

Validation of Senegal
Final Validation Report
Adam Smith International Independent Validator
12th March 2018

1. EXECUTIVE SUMMARY

The Government of Senegal committed to implement the EITI in February 2012 and was accepted as an EITI Candidate on 17 October 2013. On 25 October 2016, the Board agreed that the Senegal's Validation under the 2016 EITI Standard would commence on 1 July 2017. This final validation report follows on from a quality assurance review of the International Secretariat's initial assessment and also takes on board feedback from the MSG. The Validator agrees with the Secretariat's preliminary assessment that requirements 2.6 and 3.2 were not fully addressed in Senegal by the time validation commenced. However, the Board may wish to take into consideration that both requirements have subsequently been satisfactorily addressed.

2. BACKGROUND

Senegal is not an economy dependent on extractive industries, with revenues from mining, oil and gas accounting for only less than 2% of government revenues. Yet the country holds significant reserves of gold, iron ore, uranium, copper, chromium and marble (Amnesty International, 2014) Senegal is among the world's leading producers of phosphate, with annual production of 1.4m tons a year in 2015, alongside smaller production of gold, natural gas and various construction materials (World Bank, 2016) (USGS, 2016). The Birimian Greenstone Gold Belt runs through the south-eastern region of Kedougou, which holds 10m oz of gold reserves alone (Amnesty International, 2014). Senegal also has sufficient reserves to become a world-leading producer of heavy metals like ilmenite and zircon (World Bank, 2016). The government has given priority to the development of mining through a new mining code in October 2016 and investing in supporting transportation infrastructure. Senegal boasts some of the largest deposits of gold in Africa, an estimated 2.24m oz, and of high-quality iron ore, an estimated 750m tons of reserves (Lazard Asset Management , 2017) (USGS, 2016).

With its extractive industries long dominated by mining, Senegal does not produce crude oil and its small gas production is earmarked for (insufficient) domestic electricity generation. Senegal imports crude oil – 1.4m tons from Nigeria in 2016 – to supply its domestic refinery, the SAR (Republic of Senegal, 2017). While offshore oil and gas exploration in Senegal started in the 1950s, major commercially-viable discoveries were only struck in 2014. Senegal's sole hydrocarbons production comes from relatively minor natural gas production (of 100k cu m a day) by Fortesa, which sells its entire production domestically to state-owned power producer SENELEC and industrial users like SOCOCIM (Republic of Senegal, 2017). Yet since November 2014, when Edinburgh-based Cairn Energy acquired three licenses from FAR Ltd and Petrosen, the operator has announced discoveries of up to 1.5bn barrels on the country's deepest offshore wells (Cairn Energy, 2015) (Financial Times, 2016) (IDA Africa Watch, 2017) (FAR Ltd, 2017). The UK-listed firm has said the project would break even at USD 35 a barrel oil price (Financial Times, 2016).

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In line with the Validation Guide, the International Secretariat carried out the first phase of validation—initial data collection, stakeholder consultations, and preparation of their initial evaluation of progress against the EITI

requirements (the “Initial Assessment”). Adam Smith International (ASI) was appointed as the independent Validator to evaluate whether the Secretariat’s work was carried out in accordance with the Validation Guide. ASI’s principal responsibilities as Validator are to review and amend the Initial Assessment, as needed, and to summarize its independent review in this Validation Report for submission to the Board through the Validation Committee.

1. Work Performed by the Independent Validator

The Secretariat’s Initial Assessment was transmitted to ASI on 27th December, 2017. Our Validation Team undertook this phase of the Validation process through: (1) In-depth review and marking up of the EITI Assessment by each team member; (2) Detailed review and comments by the Multi-Stakeholder Specialist of Requirements 1 and the Civil Society Protocol; (3) Detailed review and comments by the Financial Specialist of Requirements 4, 5 and 6; (4) Consolidation of reviews and the production of this draft Validation Report, sent to the International Secretariat on the 9th January 2018.

2. Comments on the Limitations of the Validation

The Validator carefully reviewed the Secretariat’s Initial Assessment and at this stage has no comments on the limitation of the validation process.

3. Comments on the International Secretariat’s Initial Assessment

The initial data collection, stakeholder consultations, and drafting of the Initial Assessment were generally undertaken by the International Secretariat in accordance with the 2016 Validation Guide. The data collection took place across three phases. Firstly, from August 2017, a 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.

