

Secretariat Review: Burkina Faso

For decision

Recommendation:

The Validation Committee recommends to the Board that Burkina Faso is designated EITI Compliant.

SECRETARIAT REVIEW: BURKINA FASO

Recommendation

The Validation Committee makes the following recommendation to the Board:

The EITI Board designates Burkina Faso as EITI Compliant as of 27 February 2013. In accordance with the EITI Rules:

- *Burkina Faso must be revalidated within 5 years (i.e. by 27 February 2018.) The MSG is advised that the Board is currently reviewing the validation procedures, including proposals relating to timing for revalidation of compliant countries. Accordingly this deadline may be modified;*
- *Stakeholders in the process may call for a new validation at any time within that period if they think the process needs reviewing;*
- *Where valid concerns exist that a country has become EITI Compliant, but its implementation of the EITI has subsequently fallen below the standard required for Compliance, then the Board reserves the right to require the country to undergo a new validation or face delisting from the EITI; and*
- *In accordance with the 2011 edition of the EITI Rules, Burkina Faso is required to produce EITI reports annually. EITI Reports should cover data no older than the second to last complete accounting period (e.g. an EITI Report published in calendar/financial year 2013 should be based on data no later than calendar/financial year 2011);*
- *In accordance with requirement 21(c), Burkina Faso is required to publish a public report annually on the previous year's activities, detailing progress in implementing the EITI and any recommendations from the validator.*

The Board congratulates the government of Burkina Faso for its sustained commitment and leadership of the EITI process. The Board also congratulates the Burkina Faso Steering Committee for its efforts and effective leadership in EITI implementation. The Board calls on the government and multi-stakeholder working group to ensure that the Board's recommendations are implemented in full, and tasks the EITI International Secretariat with providing regular progress reports to the EITI Board.

SECRETARIAT REVIEW: BURKINA FASO

Contents

1	Executive Summary.....	4
2	Introduction	4
2	Burkina Faso’s response to the Board decision	4
3	Secretariat review of remedial actions and assessment of indicators	5
3.1	Remedial action 1	5
3.2	Remedial Action 2	6
3.3	Remedial Action 3	7
3.4	Remedial Action 4	8
4	Conclusion.....	9
	Annex A - Board decision on Burkina Faso, 25 October 2011	10
	Annex B – Letter from Tibila Kabore, Chair of the Steering Committee, requesting a waiver from undertaking a second Validation, 27 November 2012.....	11
	Annex C – Overview of corrective actions undertaken by the Steering Committee.....	11
	Annex D – Minutes from the 12 th meeting of the Steering Committee, 6 June 2012.....	11
	Annex E – Note explaining the recalculation of scope.....	11
	Annex F– Scoping study for the 2010 EITI Report.	11
	Annex G–2010 EITI Report.....	11
	Annex H– Agenda and minutes from the training session for reporting entities.....	11
	Annex I– Board decision on Burkina Faso’s Validation waiver request, Board Circular 139, 21 December 2012, including Terms of reference for the Secretariat Review.....	11

SECRETARIAT REVIEW: BURKINA FASO

1 Executive Summary

In October 2011, the EITI Board established four corrective actions required for Burkina Faso to achieve EITI Compliant status. The Board subsequently granted Burkina Faso a waiver from undertaking a second validation, and tasked the International Secretariat with assessing whether the remaining EITI requirements have been met. The Secretariat's assessment is attached. In the Secretariat's view, all remedial actions have been completed and the outstanding requirements have been met. The draft Secretariat Review was circulated to the MSG on 25 January. The Secretariat received comments on 4 February.

2 Introduction

Burkina Faso was admitted as an EITI Candidate Country on 15 May 2009. In April 2011, Burkina Faso published its first EITI report disclosing payments from the mining sector to government in 2008 and 2009. On 20 July 2012, Burkina Faso launched its 2010 EITI Report. The next EITI Report covering accounting periods 2011 (and possibly 2012) is expected to be published in the third quarter of 2013.

