

AGREED UPON PROCEDURE FOR MAINSTREAMED DISCLOSURES

Agreed by the EITI Board on 15 February 2016

Preamble

The objective of the procedure is to recognize implementing countries that make transparency an integral and routine feature of their management systems. It is important to emphasize that **the procedure does not alter the EITI's disclosure requirements**. Implementation in accordance with this procedure would require the same information, in the same amount of detail, as is the case today. The procedure would not in any way alter the provisions regarding MSG oversight.

The proposed procedure has seven phases:

1. **Commitment** from government and agreement by the MSG to explore this approach to implementation of the EITI Standard;
2. **Feasibility** – a rigorous assessment of the viability of mainstreamed disclosure by an independent and technically competent body in accordance with a Board agreed template terms of reference;
3. **Work plan** – MSG agreement on a schedule for disclosure and assurance, including any capacity building and technical assistance;
4. **Application** – An MSG-approved application to the EITI Board seeking approval of the proposed workplan;
5. **Approval** – Board approval of the suggested approach.
6. **Implementation and Reporting** – in accordance with the work plan, including annual EITI Reports that collate the requisite data and provide links to further information.
7. **Review** – annual reviews by the MSG of the process as per requirement 7.

The process includes several safeguards to ensure that the adoption of this procedure is based on rigorous analysis and a coherent plan for disclosures, with oversight by both the MSG and the EITI Board.

Phase 1 – Commitment

- a) Eligibility for this procedure requires a clear commitment from government and agreement by the MSG to mainstream implementation of the EITI Standard.

Phase 2 – Feasibility study

- a) The procedure requires a rigorous feasibility study conducted by a consultant or organization perceived by the multi-stakeholder group to be credible, trustworthy and technically competent.
- b) It is a requirement that the feasibility study follows the template terms of reference agreed by the EITI Board (currently being piloted). The feasibility study should address two essential issues:

1. Is there routine disclosure of the EITI data required by the EITI Standard in requisite detail?

This should include:

- A review of what information required by the EITI Standard is already made publicly available by government agencies and in what format such as on on-line cadastres and registers, government webpages on legal, fiscal and administrative arrangements for the sector, etc. It should also include a review of the data that is made publicly available by companies in their reports and on their websites.
- An assessment of whether the information is up to date, comprehensive (includes all information required by the EITI Standard), and reliable. If there are several public sources

for the data, consistency should be assessed. Where there are gaps that can be quickly addressed, remedial actions and timeline should be provided. The assessment should also address the retention and availability of historical data.

2: Is the financial data subject to credible, independent audit, applying international standards?

This should include:

- A review of the audit and assurance procedures and practices in companies and government entities participating in the EITI reporting process, including the relevant laws and regulations, any reforms that are planned or underway, and whether these procedures are in line with international standards¹. And weaknesses in audit assurance practices should be clearly identified.
 - The feasibility study should set out options for ensuring that the EITI data is comprehensive and reliable. Where financial data is audited in accordance with international standards, the procedure does not require a comprehensive reconciliation of government revenues and company payments, although comprehensive disclosures from government and companies is required in accordance with requirements 4 and 5. Where financial data is not audited in accordance with international standards, the feasibility study should set out options for ensuring that the EITI data is comprehensive and reliable. This could include full reconciliation, spot-checks reconciling certain transactions or a certain percentage of total disclosures, etc..
- c) The procedure requires that the feasibility study is agreed by the MSG and made publically available.

Phase 3 – Schedule of disclosures and assurances

- a) The procedure requires that, based on the findings of the feasibility study, the MSG agrees a detailed schedule of disclosures and assurances by the participating entities. The schedule should clearly outline how the information required by the EITI Standard will be disclosed and assured, including a credible process for ensuring that the EITI data is comprehensive and reliable. The schedule should also address the steps need to ensure the retention and availability of historical data. Where routine disclosures are not yet taking place or not yet appropriately assured, the schedule should outline the expected timeframe for disclosure.
- b) The schedule 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 mainstreamed disclosures.
 - ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness and data reliability (Requirements 4 and 5).
 - iii. Identify and outline plans to address any potential legal or regulatory obstacles to mainstreamed implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation.

¹ For companies: the International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB). For public entities: the International Standards of Supreme Audit Institutions (ISSAI) issued by the International Organization of Supreme Audit Institutions (INTOSAI).

- iv. Outline plans for implementing the recommendations from validation and EITI reporting.
- c) The procedure requires that the production of an annual EITI Report that collates data from the various (publicly available) sources. It is a requirement that this work is undertaken by a consultant or organization perceived by the multi-stakeholder group to be credible, trustworthy and technically competent. The schedule for the annual reporting should be clearly specified.

Phase 4 - Application

- a) It is a requirement that the MSG seeks EITI Board approval of the schedule.

Phase 5 – Approval

- a) The EITI Board will consider the application and schedule. Approval of the application may be subject to clarifications of the schedule. Where the Board has concerns that comprehensive and reliable mainstreamed disclosures is not feasible, the Board may reject the application.

Phase 6 – Implementation and Reporting

- a) Subject to Board approval, the schedule should be implemented.
- b) An annual EITI Report should be produced that:
 - a. collates the requisite data from the various (publicly available) sources;
 - b. summarizes the audit and assurance work that has been undertaken.
- c) The annual EITI Report must include an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process disclosed the requisite information. Any gaps or weaknesses must be disclosed, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.
- d) Where gaps and weaknesses are identified, the Independent Administrator should make recommendations for strengthening the reporting process in the future, including any recommendations regarding audit practices and reforms needed to bring them in line with international standards, and where appropriate, recommendations for other extractive sector reforms related to the implementation of the EITI. Where previous EITI Reports have recommended corrective actions and reforms, the annual EITI Report should comment on the progress in implementing those measures.
- e) The annual EITI Report must include an overview of the government's and the multi-stakeholder group's responses to and progress made in addressing the recommendations from reconciliation and Validation in accordance with Requirement 7.1.a. The annual progress report should list each recommendation, the corresponding activities that have been undertaken to address the recommendations and the level of progress in implementing each recommendation. Where the government or the multi-stakeholder group has decided not to implement a recommendation, the rationale should be explained in the annual progress report
- f) If there are substantial delays in implementing the agreed work plan and/or the publication of EITI Reports, the EITI Board will consider suspending or delisting the country in accordance with requirement 1.

Phase 7 – Review

- a) Subject to Board approval, the MSG should oversee the implementation of the work plan.
- b) The MSG should conduct regular reviews of the process in accordance with requirement 7. The government and the multi-stakeholder group are 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.