdf>

were planned for 2017, with data collection expected to start no later than January 2018, although evidence indicates delays in implementation. Point 1 (Analysis of the structure and quality of existing information sources of beneficial ownership), Point 2 (Analysis of regulatory framework and feasibility of reforms) and Point 5 (Diagnosis of capacity building needs and financial assistance) in the roadmap were planned for 2017, however it appears there are not significant advances. Collection of data (Point 4 of the roadmap) is planned for the end-2018.

Practice: There is no evidence in the 2014-2015 EITI Report of any MSG attempt to report the beneficial ownership of material companies.

Legal owners of material companies: The 2014-2015 EITI Report does not include the legal owners of the material companies. In some cases, it includes references to main shareholders in mining companies including Montana Exploradora de Guatemala and Entre Mares de Guatemala, which are part of the Goldcorp Group of Canada (pp. 45-46). The Corporate Register in Guatemala collects information on legal owners from companies operating in Guatemala.

Stakeholder views

Policy: None of the stakeholders consulted could confirm the government's commitment on beneficial ownership disclosure for all extractive companies in Guatemala. MSG representatives confirmed there was no progress in relation to their beneficial ownership roadmap.

Practice: Members of the MSG confirmed that EITI Guatemala had yet to begin collecting data on extractives companies' beneficial ownership. However, industry representatives explained that the most important mining companies in Guatemala are publicly listed companies and therefore their beneficial ownership information is already public. Industry representatives noted their intention to develop a diagnosis of the beneficial ownership disclosure situation within GREMIEXT. However, some industry representatives showed their concerns on the very ambitious EITI beneficial ownership requirement which could lead to the lack of commitment of mainly some medium-to-small-scale mining companies mainly because it will imply safety risks for their beneficial owners. Almost all stakeholders noted that the experience thus far was that company management tended to report legal shareholders as beneficial owners and that there was no understanding on how a beneficial ownership registry could be expected to function in Guatemala.

Legal owners: Stakeholders consulted confirmed that details of companies' shareholders are publicly available. Government stakeholders confirmed that while technical capacities are required to grant exploration and production mining licenses, economic capacities are not required, therefore it is not possible to think for now of a scenario of beneficial ownership disclosure through the granting of licenses.

Initial assessment

Implementing countries are not yet required to address beneficial ownership and progress with this requirement does not yet have any implications for a country's EITI status. Nonetheless, Guatemala has made some progress in agreeing a three-year beneficial ownership roadmap published on the EITI-Guatemala website, even if beneficial ownership reporting is yet to begin.

To strengthen implementation of Requirement 2.5 and prepare for full disclosure of beneficial owners by 2020, it is recommended that EITI Guatemala considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and to pilot beneficial ownership definitions and thresholds. Guatemala may also wish to conduct broader outreach to companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory.

State participation (#2.6)

Documentation of progress

The 2014-2015 EITI Report does not list SOEs in the extractive industries in Guatemala. Whereas the scope of reconciliation (p.25) in the report does not include any SOE as reporting company, the 2014-2015 EITI Report does not expressly confirm that the government had no ownership interest in the extractive industries in the years under review.

Stakeholder views

There was consensus among stakeholders consulted, that there was no state participation in the mining and oil sector in 2014-2015 to present.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that the MSG has demonstrated that this requirement is not applicable in the country.

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

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Legal framework (#2.1)	<p>The 2014-2015 EITI Report includes a description of main laws, regulations, and government and ministerial agreements regulating the extractive industries. More detailed information on the key roles of the MEM and the Presidential Commission (ex COMPRET) should be disclosed, considering their crucial role in supporting EITI. These entities promote transparency and accountability, but it seems not clear which are exactly their attributions.</p> <p>Regarding fiscal regime, there is no reference to any specific fiscal terms in relevant PSCs, nor disclosure of voluntary royalty agreements.</p>	Satisfactory progress
License allocations (#2.2)	<p>The report summarizes the number of licenses granted in the period under review but lacks to provide details on duration of each license, bidding criteria and list of unsuccessful bidders.</p> <p>The report does not describe which is the process for transferring licenses in mining and oil sector. As a matter of fact, it is unclear whether any licenses were transferred/awarded for the 2014-2015 period. This information should be publicly available, and a reference or link included in the report.</p> <p>The MSG may also wish to include commentaries on the efficiency of the current license allocation and transfer system; however, this is not mentioned in the report.</p>	Inadequate progress
License registers (#2.3)	Information required is disclosed but still not fully complete. There is no	Meaningful progress

	clear categorization of current licenses, no dates and duration of these. The lack of this information is a concern on the comprehensiveness of license data collected by the MEM.	
Contract disclosures (#2.4)	The EITI Report does not clarify the government's policy on contract disclosure in the oil and mining sector. The MEM's website mentions a list of the hydrocarbon's exploration and production contracts in force during 2014 and 2015.	Meaningful progress
Beneficial ownership disclosure (#2.5)	Guatemala is not yet required to address beneficial ownership; therefore, this requirement is not applicable for this Validation.	
State-participation (#2.6)	Given that there was no state participation in the mining and oil sector for the 2014-2015 period, this requirement is not applicable.	

Corrective actions:

- In accordance with **Requirement 2.2**, EITI Guatemala must disclose information related to award or transfer of licenses pertaining to the companies covered in the report. For each license awarded in the period under review, complete data must be provided, including duration, bidding criteria, recipient.
- In accordance with **Requirement 2.3**, a public register of mining and oil licenses must be kept and updated. The MSG should work more closely with the MEM providing detailed and complete information on each license including license holder, coordinates of the license area, date of application, date of award, duration of license and commodity being produced. This information is expected to be provided for all companies.
- In accordance with **Requirement 2.4**, the EITI Report should document the government's policy on disclosure of exploration and exploitation contracts. Concretely, it is suggested that the report explains relevant legal provisions, actual disclosure practices or any reforms underway, otherwise include a link to MEM's website where this information is disclosed.
- In accordance with **Requirement 2.5**, the MSG is recommended to start working more proactively regarding beneficial ownership, which will be mandatory as of 1 January 2020. It is suggested to start preparing a publicly available register of the beneficial owners of the entities operating and investing in extractive assets. MSG may wish to consider piloting

beneficial ownership reporting in the forthcoming EITI Report. Thus, the MSG should start creating awareness on this issue among participating companies and other stakeholders.

3. Monitoring and production

3.1 Overview

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

3.2 Assessment

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

Documentation of progress

The 2014-2015 EITI Report provides an overview of the mining and oil sector, but it does not include details on significant exploration activities. The MEM's website provides geological descriptions on four oil basins (Cuencas Petén Norte, Petén Sur, Amatique and Pacífico), though information is not published in a timely manner⁹¹. Regarding mining, the report refers to sites with mineral potential, but does not explicitly mentions exploration activities. Moreover, it raises concerns over the lack of public sources of information and technical data on mineral reserves (p.50). The 2014-2015 EITI Report also reveals the inexistence of significative mining explorations as consequence of different moratorium processes in granting mining rights since mid-2009 (p.75)⁹². The report refers to illegal mining activities identified in 2014-2015 and discloses actions taken by the government (pp. 65-66). Although there is a definition of ASM (p.101) and a scope of legal framework (pp. 44 and 45), there are not figures⁹³.

Stakeholder views

Stakeholders did not express any particular views on the comprehensiveness of the coverage of extractive industries and exploration activities in the report, other than to highlight the challenge posed to any significant exploration activities as a consequence of the licensing moratorium in Guatemala. Stakeholders however agreed on the existence of sites with mineral potential. A government official consulted mentioned an ongoing plan to address the lack of public source of information on mineral reserves data. Tackling illegal mining is a priority for Guatemala according to a government official consulted. Apart from the government's actions mentioned in the report, stakeholders mentioned the use of technology (drones) to detect illegal mining activities. A government representative highlighted the

⁹¹ See: <http://www.mem.gob.gt/hidrocarburos/exploracion/informacion-geologica/>.

⁹² Dirección General de Minería. Anuario Estadístico Minero 2010. (pp. 4 and 7. See: https://www.mem.gob.gt/wp-content/uploads/2015/06/6_x_Anuario_Estadistico_Minero_2010.pdf

⁹³ The Guatemala's Validation Report 2013 highlights how ASM "does not appear to have received a great deal of focus (...) which is often carried out illegally. The unauthorized extraction of gravel, sand, and mineral – specifically jade – has become a serious problem that carries with it negative social and economic consequences". P. 56 and 118. See: Sustainable Development Strategies Group. Validation of the EITI Guatemala (November 2013).

Validation Report accessed [here](#) in May 2018.

MEM's lack of information on artisanal and small-scale mining (ASM).

Initial assessment

The International Secretariat's initial assessment is that Guatemala has made satisfactory progress towards meeting this requirement. The EITI Report discloses an overview of the extractive industries, clarifying that there were no significant exploration activities. The report also raises concerns over the lack of public sources of information and technical data on mineral reserves.

To strengthen implementation of Requirement 3.1, Guatemala may wish to expand its coverage of the mining sector by including more specific updates on estimated deposits, ongoing and stalled projects.

Production data (#3.2)

Documentation of progress

The 2014-2015 EITI Report states the total production values for mining in 2014-2015 (pp. 7 and 51). It is not clear whether it refers only to industrial-scale mining due to the fact that ASM was not explicitly excluded from the scope of reporting. The depletion of the Marlin mine has been identified as the reason of significant decrease of production since 2012. The report also notes that the production in the Escobal mine (since 2013) as well as Fénix, Cerro Colorado and Sechol mines (since 2014) contributed to stabilise mineral metallic production, although not to the levels of production reached in 2011 with the Marlin mine (p.51). Production volumes are disclosed in publicly-accessible sources. For oil, while the report does not disclose production volumes and/or values derived from the PSCs in force, these data are disclosed in publicly-accessible government sources. More specifically, from the summary on the production of extractive industries (p.7), it is not clear whether total production corresponds to both the mining and oil sector.

Production volumes: Although the report does not explicitly include data on production volumes for mining, the "Mining Statistical Yearbook" ("*Anuario Estadístico Minero*") 2014-2015 discloses data on production volumes disaggregated by commodity for those years⁹⁴. For oil, the 2014-2015 EITI Report discloses production volumes (2010-2015) of oil derivatives (p.54) but it does not disclose oil production volumes as consequence of the PSCs in force. The MEM's website however discloses timely information on production volumes disaggregated per operator, field and month.⁹⁵ The Xan field ("*Contrato Petrolero*")

⁹⁴ Dirección General de Minería. Anuario Estadístico Minero 2014. Pp.10-12. See: <https://www.mem.gob.gt/wp-content/uploads/2015/06/ANUARIO-ESTAD%C3%8DSTICO-MINERO-2014.pdf>. Dirección General de Minería. Anuario Estadístico Minero 2015. Pp.11-12. See: <http://www.mem.gob.gt/wp-content/uploads/2015/06/ANUARIO-ESTAD%C3%8DSTICO-MINERO-2015.pdf>

⁹⁵ "Producción Nacional de Petróleo por Contrato-Año 2015". See: <http://www.mem.gob.gt/wp-content/uploads/2015/06/2015-producci%C3%B3n-de-petr%C3%B3leo-crudo-nacional.pdf>, and "Producción Nacional de Petróleo por Contrato-Año 2014". See: <http://www.mem.gob.gt/wp-content/uploads/2015/06/produccion-2014..pdf>

2-85”) operated by Perenco Guatemala Limited represented 89% and 88% of total production volume in 2014 and 2015, respectively.

Production values: The report discloses data on the value of mining production from 2005 to 2015 (p. 52)⁹⁶. Sources are referenced (“Production Reports”) but links were not provided. It also provides mining production values for non-metallic mining (30 commodities) and metallic mining (eight commodities) during 2005-2015. The report highlights metallic mining as the largest component of total production representing 97% and 95% of total production in 2014 and 2015, respectively (p. 52). The report also discloses mining production values per type of mineral commodity with gold and silver recognised as the main commodities produced in 2015 (p. 54)⁹⁷. The “Mining Statistical Yearbook” 2014-2015 discloses data on production values disaggregated by commodity for those years. Although the EITI Report does not disclose data on oil production value as consequence of the PSCs in force, the MEM’s website shows the production values per each contract in the measuring point during 2006-2016⁹⁸.