The [validation report](#) for Burkina Faso was received on 1 September 2011. The EITI Board subsequently declared that Burkina Faso had made "meaningful progress" in its implementation of the EITI, and, in accordance with the transition procedures, was given until 25 April 2013 to demonstrate compliance with the 2011 edition of the EITI rules¹. The Board agreed that indicators 14, 15 and 16 were unmet, and agreed the following corrective actions were needed in order for Burkina Faso to achieve compliance:

1. In accordance with the agreed definition of materiality, the Steering Committee should ensure that all material oil, gas and mining payments by companies to government are disclosed to the reconciler and incorporated into the second EITI Report.
2. In accordance with the agreed definition of materiality, the Steering Committee should ensure that all material oil, gas and mining revenues received by the government are disclosed to the reconciler and incorporated into the second EITI Report.
3. The government and Steering Committee should take step to ensure that reporting entities have a proper understanding of the EITI reporting requirements through appropriate guidance and adequate preparation.
4. Take steps to ensure that the Steering Committee is content that the organization contracted to reconcile the company and government figures does so satisfactorily.

2 Burkina Faso's response to the Board decision

The Steering Committee undertook a number of activities to address the four corrective measures agreed by the Board and comply with the unmet requirements (14, 15, and 16).

The Steering Committee has submitted evidence² that these corrective actions had been undertaken as part of

¹ Minutes from the 18th EITI Board meeting.

² Supporting evidence provided by the Steering Committee are available on <http://eiti.org/internal> and include:
Annex B – Letter from Tibila Kabore, Chair of the Steering Committee.
Annex C – Overview of corrective actions undertaken by the Steering Committee.

the second reporting process, including:

- The Steering Committee conducted a scoping study to establish which revenue streams were material and consequently which companies and government entities should be covered in the EITI report. Based on the findings of the scoping study, the Steering Committee agreed a definition of materiality and established a materiality threshold.
- The Steering Committee ensured that all nine companies that made payments above the materiality threshold reported. Payments from these nine companies accounted for 98.7 % of total revenues. Payments from the 57 small companies in the exploration phase were individually and collectively immaterial.
- The Steering Committee ensured that all government entities that received material revenues reported.
- In order to ensure that reporting entities have a proper understanding of the EITI reporting requirements, the Steering Committee conducted two training workshops for reporting entities. Simplified reporting templates and guidance for filling in the reporting templates was provided.
- Members of the Steering Committee were involved in all stages of the production of the 2010 EITI Report, and consulted on relevant decisions. The Terms of reference for the reconciler were revised, and the reconciler attended two preparatory meetings together with the Steering Committee prior to the reconciliation work.

Based on the above, on 27 November 2012 Tibila Kabore, Chair of the Steering Committee, wrote to the EITI Board to request a waiver from undertaking a second validation on behalf of the Steering Committee. On 4 January 2013, the EITI Board granted Burkina Faso a waiver from undertaking a second Validation³. The Terms of reference for the review are presented in annex I. The International Secretariat conducted a desk review in January 2013. During the review, stakeholders in Burkina Faso were consulted and given an opportunity to share their views.

3 Secretariat review of remedial actions and assessment of indicators

The EITI Board agreed four remedial actions and tasked the Secretariat with reassessing compliance with Requirements 14, 15 and 16.

3.1 Remedial action 1

In accordance with the agreed definition of materiality, the Steering Committee should ensure that all material oil, gas and mining payments by companies to government are disclosed to the reconciler and incorporated into the second EITI Report.

Validator's findings

The Validator concluded that material payments were omitted from the 2008-2009 EITI Reports because (1) companies reported their payments using a different accounting method (accrual basis) than the method

Annex D – Minutes from the 12th meeting of the Steering Committee, 6 June 2012.

Annex E – Note explaining the recalculation of scope.

