

Annex A: Feasibility study

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1 Summary

Norway EITI has commissioned the following assessment of routine online disclosures in Norway’s petroleum sector to examine the country’s readiness to mainstream EITI implementation. The assessment follows the *Terms of Reference for a mainstreaming feasibility study*¹ and reviews the extent to which there is: (1) routine disclosure of the data required by the EITI Standard in requisite detail, and (2) whether the financial data is subject to credible, independent audit, applying international standards. It is important to emphasize that this study is not a comprehensive assessment of all publicly available information about the petroleum sector in Norway. Rather, the goal has been to identify any potential gaps that need to be addressed in order to ensure fully mainstreamed disclosures of the data that is required to be disclosed in accordance with the EITI Standard.

The key finding is that the vast majority of the information required by the 2016 EITI Standard is routinely disclosed. Most of the “contextual information” is accessible via a single portal - <http://www.norskpetroleum.no/> and the associated app *Oil Facts*. Revenue transparency is high, with timely and reliable information available for corporate income tax and petroleum tax (48% of petroleum revenues in 2015), the State’s Direct Financial Interest (42% of petroleum revenues in 2015) and dividends from Statoil (7% of petroleum revenues for 2015). The main areas to be addressed as part of the transition to mainstreaming are:

(1) Establishing a mechanism for government disclosures of taxes and other payments as per Requirement 4.1 on <http://www.norskpetroleum.no/>, disaggregated by company. The current data on the portal is sourced from the EITI reporting templates collected and compiled by the Independent Administrator, and will in the future need to be gathered directly from the collecting government agencies.

(2) Implementation of requirement #2.5 on beneficial ownership transparency by 2020. The ongoing developments related to amendments to the 4th EU Anti-Money Laundering Directive will inform Norway’s next steps on this issue.

¹ <https://eiti.org/mainstreaming>.

Some additional recommendations and considerations are provided in this report.

Annex B includes a proposed schedule for how these issues will be addressed. Section 2 provides a background to Norwegian EITI implementation to date. Section 3 presents the main findings concerning data availability, comprehensiveness and reliability. Section 4 sets out the detailed findings and assessment, requirement by requirement.

2 Background

Norway commenced implementation of the EITI in 2007. The decision to implement the EITI in 2007 was primarily intended to demonstrate solidarity with other implementing countries. A secondary aim for the government was to demonstrate that the Norwegian extractive sector was transparently managed.

Norway has produced eight EITI Reports. The reporting requirements for companies and government agencies were passed into law under the “Regulation on reporting and reconciliation of revenue flows from petroleum activity” that went into effect on 1 July 2009² pursuant to the Petroleum Act. According to the regulation, licensees operating on the Norwegian Continental Shelf are required to report all payments made to the state, while key government agencies must report the revenues received. Norway is widely recognised as having strong and transparent regulation and taxation of the oil sector. This has been confirmed through eight EITI Reports (2008 – 2015) where discrepancies were immaterial and mainly due to erroneous reporting by companies. All discrepancies are successfully resolved each year, proving government reported revenues as consistently reliable. The government maintains a site called Norwegian Petroleum, hereinafter www.norskpetroleum.no, which is purported to include “Everything you need to know about Norwegian petroleum activities”. The portal provides up-to-date data on production and revenues as well as contextual information on the sector, and includes the results of the latest EITI reporting.

Two key objectives of Norway’s 2015 and 2016 EITI work plans have been to “monitor and evaluate the implementation of regulation regarding reporting and reconciliation of cash flow from petroleum activities” and “Consider how to exit the reporting and reconciliation (adapted implementation)”. As part of these objectives, the work plan includes activities aimed at requesting adapted implementation from the EITI Board to allow the MSG to proceed with mainstreaming the EITI reporting requirements. In light of more recent developments such as the introduction of mandatory country-by-country reporting³ under the EU Accounting Directive and the EU Transparency Directive and the numerous existing arenas for public debate about natural resource governance in Norway, it is widely acknowledged by all stakeholders that the current EITI format of regular MSG meetings and annual EITI Reporting are no longer fit for purpose and have no added value in Norway. At the same time, stakeholders emphasise a desire for Norway to remain members of the international EITI community and to maintain the same levels of transparency that exist today. In light of this, the Norwegian MSG has decided to apply for mainstreamed and adapted implementation in accordance with the EITI Standard. This feasibility study seeks to provide evidence of how EITI disclosures required under Requirements 2-6 of the EITI Standard are already publicly available, and that the disclosures are timely, comprehensive and reliable.

