

# Validation of Indonesia

## Report on initial data collection and stakeholder consultation

## Abbreviations

ASM	Artisanal and Small-Scale Mining
ASR	Abandonment and Site Restoration
BO	Beneficial Owner
Bpd	Barrels per day
BPKP	Badan Pengawasan Keuangan dan Pembangunan – Audit Board
BPS	Badan Pusat Statistik – Statistics Board
CoW	Contract of Work
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
DBH	Dana Bagi Hasil
DMO	Domestic Market Obligation
EGPS	Extractives Global Programmatic Support
EITI	Extractive Industries Transparency Initiative
ESDM	Energi Sumber Daya Mineral
FTP	First Tranche Petroleum
GDP	Gross domestic product
GFS	Government Finance Statistics
IA	Independent Administrator
IFRS	International Financial Reporting Standard
IMF	International Monetary Fund
IOC	International Oil Companies
IUP	Izin Usaha Pertambangan – Mining Business License
IUPK	Izin Usaha Pertambangan Khusus – Special Mining Business License
LNG	Liquid Natural Gas
MDTF	Multi Donor Trust Fund
MoF	Ministry of Finance
MoU	Memorandum of Understanding
MSG	Multi-Stakeholder Group
NGO	Non-Governmental Organisation
NRGI	Natural Resource Governance Institute
PEP	Politically Exposed Person
PNBP	Penerimaan Negara Bukan Pajak – Non-Tax Revenue
PSC	Production Sharing Contract
Scf	Standard cubic feet
SKK Migas	Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi – Upstream oil and gas regulator
SOE	State-owned enterprise
ToR	Terms of Reference
VAT	Value Added Tax

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## Executive Summary

The government of Indonesia committed to implement the EITI in December 2005 and enacted Presidential Regulation 26 in April 2010, institutionalising the EITI in Indonesia. An interim Multi-Stakeholder Group (MSG) was formed in 2009 and a permanent MSG was appointed in April 2010. The country was accepted as an EITI Candidate in October 2010 at the EITI Board's 13<sup>th</sup> meeting in Dar-es-Salaam.

On 25 October 2016, the Board agreed that Indonesia's Validation under the 2016 EITI Standard would commence on 1 September 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 Indonesia's progress with the EITI Standard. While the assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's preliminary assessment is that 22 of the requirements of the EITI Standard have not been fully addressed in Indonesia. Nine of these are unmet with inadequate progress. The recommendations and suggested corrective actions identified through this process relate in particular to government engagement (#1.1), industry engagement (#1.2), civil society engagement (#1.3), MSG governance (#1.4), work plan (#1.5), license allocations (#2.2), license register (#2.3), policy on contract disclosure (#2.4), state participation (#2.6), production data (#3.2), export data (#3.3), comprehensiveness (#4.1), in-kind revenues (#4.2), SOE transactions (#4.5), disaggregation (#4.7), data quality (#4.9), subnational transfers (#5.2), mandatory social expenditures (#6.1), SOE quasi-fiscal expenditures (#6.2), follow up on recommendations (#7.3) and outcomes and impact of implementation (#7.4).

## Overall conclusions

Indonesia presents a uniquely challenging case for EITI implementation. Almost all requirements of the EITI Standard are applicable to the country's extensive and diverse mining, oil and gas industries. The country's decentralized administrative powers and dispersed geography present key challenges for a participative process like the EITI. Within this decentralised and diverse context, the EITI's impact to date has been on general institutional coordination than on tangible reforms of government and company systems. While concurrent reforms such as the launch of public access to *One Map Indonesia* mark important steps forward for transparency in extractives governance, the EITI has tended to remain a standalone reporting process with limited linkages to broader reforms, rather than a key driver of changes in the extractives sector.

Beneficial ownership is likely the area where the EITI has had the greatest influence to date, mainly as a coordinating tool shoring up political momentum.

Yet EITI implementation has tended to remain pigeon-holed as an annual reporting exercise driven by the Coordinating Ministry for Economic Affairs. Its siloed approach has not tended to drive spill-over effects for policy-making or supported broader reforms in the extractive industries. The tendency to describe statutory rules rather than provide a real annual diagnostic of governance in practice along the upstream extractives value chain has led to the EITI shying away from its potential to bring clarity to an often-contested sector. The EITI's consultation and reporting platform has tended to be under-utilised as a platform for civil society to influence debate and use data collection to drive research and advocacy. Low-

hanging fruit that could yield tangible impacts on public debate and policy-making, from cost recovery disclosures to clarity on calculations of subnational transfers, have remained largely unaddressed.

Implementation of the EITI Standard has reached a watershed. No longer primarily supported by foreign donors and ahead of general elections in 2019, EITI Indonesia has the opportunity to assess the results of ten years of implementation and consider reforms to ensure EITI implementation is fit for purpose, with goals aligned with national reform priorities. Stakeholders may wish to reconsider the way the EITI is implemented to ensure that it takes the specific circumstances of the country, its diverse extractives sector and challenges into account.

## Recommendations

While the following report includes recommendations for specific improvements Indonesia may wish to consider implementing, the following is a list of strategic corrective actions that could help Indonesia make even greater use of the EITI as an instrument to support reforms.

- In accordance with Requirement 1.1, Indonesia is required to: i. issue a public statement indicating its continued support to EITI implementation; ii. appoint a senior individual who will effectively lead the EITI process; iii. ensure that senior individuals participate in the MSG; iv. take steps to ensure that government is fully, actively and effectively engaged in the EITI process by addressing administrative and legal barriers to implementation, including in the submission of data by government agencies and companies required for EITI reporting, conducting outreach to other agencies, and using EITI data to promote public debate and formulate policies. The government is required to draft an action plan to address these corrective actions within three months from the Board decision, and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat.
- In accordance with Requirement 1.2, Indonesia is required to: i. take steps to ensure that industry is fully, actively and effectively engaged in the EITI process; ii) ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI; and iii) ensure that there are no obstacles to company participation in the EITI process. Industry is required to draft an action plan to address these corrective actions within three months from the Board decision and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI Secretariat.
- In accordance with Requirement 1.3, Indonesia is required to ensure that civil society is fully, actively and effectively engaged in the EITI process by maintaining a regular feedback mechanism to its broader constituency to ensure that the EITI process is substantive and addressing issues that are relevant to civil society. Civil society is required to draft an action plan to address these corrective actions within three months from the Board decision and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI Secretariat.
- In accordance with Requirement 1.4, Indonesia is required to i. ensure that the constituencies are adequately represented, comprising appropriate stakeholders with sufficient capacity, willingness and availability to commit to the EITI process; ii. with respect to industry, ensure that the selection process is open and transparent; iii. ensure that the multi-stakeholder group undertakes

- effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society; iv. ensure that members of the multi-stakeholder group liaise with their constituency groups; v. ensure that internal rules of procedure are adopted, indicating that any member of the multi-stakeholder group has the right to table an issue for discussion and that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption; vi. agree on a clear Terms of Reference with provisions on ensuring that the members of the MSG have the capacity to carry out their duties.
- In accordance with Requirement 1.5, Indonesia is required to draft a work plan that: a) sets EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. b) Reflect the results of consultations with key stakeholders; c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process. The work plan must: i. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation. ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9). iii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation. iv. Outline the multi-stakeholder group's plans for implementing the recommendations from Validation and EITI reporting.
  - In accordance with Requirement 2.2, Indonesia is required to disclose information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report. This information should include the number of mining, oil and gas licenses awarded and transferred in the year covered by EITI reporting, a description of the award procedures, including specific technical and financial criteria assessed, and highlight any non-trivial deviations in practice. In addition, Indonesia may wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.
  - In accordance with Requirement 2.3, Indonesia is required to maintain a publicly available register or cadastre system(s), providing comprehensive information including dates of application and partner interests for licenses held by all oil, gas and mining companies. In the interim Indonesia should ensure that future EITI reporting provide the information set out under EITI Requirement 2.3.b, including dates of application and partner interests, for all oil and gas and mining companies covered in the EITI reporting cycle.
  - In accordance with Requirement 2.4, Indonesia should ensure that the government's policy on contract disclosure is clear and public, and that a review of actual practice of contract disclosure in the mining, oil and gas sectors be publicly accessible.
  - In accordance with Requirement 2.6, Indonesia's government and SOEs must disclose their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. This information should include details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting

period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues.

- In accordance with Requirement 3.2, Indonesia should ensure that annual production volumes and values be publicly accessible for all minerals, oil and gas produced in the year under review.
- In accordance with Requirement 3.3, Indonesia must ensure that annual export volumes and values be publicly accessible for all minerals, oil and gas produced in the year under review, disaggregated by commodity. In light of significant stakeholder concerns over the reliability of official government export data, Indonesia may wish to use EITI reporting to disclose information on the monitoring and valuation of extractives export, as well as include estimates of unrecorded or informal exports in future EITI reporting cycles.
- In accordance with Requirement 4.1, Indonesia should ensure that the list of material companies included in the scope of reporting is clearly defined and should ensure that future EITI reporting includes the IA's assessment of the materiality of omissions as well as full unilateral government disclosure of material revenues from non-material companies.
- In accordance with Requirement 4.2, Indonesia should ensure that future EITI reporting present information on the sale of the state's in-kind revenues, including volumes sold and the proceeds of sales, disaggregated by buyer.
- In accordance with Requirement 4.5, Indonesia must ensure that the role of SOEs, including company and subsidiary payments to SOEs as well as transfers between SOEs and government agencies, is comprehensively and publicly addressed. Indonesia is encouraged to consider working with SOEs on ensuring their statutory annual reporting covers the information required by the EITI Standard in a sufficiently disaggregated manner.
- In accordance with Requirement 4.7, Indonesia should present all reconciled financial data disaggregated by company, government entity and revenue stream. To further strengthen implementation, Indonesia may wish to make progress in implementing project-level EITI reporting for all material companies ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.
- In accordance with Requirement 4.9, Indonesia should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. Indonesia should ensure that the ToR for the IA is in line with the standard ToR approved by the EITI Board and that its agreement on any deviations from the ToR in the final EITI Report be properly documented. Indonesia should also ensure that the IA include an assessment of whether the payments and revenues disclosed in the EITI Reports were subject to credible, independent audit, applying international auditing standards.
- In accordance with Requirement 5.2, Indonesia should assess the materiality of subnational transfers and ensure that future EITI reporting provide the specific formula for calculating subnational transfers linked to extractives revenues to individual governorates, disclose any material subnational transfers and any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.
- In accordance with Requirement 6.1, Indonesia should ensure that a clear definition of any mandatory social expenditures is publicly provided and assess the materiality of such expenditures in the period under review. Public disclosure of mandatory social expenditures must

be disaggregated by type of payment (distinguishing cash and in-kind) and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. Indonesia is encouraged to pursue disclosure of voluntary social expenditures to a level of disaggregation commensurate with mandatory social expenditures, albeit clearly distinguishing the two forms of payments in the disclosures.

- In accordance with Requirement 6.2, Indonesia should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. Indonesia should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.
- In accordance with Requirement 7.1 Indonesia must ensure that the EITI Report and EITI data is adequately circulated and promoted, with a view to contributing to public debate by targeting key audiences such as parliamentarians, media, policy makers, local communities near extraction sites and wider civil society. The MSG may wish to consider establishing more formal mechanisms for subnational MSGs to provide input to national EITI discussions, to ensure discussions and priorities at the local level are reflected.
- In accordance with Requirement 7.3, Indonesia is required to take steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies; and to consider the recommendations resulting from EITI reporting with a view to strengthen the impact of EITI implementation on natural resource governance.
- In accordance with Requirement 7.4, Indonesia must ensure that stakeholders should be able to participate in the production of the annual progress report and in reviewing the impact of EITI implementation which the MSG should do on a regular basis. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the multi-stakeholder group, should be able to provide feedback on the EITI process and have their views reflected in the annual progress report. It is further recommended that the MSG considers the findings of the impact assessment that they commissioned.

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*

	<b>No progress.</b> All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	<b>Inadequate progress.</b> Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	<b>Meaningful progress.</b> Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	<b>Satisfactory progress.</b> All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	<b>Beyond.</b> The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be considered in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

## Introduction

### Brief recap of the sign-up phase

Discussions of EITI implementation in Indonesia began in December 2008 when Coordinating Minister for Economic Affairs Sri Mulyani Indrawati wrote to the Head of the EITI Secretariat about the country's intent to implement the EITI. After a series of stakeholder consultations, President of the Republic of Indonesia Susilo Bambang Yudhuyono issued Presidential Regulation of the Republic of Indonesia (RI) No.26 2010 (Transparency of National/Local Extractive Industry Revenue) dated 14 April 2010 creating an EITI steering committee headed by the Coordinating Minister for Economic Affairs. A statement of commitment to implement the EITI along with a candidature application was sent by former Coordinating Minister for Economic Affairs Hatta Rajasa to the EITI Secretariat on 14 September 2010. On 5 November 2010, Indonesia's application to become a Candidate country was accepted by the EITI Board.

### Objectives for implementation and overall progress in implementing the work plan

The need to improve natural resource governance is highlighted by issues around stability of policies in the extractive sector, overlapping licenses, gaps in tax administration and in systems for corporate registration that have led to losses of potential revenues. The EITI is improving inter-ministerial policy coordination, serving as a platform for discussions between industry and government as well as leading reforms on beneficial ownership transparency.

The objectives for EITI implementation in Indonesia are clearly described in the 2018 EITI work plan, namely: (1) greater transparency in extractive industry governance in Indonesia and (2) improved extractive industry governance. The work plan objectives were agreed in 2016 and have not been revised since. Due to funding constraints, implementation of work plan activities has been limited especially in 2018. The EITI's dissemination efforts were mainly through the publication of newsletters, whose frequency also declined in 2018 due to other priorities. Subnational outreach and the launch event for the 2016 EITI Report were not conducted. Other activities that were implemented in 2018 include the forum on commodity trading, a pre-validation workshop, ongoing revision of the Presidential Regulation on EITI, two trainings on beneficial ownership and publication of infographics.

### History of EITI Reporting

EITI Indonesia has published five EITI Reports covering seven fiscal years from 2009 to 2015. There has been a history of delays in meeting reporting deadlines due to issues related to procurement of Independent Administrators and delays in funding. This led to the country being suspended by the EITI Board in 2015, a suspension that was lifted in December 2015 upon publication of the 2012-2013 EITI Report. In December 2016, Indonesia again requested an extension of its reporting deadline until 1 March 2017 although it published its 2014 EITI Report before the EITI Board considered this request. Aside from administrative issues, delays are further caused by non-submission of reporting templates by reporting entities by the reporting deadline. Despite the availability of more current data through government platforms, Indonesia's EITI Reports still cover data two years prior to the date of publication. In 2016, the EITI launched an open data portal that publishes data from EITI Reports on EITI Indonesia's website.

## Summary of engagement by government, civil society and industry

The level of stakeholder engagement has fluctuated since the start of implementation in 2010. While high-level political commitment was evident at the start of implementation, there are now concerns regarding the level of seniority of government officials attending MSG meetings. Lack of senior government representatives has created the impression among stakeholders that decision-making processes, particularly in recommending reforms within government, should be improved. Industry engagement appears to be confined to providing data for EITI Reports. While material companies consistently provide information, there is limited evidence that industry is using the EITI process to advance their objectives. Civil society appears to contribute to the scope of EITI Reports and has used the EITI process to advance their advocacies on commodity trading, subnational transfers, contract transparency and beneficial ownership. Attendance at MSG meetings is consistent for all constituencies. However, it appears that engagement of wider stakeholders for each constituency has been limited. Yet government commitment has been strong among agencies outside of the MSG, in particular with respect to agencies involved in beneficial ownership reforms and addressing corruption risks in the extractive sector.

## Key features of the extractive industry

Indonesia is a resource-rich country both in hydrocarbons and minerals. Its oil and gas sector has been characterised in recent years by decreased production and rapid increase in domestic consumption. The mining sector, on the other hand, has been expanding rapidly and has seen major reforms in the last five years with respect to requirements on national ownership and expansion of the upstream sector. Public debates about the extractive industries have centred on contract negotiation, appropriate production and revenue sharing mechanisms between contractors and government, efficient licensing procedures, environmental impacts of mining, cost recovery in oil and gas production-sharing contracts (PSCs), commodity trading, subnational transfers and social expenditures.

With extractives (mining, oil and gas) accounting for 24.1% of exports, 15% of government revenues and 8% of GDP in 2015<sup>1</sup>, Indonesia's economy has traditionally been dependent on the extractive industries. Having discovered oil and gas as early as 1885 in North Sumatra<sup>2</sup>, Indonesia has an established sector dominated by mining and natural gas, with declining oil production. The country is a major global exporter of (particularly thermal) coal, copper, gold, tin, bauxite, nickel and natural gas.<sup>3</sup> Indonesia used its early windfall from oil production in the 1970-1980s to invest in economic diversification, including in natural gas.<sup>4</sup> Spread over 17,508 islands and more than 5000km, Indonesia's volcanic archipelago boasts extensive deposits of oil, natural gas, gold, bauxite, nickel, copper, iron, manganese, zinc, tin, xenotime and silver, among others. An estimated 80% of the country's volcanic areas are reported to contain

<sup>1</sup> According to the 2015 EITI Report. See Indonesia EITI (December 2017), '2016 EITI Report – Volume 2: Contextual Report', accessed [here](#) in October 2018, pp.80-81.

<sup>2</sup> PwC (May 2018), 'Oil and Gas in Indonesia: Investment and Taxation Guide 2018', accessed [here](#) in October 2018, p.14.

<sup>3</sup> PwC (May 2018), 'Mining in Indonesia: Investment and Taxation Guide 10th Edition', accessed [here](#) in October 2018, p.12.

<sup>4</sup> World Trade Organisation (2014), 'Value chains governance in Indonesia's extractive and natural resources export commodities: Policy notes on its upgrading and diversification endeavors', accessed [here](#) in September 2018, p.1.

mineral deposits.<sup>5</sup> While Indonesia's extractives exports have traditionally been relatively low value-added<sup>6</sup>, a series of regulatory reforms have strongly encouraged downstream processing of minerals since 2014.

Ranked as the world's fifth-largest coal producer<sup>7</sup> and its largest thermal coal exporter<sup>8</sup>, Indonesia exports around 80% of its production.<sup>9</sup> Most coal mining is centred on the islands of Sumatra and Kalimantan, although the International Energy Agency (IEA) estimates that only 40% of coal deposits are accessible through existing mines.<sup>10</sup> Coal production tripled in the decade to 2013, remaining high since.<sup>11</sup> There has been some interest in developing the country's coal-bed methane reserves<sup>12</sup>, considered as the world's sixth-largest.<sup>13</sup> The world's largest until 2014<sup>14</sup>, Indonesia's nickel production grew exponentially from an average of 5m-10m in the 1996-2006 period to a record 71m in 2013.<sup>15</sup> However, new regulations banning exports of unprocessed ore from 2014 impacted the nickel sector in particular.<sup>16</sup> Although its gold production declined by around 60% in the decade to 2013<sup>17</sup>, Indonesia still accounts for around 4% of global gold output, of which half comes from the Grasberg mine operated by Freeport McMoran<sup>18</sup>, and holds the fifth-largest proven deposits.<sup>19</sup> There is also widespread artisanal gold production, with reportedly more than 1m oz mined informally annually.<sup>20</sup> Despite a decline of around 50% in production volumes in the decade to 2013, Indonesia ranks as the world's 13<sup>th</sup> largest copper producer.<sup>21</sup> Indonesia holds the world's second rank in both tin reserves and production.<sup>22</sup>

Although smaller relative to its importance to global minerals markets, Indonesia is nevertheless a large and established producer of oil and gas. The country holds the world's 27<sup>th</sup>- and 14<sup>th</sup>-largest proven oil and gas reserves respectively in 2015.<sup>23</sup> Although new discoveries of oil and gas reserves have been declining, proven natural gas reserves are around five times larger than crude oil.<sup>24</sup> Whereas western Indonesia (Sumatra, Java) are relatively well explored oil and gas provinces with 36 sedimentary basins, less-explored eastern Indonesia (Sulawesi, Papua) holds a reported 39 basins with promising signs of hydrocarbons.<sup>25</sup> Ranking as the world's 23<sup>rd</sup>-largest oil producer in 2015<sup>26</sup>, an estimated 75% of the

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<sup>5</sup> US Geological Survey (October 2017), 'Indonesia 2014 Minerals Yearbook', accessed [here](#) in October 2018.

<sup>6</sup> World Trade Organisation (2014), op.cit., p.1.

<sup>7</sup> Vol.2,p.77.

<sup>8</sup> Risco Energy (March 2017), 'The Indonesian Upstream Oil and Gas Business', accessed [here](#) in October 2018.

<sup>9</sup> Stockholm Environment Institute (May 2018), 'Contemporary coal dynamics in Indonesia', accessed [here](#) in October 2018, p.8.

<sup>10</sup> Asian Development Bank (July 2016), 'Indonesia: Energy sector assessment, strategy and roadmap', accessed [here](#) in October 2018, p.17.

<sup>11</sup> Stockholm Environment Institute (May 2018), op.cit., p.9.

<sup>12</sup> PwC (May 2018), op.cit., p.20.

<sup>13</sup> McKinsey (September 2014), 'Ten ideas to reshape Indonesia's energy sector', accessed [here](#) in October 2018, p.2.

<sup>14</sup> See Reuters (February 2018), 'Nickel flies on supply hits; Indonesia could ground it', accessed [here](#) in October 2018.

<sup>15</sup> UNCTAD (August 2017), 'Using trade policy to drive value addition: Lessons from Indonesia's ban on nickel exports', accessed [here](#) in October 2018, p.2.

<sup>16</sup> Lowy Institute (April 2017), 'Resource nationalism in post-boom Indonesia: the new normal?', accessed [here](#) in October 2018. And Chatham House (November 2013), 'Conflict and Coexistence in the Extractive Industries', accessed [here](#) in October 2018, p.46.

<sup>17</sup> Tigers Realm Group (October 2014), 'Indonesian Mining Sector: Opportunity Knocks', accessed [here](#) in October 2018.

<sup>18</sup> Petra Commodities (December 2016), 'Indonesia's savviest claim gold as their next big investment', accessed [here](#) in October 2018.

<sup>19</sup> Vol.2,p.77.

<sup>20</sup> Tigers Realm Group (October 2014), op.cit..

<sup>21</sup> Ibid.

<sup>22</sup> Vol.2,p.77.

<sup>23</sup> Ibid.

<sup>24</sup> Risco Energy (March 2017), op.cit..

<sup>25</sup> PwC (May 2018), op.cit., p.17.

<sup>26</sup> Vol.2,p.77.

country's oil production is located in western Indonesia.<sup>27</sup> Indonesia's crude oil output has declined over the past two decades to around 0.8m barrels per day in 2017<sup>28</sup>, with ten of the 57 producing blocks accounting for 85% of production.<sup>29</sup> Oil companies operating in Indonesia include oil majors and foreign state-owned companies.<sup>30</sup> The national oil company, Pertamina, expanded its participation in the industry in the two decades from 1997, restructuring its corporate governance and expanding its share of production from 5% to 20% by 2017.<sup>31</sup> Having become a net oil importer in 2004, the government has focused on incentivising brownfield investments and reforming its petroleum products subsidy.<sup>32</sup> Despite relying on imports for around half of its oil and gas consumption<sup>33</sup>, Indonesia re-joined the Organization of the Petroleum Exporting Countries (OPEC) in 2015 after having suspended its membership in 2008.<sup>34</sup>

Indonesia is the world's tenth-largest producer of natural gas and its fifth-largest of liquefied natural gas (LNG).<sup>35</sup> The main gas-producing regions are East Kalimantan, South Sumatra and Natuna, with ten of 54 producing blocks responsible for 81% of total production.<sup>36</sup> Indonesia was overtaken by Qatar as the world's third-largest exporter of LNG in 2006, falling to fifth in 2016.<sup>37</sup> With around 60% of its gas production already going to the domestic market, Indonesia is forecast to become a net natural gas importer in the next decade at current trends and without new supplies.<sup>38</sup> It is unclear whether early enthusiasm for reportedly abundant shale gas reserves will lead to project developments.<sup>39</sup>

Indonesia was ranked a satisfactory 68 of 100 points overall in NRG's 2017 Resource Governance Index, ranking 11 of 89 countries assessed.<sup>40</sup> The key weakness documented is in licensing, assessed as 37 of 100 for lack of disclosure of financial interests, beneficial owners and contracts. While focusing on copper mining in particular, the assessment highlighted challenges to governance in the sector linked to value realization and the enabling environment.

## 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 Standard<sup>41</sup>. It has four phases:

<sup>27</sup> PwC (May 2018), op.cit., p.17.

<sup>28</sup> Ibid.

<sup>29</sup> Risco Energy (March 2017), op.cit..

<sup>30</sup> Most notably Chevron, Total, ConocoPhillips, Exxon, BP, the China National Offshore Oil Corporation, and Korea National Oil Corporation. See Asian Development Bank (July 2016), 'Indonesia: Energy sector assessment, strategy and roadmap', accessed [here](#) in October 2018, p.16.

<sup>31</sup> PwC (May 2018), op.cit., p.19.

<sup>32</sup> Ibid.

<sup>33</sup> Boston Consulting Group (November 2017), 'Indonesia's \$120 billion oil and gas opportunity', accessed [here](#) in October 2018.

<sup>34</sup> PwC (May 2018), op.cit., p.14.

<sup>35</sup> Vol.2, p.77.

<sup>36</sup> Risco Energy (March 2017), op.cit..

<sup>37</sup> PwC (May 2018), op.cit., p.15.

<sup>38</sup> Risco Energy (March 2017), 'The Indonesian Upstream Oil and Gas Business', accessed [here](#) in October 2018.

<sup>39</sup> PwC (May 2018), op.cit., p.20.

<sup>40</sup> Natural Resource Governance Institute (2017), '2017 Resource Governance Index: Indonesia (mining)', accessed [here](#) in October 2018.

<sup>41</sup> See also <https://eiti.org/validation>.

1. Preparation for Validation by the multi-stakeholder group (MSG)
2. Initial data collection and stakeholder consultation undertaken by the EITI International Secretariat.
3. Independent quality assurance by an independent Validator who reports directly the EITI Board
4. 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 terms of reference 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:

### 1. Desk Review

Prior to visiting the country, the 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 and other planning documents such as budgets and communication plans;
- The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;
- EITI Reports, and supplementary information such as summary reports and scoping studies;
- Communication materials;
- Annual progress reports; and
- Any other information of relevance to Validation.

In accordance with the Validation procedures, the Secretariat has not taken into account actions undertaken after the commencement of Validation.

### 2. Country visit

A country visit took place on 6-16 November 2018. All meetings took place in Jakarta. The secretariat met with the multi-stakeholder group and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group. In addition to meeting with the MSG as a group, the Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders are able to freely express their views and that requests for confidentiality are respected. The list of stakeholders consulted is outlined in Annex A.

### 3. Reporting on progress against requirements

This report provides the International Secretariat 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: Gay Ordenes, Alex Gordy, Abigail Ocate, Victor Ponsford and Sam Bartlett. Gay Ordenes, Alex Gordy and Victor Ponsford conducted stakeholder consultation and prepared the draft initial assessment. Abigail Ocate and Sam Bartlett provided support and quality assurance.

## 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 multi-stakeholder group (MSG), and the EITI work plan.

#### 1.2 Assessment

### Government engagement in the EITI process (#1.1)

#### Documentation of progress

**Public statement:** As of the commencement of Validation, the latest public statement of the government's commitment to the EITI was in 2014 when Indonesia achieved a compliant status under the EITI Rules. In welcoming the decision, Deputy Coordinating Minister for Energy Management, Natural Resources and Environment at Coordinating Ministry for Economic Affairs (MENKO) Monty Girianna stated that *"The Government of the Republic of Indonesia is fully committed in implementing the principles of good governance. Indonesia's heavy involvement in the EITI is part of its good governance programs and is a show of commitment in creating a transparent and accountable system of governance."* Prior to this, President Yudhoyono issued in October 2010 Presidential Regulation RI No.26 2010 (Transparency of National/Local Extractive Industry Revenue) creating the steering committee to lead implementation in the country.

**Senior lead:** Under Presidential Regulation No. 26 2010, EITI implementation should be led by a Steering Committee chaired by the Coordinating Minister for Economic Affairs. In practice, however, the EITI MSG is Chaired by Deputy Coordinating Minister for the Ministry of Economic Affairs Montty Giriana. Minutes of MSG meetings show that almost all MSG meetings are chaired by MENKO Assistant Deputy Bastian Halim, who was appointed as the EITI National Coordinator in 2015. Discussions during MSG meetings are however led by the Secretariat Team Leader Edi Tadjukusuma. Although the Presidential Regulation mentions that the Steering Committee should be composed of Ministers from MENKO, of Energy and Mineral Resources, of Home Affairs, and the Head of Finance and Development Supervisory Agency and Presidential Adviser Emil Salim, these high-level representatives have not been involved in EITI implementation since 2013.

**Active engagement:** The statutory composition of the EITI Implementing Team also created under the same Presidential Regulation, meant to include Deputy Heads and Director Generals, is also not being followed in practice. The level of seniority of other government representatives attending MSG meetings is unclear from meeting minutes. Minutes of MSG meeting reveal that government representatives from MENKO, Directorate General (DG) Treasury, DG Budget, DG Minerals and SKK Migas regularly attend MSG

meetings. It is however unclear whether it is the same individuals who attend the meetings since their names and positions are not consistently indicated in the minutes. Their contribution to MSG discussions typically consists of explaining updates in regulations relating to collection of payments and data<sup>42</sup> and distribution of revenues.<sup>43</sup> There is no evidence that government representatives on the MSG are leading discussions on policies based on recommendations to address gaps in government systems.

With respect to submission of EITI data, EITI Reports show that government representatives regularly submit the required data, aside from production values and tax data for companies that have not waived their confidentiality rights. Timeliness of government reporting however remains a challenge given bureaucratic delays and differences in government reporting systems, as highlighted in the 2016 EITI Report.

Minutes of MSG meetings show that government representatives regularly monitor the status of companies' submissions of reporting templates, although specific actions taken and options for ensuring that all companies participate are not documented. The 2017 annual progress report states that there are still many regulations that hamper transparency in Indonesia and that transparency is not given the highest priority by government compared to fiscal and economic policies. Every EITI Report contains a recommendation to amend the laws on tax confidentiality but there is no evidence of any action by government to date. Although the DG Tax representative reports on the status of submission of tax confidentiality waivers during MSG meetings, the minutes do not show any discussion on overcoming this legal barrier (e.g. 3 October 2017 minutes). In publishing Indonesia's commodity trading report, there is also no indication of government efforts to secure Pertamina's participation despite demands from other stakeholders. It should be noted, however, that SKK Migas fully and actively participated in the discussions on commodity trading to ensure publication of the report, although the extent of other government MSG representatives' participation in these discussions remains unclear. There is also no evidence from MSG minutes of how government sought to address challenges in procurement that led to delays in the publication of EITI Reports on two occasions, resulting in Indonesia's suspension in 2015.

The provision of government funding for EITI continues to decrease, as highlighted by the National Coordinator during the MSG's 8 August 2018 meeting. EITI expenditures are jointly funded by the government and the Natural Resources for Development Fund managed by the World Bank, with government funding the publication of EITI Reports.

There is no evidence that government representatives are liaising with other government representatives outside the MSG, nor any documentation of their participation in EITI outreach activities.

Government engagement in EITI implementation related to beneficial ownership reforms has been consistent as shown by the different agencies' contribution to the EITI beneficial ownership roadmap<sup>44</sup> and participation in trainings and focus group discussions (FGDs) organised by the national secretariat. In October 2017, the Indonesian government hosted an EITI Global Conference on beneficial ownership where high-level and technical officials from government participated to share best practices on

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<sup>42</sup> Minutes of the 3 October 2017 and 23 January 2018 MSG meetings.

<sup>43</sup> Minutes of the 3 October 2017 MSG meeting.

<sup>44</sup> <http://eiti.ekon.go.id/en/peta-jalan-transparansi-beneficial-ownership-industri-ekstraktif/>

beneficial ownership reforms.

## Stakeholder views

**Public statement:** Secretariat staff claimed that there were statements of support from MENKO Minister Darmin Nasution but that these were not uploaded on their website in time for Validation. Links to statements of ESDM Minister Ignasius Jonan<sup>45</sup> MENKO Secretary Lukita Tuwo<sup>46</sup> and other officials were uploaded by the national secretariat after stakeholder consultations, but these did not include mentions of the EITI nor categorical statements of support. They pointed out that there was a statement of support from Minister of Finance Sri Mulyani at the beginning of implementation and more recent statements from MENKO and the Ministry of Finance representatives at the EITI Global Conference on Beneficial Ownership. Secretariat staff also mentioned that there were some statements of support from provincial government officials, and that EITI was included in Indonesia's Anti-Corruption National Action Plan.

**Senior lead:** MSG members consulted noted that while the Presidential Regulation creating the EITI and the current Ministerial Decree 270/2018 named senior government officials (i.e. echelon one level) to lead EITI implementation, none of these officials had been involved in the EITI in recent years. While some directors (echelon two) used to attend a few meetings, they had more recently sent their representatives at echelon three or four levels. A senior government official consulted considered that those attending MSG meetings were not senior enough, explaining that this practice was usual in Indonesia. When asked whether this practice had affected the MSG's decision-making, secretariat staff and some government MSG members explained that these echelon-three officials were able to take decisions considered "small", such as schedules and approval of work plans. However, major decisions that required approval of their superiors, such as approval of EITI Reports and policy recommendations from civil society, could not be readily made during MSG meetings. They noted that local government representatives could take decisions on materiality. A government representative stated that the Presidential Regulation was currently being revised and that there were discussions to include the Coordinating Ministry for Maritime Affairs and the Office of the Presidential Staff (KSP) in the MSG. Secretariat staff further explained that the Steering Committee created under the EITI Presidential Regulation still existed on paper, but that this body had not met in several years. Staff explained that they simply submitted a copy of the EITI Report to the Chair of the Steering Committee, which was also a representative of MENKO.

**Active engagement:** Consultations with individual government agencies confirmed that the extent of their participation in the EITI process was limited to submitting data for the EITI Report and providing inputs to the reporting template. None of the government agencies consulted mentioned any policy being proposed or any recommendation being pushed by their agencies to strengthen EITI implementation or link it with other reforms. Two government officials not members of the MSG but whose ministries were represented on the MSG stated that they had not heard of the EITI. There was also no evidence that government representatives were liaising with other stakeholders even within their own agencies beyond providing copies of the final EITI Report. The only evidence of MSG members having wider engagement with other agencies was on matters relating to beneficial ownership, as confirmed by several government representatives. Agencies outside of the MSG stated that they had not used EITI data to support their

<sup>45</sup> Anggita Rezki Amelia (October 2017), 'Jonan Refuses Permit for Oil and Gas Companies that Do Not Include Their Owner's Name', accessed [here](#) in November 2018.

<sup>46</sup> Yuyu Agustini Rahayu (May 2017), 'Having EITI, the government believes that it can prevent lost revenue potential', accessed [here](#) in November 2018.

policy development or implementation, a view confirmed by representatives from at least two ministries represented on the MSG.

Some industry representatives commented that the level of government engagement in the MSG varied depending on the agency. The Ministry of Finance and SKK Migas were among those mentioned as more active, while the others were perceived as less active by other constituencies. Stakeholders outside the government lamented that MENKO's leadership needed to improve to ensure active participation from other agencies. Industry representatives were not aware of any government efforts to follow up with non-reporting companies. A representative from one reporting agency was not aware of any government action to investigate discrepancies in EITI Reports. While some government representatives mentioned that they attended some dissemination activities, their level of active participation and leadership of such activities remains unclear.

Other stakeholders outside the MSG observed that there was a lack of leadership in the national secretariat, as the ones in charge of day to day implementation did not seem to feel empowered to make decisions. One stakeholder highlighted MENKO's perceived lack of involvement and interest. A stakeholder from civil society said that government should reconsider whether MENKO was the appropriate lead ministry for the EITI and whether new EITI champions should be appointed. While another stakeholder considered that MENKO was still best placed to lead the EITI because of its wide mandate to coordinate, a third stakeholder considered that MENKO's efforts in compelling other agencies to provide EITI data could be improved.

Several stakeholders outside of the MSG questioned whether MENKO was the best ministry to lead the EITI as it seemed to have other priorities. Some consultants that had worked on EITI in the past commented that the difficulty in getting information from government indicated a lack of government engagement. Several stakeholders expressed the need to revisit the governance structure and the individuals involved in the EITI process in Indonesia. None of the stakeholders consulted noted any government efforts to address delays in procurement that had led to delays in EITI Report publications and suspension. None of the stakeholders from government could identify any specific government action to address confidentiality provisions in the Tax Code. A government representative considered that the current confidentiality waiver system seemed to be working well, and noted that current efforts to amend the Tax Code did not include changes to tax confidentiality.

In terms of providing funding to the EITI, a senior government representative and secretariat staff confirmed that cuts in funding for EITI were planned in the coming years as external funding expired from 2019. Aside from a lack of donor funding, a 20% decrease in government funding was also expected. Secretariat staff explained that report publication and dissemination activities would be prioritised. Some stakeholders noted that salaries of some national secretariat staff would decrease. One stakeholder noted that EITI funding had already decreased from IDR 9bn in 2017 to IDR 6bn in 2018 and IDR 5bn in 2019.

## Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress in

meeting this requirement. The current level of government commitment does not seem sufficient to ensure effective oversight in the EITI process. As evident in other parts of this assessment, this lack of oversight has resulted in inability to meet requirements related to follow-up on recommendations (see Requirement 7.3) and assessment of outcomes and impact (see Requirement 7.4). Lack of commitment is shown by the absence of recent statements of support to EITI implementation, the absence of a senior individual who can effectively champion the EITI at the political level, the lack of seniority of government representatives in the MSG, and the failure to demonstrate that government representatives on the MSG actively and meaningfully participate in the EITI process beyond providing data. Documentation of MSG meetings shows no indication of government's leadership of implementation. There is no evidence of how government is addressing legal and administrative barriers to implementation, such as tax confidentiality, delays in procurement, company non-reporting and declines in funding. There is no evidence that government representatives liaise with one another on EITI and there is limited evidence of participation in EITI activities outside of MSG meetings. Nonetheless, active participation can be seen from some government agencies, particularly those engaged in commodity trading and implementing beneficial ownership reforms such as SKK Migas, Bappenas (Ministry of Planning), KPK (Corruption Eradication Commission) and KSP (Office of Presidential Staff). While EITI reporting appears to be siloed with not much effort to link the process with other national reforms, the engagement of other agencies to advance reforms in beneficial ownership and commodity trading transparency should be recognized. Government has also consistently provided data for EITI reporting and has partially funded implementation, with plans to fully fund the process starting 2019.