Annex F – Scoping study for the 2010 EITI Report.

Annex G – 2010 EITI Report.

Annex H – Agenda and minutes from the training session for reporting entities.

³ Annex I - Board decision on Burkina Faso's Validation waiver request, Board Circular 139, 21 December 2012, including Terms of reference for the Secretariat Review, available from <http://eiti.org/internal>.

agreed by the Steering Committee (cash basis), preventing them from completing the reporting template; and (2) the scope of the report was limited to companies that had been in full production for one year (Validation report, p.55). Stakeholders agreed that insufficient preparations for the reconciliation exercise prevented companies from disclosing all payments.

Progress since Validation

The Steering Committee conducted a scoping study⁴ in April 2011 to establish which revenue streams were material, and consequently which companies and government entities should be covered in the EITI report. Based on the findings of the scoping study and discussions with the reconciler, the Steering Committee agreed a definition of materiality that covered nine revenue streams.

The Steering Committee agreed that all companies in the production phase would be required to report on all payments within the scope of the agreed revenue streams, regardless of the size of their payments (materiality threshold = zero). A materiality threshold of FCFA 83,659,953 (approx. US\$ 170 000) was established for the companies in the exploration phase. Of the 74 companies that were considered in the scoping study, nine companies in the production phase and two companies in the exploration phase were initially identified as material taxpayers. The nine production companies and two exploration companies accounted for 87.4 % and 9.2 % of total revenues respectively (96.6 % of total government revenues from the extractive sector) (Scoping study, p.27). Further investigations subsequently undertaken by the Steering Committee demonstrated that eight of the 74 companies considered in the scoping, including the two exploration companies that were considered material for the 2010 EITI Report, were service companies and not engaged in upstream activities (Minutes from the 12th meeting of the Steering Committee, p.4). At its meeting of 6 June 2012, the Steering Committee therefore decided to exclude these eight companies from the scoping. Of the 66 companies that were considered in the revised scoping, no exploration companies met the established threshold for reporting⁵. Consequently, only the nine companies in the production phase were retained in the scope of the 2010 EITI Report. The recalculation provided by the Steering Committee demonstrates that the collective contribution of these nine companies amount to 98.7 % of total revenues⁶.

Secretariat's Assessment

The Secretariat has reviewed the 2010 EITI Report and the supporting documentation provided by the Steering Committee, and is satisfied that all material payments by the nine companies are disclosed in the 2010 EITI Report. The Secretariat notes that although the 2010 EITI Report reconciles the payments from the companies identified as material taxpayers in the revised scope, the section on materiality in the EITI Report (p.11) has not been updated and still refers to the initial scope agreed by the Steering Committee.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

3.2 Remedial Action 2

In accordance with the agreed definition of materiality, the Steering Committee should ensure that all material oil, gas and mining revenues received by the government are disclosed to the reconciler and incorporated into the second EITI Report.

⁴ Annex F – Scoping study for the 2010 EITI Report, available from <http://www.eiti.org/internal>.

⁵ Revenues from SOMIKA, the largest exploration company, amounted to FCFA 13,975,532 (approx. US\$28 000).

⁶ Annex E – Note explaining the recalculation of scope, available from <http://www.eiti.org/internal>.

Validator's findings

The validator concluded that 'it was not possible to show that the government reports were exhaustive due to the fact that the data were reported on a different accounting basis and the fact that the independent reconciler's work was not sufficiently rigorous', Validation report, p.56. The validator also noted that given that the scope of company participation was limited to companies that had been in full production for a year, it was not possible to identify the royalties received from BMC and SEMAFO, who paid more than FCFA 1 billion in 2008.

Progress since Validation

Three government entities – the Tax Directorate, the General Directorate of Customs, and the Treasury - were identified as recipients for the revenue streams considered material by the Steering Committee, and submitted reporting templates. The EITI Report notes that according to the Steering Committee, mining companies do not make direct payments to local government (2010 EITI Report, p.12).