Location: The report provides an overview of the general production location for oil (p. 62). While the report does not explicitly describe the location of mining production, the mining cadastre provides a general location of each license by municipality/department⁹⁹.

Stakeholder views

Government stakeholders from all constituencies considered that mining and oil production data in the EITI Report 2014-2015 was comprehensive. Stakeholders noted that the MEM’s website contains public information available for the periods under review. However, there was no clarity on the update of the data publicly available. None of the stakeholders consulted showed concerns over under-reporting or inaccuracies of production figures in the 2014-2015 EITI Report. Government representatives highlighted strengths in the MEM’s data, such as its ability to gather reliable statistics. In mining, all stakeholders consulted agreed that the depletion of the Marlin mine had led to an important decrease in mining production since 2012. The licensing moratorium process and the suspension of the Escobal mine’s operation also affected mining production levels.

Initial assessment

The International Secretariat’s initial assessment is that Guatemala has made satisfactory progress towards meeting this requirement. The EITI Report together with public available sources disclose production data for the fiscal years 2014 and 2015 covered by the EITI Report, including production volumes and values by commodity.

⁹⁶ The “Departamento de Desarrollo Minero con información de informes de producción” was provided but links were not provided.

⁹⁷ Dirección General de Minería. Anuario estadístico minero 2015. See: <http://www.mem.gob.gt/wp-content/uploads/2015/06/ANUARIO-ESTAD%C3%8DSTICO-MINERO-2015.pdf>

⁹⁸ See: <http://www.mem.gob.gt/wp-content/uploads/2016/05/P03-Precios-de-petroleo-Nacional.pdf>

⁹⁹ See: http://www.mem.gob.gt/wp-content/uploads/2018/01/Ot_guatemala.pdf

To strengthen implementation of Requirement 3.2, Guatemala may wish to include in the EITI Report sources of the production data and information on how the production volumes and values disclosed in the EITI Report have been calculated.

Export data (#3.3)

Documentation of progress

The 2014-2015 EITI Report and publicly-accessible sources include information on oil¹⁰⁰ and derivatives¹⁰¹ export volumes (p.55). Mining export volumes are not provided. The report discloses export values disaggregated by commodity in the oil and mining sector (p.56). The main commodities exported in 2014-2015 according to the report were precious stones and metals, lead and oil. Single custom declarations and Guatemala Bank's information are referenced as sources, but the relevant links were not provided.

Stakeholder views

There was consensus among all stakeholders consulted that Guatemala exported significant quantities of minerals. Stakeholders therefore expressed their concerns about the lack of official mining export volumes in the 2014-2015 EITI Report. Industry stakeholders consulted confirmed that such data existed, and it is available if requested. Regarding oil, an industry representative explained that Perenco, the main crude oil producer, exports most of its production to the United States. Given that Perenco also operates a refinery, some oil is consumed locally for use at Xan Field and to produce asphalt for the Central American road infrastructure market. None of the stakeholders consulted mentioned that tackling smuggling has been considered as a priority for the country.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made meaningful progress in meeting this requirement. While the EITI Report discloses export volumes and values for the oil sector, export volumes for the mining sector do not appear to be publicly available.

In accordance with requirement 3.3, Guatemala should ensure that export data for the fiscal year covered by the EITI Report, including total export volumes and the value of exports by commodity, and, when relevant, by state/region of origin, is disclosed. The EITI Report could include sources of the export data and information on how the export volumes and values disclosed in the EITI Report have been calculated.

¹⁰⁰ Dirección General de Hidrocarburos. Exportaciones de petróleo crudo nacional – Puerto Sto. Tomas de Castilla. See: <http://www.mem.gob.gt/wp-content/uploads/2018/04/5.-Exportaciones.pdf>, and

<http://www.mem.gob.gt/wp-content/uploads/2015/06/2015-Revista-Hidrocarburos-03.pdf>

¹⁰¹ See: <http://www.mem.gob.gt/hidrocarburos/estadisticas-de-mercado/>

Table 3 - Summary initial assessment table: Monitoring and production

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Overview of the extractive sector, including exploration activities (#3.1)	The Report discloses an overview of the extractive industries, clarifying that there were not any significant exploration activities. The report also raises concerns over the lack of public sources of information and technical data on mineral reserves.	Satisfactory progress
Production data (#3.2)	The 2014 and 2015 Mining Statistical Yearbooks in the MEM's website include data on production volumes and values for 2014 and 2015. For oil, the report does not disclose production volumes or values, but this data is disclosed in publicly-accessible government sources (MEM).	Satisfactory progress
Export data (#3.3)	The report discloses oil export volumes and values. Regarding mining, no export volumes are provided, even though according to all stakeholders Guatemala exports significant quantities of minerals.	Meaningful progress
Corrective actions: <ul style="list-style-type: none"> In accordance with Requirement 3.3, the MSG is required to provide complete data on exports; specifically on mining export volumes. Additionally, it is suggested to disclose how volumes and values documented in the EITI Report have been calculated. 		

4. Revenue collection

4.1 Overview

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

4.2 Assessment

Materiality (#4.1)

Documentation of progress

The MSG addressed the issue of materiality in a meeting held on 8 July 2016¹⁰², before the Independent Administrator (IA) was hired to elaborate the 2014-2015 EITI Report¹⁰³.

With respect to materiality definition in the hydrocarbons sector, the respective minute states:

“An invited consultant from the MEM indicated that there are only 4 companies producing oil and provided the amounts (aggregating year 2014 and 2015) paid by each company only with respect to two revenue streams: royalties and “state participation” tax. She also provided the amounts of total revenues collected between 2014 and 2015 (aggregated) by the government, through those same two revenue streams.”

The “state participation” tax paid was about USD 80m and represented approximately 75% of the USD 106m collected by the government through these two revenue streams. This tax was almost fully paid (99.69%) by one company: Perenco Guatemala Limited.

The amount of royalties paid within these two years was around USD 25m, representing 24% of total revenues collected. Perenco paid 87.17% of the mentioned royalties. By aggregating both revenue streams and both years, Perenco alone covered around 96% of total.

The other three companies paid 5.66%, 5.20% and 1.97% of the total royalties.

Based on these amounts, but without any reference to thresholds or calculation of percentages, the MSG decided that only Perenco should be required to report. This is because of the significance of its contributions. The other three oil companies were considered not to be material but invited to participate for the sake of transparency.

According to the minute, the MSG has not agreed a materiality definition, nor reporting thresholds.

¹⁰² See <http://eitiguatemala.org.gt/Descargar/doceiti/actaseci/2016/4.-ACTA-NO.-04-2016-CNT-EITI-GUA-08-JULIO.pdf>

¹⁰³ In fact, in this same meeting the MSG discussed about a few issues to be incorporated into the ToR to hire an IA, which were to be published in the website of OLADE, the multilateral organisation that was funding the preparation of the report.

Rather, the figures were presented and coverage over 95%, calculated as explained, was deemed sufficient.

The selection of only two revenue streams to define materiality within hydrocarbons was not justified or explained. According to the information disclosed in the EITI Report (table 16 in page 74), the income tax paid by the hydrocarbons sector represented more than 15% of total revenues collected by the government in 2014, and almost 20% in 2015. The minute of the meeting made no reference to this tax.

According to this same minute, the MSG discussed the inclusion of an item applicable to oil contracts, named as “recoverable costs”. Based in the understanding that this item was not required by the EITI Standard and that its scope was yet being discussed between industry and government, they decided not to include it in the EITI Report.

With respect to materiality definition in the mining sector, the respective minute states:

“The vice minister from the MEM presented the mining licenses that were under production in Guatemala. The MSG agreed this information is to be circulated by email to all members, to decide -also through emails- which mining companies should be invited to participate.”

The International Secretariat had no access to these emails or any other document referring to materiality definition regarding the mining sector.

The 2014-2015 EITI Report includes two brief paragraphs (p. 10) on materiality. It states that information on total revenues collected from extractive industries was requested from two government bodies (i.e. MEM and SAT). This request included also the value of revenues paid by each of the companies participating in the EITI process. It is not clear who requested this information and how it was provided.

With this information, the IA concluded that reconciled amounts cover over 90% of the total collected amount from the extractive sector. Although it is not expressly clarified, this percentage apparently results from aggregating both years (2014 and 2015) and both industries (mining and hydrocarbons). This conclusion is supported by the calculations made by the International Secretariat, shown in tables below.

On p. 37 of the EITI Report, the IA describes the procedures conducted to define the materiality and scope for the reporting exercise. Points 1 to 5 replicate the exact steps required by the EITI Standard and the standard ToR for IAs, including the inception report, materiality thresholds, templates for collecting information, etc. However, there is no description of how those procedures were followed and what resulted from them. The International Secretariat did not have access to the TOR of the IA and to the templates used for collecting information.

Besides, the 2014-2015 EITI Report states that materiality was approved by the MSG in the meeting held on 8 July 2016, providing a link to the minute that does not work. This meeting happened before the IA was hired to produce the report.

Coverage, calculated by year (both sector), according to data from the 2014-2015 EITI Report:

Year	Total collected (pp. 73 and 74)	Revenues reconciled by government	Collected / Reconciled, in USD	Coverage (%)
2014	1.267m GTQ	1.199m GTQ	163.7m / 155m	95%
2015	821.4m GTQ	715.3m GTQ	107.2m / 93.3m	87%

Coverage, calculated by sector, according to data from the 2014-2015 EITI Report:

Year	Hydrocarbons (revenues reconciled) ¹⁰⁴	% of total collected ¹⁰⁵	Mining (revenues reconciled) ¹⁰⁶	% of total collected ¹⁰⁷
2014	688,180 GTQ	96.20%	511.139m GTQ	92.65%
2015	316,837 GTQ	96.11%	398.451m GTQ	81%

The analysis shows that coverage decreased considerably in year 2015, especially within the mining sector. The decision to aggregate years 2014 and 2015 for calculation purposes was not justified or discussed. We found no mention of thresholds or other options considered. We found no reference to the source of the figures used by the MSG. Finally, we found no mention to any previous real exercise where all these aspects were analysed, discussed or agreed.

In summary, we could not document any reference or explanation, by the MSG or the EITI Report, of the rationale used to reach the materiality definitions.

Material revenue streams:

The 2014-2015 EITI Report mentions (p. 35) that the MSG decided that the following revenue streams should be included: income tax, solidarity tax, stamp tax, real property tax, penalties and interests (all these collected by SAT); canons, royalties, penalties and interests, and voluntary contributions (all these collected by MEM); and municipal royalties, penalties and interests, real property tax and voluntary

¹⁰⁴ See page 87. Perenco is the only hydrocarbons company reporting

¹⁰⁵ See Table 16 in page 74.

¹⁰⁶ Tables 1 and 2 in pages 8 and 9 of report

¹⁰⁷ See Table 15 in page 73.

contributions (all these collected by the municipalities). However, there is no mention of how, when or through which instrument this list was adopted by the MSG.

The International Secretariat has not seen any document where the MSG discusses or addresses the issue of which revenue streams should be considered material and why.

The actual reconciliation exercise included all revenue streams applicable to the industries (9 for the mining sector and 10 for the hydrocarbons sector), as shown in table 17 (p. 76). The revenue streams reconciled for the hydrocarbons sector (i.e. Perenco) include 6 relatively small revenue streams that were not included in the list allegedly provided by the MSG.

The EITI Report identifies three revenue streams as main contributors (p. 11): (i) state participation tax (only applicable to hydrocarbons), (ii) different type of royalties (both for hydrocarbons and mining), and (iii) income tax (both for hydrocarbons and mining). These three revenue streams represent between 95% and 97% of total revenues, depending on the year.

The International Secretariat found no reference from the MSG to the revenue streams listed in requirement 4.1.b. However, the approach of the IA was to include all revenue streams in the reconciliation exercise, without any exclusion.

Material companies:

The 2014-2015 EITI Report (p. 75) states that 14 companies were invited to participate (3 from hydrocarbons and 11 from mining), from which 5 declined to report (3 from mining sector and 2 from the hydrocarbon sector). The IA refers to these companies making significant contributions. However, in practice it appears that the only criteria for inviting the companies to participate was the list of participating companies in the last two EITI Reports (p. 25). The reporting companies were finally 9 and represent only 35% of all extractive companies.