In accordance with Requirement 1.1, Indonesia is required to: i. issue a public statement indicating its continued support to EITI implementation; ii. appoint a senior individual who will effectively lead the EITI process; iii. ensure that senior individuals participate in EITI activities; iv. take steps to ensure that government is fully, actively and effectively engaged in the EITI process by addressing administrative and legal barriers to implementation, including in the submission of data by government agencies and companies required for EITI reporting, conducting outreach to other agencies, and using EITI data to promote public debate and formulate policies. In accordance with requirement 8.3.c.i, the government is required to draft an action plan to address these corrective actions within three months from the Board decision and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat.

## Industry engagement in the EITI process (#1.2)

### Documentation of progress

***Active engagement:*** There is not enough evidence in the minutes of MSG meetings to illustrate industry's active engagement in the EITI process. In terms of attendance at MSG meetings, it appears that the Indonesian Mining Association (IMA), the Indonesian Coal Mining Association (ICMA) and the Indonesian Petroleum Association (IPA) regularly attend MSG meetings, although IPA resigned from the MSG in 2017. Despite their consistent attendance however, the documentation of MSG discussions fails to show that company representatives comment on issues relating to extractives governance, considering that most of MSG discussions focus on updates on the EITI Report. It does not appear that companies have suggested the inclusion of additional topics to widen the scope of reporting to ensure its relevance to industry or

proposed approaches to improve the reporting process.

With regards to data submission for the 2016 EITI Report, 49 companies did not submit their tax confidentiality waivers by end of 2017 (APR, p,4). There is no evidence that industry MSG members have conducted outreach with other companies outside the MSG, nor any documentation of companies' use of EITI data. There is no documentations of company participation in EITI dissemination and outreach activities. The 2016 EITI Report documents the difficulties encountered by the IA in collecting data from companies, citing some companies' lack of familiarity with EITI and the voluntary nature of reporting as causes for the delay (Vol.3, p.57).

*Enabling environment:* The 2016 EITI Report (Vol.3, p.57) describes provisions under Article 34 of the General Taxation Law (KUP) ensuring the confidentiality of taxpayer data. The report notes that there is no institution in the mining sector that enforces company participation in the EITI process given the lack of law mandating participation. There is no documentation of how company has sought to address this legal barrier. The number of companies (49) that did not submit tax confidentiality waivers for the latest EITI Report suggests that implementation of this approach has not been effective in practice.

### Stakeholder views

On taxpayer confidentiality, secretariat staff explained that there were only two ways to address this barrier, either through the current practice of company waivers or through exemptions from the Ministry of Finance for EITI reporting purposes, which had not been done to date. One government and one company representatives commented that companies were already used to executing waivers and that their agency had not received any formal complaints from companies about the waiver thus far. The government official was not aware of any discussions related to making the confidentiality waiver open ended, but considered this approach problematic because taxpayers often changed their primary business activities from one year to the next. Government stakeholders confirmed that ongoing amendments to the Tax Code did not include revisions to confidentiality provisions. However, the same government representative opined that MENKO or the Ministry of Finance would be in a position to lift the confidentiality provisions if they wanted to. The IA confirmed that ten reporting mining companies had not provided waivers for the 2016 EITI Report, resulting in the IA's inability to assess the materiality of omissions due to non-reporting. The IA explained that they had proposed to government the option of equating submitted reporting templates with de facto confidentiality waivers, particularly in instances where the template's signatory was the signatory of the company's Articles of Incorporation. However, this suggestion was not accepted.

A coal industry representative confirmed that the association liaised with the wider constituency by circulating minutes of MSG meetings and documentation of activities, albeit only to members of their association. He explained that the association had not conducted any meeting or activity with their wider constituency to discuss EITI. When asked whether they had received feedback from other companies when circulating EITI documents, the industry representative replied in the negative. While he added that they had created a special committee on taxation within the association that used EITI data, he also mentioned that this group had never met and only communicated through Whatsapp. The coal sector representative said that the association currently had 90-member companies representing 80% of coal

production and 95% of government coal revenues. Further, he noted that the industry's objective in supporting the EITI was to reform coal investment regulations and policies, but this had not yet happened because all of the MSG and Secretariat's efforts were geared towards socialization with the broader public.

Some mining companies not members of the MSG said that they had not previously heard of EITI, although one of them had attended a few EITI workshops. Some industry representatives confirmed that their EITI participation consisted of filling out reporting templates. While they did not attend MSG meetings, some of them were aware that they were represented in the MSG through their associations and that they received regular emails and updates from IMA. Oil and gas companies agreed that their only interaction with the EITI so far had involved submitting reporting templates and claimed that they did not receive copies of the EITI Report.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made inadequate progress in meeting this requirement. There is limited evidence of industry's active and full participation in the EITI process. Beyond submitting data, it does not appear the industry is contributing to substantial discussions to strengthen EITI implementation and improve the scope of reporting. There is little evidence of effective and meaningful consultation with the wider constituency, or participation in dissemination outreach, and it has not been shown that industry has contributed to resolving the bottlenecks to implementation such as tax confidentiality provisions or company non-reporting. There also appear to be barriers to an enabling environment for company participation due to legal tax confidentiality provisions and the uneven company compliance with confidentiality waivers.

In accordance with Requirement 1.2, Indonesia is required to: i. take steps to ensure that industry is fully, actively and effectively engaged in the EITI process; ii. ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI; and iii. ensure that there are no obstacles to company participation in the EITI process. In accordance with requirement 8.3.c.i, the industry constituency is required to draft an action plan to address these corrective actions within three months from the Board decision, and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat.

## Civil society engagement in the EITI process (#1.3)<sup>47</sup>

### Documentation of progress

**Expression:** There are no legal barriers in Indonesia on civil society's freedom of speech and ability to

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<sup>47</sup> 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).

engage in political activities. The 1945 Constitution as amended in 2002 guarantees freedom of expression (Article 28E section[(3)). Recently-enacted laws have been cited by activists as potential grounds for curtailing their freedom of expression, such as the Intelligence Law that penalizes the spreading of false information that could jeopardize national security, without further defining national security. However, there is no evidence of these laws being used to curtail free speech in relation to the extractive sector. The constitutionality of the Intelligence Law was upheld by the Supreme Court in 2012, which ruled that it did not threaten freedom of expression.<sup>48</sup> Law No. 11 of 2008 regarding Electronic Information and Transactions (EIT) has also raised concerns among activists as it provides legal basis for filing cases of defamation for statements made through social media. The penalties under this law are higher than those under the Criminal Code. In a span of six years from its enactment, around 70 people have been charged with defamation under this law, creating the impression that the law is being used by prosecutors to stifle legitimate dissent.<sup>49</sup> There are, however, no known reports of these laws being used to suppress freedom of expression in relation to the extractive sector or the EITI in Indonesia.

The other governing law, Law No. 9 of 1998 on Freedom to Express an Opinion in Public, governs various kinds of assemblies, including demonstrations, rallies, public meetings and open forums. The law requires that information about the assembly, including venue, time and purpose, be submitted in writing to the police at least 24 hours before the event unless the assembly relates to academic activities on campus or to religious activities. While there were reports of these requirements being interpreted strictly to prohibit public assemblies<sup>50</sup> none of these are linked to extractive activities or EITI implementation. The existence of freedom of expression is evident from the civil society's ability to speak freely during MSG meetings and EITI forums where they identify weaknesses in government systems such as in the application of the cost recovery scheme and the need to improve transparency in oil pricing and in criticising the lack of publicly-available information on oil imports.<sup>51</sup>

**Operation:** Civil society organizations have been in operation in Indonesia since the colonial times and continued after the nation's independence in 1945. While the period of 1966 to 1998 under the Suharto regime was characterised by restrictions on civil society operations, these restrictions were gradually eliminated from 1998 onwards as Indonesia adopted major constitutional amendments consistent with the Universal Declaration of Human Rights and ratified the International Covenant on Civil and Political Rights (ICCPR), which provides clear protection of fundamental freedoms. The governing laws for the establishment and registration of CSOs is Law No. 17 of 2013 on Societal Organizations and Law on Foundations and *Staatsblad* 1870-64. Two types of organizational forms exist for CSOs, namely associations and foundations. Associations are further classified into (1) incorporated associations vested with legal personality and (2) ordinary associations, which do not have legal personality. Law No. 17 of 2013 contains prohibitions for societal organizations, such as prohibition from propagating an ideology that conflicts with state principles (*Pancasila*) and from conducting activities that disrupt public order and well-being. There are no minimum assets required to establish a foundation or an association. Foreign organizations are prohibited from engaging in activities that "disrupt the stability and the unity" of Indonesia or "disrupt diplomatic ties" and are required to adhere to residency and asset requirements

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).

<sup>48</sup> CIVICUS (April 2018), 'Court jails anti-mining activist for "spreading communist ideology"', accessed [here](#) in January 2019.

<sup>49</sup> Ibid.

<sup>50</sup> The Jakarta Post (October 2018), 'Police arrest six after anti-IMF protest in Bali', accessed [here](#) in January 2019.

<sup>51</sup> MSG meeting minutes, 23 January 2018.

(USD1 million for a foreign legal entity and USD100,000 for a foreign individual).

Registrations of foundations and associations entail the filing of a notarized Deed of Establishment with the Ministry of Law and Human Rights followed by a publication of the approval at the State Gazette. It should be noted that in a case decided by the Constitutional Court in 2014, it was ruled that “societal organizations can choose whether or not to register with the government. If a societal organization opts to register, it can register at any level it prefers.”<sup>52</sup> There is nothing to suggest that registration procedures or asset requirements for foundations and associations restrict the civil society’s freedom to operate in Indonesia in relation to the extractive sector and more broadly. Civil society organizations are however allowed to receive funding from foreign donors to support their advocacies related to the extractives, as evident in the various sources of foreign funding for PWYP Indonesia activities for instance.<sup>53</sup>

**Association:** Freedom of association is guaranteed under the second amendment to the 1945 Constitution (Article 28). The Law on Societal Organizations was assailed in a Petition to the Supreme Court by a group of CSOs for being restrictive of the freedom to associate due to its provisions pertaining to membership requirements, registration procedures, goals of societal organizations; types of organizations according to the number of members and locations of the organizations, method to select personnel for the organization structure; the rights and obligations of the members of organizations; the government’s role to empower societal organizations. However, these provisions were ruled as unconstitutional by the Court in 2014, effectively eliminating legal restrictions on the freedom to associate.

Evidence suggests that there are no restrictions to membership in PWYP Indonesia, and that they have broad engagement with other organizations both within and outside of their coalition through regular forums, e-groups and social media groups. PWYP Indonesia also actively coordinates with other international organizations and participates in a number of regional and international discussions on natural resource governance. For instance, PWYP Indonesia National Coordinator Maryati Abdullah is a member of both the Open Government Partnership Steering Committee<sup>54</sup> and the PWYP Global Council.

**Engagement:** Civil society is represented by three members in the MSG from PWYP Indonesia, Article 33 and Idea. Minutes of MSG meetings show that two CSO representatives regularly attend the meetings and contribute to discussions on technical issues particularly on commodity trading, beneficial ownership, contract transparency, cost recovery, and calculations of subnational revenues.<sup>55</sup> It is also evident from the minutes that civil society raised the inclusion of vital information in Indonesia’s commodity trading report specifically data on oil imports<sup>56</sup> and disclosure of pricing options.<sup>57</sup> Civil society appears to participate in MSG discussions on the scope of EITI Reports by contributing to discussions on materiality thresholds and coverage of companies.<sup>58</sup> Furthermore, civil society has frequently given presentations during EITI forums, including at the EITI commodity trading forum in July 2018 and several beneficial ownership fora organised by the EITI in 2017, complementing their communication efforts on these two

<sup>52</sup> *Ibid.*

<sup>53</sup> See PWYP Indonesia website, accessed [here](#) in January 2019.

<sup>54</sup> Open Government Partnership, Maryati Abdullah profile, accessed [here](#) in January 2019.

<sup>55</sup> See minutes, 3 October 2017, 2 February 2018, 22 August 2017).

<sup>56</sup> (MSG meeting minutes, 3 October 2017)

<sup>57</sup> (MSG meeting minutes, 23 January 2018).

<sup>58</sup> (MSG meeting minutes, 8 August 2018)

topics as published on PWYP's website.<sup>59</sup>

However, civil society's contribution to the discussions of substantial issues at MSG meetings appears to be limited considering the breadth of potential issues that they could raise to improve natural resource governance. There is nothing to suggest from the minutes of MSG meetings that CSO representatives have proposed other topics of concern outside of the usual agenda proposed by the national secretariat. The minutes also do not indicate that civil society commented on the technical gaps in EITI Reports, including on issues such as data verification mechanisms, comprehensiveness and data reliability. The minutes likewise do not show that CSO representatives have taken a solid stand on any issue in order to persuade the MSG to take a particular decision, such as the inclusion of cost recovery that has been discussed intermittently by the MSG since the publication of the first EITI Report. There is also limited documentation of how civil society is using EITI data to further their advocacies. It should be noted, however, that CSO representatives have been instrumental in engaging key government officials in the EITI process, especially in working with relevant ministries on the issues of beneficial ownership and commodity trading.

*Access to public decision-making:* Civil society is being recognised even more as partners for government on national development issues.<sup>60</sup> In recent years, civil society has effectively engaged in the government's decision-making processes including on matters relating to extractive sector governance. PWYP Indonesia collaborated with the Office of the President in drafting Indonesia's Open Government Partnership National Action Plan relating to beneficial ownership commitments and the country's national policy on beneficial ownership.<sup>61</sup> PWYP also provides inputs to parliament in drafting key legislations, including the Oil and Gas Act<sup>62</sup> and partners with the Anti-Corruption Commission (KPK) in monitoring the administration of coal permits<sup>63</sup> and progress of anti-corruption initiatives in the mining and energy sector.<sup>64</sup> Civil society has likewise increased participation in decision making processes of local government units by integrating themselves in local bureaucracies and regional parliaments to advocate for issues such as governance, transparency, disaster management, labour, mining and environment.<sup>65</sup>

## Stakeholder views

There was consensus among all stakeholders consulted that there were no breaches of the civil society protocol in Indonesia, as all stakeholders consulted agreed that there were no legal or practical

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<sup>59</sup> PWYP Indonesia (March 2018), 'Presidential regulation on the enactment of beneficial ownership is momentum for accelerating the eradication of corruption', accessed [here](#); and PWYP Indonesia (November 2017), 'Questioning commodity trading transparency report', accessed [here](#), in January 2019.

<sup>60</sup> Hans Antlov et al (January 2008), 'Civil Society Organizations and Democratic Reform: Progress, Capacities, and Challenges in Indonesia', accessed [here](#) in January 2019.

<sup>61</sup> PWYP Indonesia (December 2016), 'From EITI to beneficial ownership transparency: commitment of PWYP Indonesia in the OGP Paris declaration', accessed [here](#) in January 2019.

<sup>62</sup> PWYP Indonesia (December 2016), 'Coordination and Supervision in Energy Sector', accessed [here](#) in January 2019.

<sup>63</sup> PWYP Indonesia (August 2017), 'New Report by PWYP Indonesia & KPK: Administration of Coal Permit under Coordination & Supervision of KPK', accessed [here](#) in January 2019

<sup>64</sup> PWYP Indonesia (December 2016), 'Coordination and Supervision in Energy Sector', accessed [here](#) in January 2019.

<sup>65</sup> New Mandala (April 2018), 'Indonesia's regions a test bed for civil society influence', accessed [here](#) in January 2019

restrictions on civic space, whether within or outside of the MSG. CSO representatives were considered by all to be able to express their views freely during MSG meetings. CSO representatives consulted highlighted their reliance on the Freedom of Information Act as the legal basis to compel disclosures through the EITI process.

Although there had been isolated cases of attacks against mining activists, such as the killing of a CSO activist in a mining area in East Java, civil society representatives consulted did not consider this to be a coordinated government campaign to restrict civic space. They noted that, in most cases, these were incidents in rural areas perpetrated by local dissidents.

With respect to freedom of operation, none of the stakeholders mentioned any restriction on their operations, including in registration, which was free, and in raising funds for their organizations. Civil society stakeholders confirmed that PWYP is a foundation registered with the Ministry of Law. They however highlighted the growing difficulty to secure funding due to Indonesia's middle-income country economic status and donors' changing priorities.

Regarding CSO engagement in the EITI process, stakeholders consulted, including from the national secretariat and other CSOs outside of the MSG, observed that civil society actively participated in MSG meetings and EITI activities. However, one CSO representative considered that their members had capacity constraints in understanding EITI Reports. Nonetheless, they were still able to engage in debates with industry specifically on terminologies that should be used in the EITI Report. CSO MSG members stated that they provided inputs to the work plan but lamented that work plan implementation had been challenging due to budget constraints. They explained that typically relied on the national secretariat to draft the work plan and the annual progress report (*see Requirements 1.5 and 7.4*).

Several CSO representatives explained that they held meetings with PWYP members every three months to discuss their advocacy, but that funding constraints meant that they could not engage their broader constituency more often than once a year. They mentioned that the PWYP meeting for Asia Pacific in 2017 had some sessions on the future of EITI in Indonesia and on assessing the EITI's strategic importance for their advocacy. When asked about their priorities for the EITI in terms of advocacy, they highlighted increased engagement at the subnational level, including outreach in Riau, Palembang, and Bali. They expressed continuing concern about non-reporting companies in the EITI Report.

A CSO representative off the MSG observed that while CSO representatives were active on the MSG, there was no clear feedback mechanism between the MSG and other CSOs. The same stakeholder noted that the EITI was less of a priority for some CSO representatives on the MSG and called for other organizations such as the Indonesian Corruption Watch and the Bojonegoro Institute to join the MSG. Other organizations that were not part of the PWYP coalition said they had heard about the EITI but were not aware of the details of implementation. A representative from one organization said it had stopped receiving updates when their point person for PWYP had resigned, although they continued to work closely with PWYP on beneficial ownership. Several CSOs off the MSG confirmed that they were notified of the MSG selection process but did not participate because they relied on PWYP to represent civil society on all matters related to the EITI. CSO stakeholders consulted mentioned that they communicated regularly with other CSOs involved in extractive sector governance through a WhatsApp group but noted

that EITI had never been mentioned in that group.

## Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress in meeting this requirement. There is no evidence or stakeholder views indicating any restrictions on civic space in relation to EITI implementation nor breaches of the Civil Society Protocol. However, evidence suggests that there is insufficient engagement in the EITI process in terms of contributing to technical oversight of EITI reporting to ensure greater relevance to issues in Indonesia's extractive industries. It also appears that engagement with the broader civil society constituency is lacking.

In accordance with Requirement 1.3, Indonesia is required to ensure that civil society is fully, actively and effectively engaged in the EITI process by maintaining a regular feedback mechanism to its broader constituency to ensure that the EITI process is substantive and addressing issues that are relevant to civil society. In accordance with requirement 8.3.c.i, the civil society constituency is required to draft an action plan to address these corrective actions within three months from the Board decision, and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat.

## MSG governance and functioning (#1.4)

### Documentation of progress

*MSG composition and membership:* Presidential Regulation No. 26/2010 formally established the Extractive Industries Transparency Team, which consists of a Steering Team and an Implementation Team. The Implementation Team is the body now considered the MSG. Based on provisions of the Presidential Regulation, the Steering Team is composed of the Minister of Energy and Mineral Resources, Minister of Finance, Minister of Home Affairs, Presidential Adviser Emil Salim, Head of Agency for Finance and Development Supervision, and is chaired by the Coordinating Minister for Economic Affairs. However, there is no evidence that the Steering Committee has met in the past five years and it appears that the body is inactive.

The composition of the Implementation Team is also set out in Article 10 of the Presidential Regulation. In terms of the number of constituency representatives, the current composition of the MSG is in line with the statutory provisions of the Presidential Regulation. The MSG is composed of 20 representatives, with ten members representing national government, three members representing local government, three members representing civil society and four members representing industry.

Government is represented by officials from Coordinating Ministry for Economic Affairs (Deputy for Economic Cooperation and International Finance and Deputy for Macroeconomic Coordination and Finance), Ministry of Finance (Director General of Tax, Director General of Treasury and Director General of Fiscal Balancing), Ministry of Energy and Mineral Resources (Director General of Minerals and Coal and Director General of Oil and Gas), Ministry of Home Affairs (Director General for the Administrative

Development of Local Finance), Indonesia's National Government Internal Auditor (Deputy for National Accounting) and SKK Migas (formerly BPMigas). Civil society is currently represented by PWYP, Article 33 and Idea. Industry, on the other hand, is represented by IMA, APBI-ICMA, IPA and the national oil company Pertamina. The local governments of East Java, Riau Province and East Kalimantan Province are also represented in the MSG.

*Civil society representation:* The selection process for CSO representatives on the MSG is described on the PWYP Indonesia website.<sup>66</sup> To facilitate the selection of civil society MSG members, the PWYP Steering Committee and national secretariat formed an Election Committee, which consisted of representatives from the PWYP Steering Committee Coalition members and representatives from the PWYP Indonesia national secretariat. The responsibilities of the election committee include preparing the list of voters, verifying if candidates meet the agreed criteria<sup>67</sup> and organizing public consultations wherein candidates shared their vision and mission to the voters. The Election Committee also determines the results of the vote count and reports it to PWYP Indonesia Steering Board. However, there is no documentation of the actual election conducted, although minutes of MSG meetings mention that there was a change of CSO representatives sometime in 2017.

*Industry representation:* There is no documentation of the industry MSG representatives selection process nor of the criteria used. The national secretariat uploaded letters from IMA and APBI-ICMA<sup>68</sup> that supposedly contain information on their selection process, although these consisted only of notifications to government of the names of the selected representatives.

*Government representation:* In the current composition of government MSG representation, the Secretariat General of Ministry of Energy and Mineral Resources and Director General of Budget sit in the MSG instead of the Deputy for Economic Cooperation and International Finance and Deputy for Macroeconomic Coordination and Finance. It is unclear when this change happened. Under the Presidential Regulation, Deputy Heads and Director Generals should represent their government agencies on the MSG. However, the level of seniority of government representatives in practice is unclear based on publicly-available documentation. Government representatives on the MSG change whenever there are corresponding changes in the positions held in the respective agencies of the incumbent representatives.

*Terms of reference:* Based on the review of meeting minutes, the MSG's first ToR of the Implementation Team was approved on 2 August 2012 meeting. It was then revised in 2018 to incorporate comments and recommendations received during the pre-validation workshop. The MSG approved its revised ToR on 6 August 2018. The ToR is publicly available from the EITI Indonesia website<sup>69</sup>.

The MSG's ToR outlines the roles and responsibilities of the Implementation Team and the Executive Team, covering all aspects of Requirement 1.4.b.iv of the EITI Standard. The Implementation Team, is in charge of approving the ToR for Independent Administrator and establishing a Work Plan Transparency Team. The Executive Team, on the other hand, is responsible for developing and approving the EITI

<sup>66</sup> PWYP, 'Election of Deputy EITI Indonesia CSO 2017-2020', accessed [here in October 2018](#).

<sup>67</sup> At least 5 years experience, adequate capacity, knowledge and understanding of extractive industry, ability to communicate well and speak in public forums, analytical and negotiation skills and commitment in promoting transparency and accountability and in carrying out the functions and duties of the EITI Indonesia Implementation Team

<sup>68</sup> EITI Indonesia (September 2018), 'Company/Association Representative Process Selection', accessed [here](#) in January 2019.

<sup>69</sup> EITI Indonesia, 'Terms of Reference: Extractive Industries Transparency Implementation Team Indonesia', accessed [here](#) in October 2018.

annual progress report. The scope of EITI Reports including materiality thresholds and reporting templates should also be approved by the Executive Team. In practice, however, the distinction between the Implementation Team and the Executive Team is unclear, as it appears that all of their functions are carried out by the MSG.

*Internal governance and procedures:* The MSG's ToR contains provisions pertaining to the functioning of the MSG such as rules on quorum and decision-making, frequency of meetings as well as advance circulation of notices of meetings and documents. Section 4.1 of the ToR states that the notice of meeting including relevant documents shall be sent to the members at least seven days ahead of the meeting date.

Article 5 of the Presidential Regulation No. 26/2010 states that a Steering Team is tasked to give directions to the Implementation Team and of evaluating the implementation of EITI. It is also mandated to meet at least once a year. There is no documentary evidence that the Steering Team is overseeing the EITI process or that it has met as required by the Presidential Regulation.

*Decision-making:* Section 4.2 of the ToR states that the MSG's decision-making process is by consensus. The ToR describes that if consensus is not reached, a Technical Team meeting may be held to further discuss the issue. If there is still no consensus among the members, voting will be done in an Executive Team meeting. Each member of the Executive Team has one vote. Review of MSG meeting minutes indicates that all decisions have so far been taken by consensus. However, most of the MSG's decisions only pertain to approval of EITI documents such as work plan, annual progress reports and EITI Reports.<sup>70</sup> Based on a review of meeting minutes, discussion has been mostly process-oriented, rather than dealing with broader extractives-related issues.

*Record-keeping:* Section 4.4 of the ToR notes that each meeting has recording and photo documentation. The national secretariat is responsible for preparing the minutes of MSG meetings and publishing them in the EITI Indonesia website within 14 days after the meeting. The meeting minutes published on the EITI Indonesia website are up-to-date, from 2012 to present.<sup>71</sup> Minutes of all meetings conducted in 2017 and 2018 are available in English and Bahasa. The contents of the minutes sometimes do not clearly capture discussions of the options considered and the rationale for MSG decisions. For example, in the meeting where the 2018 work plan was discussed<sup>72</sup>, the objectives of the work plan were mentioned in the minutes but there was no discussion of how the objectives and activities were determined. Also, the ToR does not have a provision on the procedure for approving the minutes of MSG meetings. Approval of meeting minutes is not reflected in available documentation. The secretariat also uploads documentation of outreach activities in the website.<sup>73</sup>

*Capacity of the MSG:* The ToR does not include provisions to ensure that MSG members have the capacity to carry out their duties. Based on MSG meeting minutes, the MSG has usually simply agreed to the proposals of the IA in discussing technical aspects of EITI reporting including materiality and scope of

<sup>70</sup> The latest annual progress report of EITI Indonesia lists the following key decisions made by the MSG in 2017: 1. Approval of the 2017 work plan, 2. Approval of the scope of 2015 and 2016 EITI reports, 3. Approval of the Independent Administrator for the 2015 Report, 4. Approval of inception report, reconciliation report, and contextual report of 2014 and 2015 EITI reports, 5. Approval of the Final 2014 and 2015 EITI reports, 6. Recommendation for sub-national EITI, 7. Recommendation for Commodity Trading Report, 8. Recommendation for Revision of Presidential Regulation 26/2010, and 10. Approval of the 2016 annual progress report.

<sup>71</sup> Minutes of MSG meetings can be accessed [here](#).

<sup>72</sup> EITI Indonesia (December 2017), 'Minutes of MSG Meeting', accessed [here](#) in November 2018.

<sup>73</sup> Documentation of outreach activities can be accessed [here](#).

reporting. In practice, the IA and consultants presented the findings during meetings and the MSG members only provided minor comments relating to ways of presenting information and other editorial comments. Although the current EITI work plan also includes capacity building activities for EITI stakeholders, it is unclear whether any of these activities have actually been conducted.

*Per diems:* The MSG's ToR does not include reference to a per diem policy. Available documentation does not contain any information about whether per diems are paid in practice.

*Attendance:* Section 4.1 of the MSG's ToR requires that the Executive Team meet at least once every two months. The frequency of meetings of the implementation team is not mentioned in the MSG's ToR. The ToR also notes that a technical team meeting can be held any time as needed. Section 4.1 defines quorum as 50% of the total number of Executive Team members or any number agreed by the members present in the meeting. While the ToR refers to the Executive Team, this rule is applied in practice to the MSG. Meeting minutes indicate that quorum was reached for all MSG meetings to date. Representatives from all constituencies regularly attend MSG meetings, as reflected in the minutes, although notably only two CSO representatives regularly attend and the government representatives attending meetings often change on an ad hoc basis. As for the frequency of meetings, a review of meeting minutes suggests that the ToR's provisions are not consistently followed in practice. The MSG does not meet once every two months as stated in the ToR, although there were instances when two MSG meetings were conducted in one month. Documentation of EITI activities suggests that a few MSG members also attend outreach activities. However, the extent of their participation is not clearly documented.

*National secretariat:* Article 13 of Presidential Regulation No. 26/2010 establishes the national secretariat, which supports the Implementation Team and whose directives are to be determined by the Head of the Steering Team. In 2012, MENKO issued a decree establishing the EITI Indonesia secretariat (KEP-19/M.EKON/04/2012)<sup>74</sup> as well as a separate regulation on the secretariat's organization and work procedures (PER-04 / M.EKON / 04/2012).<sup>75</sup> According to Section 2.7 of the MSG's ToR, the mandate of the national secretariat is to provide administrative and technical support to the Extractive Industries Transparency Team.

## Stakeholder views

*MSG composition and membership:* Secretariat staff explained that the current MSG composition was in line with provisions of the Presidential Regulation. The Current Ministerial Decree 270/2018, approved in October 2018, reiterates the same composition but provides names of official positions for government instead of individual names.

Several stakeholders including consultants and other civil society representatives considered that the governance of EITI implementation should be improved because the existing systems for supervision and coordination were not seen as efficient. They observed that the existence of a Steering Committee composed of ministers was not realistic and only made coordination more difficult. One stakeholder lamented that the MSG was not exercising sufficient oversight on implementation and on the national secretariat. He considered that consistency in government MSG representation was a challenge because

<sup>74</sup> MENKO (April 2012), 'KEP-19/M.EKON/04/2012', accessed [here in October 2018](#).

<sup>75</sup> MENKO (April 2012), 'PER-04 / M.EKON / 04/2012', accessed [here in October 2018](#).

of frequent changes in the bureaucracy. A stakeholder from civil society noted that challenges in government leadership had led the national secretariat to feel disempowered from performing its duties.

*Civil society representation:* Several CSO MSG members confirmed that their selection process for MSG representatives was inclusive. They explained that new CSO MSG members were selected in September 2017 through a nationwide election where all organizations within and outside of the PWYP network were notified and asked to submit nominations. The announcement was made through the PWYP and EITI Indonesia websites. A committee was formed to conduct the elections and agree on procedures. The Committee short-listed six candidates based on their criteria. These candidates underwent a rigorous interview by experts and participated in a debate through a public forum. A secret balloting by organisation then followed, which resulted in the selection of three MSG members and three alternates. The CSO members highlighted that women had been encouraged to apply in particular.

*Industry representation:* Representatives from both the Indonesia Mining Association and the Indonesia Coal Mining Association (ICMA) explained that as heads of their respective organizations, they were both appointed by their sector by default to be MSG members. They explained that no other specific procedure was followed. Stakeholder consultations did not clarify how the MSG member from the petroleum sector was appointed.

*Government representation:* Some MSG members from industry and civil society expressed concern about the level of seniority of government representatives in the MSG. Several government representatives confirmed that they were technical staff who were designated to attend EITI meetings by their superiors because they had custody of EITI data. A government representative observed that only civil society actively provided inputs during MSG meetings, while government representatives typically just corrected errors in draft reports. Most government representatives noted that the extent of their participation in the EITI was confined to providing data, reviewing and submitting reporting templates and reviewing draft EITI Reports. They explained that some agencies sent copies of the final EITI Reports to their superiors but did not further discuss EITI findings or recommendations. One government official expressed surprise upon learning that the EITI could potentially inform their policies on subnational transfers.

One of the key challenges identified by a senior government official was that the ESDM had been placed under the Coordinating Ministry for Maritime Affairs, leaving MENKO with no leverage on ESDM. Several government representatives noted talks about inviting the Ministry for Maritime Affairs to become a MSG member along with KSP

An industry representative said that government representatives' attendance changed at every meeting, affecting the continuity of the MSG's discussions. He observed that the level of engagement of government officials varied, with some ministries such as MoF and SKK Migas being very active while others lacked engagement. He noted that MENKO's leadership needed to improve and called for greater leadership to ensure active participation from other government agencies. He considered that local governments were underrepresented on the MSG given their importance.

**Terms of reference:** Some stakeholders from civil society and industry expressed concerns about the timely circulation of documents ahead of MSG meetings, which did not provide the MSG adequate time to review draft EITI Reports. Secretariat staff explained that the final MSG ToR had not yet been circulated to the MSG although the draft had previously been circulated to gather members' inputs. They explained that this was the reason for stakeholders' inability to comment on specific provisions of the new ToR during stakeholder consultations for Validation. A CSO representative expressed satisfaction at the new ToR, while an industry representative admitted that he had not read the ToR in its entirety.

**Decision-making:** Stakeholders from civil society and industry observed that delegation of decision-making by government to technical staff (echelon 3 or 4) had affected the MSG's decision-making in that for major decisions, such as approval of EITI Reports, required approval from higher-level officials not present at MSG meetings. They however considered decisions on the work plan, scoping and materiality, and schedule of activities as small decisions that could be delegated to those attending MSG meetings.

An industry representative opined that the quality of MSG discussions should improve by focusing more on national issues such as contract negotiations, stability of policies, and subnational transfers. He was unaware that he could add to the MSG's meeting agenda and was under the impression that they should just follow what the national or international secretariats suggested. He noted that discussions on the work plan did not involve a discussion of common interests and priorities. He thought they had not taken a proactive role as MSG members, even if he considered MSG members to be sufficiently capacitated to follow the process closely. Several civil society representatives observed that EITI implementation was still siloed because the MSG was not discussing substantial issues such as divestments in the mining sector, but only focused on reporting issues. They said that while there had been no incident where the MSG over-ruled CSOs in a decision, decision-making on some issues had been slow, as in the case of contract transparency. They noted, however, that the dialogue and level of trust between the government and civil society had improved.

MSG members were given a week to consult their superiors following MSG meetings, according to secretariat staff. If no comments were received after one week, the national secretariat considered the document as approved.

**Record-keeping:** MSG members confirmed that documents were distributed by the national secretariat typically one week in advance.

**Capacity of the MSG:** Secretariat staff observed that SKK Migas and the Ministry of Finance usually gave the most substantive comments on technical discussions while companies rarely provided formal input, even though they were usually active in MSG discussions. Civil society pointed out that the MSG was now gradually starting to discuss other issues aside from EITI Reports. They noted that each CSO representative had an area of expertise, such as mining, oil and gas, and advocacy, and held internal discussions ahead of MSG meetings to coordinate their positions. They explained that CSOs also provided substantial inputs on the commodity trading report in addition to issuing press releases on the issue.

**Per diems:** Secretariat staff explained that, while there was no rule on per diems in the past, the recently-

revised MSG ToR now stated that per diems would not be given to MSG members but financial support would be given for specific activities (e.g. outreach) in accordance with government regulations and subject to availability of funds. The government regulation allows payment of IDR 300k in per diem but the national secretariat deducts from this amount the actual cost of accommodations and transportation. Per diems are given even to non-government officials.

*Attendance:* Since the Presidential Regulation lists ministers and other echelon-one officials as MSG members, secretariat staff explained that none of the formal MSG members from government had actually attended MSG meetings. Those who actually attended were below director level (echelon three or four), although staff explained that this was considered normal for the bureaucracy in Indonesia. With respect to MSG participation in outreach activities, secretariat staff explained that some CSOs and government representatives, usually from ESDM, Ministry of Finance and SKK Migas, participated to present on topics such as subnational transfers and EITI Report findings.

*National secretariat:* A consultant that had undertaken work for EITI Indonesia stated that, since internal procedures had not yet been established, there was no capacity within the national secretariat to provide guidance to the government or MSG on the EITI Standard. He observed that the communications officer should improve efforts on strategic outreach to key stakeholders.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made inadequate progress towards meeting this requirement. There are major challenges with respect to representation for all constituencies. Lack of senior government officials and lack of a common understanding and awareness of the MSG's role have affected the swiftness and quality of decision-making processes and implementation in general. It appears that MSG discussions are largely confined to a focus on report publication in and of itself. There is limited evidence of government efforts to ensure that the EITI process contributes to improvement of natural resource governance. There are concerns about the efficiency of the MSG's current structure, leading many stakeholders to suggest that the existing composition of the MSG should be revisited. Moreover, the selection process for industry does not indicate a wide consultation within the mining, coal and petroleum sector. It also appears that all constituencies do not regularly liaise with their wider constituencies. The ToR also lacks a per diem policy as well as provisions to ensure that the MSG is capacitated to carry out its duties. It also appears that there had been deviations from ToR provisions regarding frequency of meetings and the actual exercise of functions of the Implementing Team and Executive Team, which seem to be performed by the MSG. The extent of MSG consultations on revisions to its own ToR is unclear.

In accordance with Requirement 1.4, Indonesia is required to i. ensure that the constituencies are adequately represented, comprising appropriate stakeholders with sufficient capacity, willingness and availability to commit to the EITI process; ii. with respect to industry, ensure that the selection process is open and transparent; iii. ensure that the multi-stakeholder group undertakes effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society; iv. ensure that members of the multi-stakeholder group liaise with

their constituency groups; v. ensure that internal rules of procedure are adopted, indicating that any member of the multi-stakeholder group has the right to table an issue for discussion and that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption; vi. agree on a clear Terms of Reference with provisions on ensuring that the members of the MSG have the capacity to carry out their duties.

## Work plan (#1.5)

### Documentation of progress

The 2018 EITI work plan<sup>76</sup> was approved by the MSG at its 20 December 2017 meeting and revised on 6 August 2018 (minutes of the MSG meeting on 6 August 2018). However, detailed discussions on drafting of the work plan and the rationale for the revisions are not reflected in the minutes. The MSG publishes its work plan every year. There is no clear documentation of stakeholder consultations on the work plan outside the MSG.

**Public accessibility:** The 2018 work plan is publicly accessible on the EITI Indonesia website.

**Objectives:** The objectives for EITI implementation are clearly described in both the 2018 and 2016-2017 work plans. The 2018 work plan has two main objectives: (1) greater transparency in extractive industry governance in Indonesia and (2) improved extractive industry governance. The MSG removed the third objective of “Intensified development of extractive industries through increased investment, employment, and national added values”, previously included in the 2016-2107 work plan. The rationale behind the revision of objectives is not reflected in the minutes of MSG meetings.

The 2018 work plan indicates the rationale behind each objective and lists the governance-related challenges that the objective is meant to address. The challenges include stakeholders’ low awareness of extractive industry governance, which results in their inactive participation in ensuring transparency in the sector, and the necessity of involving different parties that makes implementing reforms difficult and time-consuming. Activities were listed under each challenge to explain the alignment of activities with objectives. The discussions on the objectives were not documented in the MSG’s meeting minutes.

**Measurable, time-bound activities:** The 2018 work plan contains measurable and time-bound activities with schedules aligned with Validation and EITI reporting cycles. A timeline for completion of each activity is included, listing all activities due for completion by the end of 2018. The work plan includes activities related to the publication of EITI Report and impact assessment study, communication and outreach, BO disclosure as well as capacity building of stakeholders. Based on a review of meeting minutes, the MSG does not review progress in implementing the work plan during the year. The work plan does not provide updates on the status of activities not yet initiated, ongoing and completed.