The reconciler could not adjust a discrepancy in the EITI Report resulting from a custom payment that had not been recorded received by the General Directorate of Customs. The reconciler notes that the companies failed to submit evidence that the payments had been effectuated (2010 EITI Report. p.24). The non-reconciled discrepancy represents 0.04% of total revenues received by the government (FCFA 8,981,031 – approx.US\$18 400)

Secretariat's Assessment

The Secretariat has reviewed the 2010 EITI Report and the supporting documentation provided by the Steering Committee and is satisfied that all entities that collected material revenues participated in the reporting process.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

3.3 Remedial Action 3

The government and Steering Committee should take step to ensure that reporting entities have a proper understanding of the EITI reporting requirements through appropriate guidance and adequate preparation.

Validator's findings

The validator noted that 'the difficulties encountered appear to be due to inadequate preparation for the reconciliation exercise on the part of the independent reconciler and to the lack of clarity in the reporting templates', Validation report, p.58. The validator cites stakeholder views that 'the companies believe that the reconciliation process conducted by the independent reconciler should have begun with a preparatory meeting for explanatory purposes. They further believed that the time allowed for data disclosure was too short', Validation report, p.60. It is further noted that 'the stakeholders, in particular the representatives of civil society, expressed a wish to have the benefit of further training in these areas...', Validation report, p.60.

Progress since Validation

Prior to the 2010 EITI Report, the Steering Committee organised two workshops for reporting entities⁷. The first workshop took place on 14-15 December 2011, with the participation of 25 representatives from government entities and 15 representatives from extractive companies. The workshop focused on accounting practices, data assurance, common reasons for discrepancies, and training on completing the reporting templates. A second workshop was held on 6 April 2012 with 35 participants from government and companies. This workshop focused on reviewing the reporting templates, development of reporting guidelines and procedures for the 2010 EITI reporting exercise.

Secretariat's Assessment

The Secretariat's assessment is that the Steering Committee has taken steps to ensure that reporting entities have a proper understanding of the EITI reporting requirements through appropriate guidance and adequate preparation.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

3.4 Remedial Action 4

Take steps to ensure that the Steering Committee is content that the organization contracted to reconcile the company and government figures does so satisfactorily.

Validator's findings

The Validator concludes that 'we do not consider that the multi-stakeholder group was content that the organisation which was contracted to reconcile the company and government figures did so satisfactorily', Validation report, p.61. According to minutes from two Steering Committee meetings on 16 and 31 March 2011, members expressed concerns regarding the content of the 2008-2009 EITI Reports, noting several shortcomings. The validator notes that 'we understand that the multi-stakeholder group's decision to accept the first version of the EITI Report despite these shortcoming is due to a desire to continue with National Initiative implementation (*sic*) and to correct the shortcoming identified in the second EITI Report', Validation report, p.60). It is noted that members of the Steering Committee regretted that the independent reconciler had not given the necessary assistance to the Steering Committee in order to guarantee the quality of the established scope and of the reporting templates (Validation report, p.60).

Progress since Validation

The Steering Committee undertook the following actions to ensure that the reconciler would perform in accordance with the Terms of reference:

- The Terms of reference for the 2010 EITI Report were revised to include provisions on (1) conflict of interest; and (2) documented experience with producing EITI Reports;
- The Steering Committee organised two meetings with the reconciler prior to the commencement of the reporting process. The objective of these meetings was to discuss the scope of the 2010 EITI Report and the expectations of the members of the Steering Committee; and
- The reporting templates were simplified, and instructions for completing the reporting templates

⁷ Annex H – Agenda and minutes from the training session for reporting entities, available from <http://www.eiti.org/internal>.

were agreed with the reconciler.