The International Secretariat has not seen any reference or exercise made to identify the non-reporting companies and the size of their payments, to ensure that none were material. In fact, as explained above, the MSG has not defined materiality thresholds and the coverage of the reconciled amounts is calculated using aggregated figures.

According to the calculations of coverage made and shown in the tables above, the total coverage of reconciled payments decreased around 7 percentage points from 2014 to 2015, aggregating both sector, and almost 12 percentage points in the case of mining. This decrease is mainly explained by the mining sector, where almost 20% of the total collected amounts were not reconciled in 2015. This universe of non-reporting companies is not identified, and the International Secretariat did not find any explanation or reasons for non-reporting.

Material government entities:

As with the other indicator, the International Secretariat found no reference to a threshold or materiality definition related to government entities to be included in the reconciliation exercise. According to the 2014-2015 EITI Report, all government entities collecting any revenue from extractive industries were identified and participated, including SAT, MEM, MIF and municipalities.

With respect to the reporting of the participating government entities, the 2014-2015 EITI Report confirms that those collecting the principal revenue streams have reported the information as requested, including further clarifications to mitigate discrepancies. Only some entities collecting small amounts (e.g. MIF, 10 municipalities, MENR) failed to provide the information or provided it in an aggregate format.

Discrepancies:

Discrepancies between the reconciled amounts were not significant: 0.45% in 2014 and 0.71% in 2015 (see table 17 in p. 76).

Main causes of discrepancies were:

- 10 municipalities not reporting (see tables 21 and 23 in pp. 80 and 82, as well as second table in p. 98).
- Two government entities (MENR and INAB) not reporting (see table 26 in p. 85).
- The MIF reporting voluntary royalties in an aggregate format (see table 24 in p. 83).

Full government disclosure:

As shown in tables 15 and 16 (pp. 73 and 74) of the EITI Report, the government fully reported all revenues collected from extractive industries in years 2014 and 2015, except for 10 municipalities and the two entities (MENR and INAB) mentioned above. The data is disaggregated by revenue stream.

Stakeholder views

During the stakeholders' consultation, we could not confirm any other exercise to define materiality, in addition to the process described above. The IA confirmed that they received the instructions from the MSG and did not review the rationale. The national secretariat could not explain how materiality was discussed and did not find any other email or document. Regarding non-reporting companies, no information was received. The IA said that they had alerted EITI Guatemala about some errors in the preparation of the report, but they did not receive immediate clarifications.

Initial assessment

Based on the above, the International Secretariat's assessment is that Guatemala has made inadequate progress towards meeting this requirement. Materiality thresholds, material revenue streams or material companies were not clearly agreed or defined in advance of the reporting process. Materiality appears to have been discussed by the MSG. However, the mining sector was not discussed, and the decisions made on the oil and gas sector (i.e. to consider only one company; Perenco, as material) were not justified. The IA requested data from the same companies that participated in previous reports, and five of them declined to report. The IA did not evaluate the rationale behind the MSG's limited materiality decisions and/or their comprehensiveness. There are no materiality definitions and thresholds, and options considered or the rationale behind decisions are not documented. There is no evidence to verify that no material payments or companies were excluded.

The figure of total revenues collected by government is also not comprehensive, although the missing revenue streams (those collected by MARN, INAB and municipalities) appear to be small. Finally, the IA refers to total coverage by a calculation that aggregates sectors and years. The International

Secretariat's calculation demonstrates that for the mining sector in year 2015 almost 20% of revenues collected were not reconciled.

In accordance with Requirement 4.1, in advance of the reporting process the MSG is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds. A description of each revenue stream, related materiality definitions and thresholds should be disclosed. In establishing materiality definitions and thresholds, the MSG should consider the size of the revenue streams relative to total revenues. The MSG should document the options considered and the rationale for establishing the definitions and thresholds.

The MSG is also required to clearly define material companies based on the materiality decisions taken. The EITI Report should clearly document non-reporting companies and assess whether their omission materially affects the comprehensiveness of reconciliation.

The government is required to ensure that all relevant government entities participate in EITI reporting and that the total figure of all government revenues is comprehensive. If there are significant practical barriers preventing full government disclosure, these should be documented in the EITI Report.

In-kind revenues (#4.2)

Documentation of progress

According to the information provided in the 2014-2015 EITI Report, in Guatemala there are no revenues collected in kind by the government. The IA expressly stated that, to prepare the 2014-2015 EITI Report, they reviewed all revenues to be considered, including sale of oil corresponding to the state (see p. 37).

There is a charge paid by Perenco called "state participation", but the report describes it as an amount paid to the government in USD or GTQ (see p. 72).

On 24 January 2018, the International Secretariat suggested that the MSG Guatemala should expressly confirm that this requirement is not applicable, but no specific answer was provided.

Stakeholder views

Stakeholders did not express any views related to in-kind revenues. The IA confirmed that in-kind revenues were not considered in the scope of Guatemala's report, and both government and Perenco confirmed that the so-called "state participation" is paid in cash.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that this requirement is not applicable for Guatemala.

The MSG is encouraged to annually review whether material revenues are collected in-kind (Requirement 4.2).

Barter and infrastructure transactions (#4.3)

Documentation of progress

As from the documents reviewed, we found no reference to any infrastructure provisions or barter arrangements in Guatemala, in the terms of Requirement 4.3. The IA expressly stated that, to prepare the 2014-2015 EITI Report, they reviewed all revenues to be considered, including any infrastructure provisions or barter arrangements (p. 37).

On 24 January 2018, the International Secretariat suggested that the MSG Guatemala should expressly confirm that this requirement is not applicable, but no specific answer was provided.

Stakeholder views

Stakeholders did not express any views related to barter and infrastructure transactions. The IA confirmed that barter and infrastructure transactions were not considered in the scope of Guatemala's report.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that this requirement is not applicable for Guatemala.

It is recommended that the MSG annually reviews and confirms the applicability of Requirement 4.2.

Transport revenues (#4.4)

Documentation of progress

As from the documents reviewed, the international Secretariat found no reference to any payment received by the government from transportation of oil, gas and/or minerals, according to Requirement 4.4.

On 24 January 2018, the International Secretariat suggested that the MSG Guatemala should expressly confirm that this requirement is not applicable, but no specific answer was provided.

Stakeholder views

The stakeholders consulted confirmed us that there is no indication of transportation revenues received by the government or a state-owned company.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that this requirement is not applicable for Guatemala. It is recommended that the MSG annually reviews and confirms the applicability of Requirement 4.4.

Transactions between SOEs and government (#4.5)

Documentation of progress

As from the documents reviewed, the International Secretariat's understanding is that there are no SOEs acting in the extractive sector in Guatemala.

On 24 January 2018, the International Secretariat suggested that the MSG Guatemala should expressly confirm that this requirement is not applicable, but no specific answer was provided.

Stakeholder views

The stakeholders consulted confirmed that there is no state participation in the Guatemalan extractive industry. The IA confirmed that transactions between SOEs and the government were not considered in the scope of Guatemala's report.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that this requirement is not applicable for Guatemala.

Subnational direct payments (#4.6)

Documentation of progress

The only subnational direct payments, according to the 2014-2015 EITI Report, are to municipalities (see table 2 in p. 9, and tables 21 and 23 in pp. 80 and 82) and to the COCODES.

The COCODES belongs to the National System of Development Councils of Guatemala, which is constitutionally created. This entity brings together various representatives of different sector of the population, where the participation of the general population is represented both socially and economically.

Payments to Municipalities:

Firstly, municipalities collect tax on real property, which only represents around 0.3% of the mining total revenues. Secondly, the collect municipal royalties, which represent around 20% of the total revenues reconciled within the mining sector in 2015.

The 2014-2015 EITI Report indicates that 10 municipalities included as participating entities on the EITI process failed to report (see p. 9). However, according to figures included in tables 21 and 23 of pp. 80 and 82, there is only one municipality that did not report on royalties for each year, and 3 municipalities that failed to report very small amounts corresponding to municipal tax on real property. On that same page, the footnotes explain that discrepancies in reconciliation resulted from failure to report by 6 municipalities. Furthermore, the second table of p. 98 refers to the 10 municipalities that were invited - and failed - to participate because "they receive" payments from extractive industries. Four out of those

10 are marked as receiving payments from companies during years 2014 and 2015.

In summary, the 2014-2015 EITI Report is confusing regarding the information on revenues received by municipalities. However, it confirms that a significant number of municipalities failed to report.

Finally, we have not found any reference or document reflecting discussions within the MSG to consider and decide on the materiality of these direct payments to municipalities. But the percentage indicated above and its inclusion in the reconciliation exercise indicate that they were, at least implicitly, considered material.

Payments to COCODES:

With respect to these payments, it is important to highlight that the 2014-2015 EITI Report presents information that was later rectified by the stakeholders involved.

According to the EITI Report, the oil company Perenco makes direct payments to the COCODES.

When describing these entities (COCODES), the report clarifies that they have not participated in the EITI report. However, the same Report then includes a table of revenues under title “reconciled” for the hydrocarbons sector (table 28 in p. 87), including these revenues shown as provided by government, with no discrepancies. This appears to be an error, as COCODES are entities formed by civil society and communities, and not governmental.

The table 17 in p. 76 refers to “Aportes COCODES – SETH”, with amounts of 3,678,000 GTQ in 2014 and 3,575,000 GTQ in 2015.

There is no reference to any discussion or decision on materiality about these payments by the MSG.

Stakeholder views

The stakeholders consulted, including Perenco, explained that there are no direct payments from Perenco to subnational jurisdictions. The contradiction with the cited tables of the report could not be explained, and they recognised openly that the information in the EITI Report is simply mistaken.

Stakeholders indicated that payments to COCODES derive from revenues collected by the government through different revenue streams, so they should be considered as subnational transfers.

Regarding municipalities, the consultations confirmed that 10 of them did not provide any information for the EITI Report.

Initial assessment

The International Secretariat’s initial assessment is that Guatemala has made inadequate progress towards meeting this requirement. Even though direct payments of municipal mining royalties were

included in the reconciliation, several municipalities (most likely 10) failed to report. Information on payments made from Perenco to subnational collectives such as COCODES is contradictory and confusing and could not be clarified despite continuous requests by the International Secretariat.

In accordance with Requirement 4.6, the MSG is required to map and clearly define direct payments from extractive companies to subnational government entities. The MSG should discuss whether it considers the payments material and clearly document the decision and its rationale. If material, the MSG should ensure that the payments are comprehensively reconciled.

Level of disaggregation (#4.7)

Documentation of progress

There is no reference to any discussion or decision of the MSG to agree the level of disaggregation for the publication of data as required. The 2014-2015 EITI Report presents data by individual company, government entity and revenue stream (see tables 18 to 30, in pp. 77 to 89).

However, some companies operate more than one project (for example, Compañía Guatemalteca de Níquel and Peña Rubia S.A., as described in pp. 26 and 27), but the data is not provided by project.

Stakeholder views

Stakeholders consulted said this is not an issue they have yet agreed or discussed in the MSG.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made satisfactory progress in meeting this requirement. Data is disaggregated to the level required by the EITI Standard.

Data timeliness (#4.8)

Documentation of progress

The first EITI Report was produced in May 2013 (i.e. 26 months after the country was admitted as candidate in March 2011). According to the then applicable [EITI 2011 Rules](#), implementing countries should produce their first report within 18 months (requirement 5.e of EITI 2011 Rules).

The second EITI Report, covering years 2012 and 2013, was published in June 2015. In February 2015, the Board decided to reject the request for extension and suspend Guatemala for the delay in publishing data covering year 2012. This suspension was lifted in July of same year, after the report was prepared by IA Moore Stephens Guatemala and published.

The third EITI Report, covering fiscal years 2014 and 2015, was published on 27 January 2017.

Stakeholder views

Stakeholders commented no particular views regarding this issue.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made satisfactory progress towards meeting this requirement.

To strengthen implementation of Requirement 4.8, the MSG is strongly encouraged to improve the timeliness of the publication of EITI data to ensure that reporting annually complies with deadlines set in the EITI Standard and contributes to public debate.

Data quality (#4.9)

Documentation of progress

Appointment of the IA:

On 19 August 2016 (minute No. 5-2016)¹⁰⁸, the MSG unanimously approved the appointment of the firm Talento Profesional as the Independent Administrator (IA), after considering all the bidders and offers, as well as the procedures followed by the donor OLADE to rank the offers received.