**Capacity constraints:** The work plan identifies governance-related challenges under each objective, alongside a list of activities for each challenge. Capacity building is also included under the second

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<sup>76</sup> EITI Indonesia (February 2018), ‘2018 Work Plan’, accessed here in October 2018.

objective, but specific relevant activities are not provided.

**Scope of EITI reporting:** The work plan lists publication of the EITI Report but does not include activities related to technical aspects of EITI reporting such as procurement of an IA, drafting of reporting templates, workshop with reporting entities and agreeing on the scope of the report. Activities related to beneficial ownership disclosure are outlined in the work plan.

**Legal or regulatory obstacles:** The work plan does not include activities to address legal or regulatory obstacles, such as addressing tax confidentiality provisions and delays in the submission of reporting templates. The work plan however lists the revision of Presidential Regulation 26-2010 on transparency of national/local extractive industry revenues to further strengthen the role of EITI in promoting transparency and reforming extractive industry governance.

**EITI recommendations:** The work plan does not include activities aimed to address recommendations from EITI Reports and Validation.

**Costings and funding sources:** Sources of funding for each activity are reflected in the work plan. However, only government-funded activities include cost estimates, totalling IDR 6bn in total. The work plan notes the activities funded by other sources but costs of implementation are not provided.

## Stakeholder views

Secretariat staff explained that, due to funding constraints, implementation of work plan activities had been limited, particularly in 2018. Their dissemination efforts were mainly through the publication of newsletters, whose frequency had also been reduced in 2018 due to other priorities. They explained that subnational outreach and the launch event for the EITI Report were not conducted. Other activities that were implemented in 2018 included the forum on commodity trading, pre-validation workshop, the ongoing revision of the Presidential Regulation, two trainings on beneficial ownership and publication of infographics. One secretariat staff noted that the secretariat needed to secure the MSG's buy-in for the annual work plan as the work plan objectives were agreed in 2016 and had not been revised since.

A civil society representative explained that the work plan was drafted by the national secretariat. Civil society gathered inputs from their wider constituency, which were eventually considered in finalising the 2018 work plan. None of MSG members consulted responded when asked about how the MSG had agreed work plan objectives. An industry representative clarified that the secretariat drafted the objectives, but that he did not see the need to challenge the proposals. He explained that industry's objective for EITI implementation was to support reforms in the investment process, which was not reflected in the EITI work plan. He considered that EITI activities were mainly socialization activities, without any effort to create impact on the investment climate. Mining companies and CSOs consulted off the MSG had not seen the work plan.

For the 2019 work plan, secretariat staff circulated questionnaires to ask stakeholders about strategic issues that should be covered by EITI and ideas for specific EITI activities to address those strategic issues. At the time of stakeholder consultation, only one government agency had provided inputs according to

secretariat staff. A consultant that had undertaken work for EITI Indonesia in the past stated that the MSG had not undertaken a comprehensive evaluation of work plan execution to draw lessons from it.

With respect to funding, secretariat staff highlighted government plans to provide full funding for EITI implementation from 2019 onwards, but that they anticipated budget cuts of about 20% including for compensation of secretariat staff. They noted that the 2019 budget would be used to fund dissemination activities.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made inadequate progress towards meeting this requirement. The 2018 work plan objectives have not been updated since 2016 and do not appear to reflect the results of consultations with key stakeholders. In fact, there is evidence to suggest that many MSG members did not contribute to the drafting of the 2018 work plan. It also does not substantially address the details required under Requirement 1.5.c, specifically on addressing capacity constraints, scope of EITI reporting, legal or administrative obstacles to implementation, and plans to address EITI recommendations.

In accordance with Requirement 1.5, Indonesia is required to draft a work plan that: a) Sets EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. The MSG is encouraged to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business. b) Reflect the results of consultations with key stakeholders; c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process. The work plan must: i. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation. ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9). iii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation. iv. Outline the multi-stakeholder group's plans for implementing the recommendations from Validation and EITI reporting.

**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
Government oversight of the EITI process (#1.1)	The current level of government commitment does not seem sufficient to ensure effective oversight in the EITI process. This is shown by the lack of recent	Meaningful progress

	<p>statements of support to EITI implementation, the absence of a senior individual who can effectively champion the EITI at the political level, the lack of seniority of government representatives in the MSG, and the failure to demonstrate that government representatives in the MSG actively and meaningfully participate in the EITI process beyond providing data. Documentation of MSG meetings show no indication of how government is leading the process. There is also no evidence of how government is addressing legal and administrative barriers to implementation, such as tax confidentiality, delays in procurement, failure of some companies to report and continued decline in funding. Neither is there a showing that government representatives liaise with one another, and there is limited evidence of participation in EITI activities outside of MSG meetings. Nonetheless, active participation can be seen from some government agencies, particularly those engaged in commodity trading and implementing beneficial ownership reforms such as SKK Migas, Bappenas and KPK and KSP. While EITI reporting appears to be siloed with not much effort to link the process with other national reforms, the engagement of other agencies to advance beneficial ownership and commodity trading transparency should be recognized</p> <p>In accordance with Requirement 1.1, Indonesia is required to: 1. issue a public statement indicating its continued support to EITI implementation; 2. appoint a senior individual who will effectively lead the EITI process; 3. ensure that senior individuals participate in the MSG; 4. take steps to ensure that government is fully, actively and effectively engaged in the EITI process by addressing administrative and legal</p>	
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	<p>barriers to implementation, including in the submission of data by government agencies and companies required for EITI reporting, conducting outreach to other agencies, and using EITI data to promote public debate and formulate policies. The government is required to draft an action plan to address these corrective actions within three months from the Board decision, and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat.</p>	
<p>Company engagement (#1.2)</p>	<p>There is limited evidence with respect to industry's active and full participation in the EITI process. There is little evidence of effective and meaningful consultation with the wider constituency, and it has not been shown that industry has contributed to resolving the bottlenecks to implementation such addressing the issue of tax confidentiality.</p>	<p>Inadequate progress</p>
<p>Civil society engagement (#1.3)</p>	<p>There are no restrictions on civic space. However, evidence suggests that there is insufficient engagement in the EITI process in terms of contributing to the scope of the EITI Report to make it more relevant to issues in the extractive sector in Indonesia. It also appears that engagement by the broader civil society constituency is lacking.</p>	<p>Meaningful progress</p>
<p>MSG governance and functioning (#1.4)</p>	<p>There are major challenges with respect to representation for all constituencies. Lack of senior government officials and lack of a common understanding and awareness of the MSG's role have affected the swiftness and quality of decision-making processes and implementation in general. There are also concerns about the efficiency of the current structure of the MSG leading stakeholders to suggest that the existing composition of the MSG should be revisited. Moreover, the selection process for industry does not indicate a wide consultation within the constituency. It also appears that all</p>	<p>Inadequate progress</p>

	constituencies do not regularly liaise with their wider constituencies.	
Work plan (#1.5)	The current work plan does not contain objectives and activities that reflect the results of consultations with key stakeholders. In fact, there is evidence to suggest that not all MSG members contributed to the finalization of the work plan. It also does not substantially address the details required under Requirement 1.5.c of the EITI Standard, specifically on addressing capacity constraints, scope of EITI reporting, legal or administrative obstacles to implementation, and plans to address recommendations.	Inadequate
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> <li>1. In accordance with Requirement 1.1, Indonesia is required to: i. issue a public statement indicating its continued support to EITI implementation; ii. appoint a senior individual who will effectively lead the EITI process; iii. ensure that senior individuals participate in the MSG; iv. take steps to ensure that government is fully, actively and effectively engaged in the EITI process by addressing administrative and legal barriers to implementation, including in the submission of data by government agencies and companies required for EITI reporting, conducting outreach to other agencies, and using EITI data to promote public debate and formulate policies. The government is required to draft an action plan to address these corrective actions within three months from the Board decision, and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat.</li> <li>2. In accordance with Requirement 1.2, Indonesia is required to: i. take steps to ensure that industry is fully, actively and effectively engaged in the EITI process; ii. ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI; and iii. ensure that there are no obstacles to company participation in the EITI process. Industry is required to draft an action plan to address these corrective actions within three months from the Board decision, and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat.</li> <li>3. In accordance with Requirement 1.3, Indonesia is required to ensure that civil society is fully, actively and effectively engaged in the EITI process by maintaining a regular feedback mechanism to its broader constituency to ensure that the EITI process is substantive and addressing issues that are relevant to civil society. Civil society is required to draft an action plan to address these corrective actions within three months from the Board decision, and should regularly monitor the progress of implementing the action plan by providing regular reports to the EITI secretariat. <ul style="list-style-type: none"> <li>- In accordance with Requirement 1.4, Indonesia is required to i. ensure that the constituencies are adequately represented, comprising appropriate stakeholders with sufficient capacity,</li> </ul> </li> </ol>		

willingness and availability to commit to the EITI process; ii. with respect to industry, ensure that the selection process is open and transparent; iii. Ensure that the multi-stakeholder group undertakes effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society; iv. ensure that members of the multi-stakeholder group liaise with their constituency groups; v. ensure that internal rules of procedure are adopted, indicating that any member of the multi-stakeholder group has the right to table an issue for discussion and that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption; vi. Agree on a clear Terms of Reference with provisions on ensuring that the members of the MSG have the capacity to carry out their duties.

- In accordance with Requirement 1.5, Indonesia is required to draft a work plan that: i. Sets EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. The MSG is encouraged to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business. ii. Reflect the results of consultations with key stakeholders; iii. Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process. The work plan must: i. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation. ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9). iii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation. iv. Outline the multi-stakeholder group's plans for implementing the recommendations from Validation and EITI reporting.

## 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

**Systematic disclosures:** The full text of relevant laws and regulations issued by the Ministry of Energy and Mineral Resources are disclosed on an ad hoc basis through the websites of the Ministry<sup>77</sup> and its Directorates of Minerals<sup>78</sup> and Oil and Gas<sup>79</sup>, although the frequency of updates appears to be inconsistent and the comprehensiveness of regulations disclosed is unclear. The SKK Migas website provides the full text of procedures for the oil and gas sector issued by SKK Migas.<sup>80</sup> While the website of the Directorate of Budget of the Ministry of Finance provides the full text of extractives-related regulations from the Ministry of Finance<sup>81</sup>, these are searchable only based on the date and number of the regulation. The Indonesia EITI website has republished laws, government regulations, presidential decrees, ministry regulations relevant to both the mining and oil and gas sectors<sup>82</sup>, updated on an annual basis following publication of the annual EITI Report. The government's 'Information System for Regulations' (SIPUU) portal provides the full text of all laws and government regulations for all sectors.<sup>83</sup> There is no central government website that discloses fiscal terms of individual contracts, either in the oil and gas or in the minerals and coal sectors.

**2016 EITI Report: Legal framework:** The 2015 EITI Report provides a description of the legal framework for mining, oil and gas, including an overview of relevant laws and regulations (Vol.2,pp.22-35).

**Government agencies' roles:** The report provides an overview of the roles and responsibilities of the main government entities with jurisdiction over the mining, oil and gas sectors (Vol.2,pp.41-52).

**Fiscal regime:** The report provides an overview of the general fiscal regime for the mining, oil and gas

<sup>77</sup> Ministry of Energy and Mineral Resources website, accessed [here](#) in October 2018.

<sup>78</sup> Website of the Directorate of Minerals of the Ministry of Energy and Mineral Resources, accessed [here](#) in October 2018.

<sup>79</sup> Website of the Directorate of Oil and Gas of the Ministry of Energy and Mineral Resources, accessed [here](#) in October 2018.

<sup>80</sup> SKK Migas website, 'Work procedures' section, accessed [here](#) in October 2018.

<sup>81</sup> Website of the Directorate of Budget of the Ministry of Finance, 'Regulations' section, accessed [here](#) in October 2018.

<sup>82</sup> Indonesia EITI website, 'Rules and regulation' section, accessed [here](#) in October 2018.

<sup>83</sup> Cabinet Secretariat of the Republic of Indonesia, 'Information System for Regulations' (SIPUU Portal), accessed [here](#) in October 2018.

sectors (Vol.2,pp.36-41), albeit without the specific rates of non-tax imposition across different oil and gas PSCs or minerals and coal contracts of work.

*Degree of fiscal devolution:* The report describes the level of fiscal devolution of extractives revenues, including statutory subnational transfers of mining, oil and gas revenues (Vol.2,p.116), including the revenue-sharing formula (Vol.2,pp.117-118; Vol.3,pp.73-74) and actual transfers in 2015 (Vol.4,pp.262-272).

*Reforms:* The report discusses recent reforms of laws and policy related to extractive sector governance (Vol.2,pp. 55-62).

### Stakeholder views

Stakeholders consulted did not express any particular views regarding the 2015 EITI Report's coverage of the legal environment and fiscal regime for the extractive industries. An independent commentator noted that the frequent legal and fiscal changes in mining, oil and gas made it difficult to ensure the comprehensiveness of such a review. Several representatives from all constituencies confirmed that the fiscal terms in specific contracts varied significantly. In oil and gas, many stakeholders confirmed that FTP varied from 5% to 20% and was either shareable between contractor and government or entirely delivered to government, while the price of Domestic Market Obligations varied from USD 0.2 per barrel and 20% of the Indonesian Crude Price, depending on the oil and gas PSC. In mining, a commentator noted that the seven different Contracts of Work contained different fiscal terms, including different structures of local tax payments. There was consensus among stakeholders that there was no comprehensive review of fiscal terms in different contracts in the public domain, aside from general reviews published by accountancy firms like PwC Indonesia (*see Requirement 2.4*).

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made satisfactory progress in meeting this requirement. The 2015 EITI Report provides an overview of relevant laws and regulations, government entities and fiscal terms, including the degree of fiscal devolution, in the mining, oil and gas sectors as well as brief commentary on current reforms. While there is no comprehensive review of the different fiscal terms of contracts in either oil and gas or minerals and coal in the public domain, the 2015 EITI Report provides an overview of the general fiscal terms applicable in the extractive industries.

To strengthen implementation, Indonesia is encouraged to ensure that a comprehensive review of legal provisions and fiscal terms of active contracts in the mining, oil and gas sector be publicly available. Indonesia may wish to consider means of improving the public accessibility of information on key laws, fiscal terms, roles of relevant government entities and ongoing reforms through routine publications on government and company websites.

## License allocations (#2.2)

### Documentation of progress

**Systematic disclosures:** In *mining*, the Directorate of Minerals website provides a flowchart infographic of the license application process<sup>84</sup>, albeit with little details of each step. The Directorate's website provides information on licensing requirements<sup>85</sup> and the application forms<sup>86</sup> for mining licenses awarded by central government, albeit only for license awards but not for transfers. There is no information accessible online on mining licenses awarded by subnational governments, given the lack of operational websites. The Directorate of Minerals website discloses the new licenses awarded, including license-holder name, dates of award and expiry.<sup>87</sup>

In *oil and gas*, the Directorate of Oil and Gas website provides a description in PDF format of the process for awarding oil and gas licenses, both through direct proposal tender and through regular tender<sup>88</sup>, albeit without defining the specific technical and financial criteria assessed in license awards. The Directorate's e-tender portal manages oil and gas license tenders and provides information on block bidding rounds, including an overview of the process and a list of technical and financial criteria, as part of bid criteria, assessed.<sup>89</sup> Details of bid rounds are published on the Directorate of Oil and Gas' website<sup>90</sup>, albeit without the full list of bidders for each license awarded.

**2016 EITI Report: Awards/transfers:** In *oil and gas*, the 2015 EITI Report confirms the lack of awards of oil and gas Working Areas (WA) in 2015, despite the offer of two WA through direct proposal and five WA through competitive tender in 2015 that were awarded in subsequent years (Vol.2,p.67). In terms of transfers of participating interests in oil and gas WA, the report provides a list of 18 transfers of participating interests in WA (Vol.2,pp.68-70), including the old and new participating interests splits.

In *mining*, the report confirms the lack of issuance of new licenses for Mining Business Areas (IUP) in 2015 pending establishment of new mining areas in 2017 (Vol.2,p.74), although it is unclear on whether there were any awards of People's Mining Area or Special Mining Business Area in 2015. The report does not comment on the possibility of transfers of mining licenses (IUP), nor on the existence of any transfers of mining licenses in 2015.

**Award/transfer process:** In *oil and gas*, the report provides information on the process of awarding WA (Vol.2,pp.64-67) and transferring participating interests in WA (Vol.2,pp.67-70), alongside a link to the DG Oil and Gas' business development portal for more information on specific tender rounds and joint study

<sup>84</sup> Website of the Directorate of Minerals of the Ministry of Energy and Mineral Resources, 'Alur Pelayanan RPIIT', accessed [here](#) in October 2018.

<sup>85</sup> Website of the Directorate of Minerals of the Ministry of Energy and Mineral Resources, 'Licensing requirements' section, accessed [here](#) in October 2018.

<sup>86</sup> Website of the Directorate of Minerals of the Ministry of Energy and Mineral Resources, 'Application forms', accessed [here](#) in October 2018.

<sup>87</sup> Website of the Directorate of Minerals of the Ministry of Energy and Mineral Resources, 'Daftar Permohonan Izin yang siap diambil di RPIIT', accessed [here](#) in October 2018.

<sup>88</sup> Website of the Directorate of Oil and Gas of the Ministry of Energy and Mineral Resources, 'Preparing and offering new acreages', accessed [here](#) in October 2018.

<sup>89</sup> Website of the Directorate of Oil and Gas of the Ministry of Energy and Mineral Resources, Oil and gas e-tender portal, accessed [here](#) in October 2018.

<sup>90</sup> Website of the Directorate of Oil and Gas of the Ministry of Energy and Mineral Resources, 'Indonesia Conventional and Non Conventional Oil and Gas Bidding First Round Year 2018', accessed [here](#) in October 2018.

maps.

In *mining*, the report provides a description of the process for awarding mining licenses (IUP) (Vol.2,pp.70-75), but does not refer to the process for transferring licenses in the mining sector.

Technical and financial criteria: In *oil and gas*, the report describes the technical and financial criteria assessed in awards of oil and gas licenses (WA), but not the criteria assessed in transfers of participating interests (Vol.2,p.65). However, the report provides the detailed technical and financial criteria as part of the bid criteria for the WA tendered (but not awarded) in 2015 (Vol.2,pp.65-66). The description of “license allocations technical and financial criteria” published on the Indonesia EITI website in August 2018 provides a general description of the process for transferring participating interests in oil and gas blocks, but does not define the specific technical and financial criteria assessed in the process.<sup>91</sup>

In *mining*, the report provides a description of the technical and financial criteria assessed in awarding licenses (Vol.2,pp.70-75), but does not refer to the process for transferring mining license, including any criteria assessed.

License awardee information: In *oil and gas*, the report confirms the lack of award of oil and gas WA in 2015 (Vol.2,p.67) and names the old and new companies in the case of transfers of participating interests in WA (Vol.2,pp.68-70).

In *mining*, the report confirms the lack of mining license (IUP) awards in 2015 (Vol.2,p.74) but remains unclear on the existence of any transfers of mining licenses.

Non-trivial deviations: In *oil and gas*, the report notes that no deviations from applicable statutory rules were identified in the process for offering WA in 2015 (Vol.2,p. 67). However, the report does not comment on any non-trivial deviations in the transfer of participating interests in WA in 2015.

In *mining*, the report does not comment on the existence of any transfers of mining licenses in 2015, nor any non-trivial deviations from the statutory procedures.

Comprehensiveness: The report does not provide information on awards or transfers of licenses in years prior to 2015, in either the *oil and gas* or *mining* sectors. However, the report presents a list of 28 PSCs in the oil and gas sector expiring in the 2018-23 period (Vol.2,pp.74-75). In August 2018, the Indonesia EITI website published a list of transfers of participating interests in oil and gas WA in 2014<sup>92</sup>, albeit without an assessment of the transfer process in practice.

Bidding process: In *oil and gas*, the report confirms the lack of WA awards through tender in 2015 (Vol.2,p.67), despite providing extensive information on the bid criteria and bid participants for WA offered in 2015 but only awarded in 2016 (Vol.2,pp.65-66).

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<sup>91</sup> EITI Indonesia website, “License allocations technical and financial criteria” section, accessed [here](#) in November 2018.

<sup>92</sup> EITI Indonesia website, “License allocation of PI transfer PSC data oil and gas”, accessed [here](#) in November 2018.

In *mining*, the report confirms the lack of award of mining license (IUP) through competitive tender in 2015 (Vol.2,p.74), despite providing extensive information on the bid criteria for mining license tenders in other periods (Vol.2,p.73).

*Commentary on efficiency:* The report does not provide any explicit commentary on the efficiency of the license allocation and transfers procedures in either *oil and gas* or *mining*, even if the descriptions of license awards is quite comprehensive (Vol.2,pp.63-75)

### Stakeholder views

In *oil and gas*, several government and industry representatives confirmed the lack of award of new WA in 2015, despite the offer of WA in 2015 that were awarded in subsequent years. A government official confirmed that oil and gas licenses were awarded either through joint study programmes in direct negotiations, or through regular tenders. Another government official confirmed that, while it was possible to track awards of oil and gas WA from the DG Oil and Gas website and the Ministry's Geoportal, there was no central government source for tracking transfers of participating interests in oil and gas WA. Several government representatives noted that the system for license allocation in oil and gas had been revised in 2017, when a committee involving SKK Migas and DG Oil and Gas was given responsibility for reviewing and assessing applications and bids.

Several officials considered that the technical and financial criteria for assessing license transfers were slightly different from those for license awards and differed for exploration and production licenses, although they expressed uncertainty over whether the checklist followed by DG Migas for reviewing license transfer applications was a publicly accessible document. One government official considered that such criteria should be disclosed by SKK Migas rather than DG Oil and Gas, given that the former was primarily responsible for government interactions with companies in oil and gas. Several industry representatives considered that, while the criteria for awarding oil and gas licenses by tender were clear, there was less clarity on the way in which joint study programmes were concluded was less clear. One industry representative considered that the criteria for assessing applications for joint study programmes were subjective. Several industry representatives noted that the statutory timeframe for processing joint study programme applications was often exceeded. Several government and industry representatives highlighted instances where oil and gas contractors had left the country without executing their work programmes, with estimates from KPK that some USD 500m of work programme commitments had not been fulfilled as of January 2018. Several industry representatives considered that this raised questions about why such contractors had been selected for license awards, given allegations that certain license-holders did not have the required capacities to develop oil and gas fields in the first place. One CSO referred to findings of the 2017 Resource Governance Index, which found that Indonesia scored satisfactorily in oil and gas on disclosure of biddable terms, licensing process and the independence of the licensing authority, but noted that the licensing authority disclosed qualification criteria in only some of the cases.<sup>93</sup> The CSO noted that the list of unsuccessful bidders was not systematically disclosed for all oil and gas licenses awarded through tender, even if no tender had been concluded in 2015.

In *mining*, several government and industry representatives confirmed the lack of award of any type of mining license (IUP), including People's Mining Area or Special Mining Business Area, in 2015. One

<sup>93</sup> Natural Resource Governance Institute (2017), 'Resource Governance Index 2017: Indonesia – oil and gas', accessed [here](#) in November 2018.

commentator noted that the only forms of license awards that had taken place during the moratorium on exploration license awards from 2009 to 2018 consisted of conversions of Contracts of Work (CoW) into Special Mining Business Areas (IUPKs) and confirmed that neither of the two CoW-IUPK conversions completed to date had taken place in 2015. There was consensus that transfers of mining licenses was not allowed by law, although many stakeholders consulted highlighted that there were often mergers and acquisitions involving companies holding mining licenses. One CSO also noted the practice of contract-mining on licenses held by a company that had insufficient capacities to develop the area. Several independent commentators raised concerns over a new Government Regulation enacted in 2018, providing state-owned enterprises with the right to apply directly to the Ministry of Energy and Mineral Resources for the award of a Special Mining Business Area (IUPK), without the requirement for public tender. Given the lack of details on specific criteria assessed for such IUPK applications by SOEs, one commentator considered it likely that all IUPKs would be awarded to SOEs rather than private companies.

One CSO highlighted findings of the 2017 Resource Governance Index, which had highlighted a lack of public information on qualification criteria and biddable terms in its review of the framework for licensing procedures in mining.<sup>94</sup> A commentator noted that the efficiency of the licensing system for mining license (IUP) awards to private companies was considered to have improved with the launch of a new public tender system for mining licenses, he considered it premature to assess the efficiency of the new system and the existence of any non-trivial deviations in practice given that the moratorium on mining license awards had only recently been lifted in 2018. However, several CSOs raised concerns over the oversight of licensing by DG Minerals and Coal, given capacity constraints that hindered the DG's ability to undertake physical examinations of licensed areas, although they did not cite specific examples of deviations from the statutory procedures for mining license allocations. One CSO highlighted Transparency International's report on a corruption risk assessment in mining license awards published in 2017<sup>95</sup>, which highlighted that 86% of the 35 corruption risks in awarding exploration IUPs assessed presented risks categorised as "moderate to very high".

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress towards meeting this requirement. The 2015 EITI Report confirms the lack of award of any new mining, oil and gas licenses in 2015, and lists participating interests in oil and gas working areas transferred in 2015. While the report does not refer to transfers of mining contracts of work or mining licenses (IUPs), there was consensus among stakeholders consulted that the ban on transfers of mining licenses was enforced in practice, even if mergers and acquisitions involving license-holders was common. The report describes the general statutory procedures for awarding licenses, including technical and financial criteria assessed, and the general process for transferring participating interests in oil and gas working areas, albeit without addressing the technical and financial criteria assessed in the transfer process. While the report comments on the lack of non-trivial deviations from statutory procedures in the tendering of oil and gas working areas in 2015 (that were awarded in subsequent years), it does not comment on non-trivial deviations in the transfers of participating interests in oil and gas working areas in 2015.

In accordance with Requirement 2.2, Indonesia is required to disclose information related to the award or

<sup>94</sup> Natural Resource Governance Institute (2017), 'Resource Governance Index 2017: Indonesia – mining', accessed [here](#) in November 2018.

<sup>95</sup> Transparency International Indonesia (2017), 'The risk assessment of corruption in the awarding of mining permits in Indonesia', accessed [here](#) in November 2018.

transfer of licenses pertaining to the companies covered in the EITI Report. This information should include the number of mining, oil and gas licenses awarded and transferred in the year covered by EITI reporting, a description of the award procedures, including specific technical and financial criteria assessed, and highlight any non-trivial deviations in practice. In addition, Indonesia may wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.

## License registers (#2.3)

### Documentation of progress

**Systematic disclosures:** The Ministry of Energy and Mineral Resources operates an integrated land management system, with three different user interfaces. The Minerba One Data Indonesia (MODI)<sup>96</sup> offers both a public user interface for key data on the sector and a restricted-access portal for the government's licensing administration. The Energy and Mineral Resources (EMR) One Map Indonesia<sup>97</sup> is the public license cadastral portal, referred to as the Geoportal, integrating information on all land-use and seismic activity on a single portal. While both the MODI Dashboard and the EMR One Map cover all active licenses in both mining and oil and gas, the publicly-accessible EMR One Map provides all information<sup>98</sup> listed under Requirement 2.3 aside from dates of application, award and expiry. Both portals are updated on a real-time basis. For oil and gas licenses, the EMR One Map provides only the name of the operator company, not of partner companies and participating interests. The SKK Migas lifting dashboard provides data on oil and gas liftings, but not of participating interests in working areas, while the list of contractors webpage<sup>99</sup> does not provide details on partners. A list of 69 operators and their 29 non-operator partners is provided in appendix to the 2015 EITI Report (Vol.4, pp.5-7), although there are concerns over the comprehensiveness of the information given the report's reference to 167 material oil and gas companies (*see Requirement 4.1*).

The EITI Data Portal<sup>100</sup> provides a list of all mining, oil and gas licenses held by material companies, with information including contract type, license-holder name, commodity(ies) covered, province, district, dates of award and expiry, but no dates of application nor partner names and participating interests. The regularity of updates to the EI Data Portal is annual, following publication of EITI Reports.

**2016 EITI Report:** The 2015 EITI Report provides reference and a link<sup>101</sup> to the EMR One Map Indonesia (Vol.2,p.48), highlighting its public accessibility free of charge. The report confirms that the portal provides all information under Requirement 2.3.b aside from dates of application, award or expiry, but notes that dates of award and expiry were published on the EI transparency portal, with a link<sup>102</sup>

<sup>96</sup> Ministry of Energy and Mineral Resources, MODI Dashboard Minerba, accessed [here](#) in November 2018.

<sup>97</sup> Ministry of Energy and Mineral Resources, Minerals One Map Indonesia portal, accessed [here](#) in September 2018.

<sup>98</sup> including license-holder name, total area and general location, commodity, 'clean and clear' status and certification number, taxpayer identification number, production data, sales data, non-tax revenue, contributions to rehabilitation fund and license coordinates, although no dates of application, award or expiry.

<sup>99</sup> SKK Migas website, 'Production Contractors' webpage, accessed [here](#) in November 2018.

<sup>100</sup> EI Data Portal, 'Daftar lisensi', accessed [here](#) in October 2018.

<sup>101</sup> Ministry of Natural Resources, Minerals One Map Indonesia portal, op.cit..

<sup>102</sup> World Bank and EITI Indonesia National Secretariat, EI Data Portal, accessed [here](#) in September 2018.

(Vol.2,p.48). It also provides a general link to the SKK Migas website, where it claims that dates of validity of all oil and gas PSCs are accessible (Vol.2,p.48). There is no evidence of any MSG efforts to source dates of application for licenses held by material companies, nor to highlight practical barriers to the disclosure of these dates. The report does not comment on the lack of partner names and participating interests in oil and gas WA. An overview of information accessible through the EMR One Map Indonesia, the MODI Portal<sup>103</sup> and the SKK Migas Lifting Dashboard is provided on the EITI Indonesia website, indicating the same gaps aside from participating interests.<sup>104</sup>

## Stakeholder views

**Online portals:** Several government officials described the Ministry of Energy and Mineral Resources' license cadastre system, explaining that MODI and MOMI were restricted-access while the EMR One Map geoportal was open access. Stakeholders from all constituencies highlighted the launch of the geoportal in 2017 as a significant achievement, given the protracted efforts required to make license information accessible to the public. One official noted that the MODI had been a key recommendation from the KPK since 2013. Another government official emphasised that the MODI system integrated over 100 different maps in a single system.

While secretariat staff noted that dates of award and expiry were provided on the EI Data Portal for licenses held by material companies in EITI Reports, several government officials noted that dates of application, award and expiry, while available from the restricted-access MODI portal, were not disclosed to the public through the geoportal given that they were considered contractual information that could be considered commercially-sensitive. However, none of the industry representatives consulted considered that disclosure of dates of application, award and expiry of any licenses could be considered commercially-sensitive.

For oil and gas, a government official explained that the government maintained restricted-access portals like INAMETA, which allowed investors to access information on WA, but that this information was not publicly accessible. Several industry representatives noted that information on partner names and participating interests on all oil and gas WA was publicly accessible in an ad hoc manner through relevant companies' websites, they conceded that there was no single source of information on the partner names and participating interests in all oil and gas WA in a centralised government website, although it was accessible through trade publications published by the likes of PwC.

Several stakeholders from all constituencies highlighted the launch of the Ministry of Energy and Mineral Resources' e-non-tax revenue system<sup>105</sup> in November 2018, which discloses government revenues per license but whose access is subject to (untested by the International Secretariat) registration (*see Requirement 4.1*).

**'Clean and clear':** Several government representatives emphasised the importance of centralising license and other land-use information in a single geoportal, and the value of cross-referencing of information across different government databases. There was consensus among stakeholders consulted that the

<sup>103</sup> Minerba One Map Indonesia (MOMI), accessed [here](#) in October 2018.

<sup>104</sup> EITI Indonesia (2018), 'Information of ESDM portal', accessed [here](#) in October 2018.

<sup>105</sup> Ministry of Energy and Mineral Resources, 'E-PNBP Portal', accessed [here](#) in November 2018.

‘clean and clear’ process of audit of mining licenses had been concluded. Several government officials noted that the number of licenses had fallen consistently from around 14,000 to 6,000 in 2014-2018, explaining the challenges in the process of revoking licenses following the clean and clear review. A government official explained that, while the Ministry of Energy and Mineral Resources had issued seven updates on the clean and clear process, it had not published the full results due to ongoing litigation from license-holders facing revocation. It was also explained that District Heads (Bupatis) were required to revoke the previously-awarded licenses, which was often delayed. Government officials described other means undertaken to freeze the operations of companies that had not passed the clean and clear process. One official highlighted KPK estimates of IDR 7tn (around USD 480m) in un-paid or unremitted non-tax revenue from the mining sector.

### Initial assessment

The International Secretariat’s initial assessment is that Indonesia has made meaningful progress towards meeting this requirement. While the Ministry of Energy and Natural Resources’ ERM One Map portal and disclosures on Indonesia EITI’s EI Data Portal provide most of the information on all active mining, oil and gas licenses as per Requirement 2.3.b, the dates of application for all mining, oil and gas licenses are not publicly accessible and partner names and participating interests in oil and gas working areas are not publicly accessible for all of the licenses held by material companies, despite frequent changes in participating interests in oil and gas working areas. There is no evidence of any MSG efforts to source dates of application.

In accordance with Requirement 2.3, Indonesia is required to maintain a publicly available register or cadastre system(s), providing comprehensive information including dates of application and partners’ participating interests for all licenses held by all oil, gas and mining companies. In the interim Indonesia should ensure that future EITI reporting provide the information set out under EITI Requirement 2.3.b, including dates of application and partner interests, for all oil and gas and mining companies covered in the EITI reporting cycle.

## Contract disclosures (#2.4)

### Documentation of progress

**Systematic disclosures:** The 2008 Law on Public Information Transparency, accessible on the Ministry of Communications and Information website<sup>106</sup>, regulates general access to information, albeit not specifically extractive contracts. The Indonesia EITI website<sup>107</sup> discloses the full text of the Central Information Commission (KIP)’s decision 197/6/VI/KIP-Ps-M-A72011, and minutes of its meeting on contract disclosure, which rules that contracts with Freeport, Newmont, Trimur Prima Coal and Chevron be disclosed to the public. While there is evidence of four oil and gas production-sharing contracts (signed in the 1981-1999 period) having been disclosed on the Resource Contracts portal<sup>108</sup>, it appears that all

<sup>106</sup> Ministry of Communications and Information website, accessed [here](#) in October 2018.

<sup>107</sup> Indonesia EITI website, ‘Rapat Koordinasi Keterbukaan Informasi Kontrak Pertambangan’, accessed [here](#) in October 2018.

<sup>108</sup> Resource Contracts portal, ‘Indonesia contracts’, accessed [here](#) in October 2018.

four are expired. The 1991 Contract of Work between Freeport and the Government of Indonesia is published on the US Securities and Exchange Website<sup>109</sup>, although the annexes detailing fiscal terms are redacted.

**2016 EITI Report: *Government policy*:** The 2015 EITI Report describes legal provisions relevant to contract transparency, albeit without clarifying the government's policy regarding disclosure of contracts in the mineral and coal, oil and gas sectors. The report states that oil and gas PSCs and mineral and coal contracts have not been publicly disclosed (Vol.2,p.46). It describes provisions of Law 14/2008 on Public Information Transparency but notes that disclosure of contracts has been excluded under Articles 11 and 17 given that they "may reveal the natural wealth" of Indonesia (Vol.2,p.46). The report describes Central Information Commission (KIP) decisions 197/ VI / KIP-PS-M-A / 2011 and 356 / IX / KIP-PSM-A / 2011, in a lawsuit by the NGO Foundation of Public Information Development (YP2IP) against the Ministry of Energy and Mineral Resources, that the contracts of three mining companies<sup>110</sup> should be published and that contracts of one oil and gas company<sup>111</sup> should be considered "partial open information" (Vol.2,p.46). However, following appeal by BP Migas to the Supreme Court, the report explains that the decision on disclosure of oil and gas contracts has been cancelled, while the lack of appeal against KIP decision 197/ VI / KIP-PS-M-A / 2011 means that the contracts held by the three mineral and coal companies should be disclosed (Vol.2,p.46). The report then concludes that disclosure of mineral and coal contracts can be requested from the Ministry of Energy and Mineral Resources, based on the KIP decision (Vol.2,p.46).

***Actual practice:*** In *oil and gas*, the report provides a link<sup>112</sup> to a website with the template oil and gas PSC on the EI Data Portal (Vol.2,p.46), but does not refer to any of the four oil and gas PSCs available for Indonesia on the Resource Contracts portal.<sup>113</sup> In *mining*, the report states that copies of mining contracts are available upon request according to the Information and Documentation Management Officer (PPID) at the Ministry of Energy and Mineral Resources, but does not explain the modalities for requesting contracts nor confirmation of the disclosure practice through testing.

## Stakeholder views

***Government policy:*** While there was consensus among stakeholders consulted that oil and gas contracts were not publicly disclosed given strong confidentiality provisions in the PSCs, there was less certainty with regards to the government's policy for contract disclosure in minerals and coal mining. Several government and civil society representatives confirmed that the Supreme Court decision that oil and gas PSCs were not public documents represented formal government policy not to disclose contracts in the oil and gas sector. However, one CSO noted that in civil law jurisdictions like Indonesia, it was possible to break confidentiality clauses and disclose contracts subject to agreement by the two parties to the contract. In mineral and coal mining, several MSG members confirmed that the MSG had discussed the issue of contract disclosure on several occasions. One CSO noted that, despite the KIP decision ruling in favour of disclosure of mining contracts, the ombudsman responsible for enacting the KIP decision on contract disclosure did not have any enforcement powers, meaning that disclosure of mining contracts was not systematic. An industry representative noted the MSG's discussion of contract disclosure in the

<sup>109</sup> Contract of work between the Government of the Republik of indonesia and PT. Freeport Indonesia Company, accessed [here](#) in November 2018.

<sup>110</sup> PT Freeport Indonesia, PT Kaltim Prima Coal (KPC) and PT Newmont Nusa Tenggara (NTT).

<sup>111</sup> PT Chevron Pacific Indonesia.

<sup>112</sup> EI Data Portal, template oil and gas PSC, accessed [here](#) in September 2018.

<sup>113</sup> Resource Contracts website, Indonesia query, accessed [here](#) in September 2018.

context of the Public Information Transparency Law, but considered that disclosures depended on agreement from both parties to the contract and noted that the MSG's discussion was inconclusive in terms of actually disclosing contracts. Secretariat staff noted that the KIP had attended one of the MSG's discussions and explained that commercially-sensitive information would need to be redacted from published contracts. A government official considered that the KIP decision related to disclosure of contracts held by PT Chevron Pacific Indonesia only related to the company's geothermal contracts, not those in oil and gas. Several CSOs consulted considered that mining contracts were required to be open under the KIP ruling, but noted that actual disclosure was dependent on local governments' willingness to publish the contracts, which was not systematic. Several government officials consulted expressed uncertainty over the government's policy on contract disclosure in the mineral and coal mining sector.