² <http://lovdata.no/cgi-wift/wiftldles?doc=/usr/www/lovdata/ltavd1/filer/sf-20090626-0856.html>.

³ <https://www.regjeringen.no/no/dokumenter/forskrift-om-land-for-land-rapportering-til-skattemyndighetene/id2523487/>.

3 Main findings

3.1 Non-revenue data

Norwegian petroleum history dates back to the 1960s when Norway proclaimed sovereignty over the Norwegian Continental Shelf (NCS). The first licensing round took place in 1965, and the first oil commercial discovery was announced in 1969.

The Norwegian petroleum sector is governed by the Petroleum Act. Rights to explore and exploit oil and gas on the Norwegian continental shelf is awarded through licenses through competitive bidding. The petroleum register provides information about all licenses awarded on the NCS. All petroleum activities take place offshore. In 2016, Norway produced 230 million Sm³ oil equivalents, about half of which was gas. Exports of oil and gas represented 39% of Norway's total exports in 2015.

Taxes and other payments pertaining to petroleum activities are regulated by the Petroleum Tax Act. There are two key revenue streams: corporate income tax and petroleum tax, which combined amount to a tax rate of 78%. There are no additional mandatory social or infrastructure obligations, or subnational payments. All revenues from oil and gas are transferred to the *Government Pension Fund Global*, Norway's sovereign wealth fund, which at the end of 2016 had holdings with a total value of NOK 7 510 billion. Under the fiscal rule, transfers can be made to the fiscal budget from the Fund to finance important public goods without drawing on the Fund's capital.

As documented in section 4 of this study, disclosures required by the EITI Standard under requirements 2,3,5 and 6 are available on www.norskpetroleum.no and other government websites. The only requirement that has not yet been fully implemented relates to beneficial ownership transparency (Requirement 2.5). There is currently no requirement in Norway for companies to publish beneficial ownership information. Norway will, however, transpose the 4th EU Anti-Money Laundering Directive (4AMLD) into national legislation, which, amongst others, contain requirements that will increase the transparency on beneficial ownership information including the establishment of a national beneficial ownership register. A legal committee has investigated how the 4AMLD should be implemented in Norwegian legislation. The committee's report is currently on a public consultation, with a deadline for replies April 1, 2017. After receiving input from relevant stakeholders, the Ministry of Finance will prepare a bill for Parliament.

Recommendations:

- i. In accordance with requirement 2.5 of the EITI Standard as well as requirements of the EU, Norway should ensure beneficial ownership transparency by 2020.

3.2 Revenue data

Norway has a non-complex petroleum tax system and EITI reporting currently captures all the payment streams provided for in the Norwegian Petroleum Tax Act. The main payments by companies are corporate income tax and petroleum tax. In addition, there are three relatively minor taxes and fees, notably Area fees, NO_x tax, CO₂ tax, and some administrative application fees that are considered immaterial.

The Norwegian government also collects revenues from the petroleum sector through holding equity in certain licenses, notably the “State’s Direct Financial Interests”. This revenue is a direct return to the State as an investor in licenses and is not a payment from licensees to the government. Furthermore, the Norwegian government collects dividends from its 67% ownership in Statoil.