Earlier, on 7 June 2016, the MSG decided that the IA will only conduct the reconciliation, while the Technical Secretariat will prepare the contextual section of the report for consideration and final approval of the MSG. According to the corresponding minute (No. 3-2016)¹⁰⁹, this division was meant to reduce costs and was validated with the International Secretariat. At that time, financing for hiring the IA was not yet secured.

Terms of Reference for the IA:

On 8 July 2016, the MSG stated that the TOR for the IA were approved by email, including the clarification that the contextual information was to be provided by the Technical Secretariat. In the same meeting, they informed that the TOR were shared with OLADE to seek for support and that OLADE had decided to fund the EITI Report. OLADE had thus published the TOR on its website with call for bids. Immediately after, the MSG discussed certain comments previously sent by the industries' representative, deciding some clarifications and/or changes to the TOR¹¹⁰.

The International Secretariat received a copy of the TOR, dated 14 July 2016 and signed by Fernando Ferreira, Executive Secretary of OLADE. These TOR were approved along with a call for bids published by

¹⁰⁸ <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2016/5.-ACTA-NO.-05-2016-CNT-EITI-GUA-19-AGOSTO.pdf>

¹⁰⁹ <http://eitiguatemala.org.gt/Descargar/doceiti/actasseci/2016/3.-ACTA-NO.-03-2016-CNT-EITI-GUA-07-JUNIO1.pdf>

¹¹⁰ These changes were not reflected in the TOR, already signed and published.

OLADE in its website, with deadline for submission of offers on 28 July 2016.

Sections 1 to 4 of these TOR are substantially similar to the standard ToR provided by the International Secretariat at that time, including the obligation to produce an inception report.

However, the “Activities schedule” (section 5 of the TOR) did not include the preparation of an inception report, but only referred to the submission of a work plan within one week, collecting the data and finally drafting the reconciliation report. We have not received any copy of an inception report prepared by the IA, or any other document to evidence how the Phase 1 (preliminary analysis and inception report) was conducted. We have not received a copy of the so-called “work plan” as to confirm if that may replace or include some of the aspects to be addressed by the inception report.

The Annex 1 attached to the signed and published TOR only includes 4 simple one-column lists of (i) contextual information to be included, (ii) taxes and revenues to be included, (iii) a link to a scoping study conducted in 2011, and (iv) government entities and companies participating. In terms of companies, the list only includes a legend stating: “Companies that voluntary joined the EITI”, with no reference to any company in particular or threshold. We have not received any document evidencing how this Annex 1 was reviewed, and/or the MSG assisted by the IA to complete it.

The 2014-2015 EITI Report, in pp. 37 and 38, lists and describes all the steps of Phase 1 as if they were conducted, replicating the exact wording of the standard ToR. This includes the assistance to the MSG with respect to reporting templates and review of audit procedures, the assessment of the data reliability, assurance methodologies and adequate procedures to protect confidentiality.

However, we have not found any reference in the minutes of the MSG meetings to discussions about these issues and we have not received any document including options considered and/or decisions taken or proposed in this respect.

Agreement on the reporting templates: The IA’s ToR included the obligation for the IA to assist the MSG in the elaboration of the reporting templates. The International Secretariat has not been able to obtain documentation of a discussion where these templates were agreed by the MSG. The ToR, in section 1.7, provides for the obligation of the IA to certify the signature of the templates by a competent authority of each reporting entity, both company or government body. The International Secretariat has seen copies of these templates signed and certified.

Review of audit practices: The IA’s ToR mandated the IA to review and advise the MSG on the auditing procedures and assurances to be provided by the reporting companies and government agencies. There is no description, in the 2014-2015 EITI Report, of the statutory auditing procedures or practices for private companies or government bodies.

Confidentiality: The IA’s ToR (section 1.8) mandate the IA to assist the MSG in how to safeguard confidential information.

Data reliability assessment: The IA was tasked to provide an assessment of the reliability of reconciled

data. Section 1.7 of the ToR required the IA to ensure and certify the authority of the signatories of the templates, get a letter from the external auditor confirming that the completed and submitted information is complete and adequate, and assist the MSG about mechanisms and assurances in place within government systems as to ensure data quality. The EITI Report does not document whether reporting entities complied with the agreed assurances.

Summary tables: On 13 December 2017, the Technical Secretariat of EITI Guatemala sent the Summary Data Template prepared by the IA to the International Secretariat. On 20 December 2017, the International Secretariat responded, including the observation that the template used was outdated, attaching a new template with the provided information migrated into the correct format and requesting for some clarifications and additional information. The International Secretariat has not received an updated version of the Summary Data Template.

Recommendations: Two out of four recommendations from the IA refer to the data quality.

On p. 15 of the 2014-2015 EITI Report, the IA observed inconsistencies in the format and content of the reporting templates provided by the government entities and recommends that a new system for collection and maintenance of data is established.

Likewise, the IA recommended that the contextual information, prepared by the MSG, should be improved. Specifically, it recommended that the legal and fiscal information should be more robust and that the macroeconomic statistics and indicators should be collected in a publicly accessible source that is regularly updated.

Stakeholder views

The IA commented that there were no major problems related to gathering information from companies, which seem to be committed to the EITI process. According to the IA there were no problems related to the presentation of information by companies. The IA mentioned that they were satisfied with data quality presented by the companies. However, the governmental entities failed in completing the templates or provided the information in a confusing or disorganised manner. When consulted about quality of the data and procedures conducted by the IA, some stakeholders, mainly from civil society, indicated their concern about this issue. They explained that government entities often do not have sufficient capacity to deliver the information following agreed standards. Stakeholders also expressed discontent with quality of the Independent Administrator's work.

Initial assessment

Based on the above, the International Secretariat's initial assessment is that Guatemala has made meaningful/inadequate progress towards meeting this requirement. Despite the text within the ToR, the EITI Report and the reviewed documentation fail to demonstrate that methodologies or procedures to ensure data quality were actually applied.

In accordance with Requirement 4.9, the MSG is required to ensure that the EITI Report includes an assessment of whether payments and revenues are subject to credible, independent audits. The MSG is required to agree data quality assurances to be requested from reporting entities. The EITI Report

should document whether reporting entities complied with the agreed assurances. The MSG is required to ensure that the Independent Administrator submits complete summary data based on the current template provided by the International Secretariat.

Table 4- Summary initial assessment table: Revenue collection

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Comprehensiveness (#4.1)	<p>The MSG has not agreed a definition of materiality, nor of reporting thresholds. It was not considered all revenue streams listed in provision 4.1.b; and there is no evidence of discussions on which revenue streams should be considered material and why.</p> <p>Of the four companies which produce oil, it was decided that only Perenco would report, due to the significance of its contributions; while the other three were invited to participate voluntarily.</p> <p>The MSG did not work together with the IA to address the issue of materiality.</p>	Inadequate progress
In-kind revenues (#4.2)	No reference to in-kind revenues was found.	
Barter and infrastructure transactions (#4.3)	No reference to barter and infrastructure transactions were found.	
Transport revenues (#4.4)	No reference to transport revenues were found.	
Transactions between SOEs and government (#4.5)	No reference to transactions between SOEs and government were found.	
Subnational direct	Several municipalities failed to report mining royalties, and	Inadequate progress

payments (#4.6)	therefore reconciliation was not fully completed, as required.	
Level of disaggregation (#4.7)	The MSG is required to agree the level of disaggregation for the publication of data. Even though, the report discloses data by individual company, government entity and revenue stream, this is not an issue they have yet agreed on the MSG.	Meaningful progress
Data timeliness (#4.8)	The EITI Report covers fiscal years 2014 and 2015 and was published in January 2017, complying with the Standard.	Satisfactory progress
Data quality (#4.9)	The MSG appointed a IA to reconcile payments and revenues. Reporting companies correctly fulfilled the requests for information from the IA. Instead, government agencies were not consistent in the way they reported, and did not adhere to the agreed templates from the IA. Despite the text within the ToR, the IA and the documentation failed to demonstrate that methodologies as to ensure data quality were really applied.	Meaningful progress
<p>Corrective actions:</p> <ul style="list-style-type: none"> • In accordance with Requirement 4.1., the MSG must agree which payments and revenues are material and therefore must be disclosed. The MSG should work with the IA in setting a clear definition of materiality and thresholds, considering the size of the revenue streams relative to total revenues. • In future reporting exercises it is recommended that the MSG affirms, justifies and explicitly agrees that Requirements 4.2. to 4.5. do not apply in Guatemala. • In accordance with Requirement 4.6, the MSG must establish whether direct payments from companies to subnational government entities are material. If material, these should be clearly identified and ensure that companies' payments to municipalities and the receipt of these payments are disclosed and reconciled in the EITI Report. • In accordance with Requirement 4.7, the MSG should agree the level of disaggregation for the publication of data. EITI information should be presented not just by individual company, 		

government entity and revenue stream, but also reporting at project level is required.

- In accordance with **Requirement 4.9**, Government should address IA's recommendations on how to improve data quality.

5. Revenue management and distribution

5.1 Overview

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

5.2 Assessment

Distribution of revenues (#5.1)

Documentation of progress

The 2014-2015 EITI Report refers to distribution of revenues on pages 69 to 72. As clarified in the report, the majority of revenues collected from extractive industries are accounted in the common fund, which is administered by the National Treasury. However, revenue distribution is not clearly addressed in the report.

COCODES collected 3,678,000 GTQ in 2014 and 3,575,000 GTQ in 2015. (p.76). COCODES manages these revenues.

On p. 71, the 2014-2015 EITI Report explains that revenues identified as canons, penalties and interests are paid to the National Treasury but in a special account under the name of the Mining General Direction, which is entitled to use those funds to pay for acquisitions.

We have not found any reference by the MSG to any national revenue classification system or international data standards.

Stakeholder views

According to stakeholders, revenues are received by the Ministry of Finance and assigned to a unique common account, administered by the National Treasury. They also affirmed that there is a clear traceability of incoming transfers by the extractive industries in the national budget. Government representatives indicate that information on revenues received from extractive companies is publicly

available¹¹¹.

Initial assessment

The International Secretariat's initial assessment is that Guatemala has made meaningful progress in meeting this requirement. The report does not clearly indicate, which revenues are recorded in the national budget. However, it does explain the allocation of revenues that are not recorded in the national budget, providing a public link to the general accounting system where financial data is publicly available.

In accordance with Requirement 5.1, Guatemala is required to clearly distinguish which extractive revenues are recorded in the national budget and describe the allocation of revenues that are not.

Subnational transfers (#5.2)

Documentation of progress

The Fund for the Economic Development of the Nation (FONPETROL), is a fund created by Decree no. 71-2008¹¹² and Governmental Agreement no. 195-2009¹¹³ and appears as the only mechanism that could be considered as subnational transfer under requirement 5.2 of the Standard.

According to the cited instruments, which are publicly accessible, FONPETROL is administered by the MIF, the MEM and the Secretariat of the Presidency. It is made up of the funds obtained by the government from royalties, from the share of hydrocarbons and other revenues collected by the government for any reason related to oil and gas operations contracts.

As provided by law, funds must be distributed as follows:

- Seventy-two percent (72%) of the total collected will become part of the Common-Government Fund of Guatemala;
- Five percent (5%) of the total collected will be distributed among the Departmental Councils of Development of the country (CODEDES), in proportion to the number of inhabitants established annually by the Institute National Statistics for each department;
- Twenty percent (20%) of the total collected will be distributed among the Departmental Councils of Development (CODEDES) of departments where oil operations are carried out. This distribution is shall be based on the percentage of annual hydrocarbon production in each department, and this shall be invested in equal percentages among the municipalities of the same department.
- Three percent (3%) of the total collected will be distributed among the responsible public entities responsible for environmental control and recovery of protected areas established by law.

¹¹¹ See: <https://sicoin.minfin.gob.gt/sicoinweb/login/frmlogin.htm>

¹¹² <https://www.mem.gob.gt/wp-content/uploads/2015/06/1.3.15-Ley-del-Fondo-para-el-desarrollo-econ%C3%B3mico-de-la-Naci%C3%B3n-Dto.-71-2008.pdf>

¹¹³ http://cretec.org.gt/wp-content/files_mf/acuerdogubernativo1952009.pdf

The resources distributed by means of the provisions of subparagraphs (b) and (c) above shall be invested in infrastructure, rural development, renewable energy, sustainable tourism and social investment.