*Disclosure practice:* There was consensus among stakeholders consulted that none of the active oil and gas PSCs had been published. One CSO confirmed that the four oil and gas PSCs available through the Resource Contracts portal had all expired. Several CSOs noted that certain mining contracts had been disclosed by specific local governments, such as the Bojonegoro District, following either local governments' open data policies or following specific requests for disclosure by CSOs. One CSO noted that, while Freeport's 1991 Contract of Work had been published on the US SEC website, the annexes containing fiscal terms had been redacted from the published version. CSOs have also created a financial model of the Batu Hijau mine, the second largest copper mine in the country, using the publicly available contract from the SEC website. There was consensus among stakeholders consulted that a systematic review of published contracts had not yet been undertaken. Several government officials consulted expressed uncertainty over whether any mining contracts had been publicly disclosed to date.

*Contractual terms:* There was significant interest from several government and civil society stakeholders consulted over the different fiscal terms in specific contracts, in both oil and gas as well as minerals and coal. Several representatives from all constituencies confirmed that there were different fiscal terms for different generations of oil and gas PSCs, including related to First Tranche Petroleum and the price of Domestic Market Obligations, as well as for the seven different generations of Contracts of Work in minerals and coal mining. One government official explained that relevant government agencies like SKK Migas had to frequently access contracts in order to ensure adequate enforcement of non-tax liabilities. There was consensus among stakeholders consulted that there was no single publicly-accessible table of fiscal terms for different contracts, other than the general annual updates published by accountancies like PwC Indonesia. There was significant interest in publicly disclosing such a list on the part of both CSOs and enforcement agencies of the government.

## Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress towards meeting this requirement. The 2015 EITI Report describes legal provisions relevant to contract disclosure, although its explanation of the government's policy on contract disclosure in the minerals and coal mining sector could have been further clarified. While the report's review of actual disclosure practice implies that no contracts have yet been publicly disclosed, stakeholder consultations noted that certain contracts had been disclosed on an ad hoc basis, which was confirmed by the Secretariat's research. A systematic review of published contracts does not yet seem to have been undertaken, despite significant public demand for information on extractives contracts.

In accordance with Requirement 2.4, Indonesia should ensure that the government's policy on contract disclosure is clear and public, and should undertake a publicly-accessible review of actual practice of contract disclosure in the mining, oil and gas sectors.

## Beneficial ownership disclosure (#2.5)

### Documentation of progress

**Systematic disclosures:** Presidential Regulation 13/2018 enacted on 5 March 2018 codifies the government's policy on beneficial ownership transparency.<sup>114</sup> The Ministry of Energy and Mineral Resources Decree 1796 K / 30 / MEM / 2018 revises guidelines for mineral and coal mining licensing by requiring disclosure of beneficial ownership.<sup>115</sup> Both the Presidential Regulation and the Ministerial Decree are accessible on the EITI Indonesia website. While the Ministry of Justice website<sup>116</sup> includes a portal for company information, including on their legal ownership, the service currently requires registration and charges a fee for access.

**2016 EITI Report: Government policy:** The 2015 EITI Report provides information on the regulations related to beneficial ownership (Vol.2,p.47), including information on different definitions of beneficial owner (Vol.2,p.48) but without the MSG's clear definition of beneficial ownership. The report refers to the three-year beneficial ownership roadmap agreed by the MSG and provides an overview of the current state of implementation.

**Actual practice:** The report does not describe the current practice of beneficial ownership disclosures and there does not appear to have been an attempt to disclose the beneficial owners of material companies in the 2015 EITI Report.

**Legal owners of material companies:** The report does not disclose the legal owners of material companies.

### Stakeholder views

There was significant interest in beneficial ownership disclosure on the part of stakeholders consulted, who considered that the enactment of Presidential Regulation 13/2018 was an impact of EITI implementation. Several government officials highlighted that beneficial ownership transparency was a key aspect of Indonesia's Open Government Partnership objectives, as highlighted in the Paris Declaration of December 2016, and had been included in Indonesia's Anti-Corruption Action Plan. Government officials explained that the priority for beneficial ownership disclosure was in the extractive industries and the palm oil sector. Several CSOs considered that the beneficial ownership agenda was being driven by extractives challenges rather than anti-corruption issues.

A senior government official explained that the current plans were for the beneficial ownership register

<sup>114</sup> Presidential Regulation No.13/2018 – Beneficial Ownership, accessed [here](#) in November 2018.

<sup>115</sup> Ministry of Energy and Mineral Resources Decree 1796 K / 30 / MEM / 2018 – Guidelines for Application, Evaluation, and Issuance of Licensing in the Field of Mineral and Coal Mining, accessed [here](#) in November 2018.

<sup>116</sup> Ministry of Justice website, 'Company search', accessed [here](#) in October 2018.

being developed by the Ministry of Justice be restricted access, open only to certain groups but not to the public. The modalities of access to the register would be set in the planned Presidential regulation on Open Data, which was currently under development. Several government officials from different agencies expressed significant interest in beneficial ownership data, in order to ensure stricter enforcement of licensing rules and tax administration. An industry representative expressed confusion over the definition of beneficial ownership and called for a consistent definition across all government agencies. Several stakeholders noted that there were many inquiries from investors regarding the modalities of beneficial ownership disclosure under the new rules.

Several government officials confirmed that legal ownership information was accessible for all companies through the Ministry of Justice corporate register, although they explained that company data was only available for purchase, at around IDR 500,000 (around USD 35) per company record. An independent commentator highlighted that public access to the corporate register, even at a fee, represented a significant improvement since its recent launch. Several CSOs considered that the fee for access to legal ownership was excessive and restricted access to such data from the majority of civil society that would be interested in it.

### 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, Indonesia has made some progress in implementing its three-year beneficial ownership roadmap, even if public disclosures of beneficial ownership information has yet to begin. While the Ministry of Justice's register provides information on legal owners of all companies, access to this information remains restricted with an access fee that appears excessively high.

In order to strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that Indonesia considers piloting beneficial ownership reporting through the forthcoming EITI reporting cycle in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. Indonesia may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on appropriate quality assurances and sanctions for non-reporting.

## State participation (#2.6)

### Documentation of progress

**Systematic disclosures:** Each of the four extractives SOEs' respective websites provides access to annual reports and audited financial statements of PT Pertamina<sup>117</sup>, PT Aneka Tambang<sup>118</sup>, PT Bukit Asam<sup>119</sup> and

<sup>117</sup> PT Pertamina, 'Report and presentation', accessed [here](#) in October 2018.

<sup>118</sup> PT Aneka Tambang website, accessed [here](#) in October 2018.

<sup>119</sup> PT Bukit Asam website, 'Audit financial report', accessed [here](#) in October 2018.

PT Timah.<sup>120</sup> The annual reports describe each SOE's level of ownership in subsidiaries and joint ventures, including any changes in the year under review, although only some information on the terms associated with this equity. The reports also describe loans and guarantees obtained by the SOE, although not of any loans extended by the SOE to any extractives company. The Ministry of Finance website<sup>121</sup> publishes the annual Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), which disclose the value of budget transfers to each SOEs where applicable.

The government's 'Information System for Regulations' (SIPUU) portal<sup>122</sup> provides the full text of Government Regulations 44/2005 and 72/2016 that regulate state equity in SOEs, Law 40/2007 on limited liability companies that regulate SOEs' reserve requirements, Ministry of Finance Regulation 5/PMK.02.2013 that regulates SOE dividends to government, and Ministry of Finance Regulation 108/PMK.05/2016 that regulates government lending to SOEs. The national government budgets (APBN) are accessible from the Ministry of Finance website.<sup>123</sup>

**2016 EITI Report: *Materiality*:** The 2015 EITI Report confirms that state participation gives rise to material revenues (Vol.2, pp.93,95,99,101,103) and lists four SOEs operating in the extractive industries in 2015 (Vol.2, p.93). It lists PT Pertamina in *oil and gas*, accounting for 25% of oil liftings in 2015, and PT Antam, PT Bukit Asam and PT Timah in mining, accounting for 6% of revenues from minerals and coal in 2015 (Vol.2, p.93). Although the three mining SOEs (Antam, Bukit Asam, and Timah) were included in the scope of reporting, it is notable that ten of Pertamina's subsidiaries were selected as reporting companies, rather than the group as such. Nonetheless, financial data appears to have been sourced from Pertamina's annual report.

***Financial relationship with government*:** The report provides an overview of relationship between SOEs and the government, including the level of state equity in the four SOEs (Vol.2, pp.93-94) and the rules and practices in 2015 related to retained earnings, reinvestments and dividends, subsidiary loan agreements and financial report audits (Vol.2, pp.93-95,99,101,103). However, the report does not describe the rules and practice related to SOEs' third-party financing. In mid-2018, EITI Indonesia published links to the audited financial statements and annual reports for 2015 of the three mining SOEs on its website<sup>124</sup>, from which the practice of retained earnings and third-party financing in 2015 is reflected.

***Government ownership*:** The report provides information on the state's participation in the four SOEs, including value of shares and state equity in absolute and relative terms (Vol.2, pp.94,95,99,101,103), as well as details of each SOE's equity interests in each of their subsidiaries (Vol.2, pp.97,100,102,103), including Pertamina's direct ownership in working areas (Vol.2, p.98). However, the report does not detail the terms associated with each SOE's equity interests in each of their subsidiaries, even if it does clarify the terms associated with state equity in each of the four SOEs (see '*financial relations*' above).

***Ownership changes*:** The report confirms the lack of state participation in any subsidiaries of PT Antam and PT Timah (Vol.2, pp.100,104) and describes changes in state ownership in subsidiaries of PT Pertamina

<sup>120</sup> PT Timah, 'Report', accessed [here](#) in October 2018.

<sup>121</sup> Ministry of Finance website, Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), accessed [here](#) in October 2018.

<sup>122</sup> Cabinet Secretariat of the Republic of Indonesia, 'Information System for Regulations' (SIPUU Portal), accessed [here](#) in October 2018.

<sup>123</sup> Ministry of Finance, 'APBN data', accessed [here](#) in October 2018.

<sup>124</sup> EITI Indonesia (2018), 'Financial reports and CSR of SOEs', accessed [here](#) in October 2018.

and PT Bukit Asam, (Vol.2,pp.98,102). However, the report does not describe the terms of the transactions, including valuations and revenues, in the changes in state participation involving Pertamina and Bukit Asam, and does not refer to any changes in Pertamina's equity in any of its subsidiaries in 2015.

*Loans and guarantees:* The report states that the government may extend loans to SOEs pursuant to Regulation of Minister of Finance 108/PMK.05/2016, and notes that loans extended to SOEs are recorded in their audited financial statements, with links to statements provided (Vol.2,p.95). While noting the lack of loans or guarantees to PT Antam, PT Bukit Asam and PT Timah in 2015 (Vol.2,p.100), the report describes information on loans to Pertamina, including lender name, value, purpose, repayment period, interest rate and balance as at end-2015 (Vol.2,p.97). However, the report does not clarify whether these loans to Pertamina are covered by a sovereign guarantee (or any other exposure of the state). The report provides details on the loans granted by government and "forwarded" to Pertamina (Vol.2,p.97) and confirms that other SOEs in the scope of EITI reporting did not have any loans from the government and did not provide guarantees for other companies.

### Stakeholder views

*Materiality:* There was consensus among stakeholders consulted that the four SOEs covered in the 2015 EITI Report represented all companies that fit the description of SOEs under Requirement 2.6.a. Government officials confirmed that shares in PGN were held directly by the Ministry of State-Owned Enterprises in 2015, but that PGN was only involved in the mid-stream gas industry and did not participate in upstream exploration and production. There was significant interest from stakeholders in the restructuring of mining SOEs into a holding group structure under PT Inalum in 2017, although there was consensus that PT Inalum was not involved in upstream exploration and production in 2015.

*SOE financial relations with government:* Stakeholders consulted did not express any particular views on the 2015 EITI Report's coverage of the financial relations between SOEs and the government. Several government officials considered that the statutory rules governing the financial relations between SOEs and the government were clearly defined in the Law on SOEs (Law 19/2003) and implementing regulations (Government Regulation 33/2005). Several government representatives considered that the statutory rules allowed for SOEs to raise third-party debt financing without prior authorisation from the government, but that SOEs required explicit authorisation from government in order to raise external equity financing. However, several CSOs considered that the management of SOEs like Pertamina was politicised, reflected in the human resource management decisions. While SOEs had shares listed on the Indonesian Stock Exchange, several officials explained that SOEs required authorisation from the Ministries of SOEs and of Finance in order to issue additional equity. Government officials explained that the Ministry of Finance's DG Asset Management was responsible for oversight of the SOEs' balance sheets and reviewed the SOEs' payments of dividends to the government.

With regards to government loans to SOEs, a government representative confirmed that the four foreign sovereign loans on-lent to Pertamina disclosed in the 2015 EITI Report represented government-to-government loans, which were on-lent by the government to Pertamina. While several government officials expressed uncertainty over whether SOE debt was explicitly guaranteed by the state, several commentators and other government officials confirmed that there was no explicit sovereign guarantee

for SOEs' debt, only an assumption by lenders of an implicit sovereign guarantee to SOEs that justified lending rates at below commercial terms. Several government representatives noted that SOEs made loans to their subsidiaries, but did not provide loans or guarantees to any third-party extractives companies.

***Intra-SOE financial relations:*** With regards to the comprehensiveness of the 2015 EITI Report's coverage of SOE subsidiaries, most stakeholders consulted did not express any particular opinion while several government officials considered that the report covered all SOE subsidiaries engaged in upstream extractives activities. It was clarified that Pertamina has interests in other companies beyond the 15 extractives companies listed in the 2015 EITI Report, but that these were engaged in either non-extractives or mid- and downstream extractives activities. However, it was explained that a comprehensive list of all SOE subsidiaries was available in each of the four SOEs' annual report. Yet, several government stakeholders consulted expressed uncertainty over the terms associated with each SOE's equity in their different subsidiaries. Several government and civil society stakeholders confirmed that companies in which SOEs held equity, including wholly-owned subsidiaries, were not considered SOEs themselves but rather as limited liability companies under Law 40/2007. This implied that these SOE subsidiaries could decide their own dividend policy, retain earnings, reinvest in their operations and seek third-party funding in the same way as private companies. However, these representatives emphasised that the Board of Directors of companies majority owned by SOEs were dominated by appointees of the SOE holding the equity, implying oversight by the SOE of each subsidiary's financial management. A CSO consulted expressed concerns over the lack of clarity on financial relations between companies in which SOEs held equity and the SOE groups. With regards to the lack of information on the terms of transactions related to changes in ownership involving Pertamina and Bukit Asam in 2015, a government official considered that these should have been described in the two SOEs' 2015 annual reports. However a review of the Bukit Asam and Pertamina 2015 annual reports does not reveal details of the terms of the transactions.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress in meeting this requirement. The 2015 EITI Report provides a comprehensive list of companies in which the government holds equity and clarifies that state participation in four SOEs gives rise to material revenues. The report describes the rules and practice related to financial relations between extractives SOEs and the government, but does not provide information on the terms associated with state equity, particularly in the four SOEs' subsidiaries and joint ventures. The report discloses a list of all SOE participations in the upstream extractive industries, with a comprehensive list of all subsidiaries (including non-extractives companies) is available in each of the four SOEs' annual reports. The report describes changes in state participation in 2015, but does not explain the terms of the transactions, including details regarding valuation and revenues. The report describes loans extended by the state to Pertamina and confirms the lack of other state loans or guarantees to extractives companies and of any loan from the three other SOEs to any extractives company.

In accordance with Requirement 2.6, Indonesia's government and SOEs must disclose their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership

during the reporting period. This information should include details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues.

**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
Legal framework (#2.1)	<p>The 2015 EITI Report provides an overview of relevant laws and regulations, government entities and fiscal terms, including the degree of fiscal devolution, in the mining, oil and gas sectors as well as brief commentary on current reforms. While there is no comprehensive review of the different fiscal terms of contracts in either oil and gas or minerals and coal in the public domain, the 2015 EITI Report provides an overview of the general fiscal terms applicable in the extractive industries.</p>	Satisfactory progress
License allocations (#2.2)	<p>The 2015 EITI Report confirms the lack of award of any new mining, oil and gas licenses in 2015, and lists participating interests in oil and gas working areas transferred in 2015. While the report does not refer to transfers of mining contracts of work or mining licenses (IUPs), there was consensus among stakeholders consulted that the ban on transfers of mining licenses was enforced in practice, even if mergers and acquisitions involving license-holders was common. The report describes the general statutory procedures for awarding licenses, including technical and financial criteria assessed, and the general process for transferring participating interests in oil and gas working areas, albeit without listing the technical and financial criteria assessed in the transfer process. While the report comments on the lack of non-trivial deviations from statutory procedures in the tendering of oil and gas working areas in 2015 (that were awarded in subsequent years), it does not comment on non-trivial deviations in the</p>	Meaningful progress

	transfers of participating interests in oil and gas working areas in 2015.	
License registers (#2.3)	While the Ministry of Energy and Natural Resources' ERM One Map portal and disclosures on Indonesia EITI's EI Data Portal provide most of the information on all active mining, oil and gas licenses as per Requirement 2.3.b, the dates of application for all mining, oil and gas licenses and partner names and participating interests in oil and gas working areas are not publicly accessible in a centralised location for any of the licenses held by material companies, despite frequent changes in participating interests in oil and gas working areas. While the 2015 EITI Report provides a list of 69 oil and gas working areas with partner names and participating interests, the report provides contradictory information regarding the comprehensiveness of this information given its reference to 167 material oil and gas companies (see Requirement 2.4).	Meaningful progress
Contract disclosures (#2.4)	The 2015 EITI Report describes legal provisions relevant to contract disclosure, although its explanation of the government's policy on contract disclosure in the minerals and coal mining sector is confusing. While the report's review of actual disclosure practice implies that no contracts have yet been publicly disclosed, stakeholder consultations noted that certain contracts had been disclosed on an ad hoc basis. A systematic review of published contracts does not yet seem to have been undertaken, despite significant public demand for information on extractives contracts.	Meaningful progress
Beneficial ownership disclosure (#2.5)	Indonesia has made some progress in implementing its three-year beneficial ownership roadmap, even if public disclosures of beneficial ownership information has yet to begin. While the Ministry of Justice's register provides information on legal owners of all companies, access to this information remains restricted with an access fee that appears excessively high.	
State-participation (#2.6)	The 2015 EITI Report provides a comprehensive list of companies in which the government holds equity and clarifies that state participation in four SOEs gives rise to material revenues. The report	Meaningful progress

	<p>describes the rules and practice related to financial relations between extractives SOEs and the government, but does not provide information on the terms associated with state equity, particularly in the four SOEs' subsidiaries and joint ventures. The report discloses a list of all SOE participations in the upstream extractive industries, with a comprehensive list of all subsidiaries (including non-extractives companies) is available in each of the four SOEs' annual reports. The report describes changes in state participation in 2015, but does not explain the terms of the transactions, including details regarding valuation and revenues. The report describes loans extended by the state to Pertamina and confirms the lack of other state loans or guarantees to extractives companies and of any loan from the three other SOEs to any extractives company.</p>	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>- To strengthen implementation, Indonesia is encouraged to ensure that a comprehensive review of legal provisions and fiscal terms of active contracts in the mining, oil and gas sector be publicly available. Indonesia may wish to consider means of improving the public accessibility of information on key laws, fiscal terms, roles of relevant government entities and ongoing reforms through routine publications on government and company websites.</li> <li>- In accordance with Requirement 2.2, Indonesia is required to disclose information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report. This information should include the number of mining, oil and gas licenses awarded and transferred in the year covered by EITI reporting, a description of the award procedures, including specific technical and financial criteria assessed, and highlight any non-trivial deviations in practice. In addition, Indonesia may wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.</li> <li>- In accordance with Requirement 2.3, Indonesia is required to maintain a publicly available register or cadastre system(s), providing comprehensive information including dates of application and partner interests for licenses held by all oil, gas and mining companies. In the interim Indonesia should ensure that future EITI reporting provide the information set out under EITI Requirement 2.3.b, including dates of application and partner interests, for all oil and gas and mining companies covered in the EITI reporting cycle.</li> <li>- In accordance with Requirement 2.4, Indonesia should ensure that the government's policy on contract disclosure is clear and public, and that a review of actual practice of contract disclosure in the mining, oil and gas sectors be publicly accessible.</li> <li>- In order to strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that Indonesia considers piloting beneficial ownership reporting through the forthcoming EITI reporting cycle in order to increase awareness of beneficial</li> </ul>		

ownership transparency and pilot beneficial ownership definitions and thresholds. Indonesia may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on appropriate quality assurances and sanctions for non-reporting.

- In accordance with Requirement 2.6, Indonesia's government and SOEs must disclose their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. This information should include details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues.

## 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

**Systematic disclosures:** The Minerba One Data Indonesia (MODI)<sup>125</sup> offers a public user interface for key data on the sector. The Energy and Mineral Resources (EMR) One Map Indonesia<sup>126</sup> is the public license cadastral portal, referred to as the Geoportal, integrating information on all land-use and seismic activity on a single portal. SKK Migas' annual reports, published on its website<sup>127</sup> provides annual updates on investment in exploration and significant activities in the oil and gas sector.

**2016 EITI Report:** The 2015 EITI Report provides an overview of the extractive industries (Vol.2,pp.77-91), including information on significant exploration activities and links to the annual reports of SKK Migas<sup>128</sup> and the Indonesian Geology Agency<sup>129</sup> for further information (Vol.2,p.89). A brief overview of informal activities in mining is provided (Vol.2,p.111).

##### Stakeholder views

Stakeholders consulted did not express any particular views on the 2015 EITI Report's coverage of the extractive industries, including significant exploration activities. One government official highlighted the availability of all reports from KPK, including on extractives issues, on the Anti-Corruption Clearing House portal.<sup>130</sup>

##### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made satisfactory progress towards meeting this requirement. The 2015 EITI Report provides an overview of the mining, oil and gas sectors, including significant exploration activities.

<sup>125</sup> Ministry of Energy and Mineral Resources, MODI Dashboard Minerba, op.cit..

<sup>126</sup> Ministry of Energy and Mineral Resources, Minerals One Map Indonesia portal, op.cit..

<sup>127</sup> SKK Migas website, 'Annual reports', accessed [here](#) in October 2018.

<sup>128</sup> SKK Migas website, Publications section, accessed [here](#) in September 2018.

<sup>129</sup> Indonesian Geology Agency website, Mineral resources section, accessed [here](#) in September 2018.

<sup>130</sup> Corruption Eradication Commission – KPK, Anti-Corruption Clearing House, accessed [here](#) in November 2018.

## Production data (#3.2)

### Documentation of progress

**Systematic disclosures:** For oil and gas, SKK Migas' Data Dashboard<sup>131</sup> provides production volumes for oil and gas, but no production values. For mining, the Directorate of Minerals website<sup>132</sup> publishes aggregate production volumes for each mineral commodity produced, although no production values. The Indonesia EITI Data Portal<sup>133</sup> provides information on aggregate production volumes and values, per mineral commodity and per company, reconciled between Directorate of Minerals and company data. The National Statistics Bureau (BPS)<sup>134</sup> publishes production volumes for minerals, oil and gas, albeit no production values and with significant delay.<sup>135</sup>

**2016 EITI Report: Production volumes:** The 2015 EITI Report provides 2015 production and lifting volumes for oil and gas (Vol.2,pp.81,83) and 2015 production volumes for the six minerals<sup>136</sup> produced in 2015 (Vol.2,p.85). However, a review of other government reports such as the Ministry of Energy and Mineral Resources' 2015 Mineral and Coal Information report highlights production of other minerals aside from the six commodities listed in the EITI Report, including bauxite, iron ore and granite.<sup>137</sup>

**Production values:** For *oil and gas*, the report provides the value of 2015 liftings from the 15 main working areas (Vol.3,pp.83,84), but does not provide the value of total 2015 oil and gas liftings or of production. The report distinguishes between liftings and production and clarifies that gas liftings are recorded rather than gas production, given that "value realisation is only conducted at the time of lifting" (Vol.2,p.85). However, EITI Indonesia published a new webpage in mid-2018, with the values of total national production and liftings for each year in the 2011-15 period.<sup>138</sup> These production values were computed by the EITI Indonesia secretariat given the lack of official government data on production values for oil and gas.

For *mining*, the report does not provide the values of production for any of the six minerals produced in 2015, only noting that "provision of production value information by relevant institution is not common" (Vol.2,p.85). Nevertheless, EITI Indonesia published a new webpage in mid-2018, with the values of total national production of coal for each year in the 2011-15 period and average annual prices for 2015 for the five other mineral commodities produced.<sup>139</sup> These production values were computed by the EITI Indonesia secretariat given the lack of official government data on production values for coal.

**Location:** The report provides an overview of the location of the 15 main working areas (Vol.2,pp.82-84) and the main provinces hosting production (Vol.2,pp.87-88) for oil and gas as well as the location of production for coal (Vol.2,p.89). An overview of the contribution of the extractives per region is also provided (Vol.2,pp.90-91). The report also refers to the ERM One Map portal for further information on

<sup>131</sup> SKK Migas Data Dashboard, op.cit..

<sup>132</sup> See Data tab of the website of the Directorate of Minerals of the Ministry of Energy and Mineral Resources, accessed [here](#) in October 2018.

<sup>133</sup> EITI Data Portal, op.cit..

<sup>134</sup> National Bureau of Statistics (BPS) website, 'Mining statistics', accessed [here](#) in October 2018.

<sup>135</sup> The latest data available in 2018 was for 2015.

<sup>136</sup> Coal, copper, gold, silver, tin and nickel matter.

<sup>137</sup> Ministry of Energy and Mineral Resources, 'Indonesia mineral and coal information 2015', accessed [here](#) in November 2018, p.18.

<sup>138</sup> EITI Indonesia (2018), 'Data on commodity production value', accessed [here](#) in October 2018.

<sup>139</sup> Ibid.

the precise location of all mining, oil and gas licenses (Vol.2,p.48).

### Stakeholder views

In terms of oil and gas production data, a government official emphasised the difference between production and liftings, the latter representing the share of production that was sold (to either domestic or foreign buyers). The official noted that SKK Migas did not track values for production, since it was not commercialised as such, but rather tracked the value of liftings, since these amounted to sales. Nonetheless, none of the stakeholders consulted raised concerns over EITI Indonesia's approach of computing production value for oil and gas using an average annual price of oil and of gas. A government official confirmed that SKK Migas had been involved in and approved these computations. Several industry representatives noted that operators submitted information on lifting volumes and values as part of their Financial Quarterly Reports (FQR) to SKK Migas. They highlighted their lack of interest in production values, for the same reasons cited for SKK Migas' lack of tracking of production values. A government official highlighted the importance of SKK Migas' restricted-access integrated performance evaluation system (SOT), which reconciled lifting data between operators and SKK Migas to support the administration of non-tax revenue collections.

In terms of mining production data, a government official considered that the estimation of production values based on an average annual benchmark price for each commodity was acceptable, given that this was the method used by DG Minerals and Coal internally. However, the official noted reforms in 2017 that required the Ministry of Energy and Mineral Resources to publish an average price for each commodity on a monthly basis. None of the stakeholders consulted, including the IA, raised any concerns over the computation of production values using a single annual reference price. Stakeholders consulted did not express any particular views on whether the six mineral commodities cited in the 2015 EITI Report were comprehensive of all mining production in Indonesia in 2015.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress towards meeting this requirement. The 2015 EITI Report provides volumes of 2015 production for oil, gas and six minerals produced that year, but does not provide production values for any of the eight extractives commodities produced. It is evident from other publicly-available government sources that Indonesia produced other mineral commodities in the year under review than the six listed in the 2015 EITI Report. The EITI Indonesia website disclosed estimates of production values for oil and gas in 2015 as well as an annual reference price for each of the six mineral commodities covered in the EITI Report, from which production values for each of the six minerals can be calculated.

In accordance with Requirement 3.2, Indonesia should ensure that annual production volumes and values be publicly accessible for all minerals, oil and gas produced in the year under review.

## Export data (#3.3)

### Documentation of progress

**Systematic disclosures:** The National Bureau of Statistics publishes export volumes and values by commodity for oil, gas and all mineral commodities exported, albeit with a significant delay.<sup>140</sup> The Ministry of Industry website<sup>141</sup> publishes monthly figures on export values per mineral commodity, within four months of the period covered.

**2016 EITI Report: Export volumes:** The 2015 EITI Report provides 2015 export volumes for the two minerals<sup>142</sup>, oil and gas marked as exported in 2015 (Vol.2,p.86), but lumps together 13m tons of “other mining products” valued at USD 0.2bn, without disaggregating these “other mining” exports by commodity.

**Export values:** The report provides 2015 export values for the two minerals, oil and gas marked as exported in 2015 (Vol.2,p.86), but lumps together 13m tons of “other mining products” valued at USD 0.2bn, without disaggregating these “other mining” exports by commodity.

**Location:** The report provides data disaggregated by province for 2015 export volumes of oil, gas and coal (Vol.2,pp.88,89) and export values for oil and gas (Vol.2,pp.87-88). A link<sup>143</sup> is also provided to the Bureau of National Statistics (BPS) website for further information on commodity exports by province (Vol.2,p.89).

### Stakeholder views

None of the stakeholders consulted could explain why a number of different mineral exports had been lumped together as “other mineral exports” in the 2015 EITI Report. The IA stated that it would have to clarify the issue internally before responding. Several government and civil society representatives raised significant concerns over the accuracy of government export data for minerals and coal, noting allegations of significant smuggling and trade mis-pricing by companies and informal actors. There was significant concern over the role and professionalism of surveyors. The IA considered that it was not possible to cover such sensitive issues in EITI Reports despite demands from civil society and explained that estimates on unrecorded or informal mineral exports had been redacted from draft EITI Reports.

### Initial assessment

The International Secretariat’s initial assessment is that Indonesia has made meaningful progress in meeting this requirement. The 2015 EITI Report provides 2015 export volumes and values for four mineral commodities marked as exported in the year under review (2015), but provides aggregate export data for “other minerals exported”, without disaggregating volumes and values by mineral commodity.

In accordance with Requirement 3.3, Indonesia must ensure that annual export volumes and values be

<sup>140</sup> The latest data available in 2018 was for 2015.

<sup>141</sup> Ministry of Industry website, ‘Industry performance’, accessed [here](#) in October 2018.

<sup>142</sup> Coal and copper ore.

<sup>143</sup> Bureau of National Statistics (BPS) website, Publications webpage, accessed [here](#) in September 2018.

publicly accessible for all minerals, oil and gas produced in the year under review, disaggregated by commodity. In light of significant stakeholder concerns over the reliability of official government export data, Indonesia may wish to use EITI reporting to disclose information on the monitoring and valuation of extractives export, as well as include estimates of unrecorded or informal exports in future EITI reporting cycles.

**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
Overview of the extractive sector, including exploration activities (#3.1)	The 2015 EITI Report provides an overview of the mining, oil and gas sectors, including significant exploration activities.	Satisfactory progress
Production data (#3.2)	The 2015 EITI Report provides volumes of 2015 production for oil, gas and six minerals produced that year, but does not provide production values for any of the eight extractives commodities produced. It is evident from other publicly-available government sources that Indonesia produced other mineral commodities in the year under review than the six listed in the 2015 EITI Report. The EITI Indonesia website disclosed estimates of production values for oil and gas in 2015 as well as an annual reference price for each of the six mineral commodities covered in the EITI Report, from which production values for each of the six minerals can be calculated.	Meaningful progress
Export data (#3.3)	The 2015 EITI Report provides 2015 export volumes and values for four mineral commodities marked as exported in the year under review (2015), but provides aggregate export data for "other minerals exported", without disaggregating volumes and values by mineral commodity.	Meaningful progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>- In accordance with Requirement 3.2, Indonesia should ensure that annual production volumes and values be publicly accessible for all minerals, oil and gas produced in the year</li> </ul>		

under review.

- In accordance with Requirement 3.3, Indonesia must ensure that annual export volumes and values be publicly accessible for all minerals, oil and gas produced in the year under review, disaggregated by commodity. In light of significant stakeholder concerns over the reliability of official government export data, Indonesia may wish to use EITI reporting to disclose information on the monitoring and valuation of extractives export, as well as include estimates of unrecorded or informal exports in future EITI reporting cycles.

## 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

**Systematic disclosures:** In terms of government disclosure of revenues, the Ministry of Finance website<sup>144</sup> publishes the annual Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), which include the aggregate value of tax and non-tax revenues from all companies on an annual basis, disaggregated by general type of revenue but not by company or sector (e.g. extractives). The data in the government’s financial reports is audited by the Auditor General.

In terms of company disclosures of payments, a cursory review indicates that 12 of the 288 material companies in the 2015 EITI Report published mandatory payments to government reports related to their Indonesia operations in offshore jurisdictions, including Canada, France and the United Kingdom. The 12 companies are subsidiaries of five different groups (see Annex D). The global Resource Projects portal<sup>145</sup> aggregates these mandatory payments to government reports.

**2016 EITI Report:** The 2015 EITI Report treats government liftings, inclusive of First Tranche Petroleum (FTP), Equity oil and gas, and Domestic Market Obligation (DMO) oil, as a single government revenue in the reporting templates<sup>146</sup>, in line with the approach in previous EITI Reports. The report describes the three types of revenues combined in government liftings (Vol.2, pp.38-39). FTP is a form of in-kind royalty levied on oil and gas production prior to other deductions. Equity oil and gas is the profit-sharing between contractor and state after deductions of FTP, Investment credit (KI) and Cost recovery (CR). The DMO oil is sold at a discounted rate to the state, which pays a DMO fee. The report clearly categorises ‘net’ DMO oil (i.e. net of costs such as DMO fee) as a form of non-tax revenue (Vol.2, pp.15-16), with reference to Ministry of Finance regulations for the DMO fee (Vol.2, p.28). The report illustrates the cash flow in PSCs (Vol.2, p.38; Vol.3, pp.35-36) and describes the mechanism for annual adjustments to reflect the final lifting quotas of the contractor and SKK Migas, through the Over/Under lifting mechanism (Vol.2, p.37). The proceeds of sales of government lifting are transferred to the Treasury account at Bank Indonesia (BI), via a BI account at the Federal Reserve Bank in New York for exports (Vol.3, p.36). The lack of disaggregation of the three revenue streams is covered under *Requirement 4.7*. The report includes the reconciliation of DMO fees, i.e. the fee paid by government to contractors for the oil purchased by government under the

<sup>144</sup> Ministry of Finance website, Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), accessed [here](#) in October 2018.

<sup>145</sup> Resource Projects portal, accessed [here](#) in October 2018.

<sup>146</sup> EITI Indonesia (2017), ‘EITI Indonesia Reporting Template for Oil and Gas Sector – 2015’, accessed [here](#) in September 2018.

DMO, between figures from SKK Migas and companies (Vol.4,pp.18-19,70-138). This allows for the ability to net out DMO fee expenditures from the proceeds of sales of government liftings, although this calculation is not explicitly provided in the report.

**Materiality threshold for revenue streams:** The 2015 EITI Report describes the MSG's agreed materiality threshold for selecting revenue streams for reconciliation, which was set at "1% of the total state revenue of each extractive industry sector" (Vol.3,p.24). This implies that all revenue streams accounting for more than 1% of total revenues in either oil and gas or minerals and coal were included in the scope of reconciliation. While the MSG's approach to materiality for selecting revenue streams consists of a clear quantitative materiality threshold (e.g. as a share of government revenues) and lists revenue streams that were considered non-material (Vol.3,pp.33-34), the report does not provide the value of each material revenue stream, in aggregate, to justify the selection of material revenue streams. The list of material revenue streams provided (Vol.3,pp.32-33) excludes several revenues listed under Requirement 4.1.b, such as license fees (for mining) and signature bonus for new licenses (for oil and gas), without a clear justification in the MSG meeting minutes, scoping study or EITI Report.

**Descriptions of material revenue streams:** The report lists the six material revenue streams each in oil and gas and in coal and mining (Vol.3,pp.32-33), with descriptions of all material revenue flows provided (Vol.3,pp.37-45). However, it appears that certain revenue streams, such as Corporate and Dividend Tax, were reported in aggregate (Vol.3,p.32;Vol.4,pp.70-138)), rather than disaggregated by revenue stream as in the reporting template<sup>147</sup> (see Requirement 4.7).

**Materiality threshold for companies:** The report describes the MSG's approach to materiality in the selection of extractives companies for reporting, confirming the materiality threshold of zero for selecting oil and gas companies in the production phase and the materiality threshold of IDR 14bn in aggregate revenues of sales revenue share (PHT), royalties and land rent combined (Vol.3,p.45). This has effectively excluded oil and gas companies at the exploration phase from the scope of reconciliation, without clear justification for their exclusion in the EITI Report or scoping study.

The report confirms that the target for reconciliation coverage in mining was 93.61% of total government non-tax mining revenues, including 56.47% of total royalties, 40.33% of total PHT and 3.2% of total land rent revenues (Vol.3,p.45).

**Material companies:** The report states that 167 oil and gas companies, including 69 operators and 98 partners, and 123 mining companies were selected for reconciliation (Vol.3,p.45). The list of 123 material mining companies is provided in appendix (Vol.4,pp.8-13).

The distribution of the number of oil and gas operators by region provided in the report indicates 61 operators and notes that Pertamina acts as operator on the rest (presumably holding the other eight operatorships) through "own operational scheme and various partnership cooperation" (Vol.3,p.45). The list of 69 operators – inclusive of the Pertamina subsidiaries – and their 29 non-operator partners is provided in appendix to the 2015 EITI Report (Vol.4,pp.5-7). It is a concern that the EITI Report on the one hand states that there are 167 material oil and gas companies (Vol.3,p.45) and on the other only lists 98

<sup>147</sup> EITI Indonesia (2017), 'EITI Indonesia Reporting Template for Oil and Gas Sector – 2015', accessed [here](#) in September 2018.

oil and gas companies (Vol.4,pp.5-7), without listing the other 69 oil and gas companies deemed material.

**Material company reporting:** The report confirms the lack of submission of reporting templates by 14 companies in oil and gas, including five operators and nine non-operators (Vol.3,pp.52-53), and 38 companies in mining (Vol.3,pp.54-55). The names of non-reporting companies are listed (Vol.3,pp.53-55).

In *oil and gas*, the report explains that two<sup>148</sup> of the five non-reporting operators did not report because they had been “declared bankrupt by court” (although the timing of this judgement is not provided) while the other three<sup>149</sup> non-reporting operators were subsidiaries of Energi Mega Persada Group, which is described as having been “unable to report due to internal problems of the company” (Vol.3,p.52). The report provides the value of government oil and gas liftings (i.e. non-tax revenues) from non-reporting oil and gas companies in absolute and relative terms (0.63%) (Vol.3,p.53), but does not provide the value of tax payments from any of the 14 non-reporting companies, presumably given that they did not sign the confidentiality waiver letter of authorisation.