Corporate income tax and petroleum tax / Selskapsskatt and særskatt (48% of petroleum revenues for 2015)

License holders pay corporate income tax (25%) and petroleum tax (53%) to the Tax Authorities. For EITI Reports these are reported jointly, both aggregated and disaggregated commensurate to EITI Requirements. Outside of EITI reporting, government receipts of these two taxes are available in the National Accounts⁴, published in April every year for the preceding financial year, and disaggregated by type of tax but not per company. The Tax Office also discloses corporate income and petroleum taxes *accrued* each year disaggregated by company⁵. For the purpose of mainstreaming EITI in Norway, it would be desirable to publish the same data for actuals, i.e. cash-based figures, in order to be able to track actual payments by companies and compare these to the companies’ payments to governments’ reports.

In accordance with the EU Accounting Directive (directive 2013/34/EU) and the EU Transparency Directive (directive 2004/109/EC as amended by directive 2013/50/EU), Norway has enacted provisions⁶ requiring certain large undertakings⁷, and all issuers active in the extractive or logging of primary forests to prepare an annual report on payments made to governments reports⁸, so called “country-by-country-reporting”. Amongst others, reporting entities are obliged to report on their net turnover, income tax and accumulated earnings. The reports are shall be made available on companies’ websites⁹ and be available for at least five years. The report is prepared on a cash basis.

Recommendations:

- ii. It is recommended that the government publish receipts of petroleum taxes disaggregated by company and prepared on cash-based accounting principles on www.norskpetroleum.no. This would enable comparison with the company data published in their annual payments to government's reports. The MSG should therefore consider engaging the Norwegian Tax Administration to assess the possibility of such disclosure. *An alternative option* is to link the existing disaggregated data from the Tax Office to www.norskpetroleum.no. However, given that this is prepared on an accruals basis, it would not enable comparison with company data from the payments to government's reports. Moreover, it would only show what ought to be paid rather than what was actually paid, which is less relevant for the EITI’s purpose of tracking actual revenue flows.

- iii. It is recommended that the government make a reference to the Regulation on country-by-country reporting on www.norskpetroleum.no, including an explanation of how and where

⁴ <https://www.regjeringen.no/no/dokumenter/meld.-st.-3-2014-2015/id2407713/?q=&ch=3>.

⁵ <http://www.skatteetaten.no/no/Om-skatteetaten/Presse/Nyhetsrommet/Pressemeldinger/pressemeldinger-2016/utlignet-petroleumsskatt-pa-856-milliarder-kroner-for-2015/>.

⁶ See Norwegian Accounting Act §3-3d; Norwegian Securities Act §5-5 and Norwegian Regulation on country-by-country reporting, <https://lovdata.no/>.

⁷ According to the Norwegian Regulation on country by country reporting, a ‘large undertaking’ in this context is an extractive company that has financial accounting obligations applicable to companies defined in the Norwegian Accounting Act §1-2 nr. 1,3,4,5, 6 or nr. 13 and that satisfy at least two of the following three criteria: Annual net turnover of more than NOK 320 m, balance sheet total of more than NOK 160 m, average number of employees during the financial year of more than 250.

⁸ See for example 2015 Payments to governments reports by [ExxonMobil Norway](#), [ConocoPhillips](#) Skandinavia and [Statoil](#).

⁹ According to the Ministry of Finance, it is estimated that some 120 companies are required to prepare payments to governments reports under this Regulation.

the company reports can generally be accessed, i.e. from company websites or from the company register.

Fees - Area fees, NO_x fee, CO₂ fee/ Avgifter - Arealavgift, avgift på utslipp av NO_x, avgift på utslipp av CO₂ (3% of petroleum revenues for 2015)

Some companies pay Area fees, and CO₂ fees to the Petroleum Directorate. NO_x fees are paid to Toll Customs. Area fees are designed to incentivise rapid transition from discovery to development and production, and are not paid for licenses where there is active exploration and production activities. There are standard area fees¹⁰. NO_x fees and CO₂ fees are environmental fees paid based on standard rates.