However, the description of FONPETROL included in the 2014-2015 EITI Report is incomplete and inconsistent.

It is included in the list of government entities participating, as part of Annex 1 in the approved TOR. However, there is no decision or discussion regarding its materiality.

Payments to FONPETROL appear in the report as reconciled revenue, listed along with other revenues in the hydrocarbons sector. However, the funds transferred to FONPETROL are composed by a portion of the other revenues originated in oil exploitation.

The report informs that the aggregated amount administered by this fund was less than 1% of total revenues from hydrocarbons in year 2015 (see tables 1 and 2 in pp. 8-9). However, the rules mentioned above indicate that 28% of the amounts paid as royalties, state participation or any other revenue collected from oil contracts, should be transferred to FONPETROL.

Inconsistently with the information described in the precedent paragraph, table 29 on p. 88 of the report shows a comparison between amounts transferred by the Ministry of Finance (MIF) and received by each of the 22 CODEDES. These amounts are around 160m GTQ in 2014 and 65m GTQ in 2015. The CODEDES corresponding to Department of Petén (where most of oil & gas operations are located) represents around 80% of total funds allocated. This is not a reconciliation exercise, as the information about CODEDES was collected from copies of receipts kept by MIF. Nevertheless, discrepancies are almost 10% for year 2015, and the paragraph below the table includes a confusion between CODEDES and the Community Councils for Development (COCODES).

The revenue sharing formulas to calculate the subnational transfers are not provided in the 2014-2015 EITI Report, but they are publicly available in relevant laws and regulations.

The 2014-2015 EITI Report includes figures for state participation and royalties, and figures for contributions to FONPETROL, and is not clearly explained if these are being duplicated or if the latter are also included in the first ones. Moreover, the IA confirmed that both concepts under name “Aportes para CODEDES-SETH”, and “Fondo para el Desarrollo Económico de la Nación – FONPETROL” were reported by Perenco and the MEM separately from “oil royalties” and “state participation in the production” revenue streams. In fact, the forms filled out by each entity shared by the IA with the International Secretariat reflect this information. Also, the concept “Aportes para CODEDES-SETH” was reported as voluntary contributions by both Perenco and the MEM, and these are directly related to the Oil Exploitation Contract 2-85 Xan.

In summary, the information provided and collected show inconsistencies and do not allow a proper understanding of the issue.

Stakeholder views

Stakeholders confirmed that the central government collects income from oil operations and directs a share determined by the law to FONPETROL. It was also explained that the MEM oversees determining estimates, monthly payments and quarterly adjustments, establishing FONPETROL's income.

By the consultations, it was made clear that the amounts to be paid correspond to a formula that is established in the law.

Besides, the stakeholders consulted, including the representative of Perenco in the MSG, explained that the amounts to be transferred to FONPETROL are part of what is paid under other revenue streams (like "state participation in the production" and "oil royalties"). This means that, once the company has paid these to the government, then the Ministries define and transfer the corresponding portion to FONPETROL.

Initial assessment

The International Secretariat's initial assessment is that Guatemala has made meaningful progress towards meeting this requirement. The report is incomplete as it fails to clearly and comprehensibly describe the legal and real functions and functioning of FONPETROL, disclose the applicable formula for transfers, the amounts calculated according to such formula, establish any identified discrepancy and, if possible, reconcile these transfers.

In accordance with Requirement 5.2, Guatemala is required to clearly disclose subnational transfers of revenues related to extractive industries and any possible discrepancies between the revenue-sharing formula and actual transfers. Guatemala is encouraged to clearly and comprehensibly describe the legal and real functions of FONPETROL and, if possible, reconcile these transfers.

Additional information on revenue management and expenditures (#5.3)

Documentation of progress

The allocation of revenues earmarked for specific programmes has not been explained in detail and no links were provided to relevant financial reports. There is no description of the methods for ensuring efficiency and accountability in their use.

We have not found any description of the country's budget and audit processes nor links to publicly available information about budgeting and expenditure (5.3. (b)). The MSG has not disclosed any further information related to the budget cycle, production and commodity price assumptions and revenue sustainability, resource dependence, and revenue forecasting (5.3. (c)).

Stakeholder views

Stakeholders did not provide any explanations on the aspects commented above, or any particular views related to revenue management and expenditures.

Initial assessment

Reporting on revenue management and expenditures is encouraged but not required by the EITI Standard and progress with this requirement will not have any implications for a country's EITI status.

To strengthen implementation of Requirement 5.3, further information on revenue management and expenditures, including a description of revenues earmarked for specific programmes or regions and a description of budget and audit procedures.

Table 5 - Summary initial assessment table: Revenue management and distribution

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Distribution of revenues (#5.1)	The report explains the distribution of revenues to the National Budget, and provides a link to the accounting system consolidating the financial information. No reference is made either on a revenue classification system or international data standards.	Satisfactory progress
Subnational transfers (#5.2)	The 2014-2015 EITI Report is not clear about this point, and even the role and scope of FONPETROL is presented in a confusing manner. Revenue sharing formulas explaining subnational transfers amounts are included in publicly accessible laws, but not in the report, which also fails to compare the amount arising from applying the formula to the amounts transferred.	Meaningful progress
Information on revenue management and expenditures (#5.3)	There is no additional information disclosed on country's budget and audit processes nor links to publicly available information about expenditure. This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.	
<p>Corrective actions:</p> <ul style="list-style-type: none"> In accordance with Requirement 5.2, the MSG must fully disclose revenues generated by the extractive industries which are transferred between national and subnational government entities. A more complete and understandable explanation of income's distribution should be described, including the legal and real role of FONPETROL and the flows between this fund, the CODEDES and the COCODES. Also, the MSG must disclose the applicable revenue sharing formula, the amounts calculated according to such formula for transfers, and identify any discrepancy between the amounts calculated and the amounts transferred. Finally, if possible, these transfers should be reconciled. 		

6. Social and economic spending

6.1 Overview

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

6.2 Assessment

Social expenditures (#6.1)

Documentation of progress

The 2014-2015 EITI Report does not confirm whether there were *mandatory* social expenditures for oil and mining companies in 2014-2015. Provisions 23.3 of the two PSCs granted in 2014 and 2015 however seem to state the obligation for oil companies to make social contributions for the development of the communities located within the contract area. The report provides a list of “voluntary contributions in cash and in-kind” made by mining companies (pp. 70 and 89) for both years. These payments were not reconciled¹¹⁴.

Stakeholder views

There was consensus among stakeholders consulted that there were no mandatory social expenditures for mining and oil companies. The Summary Data Templates 2014 and 2015 confirmed there were no social expenditures. However, the files do not include a reference to the relevant sections of the EITI Report or other documents which explain why/how this was determined. Several stakeholders from all constituencies confirmed that mining companies undertake voluntary social expenditures under their corporate social responsibility programs.

Initial assessment

The International Secretariat’s initial assessment is that Guatemala has made meaningful progress towards meeting this requirement. The 2014-2015 EITI Report does not explicitly confirm that mandatory social expenditures did not occur. Several industry stakeholders did confirm that no mining or oil companies had undertaken mandatory social expenditures. However, it appears that there were obligations for oil companies to make social expenditures mandated by contracts. Voluntary social expenditures were included in the report (p. 89).

In accordance with Requirement 6.1, the MSG should clarify and document whether mandatory social expenditures exist. If they exist and are considered material by the MSG, mandatory social expenditures should be disclosed, and if possible, reconciled. Where such benefits are provided in kind, it is required

¹¹⁴ The 2011 EITI Report (access [here](#)) and the 2012-13 EITI Report (access [here](#)) reconciled social payments.

the nature and the deemed value of the in-kind transaction is disclosed. Where the beneficiary of the mandated social expenditure is a third party, i.e. not a government agency, it is required that the name and function of the beneficiary be disclosed.

SOE quasi-fiscal expenditures (#6.2)

Documentation of progress

According to the information provided, there are no SOEs operating in the extractive industry in Guatemala (see Requirement 2.6). However, the 2014-2015 EITI Report does not explicitly confirm whether the government had ownership interest in the extractive industries in the years under review¹¹⁵.

Stakeholder views

There was consensus among stakeholders consulted that there were no SOEs in Guatemala, therefore this requirement is not applicable in the country.

Initial assessment

The International Secretariat's initial assessment is that the MSG has demonstrated that this requirement is not applicable in the country.

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

Documentation of progress

Share of GDP: Although Table No. 8 of the 2014-2015 EITI Report provides the value of the extractive industries (mining and oil) in absolute terms and as a percentage of GDP in 2014-2015 (p. 55), the summary of the extractive industries reflects different figures (Graph 1, p.7), demonstrating contradictions and inconsistencies within the same report. Sources are referenced (Guatemala Bank) but links are not provided¹¹⁶. The report does not disclose estimates on informal sector activity.

Government revenues: The report provides the total government revenues generated by oil and mining companies in absolute terms (p. 73-74) and as a percentage of total government revenues (in this case, sources and/or links were not provided, p. 7). However, government revenue data included in different parts of the report are not consistent (p. 73-74 and p. 7).

¹¹⁵ According to the US Department of State – 2015 Investment Climate Statement Guatemala: “*With the exception of the National Electricity Institute (INDE) and two state-owned ports, Guatemala does not have active SOEs in other industries*”. See: <https://www.state.gov/e/eb/rls/othr/ics/2015/241580.htm>

¹¹⁶ Source provided “Banco de Guatemala” however no link was provided.

Exports: The report includes exports from the extractive industries in absolute terms and as percentage of total exports (pp. 7,55-56), sourced from the Guatemala Bank (but links were not provided). The report also includes export figures disaggregated by commodity as mentioned in 3.2 Requirement.

Employment: The 2014-2015 Report includes data on employment in the mining and oil industry. Sources are mentioned (for mining, “*Instituto Guatemalteco de Seguridad Social*”, and for oil “*Ministerio del Trabajo*”) but links are not provided¹¹⁷. It does not disclose employment in the extractive industries as a percentage of total employment. The report also raises concerns over the lack of an “accurate governmental register” to verify the employment in the extractive industries (p. 57).

Location: The report provides an overview of the general production location for oil (p.62). While the report does not explicitly describe the location of mining production, the mining cadastre provides a general location of each license by municipality/department¹¹⁸.

Stakeholder views

Stakeholders confirmed the capacity of the government to track extractive revenues, and therefore confirmed the existence of official data on total government revenues from the extractive sector. Stakeholders could not explain inconsistencies identified in the report by the International Secretariat related to government revenue data. None of the stakeholders consulted expressed any views on the availability of extractives employment data, although the report itself raised concerns over the lack of an accurate governmental register to verify employment in the extractive industries.

Initial assessment

The International Secretariat’s initial assessment is that Guatemala has made meaningful progress towards meeting this requirement. The 2014-2015 EITI Report presents severe inconsistencies on amounts of extractive industries’ contribution to GDP and total government revenues. The report provides limited information on employment extracted from publicly-available sources, given the lack of an accurate governmental register to verify employment in the extractive industries. The report does not disclose estimates on informal sector activity.

In accordance with Requirement 6.3, Guatemala should disclose comprehensive and consistent information about the extractive industries’ contribution to the economy in relative and absolute terms.

Table 6 - Summary initial assessment table: Social and economic spending

EITI provisions	Summary of main findings	International Secretariat’s initial assessment of progress with the EITI provisions (to be completed for ‘required’ provisions)
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¹¹⁷ Sources were mentioned but no links were provided. In mining: “*Instituto Guatemalteco de Seguridad Social*” and in oil: “*Ministerio del Trabajo*”.