In *mining*, the report explains the reasons for non-reporting for eight of the 38 non-reporting material mining companies, lists the 38 companies and provides the value of non-tax revenues (Royalty, Sales Revenue Share and Land Rent) from each of the 38 non-reporting companies, which amounted to 7.5% of non-tax revenues reported by DG Minerals and Coal (Vol.3,pp.54-55). The report states that only 75 of the 85 reporting mining companies submitted confidentiality waiver letters of authorisation, and notes that the 75 complying companies accounted for a combined 98.07% of the Corporate Income Tax reported by DG Tax for all 123 material mining companies combined (Vol.3,p.56). However, the report does not provide the value of Corporate Income Tax payments for the 38 non-reporting mining companies, either in aggregate or per company, which hinders an assessment of the materiality of total payments to government from each of the 38 non-reporting mining companies.

**Tax confidentiality:** The report describes the taxpayer confidentiality provisions of the General Taxation Law and explains the system of waivers, through letters of authorisation signed by reporting companies (Vol.3,p.57). The report notes that ten of the reporting oil and gas companies (Vol.3,p.64) and ten of the reporting mining companies (Vol.3,p.56) did not provide signed letters of authorisation. While the report names the 10 reporting oil and gas companies that did not submit letters of authorisation, it does not name the ten non-complying reporting material mining companies. The report provides the value of corporate income tax payments from the ten reporting oil and gas companies that did not provide letters of authorisation, based on each company’s reporting disaggregated by company and in aggregate (1.94% of corporate income tax revenue) (Vol.3,p.64).

**Material government entities:** The report lists the five material government entities<sup>150</sup> included in the scope of reconciliation, as well as the four government entities<sup>151</sup> from whom only unilateral disclosures were requested (Vol.3,p.26). It is notable that, while the three mining SOEs (Antam, Bukit Asam, and Timah) were included in the scope of reporting, Pertamina group was not selected as a reporting entity as such, but rather ten of its subsidiaries were selected as reporting companies. Nonetheless, financial data

<sup>148</sup> PT Sumatera Persada Energi and Petrosetat Ltd.

<sup>149</sup> PT EMP Tonga, EMP Malacca Strait S.A. and EMP (Bentu) Ltd.

<sup>150</sup> DG Tax, DG Budget, DG Oil and Gas, DG Minerals and Coal and SKK Migas.

<sup>151</sup> DG Fiscal Balance, Riau Provincial Government, East Kalimantan Provincial Government and East Java Provincial Government.

appears to have been sourced from Pertamina's annual report.

**Government reporting:** The report confirms that all nine material government entities submitted reporting templates (Vol.3,pp.52).

**Discrepancies:** The report describes the MSG's materiality threshold for investigating discrepancies, set at 5% of revenues collected (implied within a particularly revenue stream) (Vol.3,p.24). The discrepancies pre-reconciliation, adjustments and final net unreconciled discrepancies are presented in the reconciliation results in Chapter 4 of the reconciliation report (Vol.3) and Appendices 2-3, with an overview of the main reasons for discrepancies (Vol.3,pp.58-70;Vol.4,pp.14-261). Despite the large number of initial discrepancies, the value of final net unreconciled discrepancies was below 2% for the reconciliations of both oil and gas (Vol.3,pp.60,62) and mining (Vol.3,pp.66,68).

**Full government disclosure:** The report presents the value of total government non-tax revenues in oil and gas, including from non-material and non-reporting companies (Vol.3,p.53), and the value of total government non-tax revenues from the 123 material mining companies (Vol.3,pp.54-55), but does not provide full government disclosure of non-tax revenues from oil and gas companies disaggregated by revenue streams, nor the value of total non-tax revenues from all mining companies, including those considered non-material. The report provides the value of total government tax revenue from all extractives companies, albeit not disaggregated by type of tax (Vol.3,p.56), and total government Corporate Income Tax revenues from all mining companies (Vol.3,p.56), but does not provide the value of Corporate Income Tax revenues from all oil and gas companies. It is not possible to calculate the value of total government revenues, including from non-material companies, for each of the material revenue streams in the 2015 EITI Report, given the lack of disaggregation in tax and non-tax revenue data.

## Stakeholder views

**Material revenues:** While most stakeholders consulted considered the list of material revenue streams in the 2015 EITI Report to be comprehensive of all payments and revenues whose omission or misstatement could significantly affect the comprehensiveness of the EITI Report, several industry representatives raised concerns over the exclusion of several revenue streams that they considered significant to understanding the industry's full contribution to government revenues. Secretariat staff and the IA confirmed that the 1% materiality threshold for selecting revenue streams for reconciliation related to 1% of total non-tax revenues in oil and gas on the one hand and in mineral and coal mining on the other. The IA confirmed that the scope of revenue streams for reconciliation remained unchanged from previous years. A government official considered that the tax revenues covered in the reconciliation were comprehensive of all direct taxes imposed on extractives companies. The selection of revenue streams based on their share of non-tax revenues was justified by the legal taxpayer confidentiality provisions, which hindered the government's ability to disclose information on tax revenues, according to several MSG members from government and civil society. Members of the MSG explained that certain revenue streams listed under Requirement 4.1.b, such as license fees in mining, had been excluded from the scope of reconciliation based on their contribution of less than 1% of government mining revenues.

However, in *mining*, an industry representative raised concerns over the comprehensiveness of coverage

of revenue streams, given the exclusion of company payments other than land rent, royalty and corporate income tax. Citing the annual PwC Indonesia reports on the mining sector, the representative considered that payments to other ministries added up to significant non-tax payments in aggregate. The IA also raised general concerns over the exclusion of “other payments to SOEs” from the scope of reporting, albeit without clearly describing the specific SOE transactions alluded to (*see Requirement 4.5*). Upon discussion of the fact that payments to government reported in EITI Reports appeared lower than those reported in other public sources such as company disclosures, none of the stakeholders consulted could explain the reasons for differences. However, a review of Freeport McMoran’s unilateral payments to government reporting on its website indicates that indirect taxes such as Withholding Tax on Foreign Dividends and Employee Payroll Taxes that were excluded from the scope of reporting were significant in value, of USD 105m and USD 57m respectively in 2017.<sup>152</sup> It is unclear from publicly-accessible data whether Freeport McMoran Indonesia paid dividends to government in 2015. However, there is no clear justification in MSG meeting minutes, the 2015 scoping study (on 2012-13 data)<sup>153</sup> or the 2015 EITI Report scoping report<sup>154</sup> for the exclusion of indirect taxes like withholding taxes. Several stakeholders consulted expressed surprised at the lack of dividends from Freeport to the government in the 2015 EITI Report.

In *oil and gas*, there was significant debate during stakeholder consultations over the categorizations of revenues within government liftings, which was reconciled as a single revenue in EITI reporting. Government officials confirmed that the state collected all tax related to oil and gas in cash, despite regulations allowing for collection of tax in-kind. Several government representatives consulted considered that it was not possible to report FTP disaggregated from Equity oil and DMO oil in the EITI Report, given that the three were bundled and sold as government liftings. Most stakeholders consulted expressed uncertainty over whether the government liftings were systematically reported net of private operators’ shares of equity oil, although one government official stated categorically that the government liftings were net of all obligations to private contractors.

There were differences of opinion on the categorization of DMO oil as a form of government revenue. A government official confirmed the categorization of ‘net DMO’ oil, i.e. net of costs such as the DMO fee for which the oil is purchased under the DMO, as a non-tax revenue under Indonesian law. Several other stakeholders questioned the categorization of gross DMO oil as a single government revenue in the EITI Report, considering that the DMO fee that was reported separately should have been deducted from gross DMO oil to yield a net revenue figure. A Government official confirmed that the sales price for DMO oil varied according to the PSC, with older contracts setting a flat USD 0.2 per barrel while newer contracts were indexed at 20% of the Indonesian Crude Price (ICP). Several industry representatives highlighted that the few remaining PSCs with a USD 0.2 per barrel DMO price were reaching expiry. Government officials consulted explained that discrepancies between actual government liftings and amounts due for FTP, Equity oil and DMO oil were compensated through adjustments in over/under liftings. Officials confirmed that government liftings were marketed by Pertamina on behalf of the state, with proceeds transferred to the Treasury account at Bank Indonesia, either directly or through the BI account at the Federal Reserve Bank of New York in the case of exports. A CSO noted that, while DMO oil was perhaps not categorized as a form of government revenue in other countries, the value of ‘net’ DMO

<sup>152</sup> Freeport McMoran website, ‘Transparency of government payments’ section, accessed [here](#) in November 2018.

<sup>153</sup> EY (2015), ‘Scoping study on the reconciliation of oil, gas and mining financial flows FY 2012-2013, accessed [here](#) in November 2018.

<sup>154</sup> EITI Indonesia Scoping Study fifth report 2015, accessed [here](#) in November 2018.

oil (i.e. net of costs) was considered a non-tax revenue under Indonesian regulations.

While there was considerable interest in the issue of disclosing cost recovery claimed by oil and gas companies, MSG members confirmed that the EITI reporting templates had not been amended to include reporting of cost recovery despite several MSG discussions on the topic. Many stakeholders from all constituencies noted that cost recovery calculations were an issue of public interest, including from local governments that questioned the government lifting figures on which their subnational transfers were calculated. None of the stakeholders consulted, including from government and industry, expressed any objections to disclosure of cost recovery per company on a quarterly basis. A government official noted that the government agencies represented on the MSG had agreed to the idea of disclosing quarterly cost recovery figures per company in EITI reporting, but expressed uncertainty over why the reporting templates had never been amended to include this information. While some stakeholders noted that the calculations behind cost recovery were in greater public demand than the final cost recovery figures themselves, several government and civil society representatives consulted considered that disclosure of approved cost recovery figures would nonetheless mark a significant improvement in the transparency of cost recovery. Several government officials confirmed that the value of approved cost recovery was not confidential, even if the calculations of specific cost recovery items was considered confidential. Several CSOs highlighted capacity constraints within SKK Migas, which hindered the regulator's ability to question valuations of recoverable costs. Many stakeholders from all constituencies highlighted the government's plans to move from the cost recovery system to a gross split system for new contracts. A CSO noted that there had been no follow up on cost recovery disclosures through EITI reporting given that CSOs had considered it more strategic to work on cost recovery issues through other channels, such as the Oil and Gas Management Reform Team in 2014-15.

A government official expressed satisfaction at the expansion of the scope of EITI reconciliations to Value-Added Tax (VAT) in 2015. However, given that there were at least three different VAT regimes depending on the terms of the contract (PSCs), the official emphasized that more explanations were required within the EITI Report to explain the differences in VAT impositions across different companies. The official also noted challenges in the government's data collection for Land and Building Tax, given that it was necessary to match Object Identification Codes associated with individual properties with the Tax Identification Numbers of material companies, which could often be time-consuming.

***Material entities:*** A government official and the IA confirmed that the MSG had agreed to only include all oil and gas companies at the production phase with a materiality threshold of zero, which meant that oil and gas companies only holding exploration licenses had been excluded from the scope of reconciliation. While the IA confirmed that signature bonus on contract renewals had been included in the scope of reconciliation, it conceded that signature bonuses by exploration license-holders had been excluded from reconciliation. However, a review of the government's unilateral disclosure of signature bonus on new contracts in the 2015 EITI Report (Vol.3,p.66) indicates that its contribution to total oil and gas revenues was only 0.07%. A government official considered that the only significant payment to government from oil and gas companies at the exploration phase consisted of signature bonus, since exploration companies' contributions to performance bonds represented a form of insurance rather than a payment to government. While stakeholders consulted considered it unlikely that an oil and gas company (at the exploration phase) making material payments to government could have been excluded from the scope

of reporting, there was a recognition that the 2015 EITI Report did not provide the value of payments from non-material oil and gas companies that could provide certainty over the comprehensiveness of company scoping decisions. Several government officials confirmed that all non-tax payments were made by the operator of each working area on behalf of partners, while non-operator partners were only required to make tax payments to government.

In terms of the selection of material mining companies, several civil society and industry representatives consulted considered that the selection of 123 mining companies was not comprehensive given the thousands of mining companies operating in the minerals and coal sector. However, there was a recognition that it was not possible for the IA to collect data from all mining companies, and stakeholders consulted considered the materiality threshold for selecting mining companies acceptable. A government official emphasised that the selection of material mining companies could only be undertaken on the basis of their non-tax payments to government, given the strong confidentiality provisions of the tax code. Several government officials and the IA stated that it was not possible to categorically state that none of the non-material mining companies accounted for more than a certain share of tax revenues. Stakeholders conceded that this left open the possibility that certain non-material mining companies could have made significant tax payments to government in 2015.

In terms of the selection of material government entities, several government officials explained that line agencies including DG Tax, DG Budget, DG Oil and Gas, DG Minerals and Coal and SKK Migas had been selected for reporting even though it was DG Treasury's account that received the funds. This was due to the fact that DG Treasury was only the custodian of the account, while the line agencies handled the invoicing and oversight of tax and non-tax revenue collection. None of the stakeholders consulted raised any concerns over the exclusion of DG Treasury from the scope of reporting.

***Reporting omissions:*** A government official stated categorically that it was not possible for DG Tax to confirm or deny whether any one company accounted for more than a particular share of tax revenues. Rather, DG Tax was only allowed to confirm whether a company had a valid Tax Identification Number and whether it had filed tax returns in the past two years, without prior authorization from each company. The IA was not able to confirm whether one of the non-reporting companies could have accounted for a significant share of either tax or non-tax revenues. The IA considered that government reporting had improved over the years, although there were concerns over the government's engagement in overcoming barriers to reporting (*see Requirement 1.2*).

There were different opinions with regards to the reasons for the high number of non-reporting companies. Several government officials and secretariat staff explained that the main reasons for non-reporting were that the company had ceased operations or faced internal problems, or that the government did not have valid contact details for many of the material companies. However, different government officials expressed scepticism over the explanation that the government did not hold valid contact details for companies, noting that mining companies could only pass the 'clean and clear' process with a valid country office address and that all companies required an address in order to have a valid Tax Identification Number. Industry representatives consulted highlighted that the membership of industry associations represented on the MSG did not cover all companies active in the extractive industries. Several stakeholders from all constituencies raised questions regarding the level of follow-up with non-

reporting companies by government entities, including the Ministry of Energy and Mineral Resources and the Ministry of Finance. A Government official noted that SKK Migas systematically followed up with non-reporting companies through phone calls, but emphasized the regulator's lack of contacts with non-operator partners to explain why their follow-up with non-reporting non-operator partners had to be through the operators of their respective working areas. Several CSOs emphasized that the civil society constituency had undertaken 'naming and shaming' campaigns, publishing the names of non-reporting companies in the local press. The IA highlighted particular challenges in data collection from companies considered to be "politically-affiliated", i.e. linked to politically-exposed persons. The IA noted that follow-up letters from DG Minerals and Coal for the 2012-13 EITI Report had been somewhat more effective than letters from the EITI Indonesia National Secretariat for the 2015 EITI Report. The IA stated that it emphasized that EITI reporting was voluntary in its communications with material companies. Nonetheless, the IA stated that it considered the reconciliation to be comprehensive, even if it admitted that there was no clear statement to this effect in the 2015 EITI Report (*see Requirement 4.9*).

***Tax confidentiality:*** Several government officials consulted considered that the system of letters of authorisation to waive legal tax confidentiality provisions was working well and that no complaints had been received from companies. Industry MSG members consulted stated that they had not received any complaints from companies members of the industry associations. However, none of the stakeholders consulted could explain why 20 companies that had submitted reporting templates for the 2015 EITI Report had not submitted letters of authorisation, thereby hindering the reconciliation of their tax payments to government. The IA could not explain why the materiality of tax payments from reporting companies that did not provide letters of authorisation could be assessed in oil and gas (based on each company's reporting) but not in mining. With regards to other more sustainable options to ensure disclosure of tax revenues from material companies, stakeholders consulted confirmed that this had not been discussed since the original letters of authorisation were agreed for the first EITI Report (covering 2009). A government official considered that open-ended tax confidentiality waivers were not possible, given that companies often changed their primary business and that the identity of material companies changed on an annual basis. The IA confirmed this view and explained that DG Tax had not accepted submitted reporting templates as an implicit waiver of tax confidentiality provisions for the 20 companies that had reported but not waived their right to tax confidentiality.

***Tax and non-tax enforcement:*** Several government and civil society stakeholders highlighted the government's efforts to ensure stricter enforcement of non-tax revenue collection. A government official highlighted KPK's review of mining companies' compliance with the terms of their licenses and contracts, which had identified a total of IDR 7tn in unpaid non-tax liabilities related to mining license-holders. A CSO noted KPK estimates that some 90% of mining license-holders paid no tax at all, questioning why a company would continue operating when it consistently reported losses (and thus no income tax liability) on their Indonesian operations. Several government and civil society representatives highlighted the launch in November 2018 of the Ministry of Energy and Mineral Resources' e-non-tax revenue (e-PNBP) portal<sup>155</sup>, which integrated production and non-tax revenue data to ensure stricter enforcement by the Ministry. In terms of tax collections, a government official noted that DG Tax had started receiving tax payment information from other jurisdictions under the OECD's Base erosion and profit shifting (BEPS) project in September 2018, which it intended to use as part of the risk profiles it built for individual

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<sup>155</sup> Ministry of Energy and Mineral Resources, e-non-tax revenue (e-PNBP) portal, accessed [here](#) in November 2018.

companies in Indonesia.

**Full government disclosure:** Stakeholders consulted did not express any particular views on the availability of full government unilateral disclosure of total revenues, per material revenue stream. Several government officials considered that it would not have been possible to provide the value of total tax payments from extractives companies in the 2015 EITI Report, given tax confidentiality provisions. However, there were no views regarding the lack of disclosure of total revenues per material non-tax revenue stream.

### Initial assessment

The International Secretariat's assessment is that Indonesia has made inadequate progress towards meeting this requirement. The MSG has agreed quantitative materiality thresholds for selecting companies and revenue streams, albeit without providing the value of payments from non-material companies or under non-material revenue streams. However, the lack of explicit justification for the exclusion of indirect payments to government is a concern. The lack of evidence showing that the MSG considered and discussed the exclusion of these payments, despite the materiality of these payments according to third-party sources, raises questions over the comprehensiveness of the scope of reporting. In addition, there is no evidence of the value of payments in 2015, that were excluded from the scope of reconciliation despite being listed under Requirement 4.1.b. The 2015 EITI Report lists all material companies aside from 69 non-operator partners in oil and gas, and describes all material revenue streams. The report names the 52 non-reporting companies and assesses the materiality of their non-tax payments in aggregate for oil and gas and for mining, and includes the IA's assessment that payments from non-reporting oil and gas companies were considered insignificant, although no equivalent statement for mining. However, given confidentiality provisions of the tax code, the report does not assess the materiality of tax payments from non-reporting companies that should have reported, and there is no categorical assessment of the materiality of tax payments from non-reporting companies. The report confirms that all material government entities reported but provides full government reporting of revenues from non-material companies for only some, not all, of the material revenue flows.

In accordance with Requirement 4.1, Indonesia should ensure that the list of material companies included in the scope of reporting is clearly defined and should ensure that future EITI reporting includes the IA's assessment of the materiality of omissions as well as full unilateral government disclosure of material revenues from non-material companies. The MSG should document the options considered and the rationale for establishing the definitions and thresholds.

## In-kind revenues (#4.2)

### Documentation of progress

**Systematic disclosures:** SKK Migas' annual reports, audited by the Auditor General and published on its website<sup>156</sup>, provide details of the volumes of government liftings of aggregated non-tax revenues, volumes sold and proceeds of those sales. However, information on oil and gas sales is not disaggregated

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<sup>156</sup> SKK Migas website, 'Annual reports', op.cit..

by buyer.

**2016 EITI Report: Materiality:** The 2015 EITI Report confirms the lack of in-kind revenues in the mining sector (Vol.3,p.34). While noting the possibility of tax payments made in-kind in oil and gas since reforms in 2015, the report confirms that taxes in oil and gas were not paid in-kind to date (Vol.2,p.16). The report describes three types of in-kind payments to government in oil and gas, namely First Tranche Petroleum (FTP), Equity oil and gas, and Domestic Market Obligation (DMO) oil (Vol.2,pp.38-39). FTP is a form of in-kind royalty levied on oil and gas production prior to other deductions. Equity oil and gas is the profit-sharing between contractor and state after deductions of FTP, Investment credit (KI) and Cost recovery (CR). The DMO oil is sold at a discounted rate to the state, which pays a DMO fee. The December 2017 OpenOil report on “first trade” sales of the state’s in-kind revenues confirms that DMO is a PSC provision requiring oil and gas companies to sell a certain amount of crude oil domestically, often at a price discounted for international market benchmarks.<sup>157</sup> The 2015 EITI Report clearly categorises ‘net’ DMO oil (i.e. net of costs such as DMO fee) as a form of non-tax revenue (Vol.2,pp.15-16), with reference to Ministry of Finance regulations for the DMO fee (Vol.2,p.28). The report confirms the materiality of the three revenue streams and their inclusion in the scope of reconciliation (Vol.3,pp.32,34-35). The lack of disaggregation of the three revenue streams is covered under *Requirement 4.7*. The report illustrates the cash flow in PSCs (Vol.2,p.38;Vol.3,pp.35-36) and describes the mechanism for annual adjustments to reflect the final lifting quotas of the contractor and SKK Migas, through the Over/Under lifting mechanism (Vol.2,p.37). The proceeds of sales of government lifting are transferred to the Treasury account at Bank Indonesia (BI), via a BI account at the Federal Reserve Bank in New York for exports (Vol.3,p.36). Pertamina’s responsibilities for refining or marketing the government’s in-kind revenues are described (Vol.2,p.96).

**Volumes collected:** The report presents the results of reconciliation of government liftings of oil and gas (Vol.4,pp.24-27) and of DMO-oil (Vol.4,pp.28-29). It appears that five oil and gas companies did not report government liftings of oil and gas or DMO-crude oil (Vol.4,pp.25,27,29).

**Volumes sold:** While the report presents the volumes of government liftings of oil and gas (Vol.4,pp.24-27), it does not provide details of the volumes of in-kind revenues sold. However, an addendum published on the EITI Indonesia website in August 2018 presents the aggregate volumes of oil and gas collected in kind by the government that were sold in 2016, albeit not disaggregated by buyer.<sup>158</sup> The December 2017 OpenOil report on “first trade” sales of the state’s in-kind revenues provides 2015 data on volumes of the state’s in-kind revenues (government liftings) commercialised, disaggregated by buyer and cargo in an open data format, but only provides this data for crude oil, not natural gas.<sup>159</sup> In addition, the OpenOil report highlights the uncertainty over whether SKK Migas lifting data provided for the purposes of the report included oil deliveries under DMO.<sup>160</sup>

**Sales proceeds:** The report presents the values of government liftings of oil and gas (Vol.4,pp.20-23), yet it

<sup>157</sup> OpenOil (December 2017), ‘EITI Commodity Trading in Indonesia’, accessed [here](#) in September 2018, p.13.

<sup>158</sup> EITI Indonesia (2018), ‘Volume and value data from oil and gas buyers’, accessed [here](#) in October 2018.

<sup>159</sup> See spreadsheets of SKK Migas sales data on EITI (January 2018), ‘Commodity trading in Indonesia’, accessed [here](#) in November 2018.

<sup>160</sup> OpenOil (December 2017), op.cit., p.13.

only presents the results of reconciliation of sales of government liftings, disaggregated by oil/gas and domestic/export, between SKK Migas and DG Budget figures (Vol.3,p.65), and by operator/working area for both oil and gas (Vol.4,pp.49-52), but does not provide the value of the proceeds of sales of the government's in-kind revenue disaggregated by buyer. While EITI Indonesia published details on the proceeds of sales of the state's in-kind revenues on its website in mid-2018<sup>161</sup>, this additional information only disaggregated between oil and gas, not by buyer. However, the December 2017 OpenOil report provides 2015 data on the value of proceeds of sales of the state's in-kind revenues (government liftings), disaggregated by buyer and cargo in an open data format, although it only provides this data for crude oil, not natural gas.<sup>162</sup>

**Disaggregation:** While the 2015 EITI Report does not present data on the sale of the government's in-kind revenues disaggregated by buyer, the December 2017 OpenOil report on "first trade" sales provides sales data disaggregated by buyer and cargo for crude oil, but not natural gas.<sup>163</sup> However, the OpenOil report states: *"The "Buyer" field in all transactions states "BP Migas". Not only is this problematic because the institution has now been replaced, but because it does not clarify the real nature of the transaction. In discussions, officials regularly refer to Pertamina being appointed by SKK Migas to sell crude oil produced under the ICP system. If buyer and seller are determined by who is paying money, and who is receiving it, Pertamina actually counts as the buyer under the ICP system and the Ministry of Finance as the seller. The real world underlying structure of most of the transactions in this system is that Pertamina picks up oil, by ship or pipeline, either from a field operated by Pertamina or as an in-kind payment from a private company operating a PSC, and delivers it into one of the seven major refineries in Indonesia."*

## Stakeholder views

There was consensus among stakeholders consulted that all tax and non-tax payments in the mining sector were in cash, not in kind. Government officials confirmed that the state only collected in-kind revenues in oil and gas for non-tax payments, not in tax despite legal provisions to do so.

**Materiality:** There was considerable debate over the categorisation of government liftings as a single revenue stream in the EITI reconciliations. While some questioned the categorisation of DMO oil as a form of government revenue, government officials confirmed that FTP, Equity oil and DMO oil were forms of non-tax revenue under Indonesian law, albeit emphasising that only 'net' DMO oil (i.e. net of costs such as DMO fee) is considered as government revenue (see *Requirement 4.1*). Government officials and industry representatives confirmed that FTP rates depended on the contract and varied from 5% to 20%, while DMO fees were either USD 0.2 a barrel for older contracts or 20% of ICP (see *Requirement 2.1*). There was consensus among stakeholders consulted that the three were combined and sold as government liftings.

Government officials confirmed that sales of government lifting were overseen by SKK Migas and DG Budget, but that the flow of funds was directly to the DG Treasury account, either domestically or through government accounts offshore for exports (e.g. state-owned banks branches in Singapore). They explained that monthly reconciliation meetings between SKK Migas and DG Budget ensured oversight of

<sup>161</sup> EITI Indonesia (2018), 'Volume and value data from oil and gas buyers', accessed [here](#) in October 2018.

<sup>162</sup> See spreadsheets of SKK Migas sales data on EITI (January 2018), 'Commodity trading in Indonesia', accessed [here](#) in November 2018.

<sup>163</sup> Ibid.

the proceeds of sales of government oil and gas. Stakeholders did not express any particular views over the lack of disclosure of sales of the government's in-kind natural gas revenues in EITI reporting.

*Disaggregation:* Several government representatives noted the perceived sensitivity of disclosures by buyer. The MSG's pre-Validation self-assessment, published on the EITI Indonesia website<sup>164</sup>, noted SKK Migas' explanation that Pertamina, not SKK Migas, had the authority to disclose information by buyer, while Pertamina in turn depended on the terms of the contract with each buyer. Government officials consulted considered that Appendix 2.15 referred to volumes and value of oil sold. However, there was confusion among different stakeholders consulted and in the MSG's pre-Validation self-assessment<sup>165</sup> over whether Appendices 2.9 and 2.10 (Vol.4, pp.30-37) represented government liftings or total liftings, even though Appendices 2.6 (Vol.4, pp.24-27) clearly represented government lifting volumes.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress in meeting this requirement. While confirming the lack of in-kind revenues in mining, the 2015 EITI Report presents data on volumes of in-kind revenues collected in oil and gas, although it is unclear whether the information disclosed on volumes of in-kind revenues (oil and gas) sold nor value of proceeds collected is disaggregated by buyer. While the OpenOil report on "First trades" refers to official documents stating that the buyer of all cargos was "BP Migas", it also notes ambiguities in this given that BP Migas has since been replaced by SKK Migas and implies that Pertamina is the buyer. Additional information published on the EITI Indonesia website presents the aggregate volumes of oil and gas collected in kind by the government that were sold in 2016, albeit not disaggregated by buyer. The December 2017 pilot commodity trading report provides data on volumes sold and value of proceeds, disaggregated by buyer and cargo, although it is unclear whether this sales data includes Domestic Market Obligation (DMO) oil and it only covers sales of crude oil, not natural gas.

In accordance with Requirement 4.2, Indonesia should ensure that future EITI reporting present information on the sale of the state's in-kind revenues, including volumes sold and the proceeds of sales, disaggregated by buyer.

## Barter and infrastructure transactions (#4.3)

### Documentation of progress

**Systematic disclosures:** Not applicable.

**2016 EITI Report:** The 2015 EITI Report confirms the lack of legal provisions requiring infrastructure provisions in either oil and gas or mining and notes that none of the material mining companies reported any contractual provisions related to infrastructure provisions (Vol.3, p.39). The report also confirms that there is no barter arrangement "in principle" in Indonesia (Vol.3, p.39).

<sup>164</sup> EITI Indonesia (2018), 'Initial comments of pre-Validation on 1 September 2018', accessed [here](#) in October 2018.

<sup>165</sup> Ibid.

## Stakeholder views

Stakeholders consulted did not express any particular views on the 2015 EITI Report's coverage of barter and infrastructure transactions, although government officials confirmed there were no barter arrangements or infrastructure provisions in force in the extractive industries.

## Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable to Indonesia in the year under review. The 2015 EITI Report states that there were no barter or infrastructure arrangements in Indonesia in 2015.

## Transport revenues (#4.4)

### Documentation of progress

**Systematic disclosures:** PT Pertamina's annual reports, published on its website<sup>166</sup>, provide information on the SOE's transport infrastructure, including the nature of off-take agreements, although they do not specifically disaggregate revenues from the transportation of extractives commodities. The Pertamina annual reports also disaggregate revenues collected through its subsidiary Pertamina, albeit without specifying the transport component of domestic gas sales revenues. PT Kereta Api does not appear to publish annual reports or financial statements on its website.<sup>167</sup> PGN publishes quarterly financial statements on its website<sup>168</sup>, which describe the revenues collected for use of its gas pipeline infrastructure.

**2016 EITI Report:** The 2015 EITI Report describes transportation arrangements in both oil and gas as well as mining (Vol.3,pp.41-42). In *oil and gas*, the report describes revenues collected by PT Pertamina for third-party use of its pipeline infrastructure (categorized as a "toll fee"), which amounted for less than 1% (USD 111.755m) of total oil and gas revenues in 2015 (Vol.2,p.97;Vol.3,p.41). The December 2017 Open Oil report on the sale of the state's in-kind revenues describes the networks of gas pipelines with multiple owners including two state-owned companies (Perusahaan Gas Negara (PGN) and Pertamina).<sup>169</sup> The EITI Report justifies the exclusion of these pipeline ("toll fee") transport revenues from the scope of reconciliation on the basis of their combined contribution of less than 1% to total oil and gas revenues (Vol.3,p.41). Nonetheless, a breakdown of pipeline "toll fee" transport revenues for both oil and gas is provided, disaggregated by company (Vol.3,p.41).

In *mining*, the report describes transport revenues collected by the state-owned railway operator, PT Kereta Api Indonesia, for PT Bukit Asam's use of two of its railway line to transport coal, with USD 72.3m and IDR 1.7bn in revenues collected in 2015 (Vol.2,p.101;Vol.3,pp.41-42). Without justification based on materiality, the report presents the results of reconciliation of coal transport fees in 2015 between figures from PT Bukit Asam and from PT Kereta Api Indonesia, disaggregated by railway line, and describes the

<sup>166</sup> PT Pertamina website, 'Annual reports', accessed [here](#) in October 2018.

<sup>167</sup> PT Kereta Api website, 'Publications', accessed [here](#) in October 2018.

<sup>168</sup> PT Perusahaan Gas Negara website, 'Financial statements', accessed [here](#) in October 2018.

<sup>169</sup> OpenOil (December 2017), 'EITI Commodity Trading in Indonesia', accessed [here](#) in September 2018, p.5.

volumes of coal transported and the applicable rates (Vol.3,pp.41-42;Vol.4,p.69).

### Stakeholder views

While most stakeholders consulted did not express any particular opinion on the 2015 EITI Report's coverage of transport revenues, a government representative confirmed that the MSG had not considered oil and gas transport fees as material even if Pertamina's unilateral disclosure of such transport revenues was provided in the EITI Report.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made satisfactory progress in meeting this requirement. Using the same materiality threshold as for the selection of revenue flows under Requirement 4.1, the 2015 EITI Report presents the results of reconciliation of coal transport revenues. While the lack of material transport revenues in oil and gas is confirmed, the report nonetheless presents Pertamina's unilateral disclosure of revenues from the transportation of oil and gas for third parties through the SOE's pipeline network. Descriptions of volumes of commodities transported and applicable rates are provided for both coal as well as oil and gas.

## Transactions between SOEs and government (#4.5)

### Documentation of progress

**Systematic disclosures:** Each of the four extractives SOEs' respective websites provides access to annual reports and audited financial statements of PT Pertamina<sup>170</sup>, PT Aneka Tambang<sup>171</sup>, PT Bukit Asam<sup>172</sup> and PT Timah.<sup>173</sup> The financial statements provide audited unilateral disclosures of SOEs' payments of dividends to government, but do not disaggregate revenues collected by each SOEs from companies operating in the sector. The MSG confirmed this in its pre-Validation self-assessment in 2018.<sup>174</sup>

**2016 EITI Report:** The 2015 EITI Report confirms the materiality of payments from the four SOEs to government (Vol.2,pp.42-43). Although the three mining SOEs (Antam, Bukit Asam, and Timah) were included in the scope of reporting, it is notable that ten of Pertamina's subsidiaries were selected as reporting companies, rather than the group as such. Nonetheless, financial data appears to have been sourced from Pertamina's annual report.

With regards to company payments to SOEs, the report describes payments to SOEs from three of

<sup>170</sup> PT Pertamina, 'Report and presentation', op.cit..

<sup>171</sup> PT Aneka Tambang website, op.cit..

<sup>172</sup> PT Bukit Asam website, 'Audit financial report', op.cit..

<sup>173</sup> PT Timah, 'Report', op.cit..

<sup>174</sup> EITI Indonesia (2018), 'Initial comments of pre-Validation on 1 September 2018', op.cit..

Pertamina's subsidiaries and one mining company (Vol.3,pp.42-43).

In terms of *oil and gas* company payments to Pertamina, the report states that three of Pertamina's subsidiaries<sup>175</sup> that were considered material made payments of government liftings and tax worth USD 2.2bn (or 17.1% of reconciled payments) to government in 2015 (Vol.3,p.42), although it does not clarify that these payments were made to entities other than the SOE. The overview of working area operators and partners in Appendix 1.1 (Vol.4,pp.5-7) indicates that one subsidiary is a non-operator partner (PT Pertamina Cepu) while the other two are operators (PT Pertamina Hulu Energi, PT Pertamina EP). However, given that dividends from Pertamina subsidiaries to the SOE were not included in the scope of reporting, there is no information in the 2015 EITI Report on any dividends paid to Pertamina by either these three subsidiaries or the other seven upstream Pertamina subsidiaries listed in the report (Vol.2,p.97).

In terms of *mining* company payments to SOEs, the report provides the value of payments from one of the 123 material companies (PT Trisensa Mineral Utama) to a (unnamed) mining SOE, unilaterally disclosed as USD 186k by the company but not reconciled with the SOE's receipts (Vol.3,p.42). The payment is categorised as "other payment to SOE" without further explanation, although it presumably consists of a payment to PT Bukit Asam since it is from a coal mining company.

With regards to SOE transfers to government, the report confirms that Pertamina is the second-largest contributor to government oil and gas liftings and the largest contributor of dividends among SOEs (Vol.3,p.42). However, the report only provides Pertamina's unilateral disclosure of the dividends paid by Pertamina "and its subsidiaries" to government in 2015 based on its annual report (Vol.3,p.42), without disaggregating or reconciling these payments with revenues disclosed by Treasury (Vol.2,p.95). While confirming the lack of dividends from PT Antam (Vol.2,pp.99), the report provides the both unilateral disclosure of dividends to the state in 2015 from PT Bukit Asam and PT Timah, based on their annual reports, and reconciliation with Ministry of Finance figures (Vol.2,pp.101,103;Vol.4,pp.174,250).

The report confirms that Pertamina, the mining SOEs and their subsidiaries are liable to other payments to government in line with private companies (Vol.2,pp.42,43) and provides the results of reconciliation of those companies' payments where material in appendix (*see Requirement 4.1*).

With regards to government transfers to SOE, the report does not discuss any budget transfers in its descriptions of SOEs' financial relations with the state (Vol.2,pp.95,99,101,103).

### Stakeholder views

There was consensus among government and SOE representatives that there were no budget transfers to any of the four SOEs. While PT Antam was operating at a loss in 2015 due to the effects of the export ban, they confirmed that the SOE had not received any 'subsidy' in any recent year.

While there was clarity over the financial relations between the four SOE groups and the state, there was far less public information on intra-group financial transactions between the various subsidiaries,

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<sup>175</sup> PT Pertamina Hulu Energi, PT Pertamina EP and PT Pertamina EP Cepu.

particularly in the case of PT Pertamina. Several CSOs called for more disclosures of intra-group financial relations, particularly dividends from subsidiaries to the Pertamina group. Government officials stated that a comprehensive list of all Pertamina subsidiaries was available from their financial statements and annual reports online, although they conceded that intra-group dividends were not disaggregated by subsidiary. The IA noted its concerns at the exclusion of ‘other payments to SOEs’ from the scope of reconciliation.

In terms of SOE transactions in the mining sector, other government representatives explained that the three mining SOEs collected VAT from private companies on behalf of the state, as a form of VAT Withholding Tax subsequently transferred to the Treasury. This was confirmed by representatives of the three SOEs, who emphasised that the value of VAT collections was relatively small and that the SOEs did not collect any other form of non-tax revenues on behalf of the state.

### Initial assessment

The International Secretariat’s initial assessment is that Indonesia has made meaningful progress in meeting this requirement. The 2015 EITI Report and SOEs’ annual reports and audited financial statements provide a reconciliation of SOE payments of dividends to government, aside from Pertamina for whom dividends are only unilaterally disclosed. Mining, oil and gas company payments to the four SOEs have not been comprehensively disclosed and reconciled, given the exclusion of payments to SOEs from the scope of reporting.

In accordance with Requirement 4.5, Indonesia must ensure that the role of SOEs, including company and subsidiary payments to SOEs as well as transfers between SOEs and government agencies, is comprehensively and publicly addressed. Indonesia is encouraged to consider working with SOEs on ensuring their statutory annual reporting covers the information required by the EITI Standard in a sufficiently disaggregated manner.

## Subnational direct payments (#4.6)

### Documentation of progress

**Systematic disclosures:** There is no information on revenues collected by subnational governments (provinces and districts) as payments from companies operating in the mining, oil and gas sectors. The Directorate of Fiscal Balance of the Ministry of Finance<sup>176</sup> collects, but does not disclose, this information.