A country visit took place on 4-9 September 2017. All meetings took place in Dakar. The secretariat met with the multi-stakeholder group and its members, the IA and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group.

Finally, the International Secretariat prepared a report making an initial assessment of progress against requirements in accordance with the Validation Guide. The initial assessment did not include an overall assessment of compliance. The report was submitted to the Validator, with the National Coordinator (NC) also receiving a copy.

3. GENERAL COMMENTS

• Progress in EITI Implementation

Senegal presents a dynamic and creative case of EITI implementation, with its fast-paced, innovative and engaged MSG undertaking both strategic discussions linking the EITI to national priorities for the extractive sector as well as the technical detail of reporting. Although the extractive industries account for only around 2% of GDP, all three stakeholder groups have used the EITI to provide information on the mining sector that was previously unavailable and as a means of multi-stakeholder oversight of reforms ahead of sizeable oil and gas production expected to come onstream at the turn of the decade. Senegal’s mining sector has historically been controversial given host communities’ concerns about the

economic and environmental impact of mining, while its nascent oil and gas industry has elicited a robust public debate in the past three years over licensing procedures, community engagement and fiscal management of the expected revenue windfall. Senegal has used implementation of the EITI as a means of disclosing most mining, oil and gas contracts, reforming its sector legislation (in the 2016 Mining Law and in planned reforms to the 1998 Petroleum Law), supporting implementation of subnational transfers and improving tracking of mandatory social expenditures, in addition to no-less tangible reforms in government agencies' internal systems. The MSG's engagement in formulating recommendations and actively following up on their implementation has ensured the EITI has had a tangible impact, particularly in terms of reform of government systems, from the first EITI Report.

- **Impact of EITI Implementation**

Key to Senegal's successful use of the EITI as an instrument to drive reforms has been the strong engagement of all three main constituencies. Since the country became an EITI candidate in 2013, the government has supported the EITI through public statements, an enabling legal framework and funding for EITI. While nominations procedures within each constituency have remained somewhat informal, the dynamism of Senegal EITI's multi-stakeholder nature is evident from the regular consultations by MSG members of their constituency and each constituency's strong engagement in dissemination and outreach. Each constituency has been proactive in ensuring that a representative cross-section of their constituencies is represented on the MSG, including an even geographic spread of CSO representatives and a cross-section of mineral types and phases (exploration/production) for industry's representation. The MSG has met frequently – over 26 times in four years – and kept good records of its discussions. The MSG's strong engagement in the technical aspects of reporting is evident in the significant improvement from its first (2013) to second (2014) EITI Reports, not least in the comprehensiveness and reliability of data. While Senegal EITI's ability to reconcile a major exceptional payment from Mittal Steel Holding AG in 2014-15 (worth roughly 45% of government extractives revenues in 2014) was constrained by the company's contentious exit from Senegal in 2013, the broader objective of comprehensive disclosure of taxes and revenues has been achieved through the government's full disclosure of revenues received, the MSG's transparency on the exclusion of this revenue from the scope of reconciliation and evidence of the payment in the company's audited financial statements. The exceptional nature of this payment, following arbitration proceedings, means that Senegal EITI is unlikely to face such reporting challenges in the future. While EITI Senegal has faced minor challenges in addressing gaps in basic information on the mining, oil and gas sectors, such as production values and employment figures, this reflects the paucity of basic information on the sectors prior to Senegal's implementation of the EITI.

The Independent Validator's Assessment of Compliance

Figure 1 – Validator's assessment

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

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

4. DETAILED FINDINGS

The Validator agrees with the findings of the Initial Assessment. Therefore there are no detailed findings on disagreements to report.