¹¹⁸ See: http://www.mem.gob.gt/wp-content/uploads/2018/01/Ot_guatemala.pdf

Social expenditures (#6.1)	<p>According to stakeholders there are no social expenditures mandated by law, but the report does not confirm this.</p> <p>A list of voluntary contributions from mining companies, is disclosed (pp. 70 and 89), but these payments' materiality was not discussed and therefore amounts not reconciled.</p>	Meaningful progress
SOE quasi-fiscal expenditures (#6.2)	Given that there are no SOEs in the country, this requirement is not applicable.	
Contribution of the extractive sector to the economy (#6.3)	<p>Information required in this point is incomplete and inconsistent.</p> <ul style="list-style-type: none"> - Size of extractive industry is provided in absolute terms and as a percentage, but there is no information on informal sector activity disclosed. In addition, the report presents inconsistencies related to government revenue amounts. - Total government revenues are reported as requested, both in absolute terms and as a percentage. - Exports are reported as requested, both in absolute terms and as a percentage, as well as disaggregated by commodity. - Employment data lacks an accurate governmental register - Location of oil and mining regions are presented. 	Meaningful progress
<p>Corrective actions:</p> <ul style="list-style-type: none"> • In accordance with Requirement 6.1, where material social expenditures by companies are mandatory, these must be disclosed and disaggregated by type of contribution and beneficiary and reconciled where possible. • In accordance with Requirement 6.3, the EITI Report must disclose complete information about the contribution of the extractive industries to the economy. This information must include the employment in the extractive industries as a percentage of total employment 		

(Requirement 6.3 (d)) and an estimate of informal sector activity (Requirement 6.3 (a)).

Part III – Outcomes and Impact

7. Outcomes and Impact

7.1 Overview

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

7.2 Assessment

Public debate (#7.1)

The 2016-17 and 2018-19 work plans include a specific objective (2) on communication and dissemination of EITI data. However, activities in the work plans mainly focus on publishing EITI Reports and raising awareness of the EITI process.

Documentation of progress

Comprehensibility: The 2014-2015 EITI Report is not written in a clear manner and in clear language. It contains several contradictions and inconsistencies, and poor explanations for crucial issues such as subnational payments, contribution of the extractive sector to the economy. There is no evidence of communications material available in local languages.

Promotion: There is little evidence that the national secretariat regularly conducts outreach events to the provinces to discuss the findings of EITI-Guatemala Reports. The national secretariat shared with the International Secretariat two 2017 fact sheets related to outreach in Alta Verapaz province and Chisec Town Hall ¹¹⁹ where they implemented focus groups, trainings on the implementation, and disseminated conclusions per sub-region. Three radio campaigns to communicate the EITI process were shared by the national secretariat. The EITI-Guatemala website does not include updates on the work of the EITI in Guatemala. It seems the EITI website is not updated, considering that the latest published news items are from October 2017. Whereas the national secretariat together with GIZ has developed interesting audios

¹¹⁹ Fact sheet 2017 – Alta Verapaz Province. Document shared with the EITI International Secretariat. See: <https://drive.google.com/file/d/192IW6gmXrW5ik3v00KAK41BTemCDCXzc/view> (Internal use).

and infographic material¹²⁰, as well as an interactive application¹²¹ to develop awareness processes aimed at promoting dialogue and transparency among stakeholders to facilitate understanding, there are no specific efforts that develop awareness on EITI Reports. An online cartoon has been developed to understand the EITI.¹²² There is no evidence on launch events to promote the EITI Reports. Paper copies of the 2014-2015 EITI Report have not been produced.

On 29 November 2016, a communications strategy¹²³ was launched for EITI outreach among 14 municipalities, including radio campaigns with a frequency of six spots per day of thirty seconds. Most activities within the Strategy were planned to be implemented in 2017. Based on documentation provided by the national secretariat, implementation was only partial. A project for cooperation and exchange of experiences between EITI Peru and EITI Guatemala was shared with the International Secretariat, which includes a brief mention on the communication strategy implemented by Guatemala. A general presentation¹²⁴ (2013) on the EITI in Guatemala is also available in Spanish. The EITI website also includes a general 2013 fact sheet on the EITI implementation in Guatemala¹²⁵. Despite these few efforts, there is no evidence of dissemination of the 2014-2015 EITI Report. The EITI Guatemala website has a “specific photo gallery”¹²⁶, but it does not describe the events that are linked to the published images.

Public accessibility: According to the APR 2016, the EITI-Guatemala website is constantly updated and has links to institutional websites. However, the latest published news item is from October 2017. There is no evidence of the MSG approving an open data policy, including a clear policy on the access, release and re-use of EIT data.

Whereas summary data was shared with the EITI International Secretariat only in Spanish, the summary reports are not published in the EITI-Guatemala website. The 2014-2015 EITI summary data report has not been shared or published by the EITI Guatemala. There is no evidence on complete data files different from SDTs published online in open data format.

Contribution to public debate: There is no evidence of CSOs or other stakeholders using EITI Reports as part of their advocacy efforts. There is however evidence of interaction between the EITI process and discussions on the public agenda (e.g. suspension of the San Rafael me, judicial situation and moratorium) through the participation of media during MSG meetings. There is no evidence on media covering the use

¹²⁰ See here:

http://www.fosit.org/index.php?option=com_content&view=category&layout=blog&id=81&Itemid=147

¹²¹ See here: http://www.fosit.org/index.php?option=com_content&view=article&id=368:hablar-siempre-es-mejor&catid=83:aplicaciones&Itemid=155

¹²² See here: <http://eitiguatemala.org.gt/caricatura-eiti-gua/>

¹²³ EITI-Guatemala (2016). Proyecto de Socialización. Estrategia de Comunicación Integral. See here:

<http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/informe-final-SOCIALIZACION-EITI-p.pdf>

¹²⁴ EITI Presentation. See here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/Presentacion-EITI-GUA.pdf>

¹²⁵ EITI factsheet. See here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/Triptico-general-EITI-GUA-impreso.pdf>

¹²⁶ See here: <http://eitiguatemala.org.gt/galeria-de-imagenes/>

of data or findings from EITI Reports.

Stakeholder views

Industry representatives on the MSG said that they had issued briefing notes and publications (such as the *“Impacto Económico y Fiscal de Proyectos Mineros en Guatemala”*¹²⁷) using EITI data (see *Requirement 1.2*). CSO representatives within the MSG mentioned that there had been an important drop in outreach activities such as conferences or events related to the EITI. Moreover, they expressed concerns that the MEM’s engagement during the launch of the latest EITI Report 2014-2015 was weak. All stakeholders consulted confirmed that although all MSG meetings were broadcast nationally, they mentioned there was very little information about the work of the MSG in the media. Most of the time, according to stakeholders, media had a passive interference participating only because the Vice-President of the Republic is leading the meeting. In that sense, most questions after each MSG meeting were related to topics outside EITI implementation.

Some CSO representatives recognised that there were efforts to disseminate information about the EITI through briefing notes in more than six local languages as part of CSOs outreach. In discussions, CSO representatives noted that publishing reports in local languages would have a positive effect on the quality of the reports and on their ability to contribute to public debate considering that Guatemala has more than 20 local languages. CSO representatives confirmed that EITI Reports were not published in local languages before being translated to English, however some brief notes on the EITI roles had been translated to local languages. Secretariat staff said that, in accordance with the MSG’s work plan, communication and outreach were considered a priority for their efforts, however the deteriorating situation of the extractive industries in 2017, as well as the lack of funding, had made it difficult to carry out all the planned activities to the regions. They said also that this situation has been reflected in the lack of recommendations and findings following the EITI Report. There is no open data policy in place, although the Presidential Commission on Open Public Management and Transparency has developed a draft open data policy for the government purposes.

Finally, stakeholders could not explain inconsistencies in the EITI Report. This included the IA in some cases. Moreover, a representative from civil society recognised that the report was “more confusing than informative”.

Initial assessment

The International Secretariat’s initial assessment is that Guatemala has made inadequate progress in meeting this requirement. The 2014-2015 EITI Report contains contradictions, inconsistencies, poor explanations for crucial issues, like the role of FONPETROL and subnational transfers, and in general is not clear or comprehensible for a citizen. The EITI process appears dissociated from the public debate going on in the country about the extractives, which includes the paralysation of Minera San Rafael, its judicial situation, and the debate around indigenous consultations.

¹²⁷ See: <https://gremiext.org/wp-content/uploads/2018/04/INFORME-CABI.pdf>

Although some brief notes were circulated by industry stakeholders, Guatemala's EITI Reports were not circulated and translated into local languages. There are concerns that the pace of communications and outreach has slowed significantly over the past year. The MSG has not agreed an open data policy. EITI-Guatemala has adopted a communications strategy but evidence on implementation is scarce.

In accordance with requirement 7.1, Guatemala should ensure that EITI Reports are consistent, comprehensible, actively promoted, publicly accessible and contribute to public debate. The MSG should continue to seek to carry out outreach events to spread awareness of and facilitate dialogue about the EITI Report across the country. The MSG is required to agree an open data policy and make EITI Reports available in open data format.

Data Accessibility (#7.2)

Documentation of progress

EITI-Guatemala does not have an open data policy available online. Moreover, EITI-Guatemala does not have automated online disclosure of extractive revenues and payments by the government and companies on a continuous basis. The 2014-2015 EITI Report is currently not disclosed in a machine-readable format.

Guatemala has produced summary data reports in Spanish for its three EITI Reports covering fiscal years 2010 to 2015. Summary reports provide general data and the authorship of the reports is stated. There are no infographics or videos prepared by the EITI-Guatemala specifically on the EITI Reports. Although three 40-second video clips were produced, there is no evidence that these are publicly available. There is no evidence of capacity-building efforts by the EITI-Guatemala to increase awareness of the process and encourage use of data by others.

Stakeholder views

Stakeholders consulted expressed limited views on this requirement. MSG members did not have comments on the summary reports. Secretariat staff confirmed they were still reviewing on comments sent by the International Secretariat on the latest 2014-2015 Summary Data Reports. Civil society stakeholders expressed gratitude to GIZ for their support to capacity-building and confirmed that additional efforts were needed.

Initial assessment

Requirement 7.2 encourages the MSGs to make EITI Reports accessible to public in open data formats, produce summary reports, summarise and compare the share of revenue streams to total amount of revenue that accrues to each respective level of government, consider automated online disclosure of extractive revenues and undertake capacity-building efforts. Such efforts are encouraged but not required and are not assessed in determining compliance with the EITI Standard.

To strengthen implementation of Requirement 7.2, the MSG is encouraged to undertake capacity-building efforts to improve understanding of EITI data and encourage use of the information by citizens, the media, and others.

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

Documentation of progress

EITI implementation in Guatemala has produced several recommendations through the three EITI Reports. While the 2016 Annual Progress Report (APR) follows up on the IA recommendations from the first two EITI Reports, it does not state the reason why four recommendations made by the IA in the 2012-2013 EITI Report were not implemented. The 2016 APR shows that some recommendations have been followed up including data accessibility and monitoring of government payments. However several of the EITI Report's recommendations were not implemented.

According to the meeting minutes reviewed, the MSG has never prioritised or discussed how to address the specific recommendations. Meeting minutes show that the MSG has discussed recommendations from EITI Reports in a very general way on a few occasions, although there is limited evidence that recommendations have been discussed in disaggregated form. Discrepancies identified in reconciliation have been immaterial. However, the MSG had lively discussions about the lack of reconciliation of transfers between the Ministry of Finance and CODEDES in 2012 and 2013, which was due to missing data.

CSOs comments provided to the IA ahead of the publication of the 1st EITI Report (2010-11 EITI Report) show that CSO has sought to provide input to the formulation of EITI recommendations, although it is not clear how these were reflected in the final report. It is also not clear if CSOs sent recommendations ahead of the publication of the 2nd (2012-13 EITI Report) and 3rd Report (the 2014-2015 EITI Report). Whereas the 2014-2015 EITI Report affirms it includes an update on the recommendations received from CSOs in previous reports, it is not clear if they were updated, given they were not disaggregated.

The 2017 APR wasn't published at the time Validation commenced in April 2018.

Stakeholder views

Whereas most stakeholders agreed that substantial work has been done within working groups on technical issues, none of them mentioned a specific working group established to follow up on the recommendations from past reports. Civil society stakeholders confirmed that they did not send recommendations to the IA ahead of the publication of the latest 2014-15 EITI Report. CSO representatives on the MSG expressed frustration that there had been little progress in following up recommendations over the past two years. They also expressed concerns that the IA had not asked them to provide input to address challenges identified through EITI reporting.

Initial assessment

The International Secretariat's initial assessment is that Guatemala has made meaningful progress in meeting this requirement. There is little evidence that the government and the MSG have taken steps to act upon lessons learned, investigate and address the causes of incompleteness in EITI reporting, mainly with respect to recommendations in the 2012-2013 EITI Report. There does not appear to be a system in place to discuss, prioritise and adequately process recommendations from EITI reports.