**2016 EITI Report:** The 2015 EITI Report describes two types of direct subnational payments: statutory tax payments to local governments (PDRD) and direct payments resulting from company agreements with local governments (Vol.3,pp.43-44). The first type of direct subnational payments described in the report consist of three types of local taxes<sup>177</sup>, categorised as PDRD in the EITI Report. It confirms that mining companies make these payments directly to local governments, and explains that oil and gas companies pay PDRD either to central government, which then redistributes the funds via subnational transfers

<sup>176</sup> The Directorate of Fiscal Balance of the Ministry of Finance website, accessed [here](#) in October 2018.

<sup>177</sup> Ground Water Tax, Rod Lighting Tax, and Specific Permit Retribution (Building Construction Permit – IMB).

under the “assume and discharge” system, or pay directly to local governments and claim the cost under cost recovery (Vol.3,p.43). Elsewhere, the report contradicts this statement somewhat by explaining that operators of PSCs signed prior to 2010 are exempt from indirect taxes “because it is assumed that oil and gas production shared between the contractor and the government has included the payment of such taxes” (Vol.2,p.36). However the list of working areas and material operators and partners in Appendix 1.1 (Vol.4,pp.5-7) does not indicate the year of contract signature, meaning that the EITI Report does not provide sufficient information on which oil and gas companies whose PSCs were signed after 2010 were liable for direct subnational tax payments to local governments. The second type of payments under ad hoc agreements from 11 reporting companies are categorised as contributing to sustainable regional development (Vol.3,pp.43-44).

The report justifies the exclusion of direct subnational payments from the scope of reconciliation by highlighting their contribution of less than 1% of extractives revenues (Vol.3,p.43), including PDRD revenues of 0.03% of oil and gas revenues (Vol.3,p.66). However, the report presents the results of companies’ unilateral disclosures of their payments to local governments.

In mining, Appendix 5.3 provides the value of “local taxes and levies” and “direct payments to local governments” as distinct, yet aggregated, revenue streams from mineral and coal companies (Vol.4,pp.285-288).

In oil and gas, the report provides the aggregate value of “local tax and retribution (PDRD)” as 0.03% of government oil and gas revenues (Vol.3,p.66); Appendix 2.17 provides the value of oil and gas companies’ disclosure of “regional tax and levy” as a deduction item (Vol.4,pp.53-54), although the report does not explain whether this “regional tax and levy” is the equivalent of “local tax and retribution (PDRD)”. It is assumed that the figures in Appendix 2.17 relate to direct subnational payments by companies whose PSCs were signed after 2010 and thus whose local tax payments are cost recoverable. The local tax (PDRD) payments covered under the “assume and discharge” model are covered under subnational transfers (*see Requirement 5.2*).

As highlighted in the MSG’s 2018 pre-Validation self-assessment<sup>178</sup>, EITI Indonesia published companies’ unilateral disclosures of their PDRD payments to local government in 2015 for both oil and gas and mining as well as other “direct payments to local governments” from 11 mining companies.<sup>179</sup>

Appendices 6.1-6.3 of the report indicate that three provincial governments<sup>180</sup> were included in the scope of reporting and present the results of their reporting of revenues from subnational transfers linked to mining, oil and gas (Vol.4,pp.289-299).

## Stakeholder views

There was consensus among MSG members consulted that the MSG had considered the issue of direct subnational payments to local governments and had considered it non-material, since total local

<sup>178</sup> EITI Indonesia (2018), ‘Initial comments of pre-Validation on 1 September 2018’, op.cit..

<sup>179</sup> EITI Indonesia website, 2015 Direct subnational payments, accessed [here](#) in November 2018.

<sup>180</sup> East Kalimantan, East Java and Riau.

payments were under 1% of total extractives revenues.

*Type of local taxes:* There were differences of opinions across stakeholders consulted about the types of taxes paid directly to local governments, although there was consensus that EITI reporting templates for reporting companies bundled all local taxes together as a single revenue stream. MSG members indicated that there were three types of taxes paid to local governments, consisting of groundwater and surface water taxes, public lighting tax and non-metal and metal minerals tax. The MSG confirmed that land tax was covered by Land and Building Tax paid to DG Tax at central government level. While government officials consulted noted the variations in local taxes depending on the province and district (kabupaten), a senior government official explained that there were five types of admissible provincial taxes and 16 types of local taxes and that local government had to explain their local tax rates to the Ministry of Home Affairs. The IA and MSG members confirmed that reporting templates for companies did not disaggregate the different types of local taxes, even if reporting templates for the three provinces disaggregated the different local taxes.

*Ad-hoc agreements:* Several government officials and industry representatives consulted considered mining company payments to local government on the basis of ad hoc agreements to be forms of mandatory social expenditures, not direct subnational payments. However, the IA considered that they were forms of direct subnational payments. An industry representative explained that these agreements tended to include a split in payments between the province and the districts and towns, for projects that spread over several districts. None of the stakeholders consulted could assess whether the 11 companies reporting payments under such ad hoc agreements in the 2015 EITI Report was comprehensive, although several stakeholders expressed general surprise at the low number of such reporting companies. Government officials explained that local governments were only required to submit reports on their finances to DG Fiscal Balance, but that the central government had no oversight of local governments' balance sheets.

*Cost recoverability:* There was significant debate during stakeholder consultations over the reimbursement or cost recoverability of local tax payments in certain cases. There was consensus among stakeholders consulted that local taxes paid by mining companies were not reimbursed, even if one stakeholder questioned whether some of the seven generations of Contracts of Work included provisions for the payment of local taxes to central government, which then redistributed them through subnational transfers.

In oil and gas, there was some confusion across different stakeholders consulted over whether all oil and gas companies paid local taxes directly to local governments. A government official explained that under PSCs signed prior to 2010, local tax payments were covered by the central government on behalf of private companies, under the concept of "assume and discharge". Under this system, operators submitted invoices for local taxes to DG Tax, which approved them and submitted them to DG Budget for payment through subnational transfers. For PSCs signed after 2010 however, the official explained that companies were required to pay local taxes but that these were subsequently cost recoverable as deductions from government liftings. The official considered that the information on "deduction factor in oil and gas sector" in Appendix 2.17 (Vol.4, pp.53-54) included "Regional tax and levy" (alongside Land and building tax and VAT) that had been claimed as cost recoverable items. Several CSOs considered that this

difference in payments of local taxes by oil and gas companies was not sufficiently explained in the 2015 EITI Report. In its pre-Validation self-assessment, the MSG explained that the cost to central government of local tax (PDRD) payments under the “assume and discharge” model were ultimately covered by the non-tax revenues collected through government liftings.<sup>181</sup> Stakeholders consulted agreed that oil and gas companies’ local tax (PDRD) payments covered by the government under the “assume and discharge” model (whose PSCs were signed prior to 2010) should be categorised as subnational transfers from a cash-accounting perspective.

### Initial assessment

The International Secretariat’s initial assessment is this requirement is not applicable to Indonesia in the year under review (2015). The 2015 EITI Report describes direct subnational payments in both oil and gas and mining, provides the value of direct subnational payments in 2015 and justifies the exclusion of direct subnational payments from the scope of reconciliation on quantitative materiality grounds. Despite general concerns over the comprehensiveness of reporting of direct subnational payments on the part of some stakeholders, there is no concrete evidence that material direct subnational payments have been excluded from the scope of reconciliation.

To strengthen implementation, Indonesia is strongly encouraged to establish whether direct subnational payments by extractives companies are material ahead of future EITI reporting. In future unilateral disclosures of non-material direct subnational payments, Indonesia is encouraged to consider the feasibility of disaggregating local tax payments by revenue stream. Indonesia is also urged to clarify the status of mining companies’ direct payments to local governments under ad hoc agreements, given stakeholder views that such expenditures such be considered mandatory social, rather than direct subnational, payments.

### Level of disaggregation (#4.7)

#### Documentation of progress

**Systematic disclosures:** In terms of government disclosure of revenues, the Ministry of Finance website<sup>182</sup> publishes the annual Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), which include the aggregate value of tax and non-tax revenues on an annual basis, albeit not disaggregated by company or by sector (e.g. extractives). In terms of company disclosures of payments, it appears that at least 12 of the 288 material companies in the 2015 EITI Report published mandatory payments to government reports related to their Indonesia operations in offshore jurisdictions, including Canada, France and the United Kingdom. The global Resource Projects portal<sup>183</sup> aggregates these mandatory payments to government reports. The information on payments to government is disaggregated by company, but not by revenue stream.

**2016 EITI Report:** The 2015 EITI Report presents reconciled financial data disaggregated by company, government entity and revenue stream (Vol.4,pp.70-261) for most, but not all, reconciled revenue

<sup>181</sup> EITI Indonesia (2018), ‘Initial comments of pre-Validation on 1 September 2018’, op.cit..

<sup>182</sup> Ministry of Finance website, Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), op.cit..

<sup>183</sup> Resource Projects portal, accessed [here](#) in October 2018.

streams. There are two key exceptions to the disaggregation by revenue stream. First, the results of reconciliation indicate that Corporate and Dividend Tax paid by oil and gas companies were reported combined (Vol.4,pp.70-138), even though Corporate Income Tax and Dividend Tax are described as two different revenue flows (Vol.2,p.36) and the reporting templates indicate that companies were required to report the two revenue streams distinctly.<sup>184</sup> Second, data on government liftings is presented in aggregate, without disaggregating FTP from Equity Oil, in both the reporting templates<sup>185</sup> and the results of reconciliation (Vol.4,pp.70-138), despite the report's description of the two as distinct revenue streams (Vol.2,pp.38-39). The report indicates that the two are collected together, in-kind, as government liftings (Vol.3,p.34). It illustrates the cash flow in PSCs (Vol.2,p.38;Vol.3,pp.35-36) and describes the mechanism for annual adjustments to reflect the final lifting quotas of the contractor and SKK Migas, through the Over/Under lifting mechanism (Vol.2,p.37). The proceeds of sales of government lifting are transferred to the Treasury account at Bank Indonesia (BI), via a BI account at the Federal Reserve Bank in New York for exports (Vol.3,p.36).

Reconciled financial data is presented disaggregated by project (PSC) in the oil and gas sector, as confirmed by the 2015 reporting templates.<sup>186</sup> Given the requirement for mining companies to only hold one mining license at a time (aside from publicly-listed companies), it appears that reconciled financial data in mining is presented disaggregated by project too.

### Stakeholder views

***Corporate and dividend tax:*** None of the MSG members consulted expressed any views on the lack of disaggregation of oil and gas companies' Corporate Tax from Dividend Tax in the 2015 EITI Report, despite the materiality of the revenue stream and the fact that reporting templates required reporting of the two streams disaggregated. All stakeholders consulted confirmed that the revenues were two distinct streams. The IA expressed some confusion over the fact that the two revenue streams were reported disaggregated, but only disclosed combined in the final EITI Report. However, it noted that the MSG had approved both the reporting templates and the final 2015 EITI Report.

***Government liftings:*** All stakeholders consulted confirmed that FTP was a distinct revenue stream to Equity Oil. Despite confusion on the part of some stakeholders over whether government liftings included the state's Equity Oil net of the operator's share, a government official confirmed that Equity Oil was netted out prior to commercialisation. While government and industry representatives confirmed that both companies and SKK Migas kept accounting of FTP and Equity Oil payments separate, a government official stated categorically that it would not have been possible to disclose and reconcile the two revenue streams separately on a cash accounting basis, since the two revenue streams were collected and sold together.

***Project-level reporting:*** Representatives from government and civil society confirmed that companies that were not publicly-listed were not allowed to hold more than one mining license at a time, implying that reporting by unlisted mining companies was de facto disaggregated by project. A government official confirmed that reporting of oil and gas revenues was disaggregated by project, given the ring-fencing of

<sup>184</sup> EITI Indonesia (2017), 'EITI Indonesia Reporting Template for Oil and Gas Sector – 2015', op.cit..

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

tax and non-tax liabilities.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made inadequate progress in meeting this requirement. The reconciled financial data in the 2015 EITI Report is disaggregated by individual company, government entity and revenue stream for all revenue streams aside from Corporate Tax and Dividend Tax as well as First Tranche Petroleum (FTP) and Equity Oil by oil and gas companies. While the International Secretariat understands that it may not be possible to disaggregate reporting of FTP from Equity Oil given the blending of the two revenues as 'government liftings', the 2015 EITI Report or relevant scoping studies do not clearly explain the rationale for combining the two kinds of in-kind payments. Although Corporate Tax and Dividend Tax were reported in a disaggregated form, they were presented in aggregate in the 2015 EITI Report. It is encouraging that Indonesia reports on a project-level for all oil and gas payments and a majority of mining payments to government.

In accordance with Requirement 4.7, Indonesia should present all reconciled financial data disaggregated by company, government entity and revenue stream. To further strengthen implementation, Indonesia may wish to make progress in implementing project-level EITI reporting for all material companies ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.

### Data timeliness (#4.8)

#### Documentation of progress

**Systematic disclosures:** The annual Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP) on the Ministry of Finance website<sup>187</sup> are published six months after the fiscal year end. The mandatory payments to government reports published by 12 of the 288 material companies in the 2015 EITI Report are required to be disclosed by June of the year subsequent to the fiscal period covered. The global Resource Projects portal<sup>188</sup> aggregates these mandatory payments to government reports on a regular basis.

**2016 EITI Report:** The 2015 EITI Report was published in December 2017, within two years of the end of the fiscal period covered. Indonesia has faced repeated challenges in meeting reporting deadlines over the course of its nine years of EITI implementation, having exceeded the two-year timeframe for publishing EITI Reports covering 2009 (published in April 2013), 2010-11 (in April 2014), 2012-13 (in December 2015) and 2014 (in February 2017). In March 2015, the Board suspended Indonesia for missing the reporting deadline on its 2012 EITI Report, but the suspension was lifted in December 2015 following publication of the 2012-13 EITI Report.

<sup>187</sup> Ministry of Finance website, Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), op.cit..

<sup>188</sup> Resource Projects portal, op.cit..

While the 2015 EITI Report does not explicitly confirm the MSG's approval of the reporting period, the 2015 scoping study indicates that the reporting period is January-December 2015.<sup>189</sup>

### Stakeholder views

While the MSG did not express any particular views on the timeliness of EITI data, several CSOs considered that the data was too old to be considered particularly relevant or useful during dissemination and outreach events (*see Requirement 7.1*). Several government officials also considered that EITI data was not sufficiently timely to inform policy-making. Secretariat staff and government officials cited plans to publish an EITI Report covering both 2017 and 2018 in 2019, in order to ensure timelier EITI reporting moving forward.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made satisfactory progress towards meeting this requirement. In accordance with Requirement 4.8, Indonesia has published EITI Reports on an annual basis with data no older than the second to the last complete accounting period. There is evidence the MSG approved the reporting period as part of the 2015 scoping study.

To strengthen implementation, Indonesia is encouraged to strengthen its efforts to publish timelier EITI reporting to ensure the data is more relevant and useful to public debate and public policy-making.

## Data quality (#4.9)

### Documentation of progress

**Systematic disclosures:** Government accounts are audited by the Audit Board of the Republic of Indonesia and reviewed by the Budget Committees of the House of Representatives and the Regional Representative Council. The Audit Board's annual audits of government financial statements are accessible through its website.<sup>190</sup> The Government Accounting Standard Committee (Komite Standar Akuntansi Pemerintahan – KSAP) sets government audit and accounting standards in Indonesia, with an annual report published on its website.<sup>191</sup>

Extractives companies are required to undertake annual audits of their financial statements, prepared on an accrual basis in line with the Indonesian Financial Accounting Standards (SAK), in line with International Financial Reporting Standard (IFRS). The Center for Supervision of Financial Service (Pusat Pembinaan Profesi Keuangan – PPPK) is responsible for the supervision of the accountancy profession in Indonesia, with public information notices published on its website.<sup>192</sup> There are three national professional accountancy organisations in Indonesia, including the Institute of Indonesia Chartered Accountants

<sup>189</sup> EITI Indonesia Scoping Study fifth report 2015, accessed [here](#) in November 2018, p.5.

<sup>190</sup> Audit Board of the Republic of Indonesia website, 'Government financial statements', accessed [here](#) in October 2018.

<sup>191</sup> Komite Standar Akuntansi Pemerintahan (KSAP), 'Annual reports', accessed [here](#) in October 2018.

<sup>192</sup> Pusat Pembinaan Profesi Keuangan (PPPK) website, accessed [here](#) in October 2018.

(Ikatan Akuntan Indonesia – IAI<sup>193</sup>) for regulation of professional accountants, the Indonesian Institute of Management Accountants (Institut Akuntan Manajemen Indonesia – IAMI<sup>194</sup>) for management accountants, and the Indonesian Institute of Certified Public Accountants (Institut Akuntan Publik Indonesia – IAPI<sup>195</sup>) that sets standards for public accountants. Annual returns are not required to be published for non-publicly listed companies, although companies publish annual reports and audited financial statements on their websites on an ad hoc basis according to the company.

**2016 EITI Report: *Terms of Reference for the Independent Administrator*:** The MSG discussed the scoping study for the 2015 EITI Report at its 20 April 2017 meeting, where it provided conditional approval for the scoping study pending incorporation of the MSG’s comments. The MSG had contracted Ambarsari Dwi Cahyani as a Scoping Study Consultant for the 2015 report. On the basis of the approved 2015 scoping study, the MSG approved the ToR for the IA<sup>196</sup> via email in May 2017. The approved ToR deviate from the standard ToR for the IA and agreed upon procedures approved by the EITI Board in several important respects. First of all, the MSG agrees a ToR for the IA only once it has completed its own scoping study and taken key materiality decisions related to the scope of reconciliation. There is no evidence of the MSG’s considering options for revenue streams to be covered, aside from a cursory discussion of the materiality threshold for selecting companies as part of the MSG’s review of the 2015 scoping study. Aside from omitting Phase 0 and pairing down Phase 1 of the IA’s work, the agreed ToR does not include an Annex 1 covering the MSG’s materiality decisions.

***Appointment of the Independent Administrator (IA)*:** Having requested authorisation to launch procurement from the Coordinating Ministry for Economic Affairs, the MSG advertised a call for request of expressions of interest on the Ministry’s procurement portal on 11 July 2017. A selection of ten bidders was pre-qualified on 27 July 2017 and the technical and financial proposals were opened and assessed in turn in the first two weeks of August 2017. The bid evaluation committee was composed of staff from the Coordinating Ministry for Economic Affairs and EITI Indonesia Secretariat staff. The contract<sup>197</sup> for the 2015 IA was signed by Deputy Coordinating Minister for Energy Management, Natural Resources and Environment at the Coordinating Ministry for Economic Affairs Montty Giriana with KAP Heliantono and Rekan on 16 August 2017.<sup>198</sup>

***Agreement on the reporting templates*:** The MSG discussed the reporting templates for the 2015 EITI Report with the IA at its 22 August 2017 meeting, although the minutes do not record any MSG decision on the templates. While the minutes of the meeting record the IA’s recommendation to revise the section related to “CSR” (corporate social responsibility) payments and to draft a new reporting template for PT Kereta Api Indonesia to report revenues from the transportation of coal, there is no follow-up on this proposal recorded.

***Review of audit practices*:** The 2015 EITI Report provides an overview of statutory audit procedures for both extractives companies and government entities, with reference to international audit standards (Vol.3,pp.79-80), but does not confirm whether all material entities had their 2015 financial statements

<sup>193</sup> Ikatan Akuntan Indonesia (IAI) website, accessed [here](#) in October 2018.

<sup>194</sup> Institut Akuntan Manajemen Indonesia (IAM) website, accessed [here](#) in October 2018.

<sup>195</sup> Institut Akuntan Publik Indonesia (IAPI) website, accessed [here](#) in October 2018.

<sup>196</sup> EITI Indonesia (2017), ‘Terms of reference for the Independent Administrator for the 2015 EITI Report’, accessed [here](#) in November 2018.

<sup>197</sup> Contract Agreement No.PKK-20/PPK-EITI-IA/8/2017 (Vol.3,p.14).

<sup>198</sup> Based on procurement data provided by the EITI Indonesia Secretariat.

audited. The report also describes SKK Migas' responsibilities for auditing all oil and gas PSCs at the production stage (Vol.2,p.115;Vol.3,p.79). Despite the lack of explicit confirmation that the SKK Migas audit of operators took place in 2015, it appears that the audit takes place on an annual basis. Despite references to companies' annual reports throughout the 2015 EITI Report, there is no specific guidance on accessing annual reports or audited financial statements in the report.

***Assurance methodology:*** The report describes the quality assurances requested from reporting entities, consisting of management attestations to the completeness and reliability of reported data (Vol.3,pp.49,80). The reporting templates, available separately from the 2015 EITI Report on the EITI Indonesia website<sup>199</sup>, indicate that the attestation was expected to be signed by a representative of management able to sign on behalf of the company.

***Basis of accounting:*** The report states that EITI reporting of signature bonus, production bonus, royalty, PHT (share of sales revenue), dividend, and corporate and dividend tax was on a cash-accounting basis, while (unspecified) "other information" is presented on an accrual-accounting basis (Vol.3,p.79). The reporting templates do not seem to clearly indicate the basis of accounting for reporting of various material revenue flows.<sup>200</sup>

***Confidentiality:*** The report describes taxpayer confidentiality provisions of the General Taxation Law and the process for circumventing them through waivers (Vol.3,p.57), implying that the reconciled tax information could only be disclosed to the IA for companies having signed the waiver. More explicit reference is made to provisions to preserving confidential information (Vol.3,p.19).

***Reconciliation coverage:*** The report provides the reconciliation coverage of oil and gas revenues from producing companies (Vol.3,p.26), but not as a share of total oil and gas revenues (including from exploration companies). For mining, the report provides the reconciliation coverage as a share of total non-tax revenue in mining (Vol.3,p.26), but not as a share of total (tax and non-tax) government revenue. The materiality of payments from non-reporting companies is assessed as a share of non-tax revenues, not of total (including tax) revenues. While this is presumably due to the government's inability to disclose tax information from companies that did not sign the tax confidentiality waiver letter of authorisation (see Requirement 4.1), this is not explicitly stated in the report.

***Assurance omissions:*** The report does not provide information on the number of reporting companies and government entities that provided the requested quality assurance, nor an assessment of the materiality of payments from non-complying companies and revenues collected by non-complying government entities. However, in August 2018, EITI Indonesia published an overview of the number of reporting entities that did not provide the required quality assurances in the 2015 EITI Report, highlighting that eight of the 85 reporting mining companies and five of the 64 reporting oil and gas companies did not comply with the agreed quality assurances.<sup>201</sup> The addendum provides the value of payments from non-

<sup>199</sup> EITI Indonesia (2017), 'EITI Indonesia Reporting Template for Oil and Gas Sector – 2015', op.cit..

<sup>200</sup> Ibid.

<sup>201</sup> EITI Indonesia (2018), 'Oil and gas company statement sheet 2015', accessed [here](#) in October 2018.

reporting companies, aggregated for mining (1.76% of total non-tax mining revenues) and oil and gas (0.49% of total lifting value), although these do not seem to account for tax revenues. The value of payments from each non-complying reporting company is provided disaggregated by company on the EITI Indonesia website, both for mining<sup>202</sup> and oil and gas.<sup>203</sup>

The report also provides an assessment of the materiality of payments from companies that did not submit a letter of authorisation (tax confidentiality waiver) with their reporting templates, albeit only including tax revenues from oil and gas, not mining (*see Requirement 4.1*).

***Data reliability assessment:*** While the report includes ad hoc references to the need to ensure comprehensiveness of reporting (Vol.3,pp.17,20) and provides an informative summary of the work performed by the IA (Vol.3,p.47), it does not provide the IA's clear assessment of the comprehensiveness and reliability of the reconciled financial data. Although the report provides the IA's specific comments on the comprehensiveness and reliability of data disclosed by specific entities (e.g. SKK Migas, mineral and coal companies) (Vol.3,pp.79-80), it does not provide the IA's categorical assessment of the comprehensiveness and reliability of all reconciled data in the 2015 EITI Report.

***Sourcing of information:*** The report provides consistent sourcing for information, including the IA's authorship of most of the report and the MSG's decisions (particularly on scope and assurances) clearly highlighted. There do not appear to be views from any other parties.

***Summary tables:*** There is no publicly-available evidence that the IA prepared summary data tables of EITI data for Indonesia's 2015 EITI Report, in spite of provisions in the IA's ToR for preparing such tables. However, Indonesia has prepared summary data tables for the 2009-14 EITI Reports, available on its country page on the EITI website<sup>204</sup>, and submitted summary data tables for its 2015 EITI Report to the International Secretariat in January 2018, with a view to publishing these on the EITI website once sanitised. This was still pending at the commencement of Validation.

***Recommendations:*** The report provides an overview of follow-up on five recommendations of the 2014 EITI Report (Vol.3,p.82). It also presents two main sets of recommendations, with two in Volume 2 on contextual information (Vol.2,p.125) and seven in Volume 3 on the reconciliation (Vol.3,pp.82-85).

## Stakeholder views

***IA procurement:*** None of the stakeholders consulted raised concerns over the procurement process for the IA for the 2015 EITI Report, aside from one stakeholder who raised general concerns over the reappointment of the same team of consultants in different companies for all of Indonesia's EITI Reports aside from the report covering 2014. Secretariat staff confirmed that the three IAs other than EY (for the 2014 EITI Report) consisted of the same team of staff, but that the auditing company had changed names over the years. The MSG confirmed that it had approved the ToR for the IA, although no stakeholders

<sup>202</sup> EITI Indonesia (2018), 'List of mineral and coal companies that are reported but do not deliver statements 2015', accessed [here](#) in October 2018.

<sup>203</sup> EITI Indonesia (2018), 'List of oil and gas companies that are not borrowing the delivery of statements in EITI Indonesia Report 2015', accessed [here](#) in October 2018.

<sup>204</sup> Indonesia country page, EITI website, accessed [here](#) in September 2018.

expressed any particular opinions over deviations from the standard ToR approved by the EITI Board.

However, several stakeholders from all constituencies raised concerns over the time-consuming nature of the procurement process within the Coordinating Ministry for Economic Affairs. Secretariat staff explained that delays in launching procurement were due to the fact that the MSG prepared its own scoping study annually prior to launching the IA's procurement. This effectively meant that the scoping study could not be prepared before April every year, when preliminary official government data was available. Staff explained that the procurement for the IA for the 2016 EITI Report had to be re-tendered given the lack of bidders meeting the required criteria set in the ToR. Several CSOs consulted raised concerns over the lack of significant interest on the part of potential bidders for the IA work. Several development partners and CSOs considered that the low number of bids was likely due to the lack of broad advertising of the tender, which tended to simply be advertised on the Coordinating Ministry for Economic Affairs e-procurement portal. The IA noted that it was invited to bid for the tender for successive EITI Reports but did not raise any concerns over the procurement process. All stakeholders consulted expressed satisfaction at the IA's performance and professionalism in the 2015 EITI Report. The IA confirmed that it had mechanisms in place to ensure the confidentiality of data pre-reconciliation.

*Reporting templates:* Members of the MSG and the IA confirmed that the MSG had been given an opportunity to provide input to the reporting templates as part of their review of the inception report, although there was consensus that the reporting templates had remained largely unchanged for several years. The main change in reporting templates had taken place with the transition to the EITI Standard in the 2012-13 EITI Report. Secretariat staff highlighted the inclusion of beneficial ownership information in the templates for the 2016 EITI Report. A government official noted that the 2016 templates also covered oil and gas companies' contributions to rehabilitation bonds. Several other government officials and industry representatives noted that reporting templates had become easier to understand and fill out, after initial difficulties linked to lack of guidance. There were concerns about the adequacy of reporting templates from several representatives from all constituencies however, with several specific suggestions for improvements in future reporting templates. The IA considered that additional revenues collected by SOEs should have been included in the scope of reporting templates (*see Requirement 4.5*). The IA also noted that payments and revenues could have been presented in a more disaggregated manner (e.g. direct subnational payments) if the MSG had so requested (*see Requirement 4.7*). The IA commented that the MSG did not provide sufficient guidance to the IA (*see Requirement 1.4*).

*Basis of accounting:* Despite some confusion over the accounting basis for EITI reporting among several government and industry representatives consulted, the IA confirmed that tax payments were reported on a cash basis while non-tax revenues were reported on an accrual basis. A government official confirmed that the government had transitioned to an accrual-based accounting system from 2016 onwards.

*Audit and assurance practices:* Several industry representatives confirmed that both mining and oil and gas companies covered in EITI reporting were required to have their accrual-based financial statements audited annually. A government official described ongoing discussions to require companies to submit copies of their audited financial statements to the Ministry of Trade. Another government official noted DG Tax's collection of information on companies' turnovers and assets in building tax risk profiles of

companies.

With regards to government audit and assurance practices, a government official explained that public accounts were prepared by April and audited by June, before being submitted to parliament. While the Audit Board (BPKP) had issued a qualified opinion on the 2015 public accounts, it had provided an unqualified opinion for the 2016 and 2017 accounts. Several government officials confirmed that the BPKP's qualification for the 2015 accounts related to valuation of assets rather than statement of extractives revenues. An official noted that BPKP audited around a fifth of all extractives companies annually to verify their work programme execution, but that they typically only made adjustments of up to around 5% of cases. Another government representative highlighted the lack of integration of government information systems as a key challenge that agencies like the KPK were trying to overcome as part of their corruption prevention efforts.

*EITI quality assurances:* The IA explained that reporting templates were required to be signed by management in charge of finance, as was stated in the reporting templates and emphasised during template training workshops. Reporting templates were required to be submitted in both soft and signed hard copies, although the IA noted that it still took account of the handful of templates that were submitted unsigned (only in soft copy). A government official noted that BPKP had held a meeting with the Coordinating Ministry for Economic Affairs, but that BPKP had no input to EITI reporting to date. None of the reporting entities consulted expressed concerns over the quality assurances agreed for EITI reporting. Nonetheless, the IA noted that management sign-off was only linked to Financial Quarterly Reports (FQR) for oil and gas, not to audited financial statements for all companies.

*Comprehensiveness and reliability:* While most stakeholders consulted expressed confidence in the comprehensiveness and reliability of reconciled financial data at first, there was considerable debate over large differences in EITI data and other third-party data available online. The IA considered the reconciled data to be reliable, but expressed concerns over the comprehensiveness of the data given omissions of some information in the reporting templates (e.g. other payments to SOEs). Several CSOs expressed concern over the comprehensiveness of the reconciliation given the number of non-reporting companies, regardless of the materiality of their payments. The IA stated that it could not assess the materiality of non-complying companies' total payments to government given that some companies had not signed the tax confidentiality waivers. Despite these concerns, several government officials expressed confidence in the reliability of EITI data given that it was based on public accounts audited by BPKP, even if the 2015 EITI Report did not explicitly state that government disclosures were based on public accounts audited by BPKP.

## Initial assessment

The International Secretariat's initial assessment is that Indonesia has made inadequate progress towards meeting this requirement. In accordance with Requirement 4.9, the reconciliation of payments and revenues has been undertaken by an IA, appointed by the MSG, and applying international professional standards. The IA and the MSG agreed ToR for the production of the 2015 EITI Report that deviated from the standard ToR and agreed upon procedures issued by the EITI Board, but applied this ToR and procedures in practice. While the final report provides an informative summary of the work performed by

the IA and the limitations of the assessment provided, it does not include a clear statement from the IA on the comprehensiveness and reliability of the (financial) data presented. While the report indicates a coverage of the reconciliation exercise based on the government's disclosure of non-tax revenues, it does not provide the coverage in terms of total extractives revenues, including tax.

In accordance with Requirement 4.9, Indonesia should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. Indonesia should ensure that the ToR for the IA is in line with the standard ToR approved by the EITI Board and that its agreement on any deviations from the ToR in the final EITI Report be properly documented. Indonesia should also ensure that the IA include an assessment of whether the payments and revenues disclosed in the EITI Reports were subject to credible, independent audit, applying international auditing standards.

**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
Comprehensiveness (#4.1)	The MSG has agreed quantitative materiality thresholds for selecting companies and revenue streams, albeit without providing the value of payments from non-material companies or under non-material revenue streams. However, the lack of explicit justification for the exclusion of indirect payments to government despite the materiality of these payments according to third-party sources is a concern, alongside the exclusion of revenue streams listed under Requirement 4.1.b without evidence of their value in 2015. The 2015 EITI Report lists all material companies aside from 69 non-operator partners in oil and gas, and describes all material revenue streams. The report names the 52 non-reporting companies and assesses the materiality of their non-tax payments in aggregate for oil and gas and for mining, and includes the IA's assessment that payments from non-reporting oil and gas companies were considered insignificant, although no equivalent statement for mining. However, the report does not assess the materiality of tax payments from non-reporting companies, given confidentiality provisions of the tax code, and there is no categorical assessment of the materiality of tax	Inadequate progress

	payments from non-reporting companies. The report confirms that all material government entities reported but provides full government reporting of revenues from non-material companies for only some, not all, of the material revenue flows.	
In-kind revenues (#4.2)	While confirming the lack of in-kind revenues in mining, the 2015 EITI Report presents data on volumes of in-kind revenues collected in oil and gas, but does not provide information on volumes of in-kind revenues (oil and gas) sold nor value of proceeds collected, disaggregated by buyer. Additional information published on the EITI Indonesia website presents the aggregate volumes of oil and gas collected in kind by the government that were sold in 2016, albeit not disaggregated by buyer. The December 2017 pilot commodity trading report provides data on volumes sold and value of proceeds, disaggregated by buyer and cargo, although it is unclear whether this sales data includes Domestic Market Obligation (DMO) oil and it only covers sales of crude oil, not natural gas.	Meaningful progress
Barter and infrastructure transactions (#4.3)	The 2015 EITI Report states that there were no barter or infrastructure arrangements in Indonesia in 2015.	Not applicable
Transport revenues (#4.4)	Using the same materiality threshold as for the selection of revenue flows under Requirement 4.1, the 2015 EITI Report presents the results of reconciliation of coal transport revenues. While the lack of material transport revenues in oil and gas is confirmed, the report nonetheless presents Pertamina's unilateral disclosure of revenues from the transportation of oil and gas for third parties through the SOE's pipeline network. Descriptions of volumes of commodities transported and applicable rates are provided for both coal as well as oil and gas.	Satisfactory progress
Transactions between SOEs and government (#4.5)	The 2015 EITI Report and SOEs' annual reports and audited financial statements provide a reconciliation of SOE payments of dividends to government, aside from Pertamina for whom dividends are only unilaterally disclosed. Mining, oil and gas company payments to the four SOEs	Meaningful progress

	have not been comprehensively disclosed and reconciled, given the exclusion of payments to SOEs from the scope of reporting.	
Subnational direct payments (#4.6)	The 2015 EITI Report describes direct subnational payments in both oil and gas and mining, provides the value of direct subnational payments in 2015 and justifies the exclusion of direct subnational payments from the scope of reconciliation on quantitative materiality grounds. Despite general concerns over the comprehensiveness of reporting of direct subnational payments on the part of some stakeholders, there is no concrete evidence that material direct subnational payments have been excluded from the scope of reconciliation.	Not applicable
Level of disaggregation (#4.7)	The reconciled financial data in the 2015 EITI Report is disaggregated by individual company, government entity and revenue stream for all revenue streams aside from Corporate Tax and Dividend Tax as well as First Tranche Petroleum (FTP) and Equity Oil by oil and gas companies. While the International Secretariat understands that it may not be possible to disaggregate reporting of FTP from Equity Oil given the blending of the two revenues as 'government liftings', the 2015 EITI Report or relevant scoping studies do not clearly explain the rationale for combining the two kinds of in-kind payments. Although Corporate Tax and Dividend Tax were reported in a disaggregated form, they were presented in aggregate in the 2015 EITI Report. It is encouraging that Indonesia reports on a project-level for all oil and gas payments and a majority of mining payments to government.	Inadequate progress
Data timeliness (#4.8)	In accordance with Requirement 4.8, Indonesia has published EITI Reports on an annual basis with data no older than the second to the last complete accounting period. There is evidence the MSG approved the reporting period as part of the 2015 scoping study.	Satisfactory progress
Data quality (#4.9)	In accordance with Requirement 4.9, the reconciliation of payments and revenues has been undertaken by an IA, appointed by the MSG, and applying international professional	Inadequate progress

	<p>standards. The IA and the MSG agreed ToR for the production of the 2015 EITI Report that deviated from the standard ToR and agreed upon procedures issued by the EITI Board, but applied this ToR and procedures in practice. While the final report provides an informative summary of the work performed by the IA and the limitations of the assessment provided, it does not include a clear statement from the IA on the comprehensiveness and reliability of the (financial) data presented. While the report indicates a coverage of the reconciliation exercise based on the government's disclosure of non-tax revenues, it does not provide the coverage in terms of total extractives revenues, including tax.</p>	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>- In accordance with Requirement 4.1, Indonesia should ensure that the list of material companies included in the scope of reporting is clearly defined and should ensure that future EITI reporting includes the IA's assessment of the materiality of omissions as well as full unilateral government disclosure of material revenues from non-material companies.</li> <li>- In accordance with Requirement 4.2, Indonesia should ensure that future EITI reporting present information on the sale of the state's in-kind revenues, including volumes sold and the proceeds of sales, disaggregated by buyer.</li> <li>- In accordance with Requirement 4.5, Indonesia must ensure that the role of SOEs, including company and subsidiary payments to SOEs as well as transfers between SOEs and government agencies, is comprehensively and publicly addressed. Indonesia is encouraged to consider working with SOEs on ensuring their statutory annual reporting covers the information required by the EITI Standard in a sufficiently disaggregated manner.</li> <li>- To strengthen implementation, Indonesia is strongly encouraged to establish whether direct subnational payments by extractives companies are material ahead of future EITI reporting. In future unilateral disclosures of non-material direct subnational payments, Indonesia is encouraged to consider the feasibility of disaggregating local tax payments by revenue stream. Indonesia is also urged to clarify the status of mining companies' direct payments to local governments under ad hoc agreements, given stakeholder views that such expenditures such be considered mandatory social, rather than direct subnational, payments.</li> <li>- In accordance with Requirement 4.7, Indonesia should present all reconciled financial data disaggregated by company, government entity and revenue stream. To further strengthen implementation, Indonesia may wish to make progress in implementing project-level EITI reporting for all material companies ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.</li> <li>- In accordance with Requirement 4.9, Indonesia should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. Indonesia should ensure that the ToR</li> </ul>		

for the IA is in line with the standard ToR approved by the EITI Board and that its agreement on any deviations from the ToR in the final EITI Report be properly documented. Indonesia should also ensure that the IA include an assessment of whether the payments and revenues disclosed in the EITI Reports were subject to credible, independent audit, applying international auditing standards.