The Statistical Bureau of Norway publishes quarterly and annual overviews of government revenues from these fees¹¹. The published data is not disaggregated by paying company or by type of fee given their immateriality compared to other revenue streams. The Petroleum Directorate also publishes this data in its annual accounts¹², with disaggregated revenue data per type of fee but not by paying company.

In accordance with the Regulation on country-by-country reporting, companies are required to disclose payments of fees in the report on payments to government reports. Some companies report the three fees in aggregate per project, whereas other companies disaggregate by type of fee and by project.

Recommendations:

- iv. Given that disaggregated figures by fee is available from the government, and the companies also detail their payments by type of fee in their payments to government reports, it would not seem necessary for the government to also provide further disaggregation of payments by company. However, in order to meet the EITI requirements, Norway EITI might then need to classify these fees as immaterial. This should not prevent MPE or companies to continue to publish the existing data.

Revenue streams considered immaterial

Companies pay application fees to the Petroleum Directorate for obtaining permits to conduct seismic activities, exploration or production. These fees range from USD 4-13k per application, and are considered immaterial for the purpose of EITI Reporting and have so far been unilaterally disclosed in aggregate in the EITI Report¹³. In addition, the Petroleum Directorate might refund licensees the cost of oversight of HES activities. These refunds are also considered immaterial¹⁴. The Petroleum Directorate publishes annual accounts showing total revenues collected from these fees on their website¹⁵.

As these fees are considered administrative, companies are not required to report on them in the payments to government report.

¹⁰ <http://www.npd.no/en/news/News/2013/Area-fees--Stipulation-of-new-rates/>.

¹¹ <https://www.ssb.no/en/offentlig-sektor/statistikker/statsregn/kvartal/2016-11-08?fane=tabell#content>.

¹² www.npd.no/Global/Norsk/6-Om-OD/Aarsrapport/Aarsregnskap-2015.xlsx.

¹³ Total revenues collected from such fees amounted to USD 2m in 2015.

¹⁴ Total refunds amounted to USD 17m in 2015.

¹⁵ www.npd.no/Global/Norsk/6-Om-OD/Aarsrapport/Aarsregnskap-2015.xlsx.

Recommendations:

- v. The government might wish to consider providing a link to the Petroleum Directorate's annual accounts on www.norskipetroleum.no so that readers can access information about application fees.

State's Direct Financial Interests (SDFI) / Statens Direkte Økonomiske Engasjement (SDØE) (42% of petroleum revenues for 2015)

The Norwegian state may decide to take an equity share in a license. For oil and gas fields, the decision on whether to take a share and the proportion is determined when production license is awarded and the proportion varies from field to field. The government covers its share of investments and costs, and receives a corresponding share of the income from production licenses as an investor. This income is called the State's Direct Financial Interest. Statoil is responsible for marketing the State's share of oil when the State decides to take a participating interest. The revenue from the marketing of the State's share is then transferred from Statoil to the Central Bank. As of 2017, the State had a participating interest in 190 production licenses, and holdings in 17 joint ventures that own pipelines and onshore facilities.

SDFI revenue is disclosed on an aggregate basis on the webpage Norsk Petroleum¹⁶, but per license or joint venture information is not available. The same aggregate revenue figures are also included in the National Accounts of Norway for 2015¹⁷, accounting-chapter 5540. An overview of the State's participating interest in each license and joint venture is available from Petoro's annual report, which also discloses revenues in aggregate per activity (oil, gas, transportation)¹⁸. Production values on www.norskipetroleum.no are accessible by field, implicitly enabling a calculation of the state's equity entitlement per field.

SDFI is not a company to government payment, and is therefore not part of the companies' payments to governments reports.

Dividends from Statoil ASA / Utbytte Statoil ASA (7% of petroleum revenues for 2015)

The Norwegian State is the largest investor in Statoil, with 67% ownership. The only financial transaction between the government and Statoil is dividends. Government receipts of dividends from Statoil are disclosed on www.norskipetroleum.no as well as in the Norwegian government's National Accounts (chapter 5685 post 85).