In accordance with Requirement 7.3, the MSG is required to take steps to act upon lessons learnt with a view to strengthen the impact of EITI implementation on natural resource governance. In particular the MSG should consider improving its procedures to analyse and process recommendations resulting from EITI reporting.

Outcomes and impact of implementation (#7.4)

Documentation of progress

Guatemala rarely reviews the outcomes and impact of EITI implementation on natural resource governance through its Annual Progress Reports (APRs). Guatemala has published four APRs, covering the 2013-2016 period. APRs are publicly available on the EITI-Guatemala website in Spanish¹²⁸. The APR covering 2016¹²⁹ was published in February 2018 after the deadline defined in Requirement 8.4 (1 July of the following year which, in this case, was by July 2017). There is no indication in MSG meeting minutes that APRs were approved by the MSG¹³⁰. Despite this, the APR 2016 mentions the MSG approved the document in January 2018. The APR 2017 had not been published by February 2019.

The 2016 APR includes a general assessment of the year's performance, including an overview of activities. It focuses on efforts linked to MSG governance (reform of the Governmental Accord No. 96-2012) and communications. The 2016 APR includes an assessment of performance against targets and activities set put in the work plan (pp. 1-5). Whereas it includes an assessment of progress against EITI Requirements (pp. 5-6), it only includes general references to websites of relevant government agencies. The 2016 APR provides a review of progress in implementing the IA's recommendations included in the 2010-11 EITI Report and 2012-13 EITI Report. Four of the IA's recommendations within the 2nd EITI Report have not been implemented and the APR does not explain the reasons behind the lack of follow-up (pp. 7-9). There is no reference to the four recommendations established in the latest EITI Report. It also discloses a brief list of strengths and weaknesses in the EITI process, highlighting in particular challenges linked to funding and collection of data for the 2014-2015 EITI Report (pp. 9-10).

On 20 March 2018, in the context of preparing for Validation, the International Secretariat sent a document to EITI Guatemala with questions and suggestions. Regarding Requirement 7, the suggestion was to prepare and approve the APR 2017. Although this document resulted in a request from the country to extend by one month the deadline to consider new documents, EITI Guatemala published its 2017 APR only in March 2019.

Stakeholder views

Stakeholders did not express any special views on the APRs. Furthermore, these do not seem to be regularly discussed by the MSG. Stakeholders were not able to confirm the existence of MS meeting minutes demonstrating that the MSG approved the APR 2016. National secretariat staff confirmed that

¹²⁸ See "Informe Annual de Actividades" here: <http://eitiguatemala.org.gt/documentos-e-informacion-2/>.

¹²⁹ See: https://eiti.org/sites/default/files/documents/informe_anual_de_progreso_2016.pdf

¹³⁰ Minute 12-2014 mentions only the presentation of the APR 2013 to the MSG (<http://eitiguatemala.org.gt/Descargar/doceiti/actaseci/2014/12.-ACTA-NO-12-2014-CNT-EITI-GUA-21-JULIO.pdf>).

the elaboration of the APR has been mostly performed by the secretariat with little to no discussion within the MSG. None of the stakeholders consulted were aware about the recommendations made by the IA in the 2014-15 EITI Report, since they had not participated in its elaboration. Given that the discussion on the procurement for the elaboration of the next EITI Report 2016-2017 has commenced later than expected due to funding problems, most stakeholders expressed concerns related to the improvement of collection of data and quality of information (*recommendations 3 and 4 of the IA in the latest EITI Report*).

Initial assessment

The International Secretariat's initial assessment is that Guatemala has made inadequate progress in meeting this requirement. Guatemala has undertaken limited efforts to review the outcomes and impact of EITI implementation on natural resource governance and it is a concern that there is no evidence of the MSG providing input to the latest APR. The publication of the 2016 APR was delayed, while the APR 2017 was not prepared until November 2018. There is little evidence that APRs are used to actively assess progress with achieving the objectives set out in work plans or progress made in addressing recommendations from reconciliation and Validation. The actions taken to implement each activity in the work plan or each requirement are not explained in detail. There is also no evidence of the MSG assessing the impact of EITI implementation, either through APRs or through other public documents.

In accordance with Requirement 7.4, the MSG should review the impact of EITI implementation and ensure that all stakeholders are able to participate in the production of annual progress reports (APRs). Stakeholders beyond the MSG should be able to provide feedback on the EITI process and have their views reflected in the APR. The MSG should ensure that an assessment of progress with achieving the objectives set out in its work plan is carried out, including their impact and outcomes. The MSG is encouraged to use the APR template provided by the International Secretariat and to ensure the timely publication of APRs within the deadline established in Requirement 8.4.

Table 7 - Summary initial assessment table: Outcomes and impact

EITI provisions	Summary of main findings	Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions)
Public debate (#7.1)	<p>The MSG should make efforts to link the EITI process to the public debate, thus EITI Reports should be widely distributed as per this requirement, instead Guatemala EITI Report was not circulated and translated into local languages.</p> <p>The report should achieve quality, consistency, so any citizen could read and understand</p> <p>Regarding section (c) of this requirement an open data policy should</p>	Inadequate progress

	<p>be agreed but there is no evidence it was.</p> <p>There is no evidence of interaction between the EITI process and the topics under discussion in the public agenda referred to extractives.</p>	
Data accessibility (#7.2)	<p>Guatemala has published summary data for its three EITI reports covering fiscal years 2010 to 2015, however these are not publicly available. Moreover, the MSG members did not have comments on these reports.</p> <p>This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.</p>	
Lessons learned and follow up on recommendations (7.3)	<p>Lessons learned and follow up recommendations from the latest EITI Report, were not prioritised. Meeting minutes describe a general review of recommendations was made a few times, but it is not clear if follow up steps were set.</p>	Inadequate progress
Outcomes and impact of implementation (#7.4)	<p>The MSG does not seem to get involved with the making of APR, instead the reports were done mostly by the Secretariat.</p> <p>The APR 2016 makes no reference to the recommendations suggested by the IA in the latest EITI Report. It does mention recommendations from Reports 2010-11 and 2012-13, however these have not been implemented.</p> <p>The APR 2017 was not prepared, though the International Secretariat suggested to do it in preparing for Validation.</p> <p>Apparently very little effort has been made to review impact of EITI.</p>	Inadequate progress
<p>Corrective actions:</p> <ul style="list-style-type: none"> In accordance with Requirement 7.1 (d), the MSG must ensure that the EITI Report is comprehensible, actively promoted, publicly accessible and contributes to public debate. The report should be written in a clear, accessible style and in appropriate languages. 		

- In accordance with **Requirement 7.1 (e)**, the MSG must ensure outreach events related to spreading awareness and facilitating dialogue about the EITI Report across the country, are undertaken.
- In accordance with **Requirement 7.3**, the MSG is required to take steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies with a view to strengthen the impact of EITI implementation on natural resource governance. In particular the MSG should consider improving its procedures to analyse and process recommendations resulting from EITI reporting.
- In accordance with **Requirement 7.4**, outcomes and impact of EITI implementation need to be reviewed; elaborating and approving the APRs for each year before each 1 July. The APR for 2017 must be prepared and approved, involving stakeholders in its elaboration. CSOs and extractive industries' involved organisations should contribute providing feedback on the EITI process and have their views reflected in the APR.

8. Impact analysis

(not to be considered in assessing compliance with the EITI provisions)

Impact

Guatemala's EITI process looks weak in terms of governance and disclosures. Most stakeholders recognised these weaknesses, which affect the EITI's impact. This is partly because extractive activity is decreasing in the country, but also because of a broader context.

With scandals of corruption widespread in the country, the main CSOs are not focused on the extractive sector. In September 2018, Guatemala's President Jimmy Morales, decided he would not renew the mandate for CICIG (an UN-backed International Commission against Impunity in Guatemala), which expires in 2019. The President ordered that Iván Velasquez, who has led CICIG since 2013, not be allowed back in Guatemala. The National Constitutional Court issued a provisional ruling on 16 September 2018,

allowing Mr Velasquez to return. But the government has nonetheless refused to let him return to Guatemala.¹³¹

Access to adequate funding has been also a severe obstacle to effective EITI implementation. Going forward, the government and the MSG need to consider how to get sustainable funding and may wish to consider a recalibration of the EITI scope in the country. This may entail requesting the Board to approve adapted implementation that allows an EITI process that is proportionate with the country's needs.

¹³¹ See: <https://www.nytimes.com/2018/09/17/world/americas/guatemala-democracy-under-threat.html> and also https://www.washingtonpost.com/world/2018/09/05/guatemalas-president-tries-shut-down-anti-corruption-group-investigating-him/?noredirect=on&utm_term=.51c762ddd738

Annexes

Annex A - List of MSG members and contact details¹³²

Government sector representatives				
	Name	Surname	Entity	Job position
1	Jafeth	Cabrera Franco	Vice-presidency	President
2	Juan Pelayo	Castañón Stormont	MEM	Member
3	Victor Daniel	Aguilar Aguirre	MEM	Alternate member
4	Julio Héctor	Estrada	MIF	Member
5	Regina Elizabeth	Farfán Colindres	MIF	Alternate member
6	Sydney Alexander	Samuels Milson	MENR	Member
7	Carlos Fernando	Coronado Castillo	MENR	Alternate member

Industry sector representatives				
	Name	Surname	Sector	Job position
1	Alfredo	Gálvez	Mining sector	Member
2	Regina	Rivera	Mining sector	Member
3	Juan José	Cabrera	Mining sector	Alternate member
4	Fredy	Gudiel	Hydrocarbons sector	Member
5	Vanessa	Rodas	Hydrocarbons sector	Alternate member

Civil society representatives				
	Name	Surname	Entity	Job position
1	Otto	Cú	Acción y Propuesta	Member
2	Ivan	Barrientos	Convergencia Tezulutlán	Alternate member
3	Marvin	Flores	Acción Ciudadana	Member
4	Marvin	Chinchilla	CONGAV	Alternate member
5	Rolando	Chá Pacay	CONADUR	Member
6	Casimiro	Pixcar	CONADUR	Alternate member
7	Francisco	Raymundo	Accion y Propuesta	Member of CSO
8	Rafael	Poitevin	Guatecívica	Member of CSO

¹³² See: <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>

Annex B – MSG meeting attendance

2015				
Meeting #	Meeting date	Government	Civil society	Private sector
1	26-ene.-15	Jorge Guillermo Escobar, MIF Jose Miguel de la Vega, MEM Veónica Taracena, EITI		
2	23-feb.-15	Jose Miguel de la Vega, MEM Marco Antonio Gutierrez, MIF	Otto Cu, Acción y Propuesta	Verónica Taracena, EITI Rodrigo Maegli, GREMIEXT
3	10-mar.-15	Jose Miguel de la Vega, MEM Marco Antonio Gutierrez, MIF Carlos Monterroso, MENR	Otto Cu, Acción y Propuesta	Regina Rivera, GREMIEXT Vanessa Rodas, PERENCO
4	16-mar.-15	Carlos Monterroso, MENR	Otto Cu, Acción y Propuesta Francisco Raymundo, Acción y Propuesta	Vanessa Rodas, PERENCO Rodrigo Maegli, GREMIEXT
5	10-abr.-15	Jose Miguel de la Vega, MEM Marco Antonio Gutierrez, MIF Michelle Martinez, MENR		Vanessa Rodas, PERENCO Rodrigo Maegli, GREMIEXT
6	26-abr.-15	Carlos Monterroso, MENR Jose Miguel de la Vega, MEM Marco Antonio Gutierrez, MIF	Otto Cu, Acción y Propuesta	Rodrigo Maegli, GREMIEXT Vanessa Rodas, PERENCO
7	18-may.-15	Verónica Taracena, EITI Jose Miguel de la Vega, MEM Marco Antonio Gutierrez, MIF Carlos Monterroso, MENR	Romero Matul	Mario Marroquín, GREMIEXT Rodrigo Maegli, GREMIEXT
8	5-jun.-15	Jose Miguel de la Vega, MEM Marco Antonio Gutierrez, MIF Carlos Monterroso, MENR	Otto Cu, Acción y Propuesta	Fredy Gudiel, PERENCO Mario Marroquín, GREMIEXT Regina Rivera, GREMIEXT
9	10-jun.-15	Marco Antonio Gutierrez, MIF Carlos Monterroso, MENR	Otto Cu, Acción y Propuesta	Vanessa Rodas, PERENCO Mario Marroquín, GREMIEXT Rodrigo Maegli, GREMIEXT
10	23-jul.-15	Claudia Gonzales, MIF Jose Miguel de la Vega, MEM	Greta Mancilla, Guatecívica Sandra Gonzalez, GIZ	Fredy Gudiel, PERENCO
11	3-nov.-15	Juan Alfonso Fuentes Soria, Vice-presidency Alfredo Gálvez Sinibaldi, MEM	Otto Cu, Acción y Propuesta Ivan Barrientos, Convergencia Tezulutlán Marvin Flores, Acción Ciudadana Rafael Poitevin, Guatecívica Rolando Cha Pacay, CONADUR Casimiro Pixcar, CONADUR Aurelia Tot, NGOs Marvin Chinchilla, NGOs	Fredy Gudiel, PERENCO Mario Marroquín, GREMIEXT Regina Rivera, GREMIEXT Rodrigo Maegli, GREMIEXT