## 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

**Systematic disclosures:** The Ministry of Finance website<sup>205</sup> publishes the annual Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), which include the tax and non-tax revenues on an annual basis, disaggregated by revenue stream but not by company or sector (e.g. extractives). Revenue information in the government’s financial reports is audited by the Auditor General. In terms of the extractives revenues that are earmarked to a national revenue-sharing fund (earmarked expenditures, not subnational transfers to extractives-producing regions), these transfers are recorded in the national budget (*see Requirement 5.3*).

**2016 EITI Report:** The 2015 EITI Report confirms that all tax and non-tax revenues from the extractive industries are recorded in the central government’s budget, with reports describing these revenues accessible from the Ministry of Finance website (link<sup>206</sup> provided) (Vol.2,p.113).

There are no references to national or international revenue classification systems in the report.

##### Stakeholder views

There was consensus among stakeholders consulted that all extractives revenues were recorded in the national budget, under the Treasury Single Account system. Government officials confirmed that local taxes from oil and gas companies (PDRD) were also recorded in the budget under the “assume and discharge” model (*see Requirements 4.6 and 5.2*). While one government official noted the existence of 25,000 non-Treasury accounts for individual spending units, he confirmed that these did not receive any extractives revenues. Another government official confirmed that there were deviations between the Indonesian national revenue classification and GFS, but noted that the government prepared GFS-coded revenue data for the IMF using conversion tables.

##### Initial assessment

The International Secretariat’s initial assessment is that Indonesia has made satisfactory progress in meeting this requirement. The 2015 EITI Report confirms that all government revenues from the

<sup>205</sup> Ministry of Finance website, Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), op.cit..

<sup>206</sup> Link not working: <https://www.kemenkeu.go.id/page/financialsheets-committees.in>

extractive industries are recorded in the central government's budget.

To strengthen implementation, Indonesia may wish to consider using annual EITI reporting as a means of tracking implementation of reforms in the national revenue classification system.

## Sub-national transfers (#5.2)

### Documentation of progress

**Systematic disclosures:** The Government Information Commission website provides access to Law 33/2004<sup>207</sup> and the Directorate of Fiscal Balance website provides access to Government Regulation 55/2005<sup>208</sup>, providing the legal framework and revenue-sharing formula for subnational transfers. However, the value of subnational transfers of extractives revenues is not publicly-disclosed.

**2016 EITI Report:** The 2015 EITI Report describes two systems of subnational transfers of revenues from mining, oil and gas, under the Revenue Sharing Fund (DBH) mechanism (Vol.2,pp.116-120; Vol.3,pp.73-76) and the “assume and discharge” model for some oil and gas contracts (Vol.2,pp.36,55;Vol.3,pp.43,73).

In terms of the first type of statutory subnational transfers, the report provides the general formula for calculating subnational transfers (DBH) in mining (Vol.2,p.118;Vol.3,p.74) and in oil and gas (Vol.2,p.117;Vol.3,pp.73-74), albeit without sufficient information to allow readers to calculate the value of subnational transfers that should have been transferred to individual subnational governments according to the revenue-sharing formula. The report presents the government's unilateral disclosure of subnational transfers (DBH) related to crude oil, natural gas and mining in 2015, distinguishing between allocated sums and realised transfers (Vol.4,pp.262-272). As the report describes however, the realised subnational transfers were lower than the allocations (Vol.2,p.119), implying that the “allocated” subnational transfers were calculations according to the formula based on forecast government liftings (in the first two quarters), while realised transfers were adjustments in line with actual government liftings (in the last two quarters). However, the report does not confirm whether realised subnational transfers were in line with calculations according to formula based on final government liftings.

The report describes the second form of subnational transfers, consisting of the central government making payments of local taxes on behalf of certain (but not all) oil and gas companies. It confirms that mining companies make payments of local taxes (PDRD) directly to local governments. It explains that PDRD payments of three types of local taxes<sup>209</sup> are mandatory for oil and gas companies, which are required to pay PDRD either to central government, which then redistributes the funds via subnational transfers under the “assume and discharge” system, or pay directly to local governments and claim the cost under cost recovery (Vol.3,p.43). Elsewhere, the report contradicts this statement somewhat by explaining that operators of PSCs signed prior to 2010 are exempt from indirect taxes “because it is assumed that oil and gas production shared between the contractor and the government has included the payment of such taxes” (Vol.2,p.36). Elsewhere still, the report confirms that the “assume and discharge”

<sup>207</sup> Law 33/2004 of the Republic of Indonesia, accessed [here](#) in October 2018.

<sup>208</sup> Government Regulation 55/2005, accessed [here](#) in October 2018.

<sup>209</sup> Ground Water Tax, Rod Lighting Tax, and Specific Permit Retribution (Building Construction Permit – IMB).

model consisted of the national government making payments of PDRD on behalf of oil and gas companies whose contracts were signed prior to Government resolution 79/2010 (Vol.2,pp.36,55;Vol.3,pp.43,73). The report states that the value of oil and gas companies whose local taxes were paid by central government is provided in Appendix 2.17 (Vol.3,p.73) and provides these labelled as “deduction factor in oil and gas sector” (Vol.4,pp.53-54). However, the value of these local taxes paid by central government on behalf of oil and gas companies is only provided disaggregated by company, not by revenue stream or by local government. There is no assessment of any discrepancies between the value of payments to local governments and calculations according to the formula for local taxes, nor an explanation of local tax rates.

### Stakeholder views

There was significant interest in the issue of subnational transfers among stakeholders consulted from all constituencies, who tended to view this as one of the most crucial to achieving the objectives of Indonesia’s EITI implementation. While most stakeholders consulted highlighted the demand for information on transfers, there was little evidence that EITI data was being used as part of public debate on the issue. Several CSOs considered that there were other channels for sourcing information on subnational transfers and for public advocacy on the issue. Most government officials consulted considered that the robust public debate over subnational transfers and repeated calls by local governments on the issue reflected poor communication and misunderstanding on the underlying calculations, rather than an institutional bottleneck that required any reform.

*DBH*: There was consensus among stakeholders consulted that calculations of DBH subnational transfers had caused public controversy. A government official confirmed that DBH subnational transfers were calculated based on government liftings and explained that, while the calculations of DBH transfers were clear, local governments did not trust the figures for government liftings and questioned the valuations of cost recoverable items that reduced the ultimate value of DBH transfers. Government officials confirmed that the general revenue-sharing formula was provided in Law 33/2004, but explained that the key variable was each the share of production in each local government area. They confirmed that SKK Migas provided the government lifting figures on which DG Migas calculations of government liftings per local government were based, with DG Fiscal Balance calculating the value of DBH transfers of shares of government revenue to each local government. Several government officials explained that “socialisation meetings” were held, previously semi-annually and now annually, where DG Fiscal Balance would review the calculations of DBH transfers with SKK Migas, DG Budget, DG Migas and the Ministry of Home Affairs. A similar process was followed for mining DBH transfers with DG Minerals and Coal calculating geographic spreads of production, according to officials. Officials consulted noted that local governments often requested government lifting data from SKK Migas, as they did not trust the DBH calculations.

Officials consulted confirmed that DBH transfers were executed quarterly (with the first two quarters based on forecast liftings) and that figures in the report for “allocated” and “realised” represented calculations based on forecast and actual government liftings respectively. The officials thus confirmed that the EITI Report did not explicitly assess whether there were any deviations between the value of actual DBH transfers and calculations according to the revenue-sharing formula. There were differing views across various stakeholders consulted, including across government, over whether the “deduction factor in oil and gas” in Appendix 2.17 (pp.53-54) represented deductions from government liftings, on

which DBH transfers were calculated. A government official noted that deductions from government liftings were a key point of contention in DBH calculations. Another official noted that the Ministry of Finance had an application for local governments to track executions of DBH transfers (including over/under-liftings), but that the application was access-restricted. However, the portal did not allow local government officials to verify the DBH calculations. Several industry representatives expressed interest in more clarity over the calculations and executions of DBH transfers, given the level of interest in the issue at the subnational level. Officials explained that local governments were required to spend a set amount of their DBH transfers on specific items, including health, education and infrastructure, although compliance with these quotas was reportedly uneven. More broadly, an official highlighted the launch of simplified central government budget information (including a citizens' budget) through a new Ministry of Finance portal.<sup>210</sup>

*“Assume and discharge” of PDRD:* Upon extensive discussions over the distinction between direct subnational payments and subnational transfers, there was consensus among stakeholders consulted that local tax (PDRD) payments by central government to local governments on behalf of oil and gas companies (whose PSCs were signed before 2010) under the “assume and discharge” model constituted subnational transfers in practice rather than a form of direct subnational payment. On the other hand, oil and gas companies whose PSCs were signed after 2010 were required to pay PDRD as direct subnational payments before claiming the payments back under cost recovery (see *Requirement 4.6*). In terms of “deduction factor in oil and gas” under the assume and discharge model in Appendix 2.17 (Vol.4, pp.53-54), representatives from government and civil society confirmed that Land and Building Tax was a common tax paid by all companies, and thus that subnational transfers of the tax were not sector-specific.

### Initial assessment

The International Secretariat’s initial assessment is that Indonesia has made inadequate progress towards meeting this requirement. The 2015 EITI Report describes statutory subnational transfers of mining, oil and gas revenues under the DBH transfer scheme and provides the general revenue-sharing formula. The value of executed DBH subnational transfers is provided per local government, albeit without an assessment of discrepancies with calculations based on the revenue-sharing formula. The EITI Report describes a second form of subnational payments in practice, consisting of central government payments of local taxes (PDRD) on behalf of certain oil and gas companies under the “assume and discharge” model, and provides the value of such transfers. However, the report does not clearly describe the companies concerned by such “assume and discharge” payments and does not assess any discrepancies with calculations of such transfers according to statutory PDRD regulations.

In accordance with Requirement 5.2, Indonesia should assess the materiality of subnational transfers and ensure that future EITI reporting provide the specific formula for calculating subnational transfers linked to extractives revenues to individual governorates, disclose any material subnational transfers and any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.

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<sup>210</sup> Ministry of Finance Budget Portal, accessed [here](#) in November 2018.

## Additional information on revenue management and expenditures (#5.3)

### Documentation of progress

**Systematic disclosures:** There is no information on earmarked revenues accessible online. Information on the budget-making process is accessible on websites of the Ministry of Finance<sup>211</sup> and the House of Representatives.<sup>212</sup> The Audit Board's annual audits of government financial statements are accessible through its website.<sup>213</sup> The Government Accounting Standard Committee (Komite Standar Akuntansi Pemerintahan – KSAP) sets government audit and accounting standards in Indonesia, with an annual report published on its website.<sup>214</sup>

**2016 EITI Report:** The 2015 EITI Report describes statutory subnational transfers and earmarks of extractives revenues to the three special autonomy regions of Aceh, Papua and West Papua (Vol.2,pp.116-118;Vol.3,p.74), including revenue-sharing formulas for the special autonomy regions.

An overview is provided of the government's budgeting process (Vol.2,pp.113-115) and its statutory audit procedures (Vol.3,pp.79-80), including SKK Migas' responsibilities for auditing all oil and gas PSCs at the production stage (Vol.2,p.115;Vol.3,p.79).

While the report provides some information on historical prices for Indonesia's key minerals (Vol.2,pp.77-78), it does not provide additional information on projected commodity prices, production or revenues.

### Stakeholder views

There was consensus among government stakeholders consulted that there were no earmarks of government extractives revenues and that all extractives revenues transited through the Treasury Single Account (*see Requirement 5.1*), implying that all revenues were blended into general budget revenues. While a share of DBH subnational transfers was earmarked for specific uses (e.g. health, education) by local governments, officials did not consider these to be extractives revenues earmarks, but rather general revenue earmarks. An official highlighted the launch of simplified central government budget information (including a citizens' budget) through a new Ministry of Finance portal.<sup>215</sup>

### 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. It is encouraging that the MSG has made some attempt at including information on extractives revenues earmarks, the budget-making and government audit processes in the 2015 EITI Report.

To further strengthen implementation, Indonesia may wish to include additional relevant information on projected production, commodity prices and revenue forecasts to provide more contextual background to

<sup>211</sup> Ministry of Finance website, 2018 Government Budget, accessed [here](#) in October 2018.

<sup>212</sup> House of Representatives of the Republic of Indonesia, accessed [here](#) in October 2018.

<sup>213</sup> Audit Board of the Republic of Indonesia website, 'Government financial statements', op.cit..

<sup>214</sup> Komite Standar Akuntansi Pemerintahan (KSAP), 'Annual reports', op.cit..

<sup>215</sup> Ministry of Finance Budget Portal, op.cit..

the macro-economic impact of the extractive industries in future disclosures.

**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
Distribution of revenues (#5.1)	The 2015 EITI Report confirms that all government revenues from the extractive industries are recorded in the central government's budget.	Satisfactory progress
Sub-national transfers (#5.2)	The 2015 EITI Report describes statutory subnational transfers of mining, oil and gas revenues under the DBH transfer scheme and provides the general revenue-sharing formula. The value of executed DBH subnational transfers is provided per local government, albeit without an assessment of discrepancies with calculations based on the revenue-sharing formula. The EITI Report describes a second form of subnational payments in practice, consisting of central government payments of local taxes (PDRD) on behalf of certain oil and gas companies under the "assume and discharge" model, and provides the value of such transfers. However, the report does not clearly describe the companies concerned by such "assume and discharge" payments and does not assess any discrepancies with calculations of such transfers according to statutory PDRD regulations.	Inadequate progress
Information on revenue management and expenditures (#5.3)	It is encouraging that the MSG has made some attempt at including information on extractives revenues earmarks, the budget-making and government audit processes in the 2015 EITI Report.	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>- To strengthen implementation, Indonesia may wish to consider using annual EITI reporting as a means of tracking implementation of reforms in the national revenue classification system.</li> <li>- In accordance with Requirement 5.2, Indonesia should assess the materiality of subnational transfers and ensure that future EITI reporting provide the specific formula for calculating subnational transfers linked to extractives revenues to individual governorates, disclose any material subnational transfers and any discrepancies between the transfer amount calculated in</li> </ul>		

accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.

- To further strengthen implementation, Indonesia may wish to include additional relevant information on projected production, commodity prices and revenue forecasts to provide more contextual background to the macro-economic impact of the extractive industries in future disclosures.

## 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

**Systematic disclosures:** Larger (particularly publicly-listed) mining, oil and gas companies and SOEs disclose details of their social expenditures in their annual reports published on their respective websites. However, an ad hoc review of annual reports of material companies indicates that such disclosures do not tend to disaggregate between voluntary and mandatory social expenditures, nor by project or between cash and in-kind social expenditures. The identity of non-government beneficiaries is not consistently disclosed. The Ministry of Energy and Mineral Resources undertakes annual performance audits of extractives companies but does not publish the results. The Audit Board undertakes annual audits of around one fifth of extractives companies to monitor their compliance with work programme commitments, although the results are not published.

**2016 EITI Report:** The 2015 EITI Report provides an overview of social expenditures undertaken by reporting companies, which totalled USD 2.13bn in 2015 (Vol.2,pp.107-108). An overview is provided of legal provisions related to social expenditures, categorised as ‘Corporate Social Responsibility’, and appears to indicate that social expenditures are mandatory for companies both oil and gas<sup>216</sup> and mining<sup>217</sup> (Vol.2,pp.51-52). In addition, the report describes legal provisions enacted in 2015<sup>218</sup> requiring all SOEs to implement community development programmes (Vol.2,p.95).

While the report provides the ceiling for SOEs’ mandatory social expenditures, at 4% of the previous year’s net profit after tax (Vol.2,p.95), it does not provide additional information on the mandatory minimum social expenditures required of either oil and gas or mining companies but notes that the amounts spent on social expenditures are “not regulated by the Government” (Vol.2,p.117). This appears to imply that SOEs are required to undertake mandatory social expenditures but without a set minimum for expenditures, although this is not explicitly stated in the EITI Report.

In *oil and gas*, the report presents the results of reporting from 69 oil and gas companies’ reporting of social expenditures, disaggregated between the general expenditure purposes, but not per project or per beneficiary (Vol.4,pp.70-138,284). The data is presented without a clear segregation between mandatory

<sup>216</sup> Under Law No. 22/2001 on Oil and Gas article 11 paragraph 3 and article 40 paragraph 5.

<sup>217</sup> Under GR No. 23/2010 on Implementation of Mineral and Coal Mining Business Activities article 106 paragraph (1).

<sup>218</sup> Under Regulation of the Minister of SOE No. PER-09 / MBU / 07/2015 on Partnership and Community Development Programs (PKBL) of SOEs.

and voluntary social expenditures, between expenditures provided in cash and in-kind, nor highlighting the identity if any non-government beneficiaries. In mid-2018, EITI Indonesia published an addendum on 69 oil and gas companies' reporting of their mandatory social expenditures, which clearly identified all reported social expenditures as "voluntary", disaggregated cash from in-kind expenditures, provided a description of the nature of works and the identity of beneficiaries.<sup>219</sup>

In *mining*, the report presents the results of 104 mining companies' reporting of social expenditures (Vol.4,pp.139-261,285-287), albeit not disaggregated between mandatory and voluntary social expenditures, between expenditures provided in cash and in-kind, nor highlighting the identity of any non-government beneficiaries. In mid-2018, EITI Indonesia published an addendum on 123 mining companies' reporting of their mandatory social expenditures, which clearly identified all reported social expenditures as "voluntary", disaggregated cash from in-kind expenditures, provided a description of the nature of works, but did not provide the identity of non-government beneficiaries.<sup>220</sup> However, of the 123 companies listed, social expenditure information is provided for only 58 companies.

For *SOEs*' mandatory social expenditures, the report presents social expenditures of PT Pertamina, PT Bukit Asam and PT Timah, disaggregated by purpose of expenditure (Vol.2,pp.98-99,102,104), albeit not disaggregated between mandatory and voluntary social expenditures, nor between cash and in-kind expenditures or by beneficiary identity. In addition, the report only refers to unspecified social expenditures from PT Aneka Tambang (Vol.2,p.100).

The reporting templates provided in appendix indicate that material companies were only asked to report an aggregate value of 'corporate social responsibility' payments (Vol.4,pp.70-261), without additional information on whether social expenditures were mandatory, in cash or in-kind, nor on the identity of any non-government beneficiaries.

### Stakeholder views

Stakeholders consulted did not express any particular views on the 2015 EITI Report's coverage of mandatory social expenditures. The IA only noted that the reporting templates had been approved by the MSG, but that it would have been possible to request more disaggregated information from reporting companies with modifications to the reporting templates.

*Oil and gas:* Most stakeholders consulted from government and civil society considered that all oil and gas companies were required to undertake mandatory social expenditures, albeit without specifics about the level and types of social expenditures required. A government official explained that different requirements for social expenditures were applicable to different oil and gas companies. Mandatory social expenditures were required from all exploration, but not production, companies prior to 2010 and such expenditures were entirely cost recoverable. In 2010, a new regulation required all production companies to also undertake mandatory social expenditures, but did not provide for such expenditures to be cost recoverable. In 2017, a new regulation confirmed that mandatory social expenditures were required of exploration and production companies and made such expenditures cost recoverable. However, the new regulation required production companies to amend their PSCs in order to benefit

<sup>219</sup> EITI Indonesia (2018), 'Data CSR beneficiary oil and gas 2015', accessed [here](#) in October 2018.

<sup>220</sup> EITI Indonesia (2018), 'Data CSR beneficiary mining 2015', accessed [here](#) in October 2018.

from the cost recoverability of mandatory social expenditures, with the official confirming that none of the producing oil and gas companies had yet availed of this revision at the time of Validation stakeholder consultations.

A civil society representative noted that oil and gas companies were required to provide reports on their mandatory social expenditures to SKK Migas as part of their work programme commitments, but noted the lack of a mandatory minimum for social expenditures from companies other than SOEs. However, several industry representatives considered that all social expenditures were currently voluntary given the lack of related contractual provisions in the PSCs, with some expenditures cost recoverable and others not. The company representatives explained that SKK Migas was in the process of updating its guidance on social expenditures. A government representative expressed uncertainty over the distinction in EITI reporting between mandatory social expenditures and quasi-fiscal expenditures in the case of Pertamina. Another government representative explained that contributions to the Abandonment and Site Restoration Fund (ASR Fund) were not considered forms of mandatory expenditures since they were a form of provisioning for decommissioning of oil and gas assets. The official explained that older PSCs did not include any clauses for companies to contribute to the ASR Fund.

***Mining:*** There was consensus among stakeholders consulted that mining companies were required to undertake mandatory social expenditures by government regulation, although civil society representatives emphasised the lack of mandatory minimum for social expenditures and the lack of government oversight of social expenditures in the same way as for oil and gas (e.g. mandatory reporting). An independent commentator confirmed that the 2009 Mining Law included mandatory provisions for social development agreements, which were often provided in-kind for the benefit of local communities given companies' mistrust of cash payments to local governments. The IA confirmed its conception that standalone MoUs between certain companies and local governments as "contributions to sustainable development" did not represent a form of mandatory social expenditures, but rather a distinct form of ad hoc direct subnational payment. However, several other government and industry representatives contested this view and considered that such ad hoc agreements represented a form of mandatory social expenditures. Stakeholders consulted including the IA expressed uncertainty over the reasons for the low number (11) of companies reporting such payments (*see Requirement 4.6*). Several industry and civil society representatives highlighted the public interest in mining companies' social contributions and the common perception that mining companies did not contribute sufficiently. With regards to mining SOEs' social expenditures, government representatives confirmed that these were mandated by government regulation and that SOEs tended to conclude agreements with local governments based on their proposals.

## Initial assessment

The International Secretariat's initial assessment is that Indonesia has made inadequate progress towards meeting this requirement. The 2015 EITI Report describes mandatory social expenditures in mining, oil and gas as well as for extractives SOEs, but only provides unilateral company reporting of all social expenditures without specifying the expenditures that are mandatory by law or contractual terms. It is unclear from the report which mandatory social expenditures are required from which material companies. The information on social expenditures is disaggregated only by company, not between cash and in-kind expenditures, and the identity of any non-government beneficiaries of mandatory social

expenditures remains unclear.

In accordance with Requirement 6.1, Indonesia should ensure that a clear definition of any mandatory social expenditures is publicly provided and assess the materiality of such expenditures in the period under review. Public disclosure of mandatory social expenditures must be disaggregated by type of payment (distinguishing cash and in-kind) and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. Indonesia is encouraged to pursue disclosure of voluntary social expenditures to a level of disaggregation commensurate with mandatory social expenditures, albeit clearly distinguishing the two forms of payments in the disclosures.

## SOE quasi fiscal expenditures (#6.2)

### Documentation of progress

**Systematic disclosures:** Each of the four extractives SOEs' respective websites provides access to annual reports and audited financial statements of PT Pertamina<sup>221</sup>, PT Aneka Tambang<sup>222</sup>, PT Bukit Asam<sup>223</sup> and PT Timah<sup>224</sup>, although these do not highlight any quasi-fiscal expenditures. There is no publicly-disclosed information on quasi-fiscal expenditures related to extractives revenues.

**2016 EITI Report:** While the 2015 EITI Report provides a definition of quasi-fiscal expenditures (Vol.2,p.130), it does not provide any other reference to quasi-fiscal expenditures elsewhere in the report. However in mid-2018, EITI Indonesia published on its website a letter from the MoF's Directorate General of Budget clarifying that SOEs' expenditures are not recorded in the national budget, implying (although not explicitly stating) that SOEs' social expenditures could be considered quasi-fiscal.<sup>225</sup> Letters published on the EITI Indonesia website from PT Aneka Tambang and PT Timah confirm that the two companies' social expenditures are not recorded in the national budget.<sup>226</sup> The three mining SOEs' CSR reports for 2015 are published on the EITI Indonesia website.<sup>227</sup> While the report refers to social expenditures undertaken by the four SOEs (Vol.2,pp.99,101,102,104), it categorises these as social expenditures rather than forms of quasi-fiscal expenditures.

The EITI Indonesia website also published two spreadsheets detailing expenditures undertaken by Pertamina categorised as "quasi-fiscal", disaggregated by Working Area.<sup>228</sup> However, all expenditures listed appear to consist of social expenditures and it is unclear whether the list of expenditures provided is comprehensive of all Pertamina activities that could be considered quasi-fiscal.

The report describes the fuel subsidy (BBM) provided by PT Pertamina on fuel sold domestically, including

<sup>221</sup> PT Pertamina, 'Report and presentation', op.cit..

<sup>222</sup> PT Aneka Tambang website, op.cit..

<sup>223</sup> PT Bukit Asam website, 'Audit financial report', op.cit..

<sup>224</sup> PT Timah, 'Report', op.cit..

<sup>225</sup> EITI Indonesia (2018), 'Explanation of The ministry of finance, Directorate general of budget, Directorate of state budget and expenditure preparation on "Social Expenditure" of state owned enterprises (BUMN)', accessed [here](#) in October 2018.

<sup>226</sup> See letters from PT Aneka Tambang and PT Timah published on EITI Indonesia (2018), 'Quasi-fiscal expenditures of SOEs', accessed [here](#) in October 2018.

<sup>227</sup> EITI Indonesia (2018), 'Financial report and CSR of SOEs', accessed [here](#) in October 2018.

<sup>228</sup> See two spreadsheets of Pertamina's quasi-fiscal expenditures published on EITI Indonesia (2018), 'Quasi-fiscal expenditures of SOEs', accessed [here](#) in October 2018.

volumes and values of fuel sold, although it confirms that the SOE receives a “mandate” from government to sell subsidized fuel (Vol.2,p.15) and that it receives compensation from the central government (Vol.2,p.96). While the report provides the value of the subsidy and “marketing rewards” received by Pertamina in 2015 (IDR 224.7tn) and the value of total sales of subsidised fuel (IDR 47,555tn) (Vol.2,p.96), it is unclear from the report whether Pertamina absorbed any additional costs associated with the fuel subsidy scheme than those reimbursed by the subsidy transfers from government.

### Stakeholder views

Although there were concerns over political interference in the management of SOEs in both mining and oil and gas on the part of civil society representatives consulted, there were fewer concrete examples of quasi-fiscal expenditures by SOEs in mining than in oil and gas.

***Mining:*** Several government representatives expressed uncertainty over the definition of quasi-fiscal expenditures for the purposes of EITI reporting, noting their conception that quasi-fiscal expenditures consisted of social expenditures by SOEs. Several examples were provided, such as the mining SOEs’ contributions to emergency relief measures or other public activities like the Asian Games upon direction by the government. While SOEs had MoUs with local governments for social expenditures, there was no such MoU with the national government related to their contributions to such public-interest activities. A civil society representative did not consider quasi-fiscal expenditures to be a concern for mining SOEs.

***Oil and gas:*** Discussions of quasi-fiscal expenditures during stakeholder consultations focused on the cost of fuel subsidies, particularly with resurgent international oil prices in 2018. While stakeholders consulted did not express any particular views on the 2015 EITI Report’s coverage of quasi-fiscal activities, several government representatives noted the public interest in the cost of fuel subsidies to Pertamina in 2018, given that the government set prices of fuels such as Premium Gasoline 88 and Gasoil without an equivalent subsidy from the state. A government official explained that the government only provided subsidies of up to IDR 500 per L, which meant that Pertamina was required to absorb any additional cost associated with maintaining fuel prices at set levels. While confirming that a share of this subsidy structure represented quasi-fiscal expenditures by Pertamina in 2018, government officials expressed uncertainty over whether this had cost the SOE in 2015 when international oil prices were lower. While CSOs consulted did not consider the issue of subsidy structure to be high on the public agenda, they considered it of interest to the oil and gas industry given the impact of such quasi-fiscal expenditures on Pertamina’s ability to fund its upstream capital expenditure commitments.

### Initial assessment

The International Secretariat’s initial assessment is that Indonesia has made inadequate progress towards meeting this requirement. The 2015 EITI Report provides a definition of quasi-fiscal expenditures but there is no evidence of the MSG having considered the existence of quasi-fiscal expenditures in any depth. The EITI Indonesia website published extractives SOEs’ confirmations that their social expenditures in 2015 were not recorded in the budget and provides links to SOEs’ disclosures of their social expenditures. However, it is unclear whether this narrow definition of quasi-fiscal expenditures – i.e. only SOEs’ social expenditures – is comprehensive of all extractives SOEs’ expenditures that could be categorised as quasi-fiscal in line with the definition provided in the IMF’s Fiscal Transparency Manual.

In accordance with Requirement 6.2, Indonesia should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. Indonesia should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.

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

### Documentation of progress

**Systematic disclosures:** The National Statistics Board website<sup>229</sup> provides quarterly updates on the value of GDP, including breakdowns by sector, monthly export values and annual employment statistics. The Ministry of Finance website<sup>230</sup> publishes the annual Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), which include the tax and non-tax revenues on an annual basis, albeit not disaggregated by company or sector (e.g. extractives).

**2016 EITI Report: *Share of GDP:*** The 2015 EITI Report provides the contribution of the extractive industries to GDP in absolute and relative terms (Vol.2,pp.80-81). An overview of informal activities in mining is provided, albeit without estimates of the value of informal activities (Vol.2,p.111).

***Government revenues:*** The report provides the contribution of the extractive industries to government revenues in absolute and relative terms (Vol.2,p.81).

***Exports:*** The report provides the contribution of the extractive industries to total exports in absolute and relative terms (Vol.2,pp.86-87).

***Employment:*** The report provides the contribution of the extractive industries to total employment in absolute and relative terms (Vol.2,p.90).

***Location:*** The report provides maps of the main coal, oil and gas reserves (Vol.2,p.79), breakdowns of oil and gas production for each of the 15 largest Working Areas (Vol.2,pp.82-84) and of coal production for each of the eight producing provinces (Vol.2,p.85), as well as an overview of the contribution of the extractive industries to GDP in eight provinces (Vol.2,p.90).

### Stakeholder views

Stakeholders consulted did not express any particular views on the 2015 EITI Report's coverage of the contribution of the extractive industries to the economy. Several government officials highlighted the launch of the MODI extractives information portal, which together with the SKK Migas lifting dashboard provided information on licenses, production and macro-economic contributions (see *Requirements 2.3 and 3.2*).

<sup>229</sup> National Statistics Board website, 'National statistics indicators', accessed [here](#) in October 2018.

<sup>230</sup> Ministry of Finance website, Central Government Financial Reports (Laporan Keuangan Pemerintah Pusat – LKPP), accessed [here](#) in October 2018.

## Initial assessment

The International Secretariat's initial assessment is that Indonesia has made satisfactory progress towards meeting this requirement. The 2015 EITI Report provides, in absolute and relative terms, estimates of the extractive industries' contribution to GDP, government revenues, exports and employment, identifying the location of production.

To further strengthen implementation, Indonesia may wish to consider working with key government entities to use EITI reporting to improve the granularity of official figures on the extractive industries, particularly their contribution to GDP, government revenues and employment.

**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
Social expenditures (#6.1)	The 2015 EITI Report describes mandatory social expenditures in mining, oil and gas as well as for extractives SOEs, but only provides unilateral company reporting of all social expenditures without specifying the expenditures that are mandatory by law or contractual terms. It is unclear from the report which mandatory social expenditures are required from which material companies. The information on social expenditures is disaggregated only by company, not between cash and in-kind expenditures, and the identity of any non-government beneficiaries of mandatory social expenditures remains unclear.	Inadequate progress
SOE quasi fiscal expenditures (#6.2)	The 2015 EITI Report provides a definition of quasi-fiscal expenditures but there is no evidence of the MSG having considered the existence of quasi-fiscal expenditures in any depth. The EITI Indonesia website published extractives SOEs' confirmations that their social expenditures in 2015 were not recorded in the budget and provides links to SOEs' disclosures of their social expenditures. However, it is unclear whether this narrow definition of quasi-fiscal expenditures – i.e. only SOEs' social expenditures – is comprehensive of all	Inadequate progress

	extractives SOEs' expenditures that could be categorised as quasi-fiscal in line with the definition provided in the IMF's Fiscal Transparency Manual.	
Contribution of the extractive sector to the economy (#6.3)	The 2015 EITI Report provides, in absolute and relative terms, estimates of the extractive industries' contribution to GDP, government revenues, exports and employment, identifying the location of production.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>- In accordance with Requirement 6.1, Indonesia should ensure that a clear definition of any mandatory social expenditures is publicly provided and assess the materiality of such expenditures in the period under review. Public disclosure of mandatory social expenditures must be disaggregated by type of payment (distinguishing cash and in-kind) and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. Indonesia is encouraged to pursue disclosure of voluntary social expenditures to a level of disaggregation commensurate with mandatory social expenditures, albeit clearly distinguishing the two forms of payments in the disclosures.</li> <li>- In accordance with Requirement 6.2, Indonesia should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. Indonesia should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.</li> <li>- To further strengthen implementation, Indonesia may wish to consider working with key government entities to use EITI reporting to improve the granularity of official figures on the extractive industries, particularly their contribution to GDP, government revenues and employment.</li> </ul>		

## 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)

###### Documentation of progress

**Comprehensibility:** The EITI Indonesia MSG developed a communication plan in 2017 and 2018<sup>231</sup> that details the target audience and key messages for EITI communication activities. The five EITI Reports that Indonesia published are all available in English and Bahasa. Copies of the EITI Reports and other documents such as the commodity trading report are distributed during outreach activities. All EITI Reports including infographics on the key findings of the reports are also published on the EITI Indonesia website.<sup>232</sup> The infographic for the 2015 EITI Report is in English while the rest are available in Bahasa. Other information, education and communication materials that EITI Indonesia has published include infographics on beneficial ownership roadmap, overview of coal mining business process as well as upstream and downstream oil and gas activities. The MSG also produced factsheets covering extractive activities in three major provinces (Jawa Timur, East Java and Riau).<sup>233</sup> The factsheets include production and revenue data from the EITI Report. The national secretariat has published annual e-newsletters since 2013, featuring updates on EITI implementation.<sup>234</sup> EITI Indonesia also has an online data portal that hosts the same information as in the physical report – allowing those with internet access to view information.<sup>235</sup>

**Promotion:** The national secretariat and MSG have actively promoted EITI information through dissemination and outreach activities, press conferences and focus group discussions. The latest annual progress report states that, in 2017, the MSG conducted outreach activities in four provinces (Balikpapan, Banjarmasin, Yogyakarta, and Jambi) wherein results of the EITI Report were discussed including revenue sharing fund and prospects for establishing sub-national EITI. The MSG also conducted national conferences to launch EITI Reports aside from the 2015 EITI Report. The conference serves as a platform for stakeholders to discuss the key findings of the report as well as other issues surrounding the extractive

<sup>231</sup> Communication plans of EITI Indonesia can be accessed [here](#).

<sup>232</sup> <http://eiti.ekon.go.id/en/category/infografis/>

<sup>233</sup> Can be accessed [here](#).

<sup>234</sup> See [e-newsletters of EITI Indonesia here](#).

<sup>235</sup> <http://portal-ekstraktif.ekon.go.id/main>

sector. The national secretariat publishes regular press releases on its website.<sup>236</sup>

**Public accessibility:** EITI Indonesia maintains a website<sup>237</sup> where EITI Reports, scoping studies, annual progress reports, documentation of outreach activities and other relevant documents are regularly published. The secretariat added a statistical section<sup>238</sup> in the website where import, export, and revenue data of mining, coal, oil and gas sectors are presented in interactive graphs. The MSG and secretariat have undertaken efforts to make data more accessible by developing the Extractives Data Portal.<sup>239</sup> The portal contains EI data and analysis taken from EITI Reports and other sources of information, which are presented using data visualization methods (i.e. infographics, dynamic figures). The World Bank supported the secretariat in developing the online data portal to facilitate the access of extractives data for the public. According to secretariat staff, the portal was accessed by 1013 users in 2017 and 1477 users in 2018.

**Open Data Policy:** The open data policy encourages that all data related to extractive industries should be accessed freely and easily by the public, except data excluded by the law. The data does not specifically allow or prohibit the reuse of EITI data but the same data sets are also published on the Extractives Data Portal. All data on Extractives Data Portal is published under a creative commons license 4.0, which allows for reuse of data.<sup>240</sup> The Open Data Policy also includes implementation of e-government and open government systems to support the realization of open, participatory and accountable governance of the extractive sector.

**Contribution to public debate:** Indonesia EITI's contribution to public debate has focused mainly on advancing beneficial ownership reforms in the sector by way of issuing press statements on the EITI website regarding the importance of promoting ownership transparency, as explained by key government officials from ESDM, KPK and MENKO. The EITI has organised a number of forums to provide platforms to discuss beneficial ownership transparency among government officials and civil society. The EITI has also led discussions on revenue transparency at the subnational level through focus group discussions held in various communities such as South and East Kalimantan, Bali, Bandung, among others. The secretariat has produced factsheets explaining EITI and data from Sulawesi, East Java and East Kalimantan.<sup>241</sup> CSOs, including PWYP, have also created numerous factsheets and infographics on the extractive industries in Indonesia, many of which use EITI data. The World Bank also created a series of infographics with the secretariat in Bahasa. Secretariat staff also highlighted that they had made summary EITI data files available for all years from 2009 to 2015 in excel format. The national secretariat has also engaged media by conducting workshops to explain the findings of the EITI Report and by issuing press releases. These press releases are found on the EITI website but were issued after the commencement of Validation.

There is some evidence that there are news articles about EITI Reports but there is no indication that EITI data is used for debates on extractive sector issues at the national level such as, for example, the debates on mining divestment, the move towards the gross split production scheme, and issues around licensing

<sup>236</sup> Published press releases can be accessed [here](#).

<sup>237</sup> EITI Indonesia website can be accessed [here](#).

<sup>238</sup> Can be accessed [here](#).

<sup>239</sup> EITI Indonesia Extractives Data Portal can be accessed [here](#).

<sup>240</sup> Can be accessed, under 'Open data 2.2' [here](#).

<sup>241</sup> available here: <http://eiti.ekon.go.id/en/category/infografis/> accessed 16.1.19

and contract negotiations.

## Stakeholder views

***Contribution to public debate:*** All stakeholders struggled to cite examples where EITI Reports or data therein had contributed to public debate. Several government representatives cited the length of the report as a barrier to journalists using EITI data. Several CSOs and secretariat staff explained that the EITI Report had received some coverage in connection with press statements issued by PWYP or in interviews given by their staff. Several government representatives cited beneficial ownership as an area where the EITI had been active in the media due to the 2017 beneficial ownership conference. One company representative explained that they could use EITI data to prove they were paying taxes but could not provide a concrete example of having used the data in this way. Several journalists explained that they accessed data directly from government agencies or from PWYP and that the EITI Report was of more use to academics, given its size and depth. Journalists explained they had seen the EITI data portal but didn't find it useful because the data was out of date. Journalists had participated in a workshop on EITI data but the invitation actually came from NREGI and PWYP, rather than EITI Indonesia. Secretariat staff explained that four public discussion outreach events had taken place in 2018 in Bali, Batam, Jakarta and Palembang to communicate key aspects of the report of interest to the public. According to secretariat staff, an additional socialization event took place in November 2018 in Kalimantan, an area hosting significant extractives activities that was attended by 35 participants from local governments and companies.