Statoil's annual accounts disclose payments of dividends to the Central Bank of Norway¹⁹.

3.3 Data quality

The Ministry of Finance submits the national accounts to the Parliament by 1 May every year²⁰. The Office of the Auditor General (OAG) of Norway audits the State's accounts and all annual accounts by State organizations and other governmental bodies that have to present annual accounts. The audit is performed in accordance with the law and regulations for the OAG, and by the standards

¹⁶ <http://www.norskipetroleum.no/en/economy/governments-revenues/>.

¹⁷ <https://www.regjeringen.no/no/dokumenter/meld.-st.-3-20152016/id2498577/sec3?q=5507>.

¹⁸ <https://www.petoro.no/petoro-aarsrapport/2015/tall/%c3%a5rsregnskap-sd%c3%b8e/note-23>; <https://www.petoro.no/petoro-aarsrapport/2015/tall/%c3%a5rsregnskap-sd%c3%b8e/note-23>.

¹⁹ <https://www.statoil.com/content/dam/statoil/documents/annual-reports/2015/statoil-2015-aarsrapport.pdf>.

²⁰ <https://www.regjeringen.no/no/tema/okonomi-og-budsjett/statlig-okonomistyring/statsregnskapet/id438868/>

and guidelines of the OAG. The report from the OAG is prepared annually and typically submitted to the Parliament in October every year for the previous financial year. The reports are published on www.riksrevisjonen.no/en. OAG participates in the International Organisation of Supreme Audit Institutions (INTOSAI). Currently Norway OAG is chairing the subcommittee for developing international standards, and was found to be compliant with these standards by a peer review published in 2016.

With regards to companies, “every limited liability company is required to prepare and file financial statements”, and “all limited liability companies, except small businesses, are subject to audit. In addition, businesses operated through a branch of a foreign entity called NUF (Norwegian registered business enterprise) are subject to audit if the NUF has a turnover of NOK 5 million or more” (EITI Report for Norway 2015, p. 16). The annual financial report needs to be submitted within one month of the annual general meeting, which should take place by 30 June every year at the latest. This means that for companies, audited financial statements are available at the latest by 1 August the year following the financial year. These statements are available online for public interest companies and companies listed on the Oslo stock exchange. Other companies submit their annual reports to the company register, and these are accessible to the public upon request.

No special audit requirements or assurance procedures have been imposed with regards to EITI reporting. Norway has published eight EITI Reports with no discrepancies, illustrating that the existing auditing practices are robust and reliable. Mainstreaming EITI implementation is unlikely to change the level of assurance of the available data. It is foreseen that government figures will continue to be published on a cash-basis, drawn from the annual accounts of the relevant government agencies. The reports on payments to governments prepared by the companies are also on a cash-basis and are not subject to audits, although annual financial statements by companies are. Civil society has argued that in the future, payments to government reports should become part of companies’ annual financial statements so that these figures would also be subject to audit. In their view, this would increase trust and reliability of the figures currently disclosed in the payments to government reports. This debate is part of a wider debate on extending existing country-by-country reporting requirements.

3.4 Data timeliness

As noted above, data on revenues collected by the government will be available by 1 May every year, with the audited reports following later in the year. It will therefore be possible to publish revenue data on www.norskipetroleum.no well within the timeframes stipulated by EITI requirement 4.8.

The Accounting Act §8-2 establishes a deadline for submission of the report on payments to governments to the authorities, noting that the report on payments to government in accordance with §3-3d of the Accounting Act shall be submitted to the Brønnøysundregistrene (Norway’s corporate registry) within one month of the completion of the annual financial accounts, the deadline for which is 30 June every year. This means that companies should be able to make their reports on payments to governments publicly available on their websites by 1 August every year.

With regards to retention of data, government data will be presented as time series for at least the last 5 years. The Regulation on country-by-country reporting §6 requires that the payments to governments reports prepared by the companies must remain publicly accessible on a company’s website for at least five years.

4 Mainstreaming assessment table

See attached excel file.