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12	17-dic.-15	Juan Alfonso Fuentes Soria, Vice-presidency	Rolando Cha Pacay, CONADUR	Vanessa Rodas, PERENCO
		Alfredo Gálvez Sinibaldi, MEM	Marvin Flores, Acción Ciudadana	Regina Rivera, GREMIEXT
			Otto Cu, Acción y Propuesta	
			Rafael Poitevin, Guatecívica	
			Aurelia Tot, NGOs	
			Marvin Chinchilla, NGOs	

Validation of Guatemala: Report on initial data collection and stakeholder consultation

2017				
Meeting #	Meeting date	Government	Civil society	Private sector
3	4-abr.-17	Jafeth Cabrera, Vice-presidency Luis Chang, MEM Fernando Coronado, MENR Rodrigo Cifuentes, MEM Carmen Gómez, MIF Sydney Samuels, MENR	Ivan Barrientos, Convergencia Tezulutlán Rafael Poitevin, Guatecívica Aurelia Tot, CONGAV	Alfredo Galvez, GREMIEXT Vanessa Rodas, PERENCO
4	28-abr.-17	Jafeth Cabrera, Vice-presidency Luis Chang, MEM Fernando Coronado, MENR Carmen Gómez, MIF	Rafael Poitevin, Guatecívica Aurelia Tot, CONGAV Casimiro Pixcar, CONADUR	Roberto Morales, GREMIEXT Vanessa Rodas, PERENCO
5	30-may.-17	Jafeth Cabrera, Vice-presidency Luis Chang, MEM Fernando Coronado, MENR Carmen Gómez, MIF	Rafael Poitevin, Guatecívica Aurelia Tot, CONGAV	Roberto Morales, GREMIEXT Fredy Gudiel, PERENCO Vanessa Rodas, PERENCO
6	19/06/2017	Jafeth Cabrera, Vice-presidency Luis Chang, MEM Fernando Coronado, MENR Carmen Abril, MIF	Rafael Poitevin, Guatecívica Aurelia Tot, CONGAV	Roberto Morales, GREMIEXT Alfredo Galvez, GREMIEXT Vanessa Rodas, PERENCO
7	7//2017	Jafeth Cabrera, Vice-presidency Luis Chang, MEM Fernando Coronado, MENR	Rafael Poitevin, Guatecívica Aurelia Tot, CONGAV Casimiro Pixcar, CONADUR	Roberto Morales, GREMIEXT Alfredo Galvez, GREMIEXT Vanessa Rodas, PERENCO

Annex C – Cost of EITI Reports

The 2014-2015 EITI Report cost was of USD 15 000, and only included the reconciliation exercise.

The 2018-19 work plan's budget amounts to USD 34,995 (Q 261,000) for the period in question. More than 50% of the budget costs (USD 24,135 = Q 180,000) in the draft work plan is linked to specific tasks outlined in Objective II "Dissemination/Communication". Although previous work plans identified specific budgets, not all activities were covered.

Annex D - List of stakeholders consulted

Government

Jafeth Cabrera, Vice-President of the Republic and EITI-Guatemala Chair

Luis Alfonso Chang Navarro, MEM and Executive Coordinator of EITI-Guatemala

Karin Landaverri, Subdirector of Mining in the MEM

Julio Paredes, Subdirector of Commercialization in the MEM

Gricelda Mazariegos, Head of Prices of Crude Oil in the MEM

Clara Maria Medina, Technical Director III in the MIF

Homero Aila, MIF

Claudia Gonzales, MIF

Jairo Solis, Subdirector in MIF

Eric Moreira, Revenues Management in MIF

Juan Francisco Morales, Legal advisor in the General Secretary of the MENR

Maria Olga Morales, Head of the Department of Environmental Quality in the MENR

Mario Figueroa, Head of Tax Collection Department in the SAT

Luis Emilio de León, Manager in the SAT

José Roberto Ramos, Vice-President of the Tax Collection Department in the SAT

Shayne Ochacta, Legal Director in the Presidential Commission on Open Public Management and Transparency

Jaime Orantes, Planning Director in the Presidential Commission on Open Public Management and Transparency

Jaime Muñoz, Director of National and International Cooperation in the Presidential Commission on Open Public Management and Transparency

Industry

Gianluca Beverini, Prominas

Marco Acatuno, Promico

Ekaterina Konakova, Promico

Roberto Morales, General Manager in Minera San Rafael

Alfredo Gálvez, General Manager in Montana Exploradora

Mario Orellana, Pena Rubia

Vanessa Rodas, PERENCO

Ana Rosa Valenzuela, GREMIEXT

Civil Society

Aurelia Tots - CONGAV

Rafael Poitevin - Guatecívica,

Marvin Flores – Acción Ciudadana

Casimiro Pixcar - CONADUR

Independent administraTOR

Francisco Mejia, Head of Talento Profesional

Nelly Navarro, Consultant at Talento Profesional

Development partners

Alberto Levy, Inter-American Development Bank (IDB)

Sandra Gonzalez – Technical Advisors on Transparency at GIZ

Annekathrin Linck – Technical Advisors on Transparency at GIZ

Others

Marcos Garcia – Ex National Coordinator in EITI Guatemala

Annex E - List of reference documents

Work plans and Annual activity reports:

- 2011-2013 work plan available here: <http://www.mem.gob.gt/wp-content/uploads/2013/03/7.-Plan-de-Trabajo-2011-2013-CNT-EITI-GUA-descriptivo.pdf>
- 2014-2015 work plan available here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsopera/PLAN-DE-TRABAJO-2014-2015-CNT-EITI-GUA.pdf>
- 2016-2017 work plan available here: https://eiti.org/sites/default/files/documents/guatemala_workplan_2016_2017.pdf
- 2018-2019 work plan available here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsopera/Plan-de-Trabajo-EITI-2018-2019vf-1.pdf>
- Annual Report 2013, available here: <http://eitiguatemala.org.gt/Descargar/doceiti/infoanual/Informe-Anual-EITI-GUA-2013.pdf>
- Annual Report 2014, available here: <http://eitiguatemala.org.gt/Descargar/doceiti/infoanual/INFORME-ANUAL-DE-ACTIVIDADES-ANCC83O-2014.pdf>
- Annual Report 2015, available here: <http://eitiguatemala.org.gt/Descargar/doceiti/infoanual/INFORME-ANUAL-ACTIVIDADES-2015.pdf>
- Annual Report 2016, available here: https://eiti.org/sites/default/files/documents/informe_anual_de_progreso_2016.pdf

EITI Reports, Summaries, Validation Report and Secretariat Review:

- 2014-2015 EITI Report available here: https://eiti.org/sites/default/files/documents/informe_eiti_gt_2014_-_2015_-_reporte_final_240117_0.pdf
- 2012-2013 EITI Report available here: https://eiti.org/sites/default/files/documents/2012-2013_guatemala_eiti_report_es.pdf
- 2010-2011 EITI Report available here: https://eiti.org/sites/default/files/documents/2010-2011_guatemala_eiti_report_es.pdf

Legal documents and TOR related to EITI implementation:

- MSG Terms of Reference, available here: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/6.-Normas-internas-CNT-EITI-GUA_2.pdf
- Acuerdo No. 1-2012. Normas Internas de la Comisión Nacional de Trabajo para la Implementación de EITI-Guatemala available here: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/6.-Normas-internas-CNT-EITI-GUA_2.pdf
- Sectores Participantes: Reglamento del Sector Civil pertenecientes a EITI-GUA, available here: <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>

Other documents online:

- Validation Report dated as of November 2013, available here: http://C:/Users/kr61/Downloads/EITI-Gua_SDSG_Final%20Validation%20Report.pdf
- Letter official appointment: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/5.-Oficio-de-Vicepresidencia-por-nombramiento-Presidencia-CN_2.pdf
- Governmental Accord No.96-2012, available here: http://eitiguatemala.org.gt/Descargar/doceiti/marcoimple/Acuerdo-96-2012-con-reformas-incluidas._2_2.pdf
- Governmental Accord No. 360-2012, available here: http://www.oas.org/juridico/pdfs/mesicic4_gtm_acu360.pdf
- Governmental Accord No.85-2018 available here: https://leyes.infile.com/index.php?id=175&id_publicacion=77727
- Governmental Accord No.764-92, available here: http://www.mem.gob.gt/wp-content/uploads/2015/06/6.CONVOCATORIA_PARA_PRESENTAR_OFERTAS.doc
- “Sectores Participantes” available here: <http://eitiguatemala.org.gt/comision-nacional-del-trabajo/>
- Mining Statistics, available here <http://www.mem.gob.gt/mineria/estadisticas-mineras/licencias-vigentes-y-solicitudes-en-tramite/>
- Guatemala politicians call for a prompt ruling on Tahoe license, available here : <https://subscriber.bnamerica.com/en/myaccount/login?error=login&back=%2Fen%2Fnews%2Fminingandmetals%2Fguatemala-politicians-call-for-prompt-ruling-on-tahoe-license%2F&position=1&aut=true&idioma=en>

- Combatting corruption in mining approvals, available here: https://www.transparency.org/whatwedo/publication/combattling_corruption_in_mining_approvals
- Mapa Republic available here: http://www.mem.gob.gt/wp-content/uploads/2015/06/MapaRepublica_web1.pdf
- Exploitation contracts available here: <http://www.mem.gob.gt/hidrocarburos/explotacion/contratos-en-fase-de-explotacion/>
- Exploration contracts, available here: <http://www.mem.gob.gt/hidrocarburos/exploracion/contratos-en-fase-de-exploracion/>
- Beneficial Ownership Roadmap available here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/Hoja-de-Ruta-GT-FINAL-28-03-17.pdf>
- EITI-Guatemala (2016). Proyecto de Socialización. Estrategia de Comunicación Integral, available here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/informe-final-SOCIALIZACION-EITI-p.pdf>
- EITI Presentation available here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/Presentacion-EITI-GUA.pdf>
- EITI factsheet, available here: <http://eitiguatemala.org.gt/Descargar/doceiti/docsinfo/Triptico-general-EITI-GUA-impreso.pdf>
- Galería de imágenes, available here: <http://eitiguatemala.org.gt/galeria-de-imagenes/>
- Fact sheet 2017 – Alta Verapaz Province. Document shared with the EITI International Secretariat, available here: <https://drive.google.com/file/d/192IW6gmXrW5ik3v00KAK41BTemCDCXzc/view> (Internal use).
- FOSIT webpage with visualizations in EITI : http://www.fosit.org/index.php?option=com_content&view=article&id=368:hablar-siempre-es-mejor&catid=83:aplicaciones&Itemid=155
- Cartoon EITI Guatemala available here: <http://eitiguatemala.org.gt/caricatura-eiti-gua/>
- OGP Open Data available here: <http://gobiernoabierto.gob.gt/wp-content/uploads/2018/04/Propuesta-Política-Nacional-de-Datos-Abiertos-04ABR18.pdf>

Meeting minutes:

All Minute Meetings available here: <http://eitiguatemala.org.gt/documentos-e-informacion-2/>

Other government documents/reports:

- Ministerio de Energía y Minas – Gobierno de la República de Guatemala. (2015). CONADUR presenta Base para la Actualización de la Política Minera, available here: <http://www.mem.gob.gt/2015/08/presentan-base-para-la-actualizacion-de-la-politica-minera/>

External websites:

- CSO's registered in Guatemala's government website available here: <https://mingob.gob.gt/repeju/>
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