***Comprehensibility:*** Government, company and CSO stakeholders consulted beyond the MSG were mostly unaware of the 2015 EITI Report's existence, although a few had seen the printed version. Some were aware that digital copies were available on the Indonesia EITI website. One company representative explained they were not familiar with the EITI Report, despite contributing to the reporting process since 2011. This sentiment was expressed repeatedly by various company representatives, who also routinely questioned the value of the EITI Report in meeting their main priority of addressing the strong public perception that Indonesia was being taken advantage of by extractives companies. Several company representatives consulted suggested this was because the report was not written in a manner accessible to those not versed in technical extractives terminology.

Secretariat staff explained that all MSG members received a soft copy of the report via e-mail with a press statement. The media and journalists in the EITI Indonesia database received a similar message. In 2015, staff explained that soft copies of the 2012-13 EITI Report were put on to USB sticks and handed out at dissemination events to representatives of the national government, local governments, CSOs, companies, academics, journalists, donor agencies (World Bank and Canada) and embassies from EITI implementing countries in South East Asia. They noted that EITI Reports on USB pens were no longer produced given budget constraints. Responsibility for printing physical copies of the EITI Report were included in the contract with the IA. Secretariat staff explained that, in collaboration with the World Bank and PWYP, several workshops and activities took place in May, August and September 2017 to encourage the public, media and local government to access the EITI Indonesia portal. A set of 200 infographic brochures were produced and distributed with the headline information from the portal.

***Promotion:*** Secretariat staff were not aware of the status of the communication strategy's

implementation, although they had good awareness of the activities that had taken place. MSG members explained that the MSG discussed the communication strategy at the same time as discussing the workplan and focused on approval of the overall strategy rather than focusing on specific activities. MSG members consulted explained that there was no discussion of EITI Indonesia's approach to digital dissemination, or the low visitor numbers to the website (84 a day – much lower than a comparison done with other government websites with similar data included in the self-assessment). One government official commented that the low visitor numbers could be due to a lack of interest by the public. CSO and secretariat staff explained that the 2015 EITI Report launch itself was postponed several times due to the minister not being able to attend, with the launch eventually being delayed indefinitely. Several CSOs and partners noted that they had produced materials and products to coincide with the launch. Secretariat staff explained that, amongst other challenges, they did not consider that MENKO viewed the EITI as a priority. A general point was made by some government, company and civil society representatives regarding the lack of familiarity with EITI by the media or the general public. The MSG's pre-Validation self-assessment also concludes that communication has been a weakness of implementation to date. The self-assessment recommends hiring additional communication staff to focus on physical dissemination activities, such as roadshows and university trips, as well as strategic communications.

A number of CSOs and government officials considered that PWYP was a more recognised brand and produced more accessible information than EITI Indonesia. One CSO explained that they routinely spoke with PWYP or approached companies directly for data, rather than consulting the EITI Report or EITI Indonesia secretariat. Company MSG members consulted explained that their efforts to promote the EITI Report to their wider constituency mainly involved forwarding the e-mail with the soft copy that the Secretariat sent out annually.

***Public accessibility:*** Secretariat staff explained that only 25 copies of the EITI Report had been published due to the high cost of publishing a report that extended to four volumes and hundreds of pages. Volume one of the report is an executive summary that outlines the key information. According to secretariat staff, an additional 150 copies of this more accessible summary were printed and distributed at a series of events. Several stakeholders confirmed that they had seen the online version of the report on the Indonesia EITI website or received a soft copy from the secretariat via e-mail.

***Open data policy:*** According to secretariat staff and minutes from the MSG meeting, the open data policy was agreed by the MSG on 23 October 2018 and published online on 2 November 2018.

## Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress in meeting this requirement. The Indonesia EITI process has carried out dissemination activities, engaged the media and issued press releases to promote the EITI and findings of EITI Reports. They also attempted to make data more accessible through the use of infographics and by creating a data portal. However, evidence of informing public debate and policy discussions was limited, particularly at the national level and areas of intense resource extraction. There is no evidence of use of EITI data by the media or policy-makers. It is unclear whether the dissemination activities were strategic and effective, and to what extent the EITI Reports have been circulated and communicated to the public. While subnational outreach activities are conducted from time to time, there is no evidence of whether these

forums have actually stimulated public debate and whether there is a systematic feedback mechanism to ensure that discussions during EITI forums produce results. There does not appear to have been a concerted, coordinated year-on-year efforts to highlight Indonesia EITI Reports to the media, key stakeholders, partner organisations or communities in resource rich regions.

In accordance with Requirement 7.1 Indonesia must ensure that the EITI Report and EITI data is adequately circulated and promoted, with a view to contributing to public debate by targeting key audiences such as parliamentarians, media, policy makers, local communities near extraction sites and wider civil society. The MSG may wish to consider establishing more formal mechanisms for subnational MSGs to provide input to national EITI discussions, to ensure discussions and priorities at the local level are reflected.

## Data Accessibility (#7.2)

### Documentation of progress

Indonesia's EITI Reports are published on the EITI Indonesia website<sup>242</sup> alongside corresponding summary data files.<sup>243</sup> In line with standard EITI procedure, summary data files are in GFS coded tables.

The EITI Indonesia website includes a statistical section containing production and revenue data that are presented in interactive graphs.<sup>244</sup> With support from the World Bank, EITI Indonesia also created a data portal to facilitate public access and dissemination of EITI data.<sup>245</sup> The portal contains analysis on the economic and social impacts of the extractive industries in the country as well as relevant data from Indonesia EITI Reports. The MSG also published infographics highlighting the key findings of the third, fourth and fifth EITI Reports, although no infographics were developed for the first two EITI Reports covering 2009 and 2010-2011.

### Stakeholder views

MSG members consulted explained that there had been no efforts to make EITI data interoperable with other data sets as the Indonesian government use of their own classification scheme. MSG members explained that no efforts have been made to align EITI data with this national classification system.

### Initial assessment

Requirement 7.2 encourages the MSGs to make EITI reports accessible to public in open data formats. Such efforts are encouraged but not required and are not assessed in determining compliance with the EITI Standard. Data from Indonesia's EITI Reports is available through the Indonesia EITI website and data portal.

To strengthen implementation, Indonesia is encouraged to undertake analysis of EITI data with a view to improving public understanding of EITI data and findings. Indonesia may also wish to ensure that EITI data

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<sup>242</sup> Indonesia EITI website, 'EITI Reports' section, accessed [here](#) in January 2019.

<sup>243</sup> Indonesia EITI website, 'data' section, accessed [here](#) in January 2019.

<sup>244</sup> Indonesia EITI website, 'Statistics' section, accessed [here](#) in January 2019.

<sup>245</sup> The data portal can be accessed [here](#).

is comparable with other government data sets that use the national revenue nomenclature.

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

### Documentation of progress

**MSG input:** Recommendations from Indonesia's EITI Reports focus mainly on improving EITI reporting processes rather than improving natural resource governance. The recommendations from all EITI Reports relate to improving reconciliation procedures, conducting more outreach to increase participation of agencies and companies, and establishing (internal) databases. Only two recommendations can be considered as relating to wider issues, namely the recommendation to implement adequate technical procedures that clearly illustrate how local governments can access data to be able to project the amount of revenue sharing funds for oil and gas, and the recommendation to implement full contract disclosure. The minutes of MSG meetings do not reflect any input from the MSG to include recommendations to address other broader issues in the extractive sector. The minutes also indicate that recommendations are proposed by the IA and approved by the MSG, often without substantial discussions.

**Follow-up:** The 2017 annual progress report documents the actions taken by the MSG in implementing EITI recommendations including establishment of a database of mining companies, conducting outreach, consultations and studies to act on recommendations for contract transparency and access to local government payments.<sup>246</sup> The annual progress report states that cadastre information has been made publicly accessible with the launch of the Minerba One Map portal. However, the extent to which the MSG has contributed to the discussion of making Minerba One Map publicly accessible is not documented. There is no evidence of a mechanism for the MSG's consistent follow-up on EITI recommendations, aside from ad hoc MSG discussions.

**Discrepancies:** The 2015 EITI Report shows that discrepancies between revenues reported by companies and government agencies are minimal for all types of revenues, with the largest discrepancy only being 1.94% (p.62) for tax payments for oil and gas. There is no documentation for how the MSG is addressing discrepancies in EITI Reports.

**Reforms:** Considering that most EITI recommendations, aside from those related to contract transparency and transparency of subnational payments, relate only narrowly to the EITI process, there is no documentation of how recommendations from EITI Reports have contributed to national reforms.

### Stakeholder views

Secretariat staff explained that the major reforms they were currently working on related to contract transparency and reconciliation of extractives revenue subnational transfers. They observed that other recommendations were technical in nature and related more to EITI reporting than to broader reforms. Follow-up on recommendations was usually initiated by the national secretariat according to stakeholders consulted. The 2015 EITI Report recommended a study on the socio-economic impact of the extractives

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<sup>246</sup> EITI Indonesia (August 2018), '2017 EITI Indonesia Annual Progress Report: January-December 2017', accessed [here](#) in October 2018.

but secretariat staff explained that this had not been implemented due to lack of funds. Recommendations were typically proposed by the IA and discussed and approved by the MSG.

A representative from ESDM said that they followed up on recommendations internally and provided updates on progress to the MSG during MSG meetings. Example of recommendations that had been followed up on, according to him, included contract transparency and ensuring the public accessibility to MOMI. A Department of Mines representative explained that the EITI had contributed to some reforms such as the clean-and-clear (CNC) review of mining licenses, where one of the indicators was whether companies had any unpaid non-tax liabilities (in arrears). Moving forward, the official explained that beneficial ownership disclosure would be considered in the license application process and in determining whether a company was CNC-compliant.

A representative from DG Budget mentioned that they were following up on EITI recommendations relating to subnational payments and transfers and that there was now more willingness from subnational governments to provide information on their revenues.

Stakeholders from other constituencies however expressed reservations on whether EITI was contributing to reforms. An industry representative stated that, although recommendations were discussed during MSG meetings, he was not aware of any specific recommendations being actively followed up on by the MSG. Other industry representatives said that although there had been several improvements in transparency in the extractive sector in recent years, they did not attribute this to the EITI process but on companies' direct engagement with government. They also did not perceive any improvements in stakeholder relationships as an outcome of EITI implementation.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made inadequate progress in meeting this requirement. There is limited evidence that the multi-stakeholder group is taking steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies; and to consider the recommendations resulting from EITI reporting. The annual progress reports, minutes of MSG meetings and stakeholder views confirm that the MSG has not actively pushed for reforms and in cases where reforms were implemented, the MSG's contributions to such reforms are unclear. Although a few government representatives consulted mentioned that they were following up on some recommendations, it is unclear whether such follow-up was consistent and systematic. There is no evidence of a mechanism for the MSG's systematic follow-up on EITI recommendations.

In accordance with Requirement 7.3, Indonesia is required to take steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies; and to consider the recommendations resulting from EITI reporting with a view to strengthen the impact of EITI implementation on natural resource governance.

## Outcomes and impact of implementation (#7.4)

### Documentation of progress

Indonesia's 2017 EITI annual progress report<sup>247</sup> was published on 13 August 2018, having been approved by the MSG on 10 August 2018.<sup>248</sup>

Chapter 1 of the annual progress report provides a detailed narrative of all significant activities implemented in the January-December 2017 period, covering activities such as report launch, capacity building activities, communications efforts and preparations of the fourth and fifth EITI Reports. The annual progress report also includes an assessment of performance against activities set out in the 2017 EITI work plan (pp.9-12). A table summarizing the broader activities in the EITI Indonesia work plan is provided including a description of implementation progress. However, there are no details as to how the activities listed are linked to the work plan objectives.

The annual progress report contains an assessment of progress in meeting individual requirements of the EITI Standard (pp.13-15). This section also notes the creation of the Extractives Data Portal, a "one-stop-shop" for timely and relevant information on the extractive sector in Indonesia, as one of the outcomes of EITI implementation.

The annual progress report includes a section on MSG's responses to EITI Report recommendations (pp.16-17). However, the section is not comprehensive and only lists some of the gaps identified in the report but not the specific recommendations. On the other hand, the progress made in addressing the gaps is described.

There is no documentation of whether each constituency represented on the MSG sought feedback from their broader constituencies regarding the EITI process or provide an opportunity for their views to be reflected in the annual progress report.

While the annual progress report does not cover the MSG's assessment of impact of EITI implementation, the MSG commissioned an impact study in 2018 to assess whether the EITI was contributing to the improvement of natural resource governance in Indonesia. The study was published on the EITI Indonesia website in October 2018.<sup>249</sup> The study found that management of EITI implementation in Indonesia was not strategic as it focused more on publishing reports and meeting the EITI Requirements rather than influencing policies. One of the key recommendations of the study is for the government to conduct a governance review to assess which structure could best achieve the wider objectives of EITI in terms of advancing reforms. It noted that the existence of several layers of governance such as the steering committee and the implementation committee was not effective and limited the potential to create impact. The study concluded that following the establishment of EITI Indonesia and during its period of activity from 2010-2017, the extractive industries showed no further significant improvement in transparency and accountability. It has not been shown that the MSG has discussed and considered these

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<sup>247</sup> EITI Indonesia (August 2018), '2017 EITI Indonesia Annual Progress Report: January-December 2017', accessed [here](#) in October 2018.

<sup>248</sup> EITI Indonesia (August 2018), 'Minutes of Technical Team Meeting', accessed [here](#) in October 2018.

<sup>249</sup> EITI Indonesia (October 2018), 'EITI Indonesia Impact Assessment Study Report', accessed [here](#) in November 2018.

findings.

## Stakeholder views

Stakeholders expressed mixed views on whether EITI implementation had created impact in Indonesia. Government representatives opined that the EITI had created impact in terms of disclosing fiscal incentives and in contributing to discussions on Freeport's divestment through the use of historical data. They highlighted the role played by the EITI in beneficial ownership reforms and the use of the EITI's beneficial ownership roadmap by other government agencies. The EITI had also facilitated coordination among government agencies according to several government representatives consulted. A government representative said that EITI information on companies had helped them in building the tax enforcement risk profiles of extractives companies. Indirectly, several government officials expressed hope that the EITI could increase voluntary tax compliance by companies once they saw that their data was being cross-referenced across different government agencies. Another government representative noted that EITI implementation was leading to an improvement in Indonesia's ease of doing business and had contributed to creating a culture of transparency in government. Other stakeholders from government observed that the EITI helped avoid misinformation and enabled agencies to secure data from coal companies that were not publicly listed. Several government representatives noted that the EITI had created platforms for dialogue and facilitated inter-agency coordination. The fragmented regulations in Indonesia and disparate data sources made it challenging for stakeholders to compare information regarding the extractive sector, according to several stakeholders consulted, who highlighted that EITI Indonesia was addressing this challenge by providing compiled and accessible data.

An industry representative considered that Indonesia's ranking in the World Bank's ease of doing business had improved in relation to extractives. He attributed this development to streamlined regulations without explaining specifically how EITI implementation had contributed to this.

Secretariat staff suggested that impact should be measured in terms of how the EITI had contributed to the level of transparency of the extractive sector, especially in making data accessible at the national and local level. According to them, this had enabled local stakeholders to engage in an informed debate regarding policies on revenue sharing mechanisms.

On the other hand, some stakeholders expressed a contrary view in terms assessing the EITI's impact. A few industry representatives said that they had not seen any significant improvement in transparency since Indonesia started implementing the EITI. While companies wanted to see the extent to which the EITI had resulted in proper tax payments, they were unsure whether this had been achieved in practice. Some industry representatives expressed reservations about whether the reforms mentioned by some government representatives, such as the public accessibility of MOMI, could in fact be attributed to the EITI.

The consultant for the impact assessment expressed the view that, to ensure impact, EITI progress should be monitored by external stakeholders, which was not currently being done. A government representative observed that he had not seen any impact from EITI implementation, although the forums organized by the EITI were considered useful platforms for discussion. The MSG was still in the process of discussing the impact assessment when the stakeholder consultations were conducted, so MSG members

consulted explained that they had not agreed yet on how to act on the recommendations from the study. During the consultation meeting with the MSG, there were varying views about how impact should be defined and how it should be differentiated from outputs and outcomes. None of the stakeholders consulted, both on and off the MSG, stated that the views and input of the broader constituencies had been solicited in developing the 2017 annual progress report.

### Initial assessment

The International Secretariat's initial assessment is that Indonesia has made meaningful progress in meeting this requirement. The annual progress report does not review the outcomes and impact of the EITI on natural resource governance, although it describes how the MSG sought to address EITI Requirements and some report recommendations. There is no evidence that each constituency on the MSG sought feedback from their broader constituencies regarding the EITI process or provided the opportunity for stakeholders to have their views reflected in the annual progress report. It should also be noted that an impact study has been commissioned although it does not appear that the MSG has considered the findings and recommendations of the report to date.

In accordance with Requirement 7.4, Indonesia must ensure that stakeholders should be able to participate in the production of the annual progress report and in reviewing the impact of EITI implementation which the MSG should do on a regular basis. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the multi-stakeholder group, should be able to provide feedback on the EITI process and have their views reflected in the annual progress report. It is further recommended that the MSG considers the findings of their own impact assessment(s).

**Table 7 - Summary initial assessment table: Outcomes and impact**

EITI provisions	Summary of main findings	Validator's recommendation on compliance with the EITI provisions
Public debate (#7.1)	Indonesia EITI has carried out dissemination activities and attempted to make data more accessible through the use of infographics. However, evidence of informing public debate and policy discussions was limited, particularly at the national level and areas of intense resource extraction. There is no evidence of use of EITI data by the media and policy makers. It is unclear whether the dissemination activities were strategic and effective, and to what extent the EITI Reports have been circulated and communicated to the public. While subnational outreach activities are conducted from time to time, there is no evidence of whether these forums have actually stimulated public debate and whether there is a systematic feedback mechanism to ensure that discussions during EITI forums	Meaningful progress

	produce results. There does not appear to have been a concerted, coordinated year-on-year efforts to highlight Indonesia EITI Reports to the media, key stakeholders, partner organisations or communities in resource rich regions	
Data accessibility (#7.2)	Data from Indonesia's EITI Reports is available through the Indonesia EITI website and data portal.	
Lessons learned and follow up on recommendations (7.3)	There is limited evidence that the multi-stakeholder group is taking steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies; and to consider the recommendations resulting from EITI reporting. The annual progress reports, minutes of MSG meetings and stakeholder views confirm that the MSG has not actively pushed for reforms and in cases where reforms were implemented, the MSG's contributions to such reforms are uncertain.	Inadequate progress
Outcomes and impact of implementation (#7.4)	The annual progress report does not review the outcomes and impact of the EITI on natural resource governance, although it describes how the MSG sought to address EITI Requirements and some report recommendations. There is no evidence that each constituency on the MSG sought feedback from their broader constituencies regarding the EITI process or provided the opportunity for stakeholders to have their views reflected in the annual progress report. It should also be noted that an impact study has been commissioned although it does not appear that the MSG has considered the findings and recommendations of the report to date.	Meaningful progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> <li>1. In accordance with Requirement 7.1 Indonesia must ensure that the EITI Report and EITI data is adequately circulated and promoted, with a view to contributing to public debate by targeting key audiences such as parliamentarians, media, policy makers, local communities near extraction sites and wider civil society. The MSG may wish to consider establishing more formal mechanisms for subnational MSGs to provide input to national EITI discussions, to ensure discussions and priorities at the local level are reflected.</li> <li>2. To strengthen implementation, Indonesia is encouraged to undertake analysis of EITI data with a view to improving public understanding of the EITI data and information. Indonesia may also wish to ensure that EITI data is comparable with other publicly-available data.</li> <li>3. In accordance with Requirement 7.3, Indonesia is required to take steps to act upon lessons learnt; to</li> </ol>		

identify, investigate and address the causes of any discrepancies; and to consider the recommendations resulting from EITI reporting with a view to strengthen the impact of EITI implementation on natural resource governance.

4. In accordance with Requirement 7.4, Indonesia must ensure that stakeholders should be able to participate in the production of the annual progress report and in reviewing the impact of EITI implementation which the MSG should do on a regular basis. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the multi-stakeholder group, should be able to provide feedback on the EITI process and have their views reflected in the annual progress report. It is further recommended that the MSG considers the findings of their own impact assessment(s).

## 8. Impact analysis (not to be considered in assessing compliance with the EITI provisions)

### Impact

Among the visible impacts of EITI implementation cited by stakeholders, there appear to be three main types of impact to date:

- EITI's contribution to the national dialogue on beneficial ownership reforms: The EITI's roadmap on beneficial ownership is an integral part of the national framework for beneficial ownership. EITI stakeholders are at the forefront of this dialogue, providing expertise and pioneering efforts on data collection.
- Creating platforms for dialogue and facilitating inter-agency coordination: The fragmented regulations in Indonesia and disparate data sources make it challenging for stakeholders to compare information regarding the extractive sector. EITI Indonesia is addressing this challenge by providing compiled and accessible data. However, the EITI could further improve data timeliness to ensure greater relevance to current debates, as it continues to disclose data that is two years old at the time of publication of EITI Reports.
- Transparency at the subnational level: EITI Reports are providing information on subnational revenues and transfers that are not otherwise accessible to the public. This has enabled local stakeholders to engage in a more informed debate regarding policies on revenue-sharing mechanisms. The EITI could further intensify their efforts on subnational transparency by actively taking part in the annual computation of DBH (revenue allocations at the subnational level) led by the same stakeholders involved in the EITI process, such as SKK Migas, Ministry of Home Affairs, and DG Tax.

While major policy reforms in the extractive sector have been implemented in recent years, there are questions on whether such reforms could be considered as direct or indirect impacts of EITI implementation. Some stakeholders argue that the implementation of reforms such as the clean and clear certification (CNC) process for mining licenses, the creation of a one-map portal for Indonesia, and even beneficial ownership transparency merely happened concurrently or coincidentally with EITI implementation, rather than the EITI being a real catalyst for such reforms.

There are other clear opportunities for creating impact that the MSG could consider, such as:

- Implementation of divestment requirements in the mining sector: Identifying the real identity and nationality of the beneficial owners of mining companies is critical to implementing the government's policy of requiring foreign investors from divesting from majority-shareholding in key mines. The government, through ESDM, will soon start requiring mining companies to disclose their beneficial owners and their nationalities. These disclosures could help the government detect whether there is full compliance with the divestment requirement.
- Monitoring of licenses that have undergone the clean and clear certification process: The EITI data on revenues paid by mining companies will help in monitoring the companies' compliance with tax obligations, one of the factors evaluated during the CNC process. Company payments

compiled in EITI Reports are disclosed by revenue stream (and soon by project), including those levied at the local level. This would give the government a useful overview of the disaggregated and total amount of tax and non-tax revenues paid by each company.

- Improving governance of state-owned enterprises (SOEs): The EITI requires SOEs to disclose information on their financial relationships with government, their off-budget social expenditures, and the level of government's participating interest in each SOE. This information could help track the financial flows between SOEs and governments and identify corruption risks. It would also help the public understand the government's stake in SOE projects to demand further accountability from SOEs.
- Addressing corruption in natural resource management: The Corruption Eradication Commission (KPK) could use EITI data and information in the EITI commodity trading report to identify corruption risks in the extractive industries. On licensing, for example, the EITI data covers the number of licenses approved in a given period, the length of time for approval (which could be indicative of the efficiency of the process) and the existence of any non-trivial deviations from statutory procedures. The findings of the commodity trading report regarding the transparency of Pertamina's tendering processes could help identify corruption risks. The data on beneficial ownership disclosed through the EITI process could point to anomalous activities that could trigger further investigation.

## Sustainability

**Funding:** EITI implementation is expected to be fully-funded by the government starting in 2019. The current funding is down to USD 356,000 from USD 423,000 in 2018 and can only cover the publication of EITI Reports and dissemination activities. There is an urgent need to find other sources of funding to augment the government's budget, especially as the MSG intensifies its efforts on beneficial ownership reforms. Moving towards systematic disclosures rather than publishing costly EITI Reports could further contribute to the sustainability of EITI implementation.

**Institutionalisation:** The MSG is in the process of revising the Presidential Regulation creating the EITI, with MENKO still retaining leadership of implementation. In addition to recommending providing legal basis for the MSG's existence, the Indonesia EITI impact study recommends a governance review to address challenges around securing high level political commitment to the EITI. This would entail revisiting the composition of the MSG and ensuring a level of seniority in government officials participating in implementation that is commensurate with the work required to translate transparency into increased accountability in the management of the extractive industries. The MSG should also work towards addressing barriers to EITI implementation, as tax confidentiality legal provisions continue to pose challenges to data collection from government. This remains unaddressed despite related recommendations in all EITI Reports to date.

## Annexes

### Annex A - List of MSG members and contact details

No	Agency/Organization	Contact Person
<b>Ministry of Energy and Mineral Resources</b>		
1	Secretariat General of Ministry of Energy and Mineral Resources	There is no dedicated contact person.
2	DG Oil and Gas	There is no dedicated contact person.
3	DG Mineral and Coal	There is no dedicated contact person.
<b>Ministry of Finance</b>		
4	DG Budget	Robby Martaputra ( <a href="mailto:robbymartaputra@gmail.com">robbymartaputra@gmail.com</a> ) Seprina Hasan ( <a href="mailto:hasan.effendi@gmail.com">hasan.effendi@gmail.com</a> )
5	DG Tax	
6	DG Treasury	Sigit Harjanto ( <a href="mailto:tenaga.pengkaji.pbn@gmail.com">tenaga.pengkaji.pbn@gmail.com</a> )
7	DG Financial Balance	Irwan Sitorus ( <a href="mailto:irwansitorus@gmail.com">irwansitorus@gmail.com</a> )
<b>Ministry of Home Affairs</b>		
8	DG Administration of Sub National Finance	Sofyan ( <a href="mailto:sofyanironking27@gmail.com">sofyanironking27@gmail.com</a> )
<b>Indonesia's National Government Internal Auditor (BPKP)</b>		
9	Deputy of State Accounting	Sri Masdihastuti ( <a href="mailto:smadihastuti@yahoo.com">smadihastuti@yahoo.com</a> )
<b>SKK Migas</b>		
10	SKK Migas	Musfadillah Daulay ( <a href="mailto:mdaulay@skkmigas.go.id">mdaulay@skkmigas.go.id</a> ) Selvi Ali ( <a href="mailto:selvi@skkmigas.go.id">selvi@skkmigas.go.id</a> )
<b>Association and Companies</b>		
11	Indonesian Mining Association (IMA)	Mukhlis ( <a href="mailto:mukhlis@fmi.com">mukhlis@fmi.com</a> ) Djoko ( <a href="mailto:djokowidajatno@gmail.com">djokowidajatno@gmail.com</a> )
12	Indonesian Petroleum Association (IPA)	Marjolin Wajong ( <a href="mailto:marjoliijn.wajong@ipa.or.id">marjoliijn.wajong@ipa.or.id</a> )

13	Indonesian Coal Mining Association	Hendra Sinadia ( <a href="mailto:hendra.sinadia@gmail.com">hendra.sinadia@gmail.com</a> , <a href="mailto:hendra.sinadia@apbi-icma.org">hendra.sinadia@apbi-icma.org</a> )
14	Pertamina	Commodity Trading: Sani Dinar ( <a href="mailto:sdinar@pertamina.com">sdinar@pertamina.com</a> ) Reporting: Agus Susanto ( <a href="mailto:agusst@pertamina.com">agusst@pertamina.com</a> )
<b>Civil Society (Publish What You Pay Coalition)</b>		
15	Publish What You Pay	Aryanto Nugroho ( <a href="mailto:aryanto@pwyp-indonesia.org">aryanto@pwyp-indonesia.org</a> , <a href="mailto:aryanto.nugroho84@gmail.com">aryanto.nugroho84@gmail.com</a> )
16	Article 33	Ermy Ardhyanti ( <a href="mailto:eardhyanti@gmail.com">eardhyanti@gmail.com</a> )
17	Idea	Tenti Kurniawati ( <a href="mailto:tentikurniawati@gmail.com">tentikurniawati@gmail.com</a> )
<b>Local Government</b>		
18	East Java Government	There is no dedicated contact person.
19	Riau Province	Rudi Saleh ( <a href="mailto:rudhsaleh@gmail.com">rudhsaleh@gmail.com</a> )
20	East Kalimantan Province	There is no dedicated contact person.

## Annex B – MSG meeting attendance

<b>Indonesia-EITI MSG meeting attendance chart</b>																						
<b>MSG meeting</b>		5 January 2017	02.feb.17	20 February 2017	20.apr.17	17 July 2017	22.aug.17	3 October 2017	5 December 2017	20 December 2017		23 January 2018	3 March 2018	06.aug.18	14.sep.18	23 October 2018	07.nov.18					
<b>Agencies</b>																						
<b>Ministry of Energy and Mineral Resources (ESDM)</b>																						
Secretariat General		P	P	P	P	A	P	A	P	P		P	P	A	P	A	P					
Directorate General of Oil and Gas		A	P	A	A	A	A	P	A	P		A	A	P	A	A	P					
Directorate General of Mineral and Coal		P	A	A	P	P	P	A	P	A		P	P	P	P	A	P					
<b>Ministry of Finance</b>																						
Directorate General of Budget		P	P	P	P	P	P	P	A	P		P	P	P	P	P	P					
Directorate General of Tax		P	P	P	A	P	P	P	P	P		P	A	P	A	A	A					
Directorate General of Treasury		P	P	P	P	P	P	P	P	P		P	P	P	P	A	A					
Directorate General of Fiscal Balance		P	P	A	A	P	P	P	A	P		A	P	A	P	P	P					
<b>Ministry of Home Affairs</b>																						
Directorate General for the Administrative Development of Local Finance		P	A	A	A	P	P	A	A	A		P	A	P	P	A	P					
<b>Coordinating Ministry for Economic Affairs</b>																						
Deputy for Coordination energy, natural resources and environment management		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P					
Deputy for Coordination of International Economic Cooperation		A	A	A	P	A	A	P	A	A		P	A	P	A	P	P					
Deputy for Coordination of Macro Economics and Finance		A	P	A	A	P	P	A	A	A		P	P	P	P	P	P					
<b>The Audit and Development Agency (BPKP)</b>																						
Deputy for National Accounting		P	P	P	P	O	A	A	P	A		A	P	A	A	A	A					
<b>Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas)</b>																						
SKK Migas		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P					
<b>Sub-National Government</b>																						
Province of Riau		A	P	A	P	A	A	P	A	A		P	P	A	P	P	P					
Province of Jawa Timur		P	A	A	P	A	A	A	P	A		A	A	A	P	A	P					
Province of Kalimantan Timur		P	A	P	A	A	A	A	A	A		A	A	P	P	P	A					
<b>Companies and Association</b>																						
PT Pertamina		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P					
Indonesian Mining Association (IMA)		P	A	P	A	P	P	A	P	P		A	P	P	A	P	P					
Indonesian Petroleum Association (IPA)		A	A	A	A	P	A	A	A	P		A	P	A	P	A	A					
Indonesian Coal Mining Association (APBI)		P	P	P	A	P	P	P	P	P		P	P	P	P	P	P					
<b>Civil Society Organization</b>																						
Publish What You Pay Indonesia and its CSO's Coalition member		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P					
Article 33		A	A	A	A	A	A	A	A	A		A	A	A	A	A	A					
Idea		A	A	A	A	A	A	A	A	A		A	A	A	A	A	A					

## Annex C – Cost of EITI Reports

EITI Report	Cost (IDR)	Approximate Cost (USD)	Independent Administrator
2009	1,655,252,000	159,159	Gideon Adi & Rekan Public Accounting Firm
2010-2011	2,501,500,000	286,147	Gideon Adi & Rekan Public Accounting Firm
2012-2013	3,284,166,000	244,267	Sukrisno, Sarwoko dan Sandjaja Public Accounting Firm
2014	1,612,208,359	128,956	PT. Ernst & Young Indonesia
2015	1,849,771,810	138,125	Heliantono & Rekan Public Accounting Firm

*Source: Indonesia EITI National Secretariat (using average IDR:USD exchange rate from EITI Report)*

## Annex D – Mandatory payments to government reports from material companies

	Material company	Jurisdiction	Mandatory payments to government report link
1	CNOOC MUTURI LTD.	Canada	<a href="http://www.cnoc ltd.com/jcms/jcms_files/jcms1/web5/site/attach/0/1705261738577119669.pdf">http://www.cnoc ltd.com/jcms/jcms_files/jcms1/web5/site/attach/0/1705261738577119669.pdf</a>
2	CNOOC SES Ltd.	Canada	<a href="http://www.cnoc ltd.com/jcms/jcms_files/jcms1/web5/site/attach/0/1705261738577119669.pdf">http://www.cnoc ltd.com/jcms/jcms_files/jcms1/web5/site/attach/0/1705261738577119669.pdf</a>
3	VALE INDONESIA TBK	Canada	<a href="http://www.vale.com/canada/EN/Documents/ESTMA%20-%20final%20report%202016%20(including%20PwC%20report).pdf">http://www.vale.com/canada/EN/Documents/ESTMA%20-%20final%20report%202016%20(including%20PwC%20report).pdf</a>
4	BP Berau Ltd.	United Kingdom	<a href="https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip">https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip</a>
5	BP EAST KALIMANTAN CBM Limited	United Kingdom	<a href="https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip">https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip</a>
6	BP East Kalimantan Ltd.	United Kingdom	<a href="https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip">https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip</a>
7	BP Muturi Holdings B.V.	United Kingdom	<a href="https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip">https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip</a>
8	BP Wiriagar Ltd.	United Kingdom	<a href="https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip">https://extractives.companieshouse.gov.uk/company/00102498/year/2015/version/1/zip</a>
9	Premier Oil Natuna Sea B.V.	United Kingdom	<a href="https://extractives.companieshouse.gov.uk/company/SC234781/year/2015/version/1/zip">https://extractives.companieshouse.gov.uk/company/SC234781/year/2015/version/1/zip</a>
10	Total E&P Indonesie	France	<a href="https://www.total.com/sites/default/files/atoms/files/ddr2017-va-web.pdf">https://www.total.com/sites/default/files/atoms/files/ddr2017-va-web.pdf</a>
11	Total E&P Sebuku	France	<a href="https://www.total.com/sites/default/files/atoms/files/ddr2017-va-web.pdf">https://www.total.com/sites/default/files/atoms/files/ddr2017-va-web.pdf</a>
12	Total Tengah	France	<a href="https://www.total.com/sites/default/files/atoms/files/ddr2017-va-web.pdf">https://www.total.com/sites/default/files/atoms/files/ddr2017-va-web.pdf</a>
	<b>The other 266 material companies in the 2015 EITI Report do not seem to publish mandatory payments to government reports in other jurisdictions.</b>		

## Annex E - List of stakeholders consulted

### Government

ABRAHAM WIROTOMO, Advisor, Department of Analysis and Oversight of Strategic Issues on Social, Cultural, and Ecological Affairs, Executive Office of the President of the Republic of Indonesia

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YON ARSAL, Director of Tax Potential, Compliance and Revenue, Directorate General of Taxes

IZHARUL HAQ, Head of Sub-Directorate of TDR Policy and Risk Management, Directorate General of Treasury

SELVI ALI, Manager of PSC Contractors Financial Report SKK Migas

RUNI NARISWARI, SKK Migas

FATHURRAHMAN, SKK Migas

B. ALFADIANTO, SKK Migas

NITA WARTINI, DG Mining and Coal, ESDM

ESA KURATAWAT, DG Mining and Coal, ESDM

NOVERLIZA, DG Mining and Coal, ESDM

PARCA R., DG Mining and Coal, ESDM

AGUS CAHYANO ADI, Head of Pusdatin, ESDM

MUMY AGIWHARTO, Pusdatin, ESDM

NOVELYA MARTA, Pusdatin, ESDM

ANGGI GURIANTO, Pusdatin, ESDM

ARDIAN, Director, MOHA

RIZUI WIDIASWORO, MOHA

RUOY SALAWONY, MOHA

ERMAN JAYA KUSUMA, Chief Analyst of Non-tax Revenue, DG Budget

RAICA ALLACINDO, Staff to the Analyst of Non-Tax Revenue, DG Budget

ARIET MASDI, Head of Section of Evaluation on State Revenues and Grants Budget, DG Budget

TRI YULIARTE, Head of Section of Evaluation Account of APBN, DG Budget

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BUAHI WINALYN AJ, BPKP

HENDRO NS, BPKP

REINALDY AGNG, BPKP

JOKO SUDIANTO, BPKP

TOMI, KPK

ABDUL AZRA, KPK

DIMO PAMIN, KPK

HUMAM FAIR, KPK

ELISABETH M., KPK

FRILSUOMIW, KPK

SYAHWE KASMAN, PT Bukit Asam Tbk

CHRISTOPHER ADHYATMA, PT Antam Tbk

DINDA JAYANTI, PT Timah Tbk

## Industry

HENDRA SINADIA, Executive Director, APBI-ICMA

MARVIN GILBERT, External relation, APBI-ICMA

ENGGYT, PT Adaro Indonesia

BENA TANDJUNG, PT Adaro Indonesia

MAVULAK SIUAGA, PT Amman Mineral Nusa Tsuggera

ARGUINALDI, PT Refined Bangka Tin

DONONG KUKUTI WIBOWO, PT Vale Indonesia Tbk

VERDI WARDYAN, PT Vale Indonesia Tbk

NURIA, PT Berau Coal

REZA ICHSANI, PT Berau Coal

DEWI KURTIKA, PT Adaro Indonesia

DJOKO WIDAJATNO, Executive Director, Indonesian Mining Association

ADAM MUHAMMAD, Indonesian Mining Association

## Civil Society

MARYATI ABDULLAH, PWYP Indonesia

ARYANTO NUGRUHO, PWYP Indonesia

ERMY PRASETIO, PWYP Indonesia

FIKRI Z. MUHAMMADI, Asia Pacific Associate, Natural Resources Governance Institute

UTAMI NURUL HAYATI, Program Officer, Forestry, Transparency International Indonesia

FERDIAN YAZID, Program Officer, Governance, Transparency International Indonesia

### Independent administrators

ADE IKHWAN, Partner, Public Accountant Firm Heliantono and Partners

### Development partners

PETER C. LOHMAN, Economic Officer - Energy and Mining, US Embassy Jakarta

MEREDITH L. CHAMPLIN, Political Officer, US Embassy Jakarta

ROSABELLE PURNAMA, Energy and Mineral Resources Specialist, US Embassy Jakarta

PETER SIMOJOKI, Second Secretary - Economic, Australian Embassy Jakarta

BRIAN LAND, World Bank

NORIKO TOYODA, World Bank

PRASETYA DWICAHYA, World Bank

BALADA AMOR, World Bank

### Media

ARIS PRASETYO, Reporter, Kompas

PRISMONO RIYANTO, Editor in Chief, Petrominer

FEBRY SILABAN, Reporter, Petromindo

## Others

DAVID BROWN, Independent consultant

GUNARDI ENDRO, Independent consultant

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