5. RECOMMENDATIONS

1. The MSG may wish to review EITI Senegal's MSG foundational decree (Décret 2013-881) to ensure that EITI Senegal's governance rules are in line with actual practice, particularly on meeting quorum and MSG member alternates.
2. The industry constituency may wish to enhance, systematise and formalise its coordination between companies involved in EITI implementation beyond those directly represented on the MSG. The industry constituency is also encouraged to formalise its procedures for nominating and replacing its MSG members (*see Requirement 1.4*).
3. The MSG may wish to pursue its capacity building efforts targeting civil society and the press on the use of EITI data and other aspects such as contract analysis.
4. The MSG may wish to support each constituency's codification of its own nominations and replacement procedures for MSG members.
5. The MSG may wish to publish more regular updates of its work plan execution to reflect the detail with which the MSG and secretariat track implementation. This could further support the MSG's efforts to reach out to prospective donors to support specific work plan activities.
6. The government is encouraged to continue its efforts to engage a broad range of stakeholders in governance reforms in the mining, oil and gas sectors, as it has done in revisions to the Mining Code in 2016.
7. The MSG is encouraged to highlight any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards in the allocation of licenses in the oil, gas and mining sectors in the year(s) under review. The government is encouraged to continue its efforts to standardize the technical and financial criteria for the allocation of licenses.
8. The MSG may wish to maintain a publicly available register or cadastral system(s) with timely and comprehensive information on each of the mining, oil and gas licenses, including their coordinates.
9. The MSG may wish to ensure that the legal obligations in the Transparency Code, sector legislation and actual practice in contract transparency are consistent. The MSG is also encouraged to continue categorising the published contracts and training stakeholders on extracting key information and using published contracts.
10. The MSG may wish to pilot beneficial ownership reporting in the forthcoming EITI Report to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. In particular, the MSG may wish to consider the various types of control that can be exercised over a company. Senegal EITI may also wish to conduct broader industry outreach on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory.
11. In line with Requirement 2.6, the MSG should clarify the statutory regulations on the financial relationship between Petrosen, Mifereso and the government in future EITI Reports. The government is also encouraged to

continue equip the Hydrocarbons Department with monitoring tools to better track work plans and payments to government as the industry develops.

12. In line with Requirement 3.2, the MSG should disclose production data for the fiscal year covered by the EITI Report, including total production volumes and the value of production by commodity, and, when relevant, by state/region. This could include sources of the production data and information on how the production volumes and values disclosed in the EITI Report have been calculated.
13. The MSG is encouraged to clarify the differences in export figures between companies' EITI disclosures and official government data.
14. The MSG could ensure that future EITI Reports include publicly-accessible and audited evidence of any exceptional material payment to government from companies without contractual links to Senegal.
15. The MSG is encouraged to ensure that future EITI Reports provide a level of detail and transparency for any barter agreement commensurate with the disclosure and reconciliation of other payments and revenues streams.
16. The MSG could ensure that future EITI Reports include explicit figures for the volumes and values of commodities transported under arrangements where the government receives transportation revenues.
17. The MSG may wish to make progress in implementing project-level EITI reporting 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.
18. Senegal EITI is encouraged to strengthen its efforts to publish more up-to-date EITI Reports to ensure the data is more relevant and useful to public debate.
19. The MSG may wish to publish audited financial statements of government entities collecting extractives revenues not recorded in the national budget.
20. Given the planned implementation of subnational transfers from 2017, the MSG is encouraged to ensure that future EITI Reports provide the formula for calculating transfers to individual subnational government, the value of transfers according to the formula and any discrepancies between budgeted and executed transfers in the year(s) under review.
21. The MSG may wish to include further information on production and revenue projections, commodity prices and budget scenario planning in future EITI Reports or on Senegal's EITI website. The MSG may also wish to explore the potential of clarifying the level of tax incentives provided to extractives companies in line with stakeholder demands for more information.
22. The MSG may wish to provide additional analysis of companies' contractual social expenditure obligations in future EITI Reports, with a view to explaining and contextualising companies' reporting of their social expenditures in the year(s) under review.
23. The MSG may wish to publish the audited financial statements of Miferso and Petrosen, potentially through the EITI Senegal website pending operationalisation of the SOEs' websites.
24. The MSG is encouraged to provide additional analysis on official extractives employment data, using EITI reporting to refine official statistics.

25. The MSG may wish to formalise government mechanisms for following up on recommendations from past EITI Reports and Validation as a means of ensuring the sustainability and continued effectiveness of follow-up channels.
26. The MSG may wish to undertake a comprehensive impact assessment, with a view to identifying tangible impacts to local communities and other stakeholders in order to determine the extent to which the EITI has contributed to improving public financial management and governance of the mining, oil and gas sectors.

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