The Steering Committee agreed the Terms of reference for the 2010 EITI Report on 6 June 2012. The draft 2010 EITI Report was discussed at the Steering Committee meeting on 27 June 2012. The final 2010 EITI Report was approved by the Steering Committee at its meeting of 20 July 2012. According to the minutes from this meeting, the comments by the Steering Committee on the draft 2010 EITI Report had been taken into account in this final version.

Secretariat's Assessment

The Secretariat has reviewed the minutes from the meetings where the scope, the draft 2010 EITI Report and the final 2010 EITI Report were discussed by the Steering Committee. The Secretariat's assessment is that the Steering Committee is content that the organization contracted to reconcile the company and government figures did so satisfactorily.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

4 Conclusion

The Board decision stipulated that four remedial actions should be completed in order for Burkina Faso to achieve Compliance. Subject to any further information from the Steering Committee, the International Secretariat is satisfied that the remedial actions have been satisfactorily completed and that the outstanding requirements are met.

Annex A - Board decision on Burkina Faso, 25 October 2011

The Board concludes that Burkina Faso has made meaningful progress in implementing the EITI. The Board agreed that Burkina Faso would retain its status as a Candidate country, subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation.

The Board congratulates the government, companies and civil society organizations in Burkina Faso for the progress made in implementing the EITI. The Board also wishes to congratulate the validator and all stakeholders involved in the validation process on a clear and comprehensive report.

The validator found that Burkina Faso did not meet a number of the validation indicators. In all decisions on Validation the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand. The Board reviewed the validator's report in detail. The validator concluded that indicators 14, 15, 16 and 17 were not met. The Board shared the validator's concerns regarding indicators 14, 15 and 16. However the Board was satisfied that the remaining indicators are met. The Board recommended the following corrective actions in order for Burkina Faso to achieve compliance:

1. In accordance with the agreed definition of materiality, the Comité de pilotage should ensure that all material oil, gas and mining payments by companies to government are disclosed to the reconciler and incorporated into the second EITI Report.
2. In accordance with the agreed definition of materiality, the Comité de pilotage should ensure that all material oil, gas and mining revenues received by the government are disclosed to the reconciler and incorporated into the second EITI Report.
3. The government and Comité de pilotage should take step to ensure that reporting entities have a proper understanding of the EITI reporting requirements through appropriate guidance and adequate preparation.
4. Take steps to ensure that the Comité de pilotage is content that the organization contracted to reconcile the company and government figures does so satisfactorily.

In accordance with the transition procedures for the 2011 Edition of the EITI Rules⁸, the Board agreed that Burkina Faso will have its candidacy renewed for 18 months (i.e. until 25 April 2013), by which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI Rules, including requirement 5(e) regarding regular and timely reporting. If Burkina Faso does not achieve Compliant status by this deadline it will be de-listed.

The Burkina Faso Comité de pilotage should agree and publish a new workplan within three months (by 25 January 2012) that addresses the corrective actions agreed by the Board, sets out the actions needed to achieve compliance with the 2011 edition of the EITI rules, and includes a schedule for a new validation to be completed by 25 April 2013.

The Comité de pilotage may request a waiver from the requirement to undergo a second Validation on the grounds that the remedial actions necessary for achieving compliance are not complex and can be undertaken quickly. It will be within the discretion of the Board to determine whether to grant the waiver request. If the waiver request is made in 2011 and subsequently granted, the secretariat review will be conducted in

⁸ http://eiti.org/files/Minutes_17th_Meeting_EITI_Board_Amsterdam.pdf

accordance with the previous edition of the EITI Rules regardless of the date of the Board decision.

Annex B – Letter from Tibila Kabore, Chair of the Steering Committee, requesting a waiver from undertaking a second Validation, 27 November 2012

Available from <http://eiti.org/internal>

Annex C – Overview of corrective actions undertaken by the Steering Committee

Available from <http://eiti.org/internal>

Annex D – Minutes from the 12th meeting of the Steering Committee, 6 June 2012.

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Annex E – Note explaining the recalculation of scope.

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