

Board Paper 21-2-A

# Building on achievements

A proposal to improve the EITI, by making the EITI Reports better, implementation simpler, and the EITI a stronger platform for wider reforms.

For decision

**This proposal is submitted by the EITI Chair Clare Short to the Board for consideration at the 21<sup>st</sup> Board meeting in October 2012. She is particularly grateful for the involvement in developing this proposal by the members of the EITI Strategy Working Group: Abdoul Aziz Askia, Edward Bickham, Stuart Brooks, Sarah Cooke, Corinna Gilfillian, Alexandra Gillies, Eelco De Groot, Jean Claude Katende, Alfredo Pires, Anwar Ravat, Paulo De Sa, Epifanio Baca Tupayachi, and Jelte Van Wieren and later on for the help of Julie McDowell and Sidi Ould Zeïne. The Secretariat has provided support.**

## Table of Contents

1	Introduction .....	3
2	How to read this paper .....	4
3	EITI Reports: comprehensive and reliable .....	5
3.1	Inclusion of background information .....	5
3.1.1	Providing an overview of the sector .....	5
3.2	Data: timely, comprehensive and reliable .....	6
3.2.1	Timely reporting.....	6
3.2.2	Comprehensive and reliable data.....	6
3.2.3	Level of detail (disaggregation) .....	8
3.2.4	State-owned enterprises (SOEs).....	8
3.2.5	Sale of in-kind revenues .....	8
3.2.6	Social expenditures .....	9
3.2.7	Transit fees .....	9
3.2.8	Licences and beneficial ownership.....	9
3.2.9	Contracts.....	10
4	National dialogue: MSGs and use of data .....	11
4.1	Civil society participation .....	11
4.2	Workplan .....	11
4.3	Use of data .....	11
5	Impact and Validation.....	13
5.1	Validation in context .....	13
5.1.1	Annual reports (self-assessment).....	13
5.1.2	Annual review of EITI Reports.....	13
5.1.3	Expert panel .....	13
5.2	Proposal for a revised Validation model.....	14
5.2.1	What to validate .....	14
5.2.2	How to validate .....	14
5.2.3	When to Validate .....	14
5.2.4	Who validates .....	15
5.2.5	Who pays .....	15
6	Changes to the way the EITI is set out .....	16

### Attached papers:

21-2-B: EITI Standard 2013 draft outline

21-2-C: Transparency of revenue management and expenditures

21-2-D: Feasibility of including License Transparency in the EITI

21-2-E: EITI Rules and Workplans

21-2-F: Proposal for a revised Validation model

# 1 Introduction

The EITI has made good progress since it became operational in 2005/6, but it has not yet achieved the objectives it set itself when the Principles on which the EITI is based were adopted. It is now time to respond to the findings of our evaluation and the lessons learned in the first five years and to build on the foundations that have been laid down. The EITI is now implemented by 36 countries and a number of others, including Colombia, Myanmar, the Philippines and the United States are preparing to implement. Altogether 98 EITI reconciliation reports have been published, covering over US \$700bn. In many countries EITI implementation is mandated by law. There is a growing body of evidence that the EITI can play a role in improving natural resource governance. However as it is, the EITI is not adequately delivering against the EITI Principles, to which all stakeholders are committed.

Obviously EITI alone cannot deliver good natural resource governance, which requires greater transparency, a wide range of standards, laws and institution building. However, the EITI itself also needs to evolve to remain relevant, given what we have learned and other significant developments in relation to transparency and natural resource governance. Significant improvements were made through the adoption of the EITI 2011 Rules, particularly related to regularity and timeliness of EITI reporting. It is also important to note that some implementing countries find it challenging to adhere to the current rules. Many of the proposals made in this paper would indeed clarify and simplify existing requirements. For example, EITI data has to become more reliable, though by amending the requirements implementing countries could be given greater flexibility in how reliable data is achieved. It is important however that we shape the EITI to encourage continuous improvement in natural resource governance without making our minimum requirements too onerous for countries facing a major reform challenge.

This paper makes proposals for improving the effectiveness of the EITI based on widespread consultation and consideration of possible developments by the Board and its committees. The period of reflection has shown clearly that consensus between the EITI's stakeholders has evolved and there is agreement on the need to improve the quality of current implementation, and make sure that the EITI builds on, and gives recognition to, all the good examples of innovative implementation.

While some of the proposals require changes to the EITI Rules, other improvements can be achieved in other ways, especially by commitment to further transparency by all parties. The validation system, that is currently not functioning adequately, needs both to assess whether our requirements are met, and to recognise where countries have exceeded the minimum requirements. Validation could also be better complemented by other efforts assessing impact.

With these enhancements the EITI would be able to achieve:

- Improvement in the quality of EITI data.
- Better use of EITI data.
- Better links to wider reform efforts and the EITI would become a platform for these efforts.
- Improved Validation.

## 2 How to read this paper

This paper sets out proposals (numbered) for revising the EITI standard and provides a brief account of the reasoning behind them. The proposals are in most cases a reflection of the consensus emerging after more than one year of consultation with all stakeholders and deliberations by the EITI Board. The proposals are numbered and in bold type in shaded boxes. Many of the proposals build on the agreements already reached at the Board meeting in Lima. Where there is not yet agreement, options have been put forward. The options that are not a reflection of a consensus are provided by the Chair and Secretariat in order to assist the Board to address weaknesses with the EITI's current approach. The intention is that the Board at its meeting in October will go through these proposals individually and reach agreement on our policy proposals. Work can then begin to draft the changes to the Rules and develop guidance to implement the reached agreements.

For illustrative purposes **attached to this paper is a draft outline of the EITI Standard<sup>1</sup>, planned to replace the 2011 edition of the EITI Rules. This is intended to enable Board members to see how the proposed changes might be reflected in the new requirements. These new proposed requirements are also summarised in proposal 31 on page 18 of this paper.**

**Following the Board's deliberations in Lusaka, it is probable that more detailed discussions will need to take place to finalise the Standard. A complete draft of the new Standard could thus be considered by the Board in February 2013, so that it can be launched at the Conference in May 2013.**

Attached also are the papers that have been developed by various sub-groups of the Strategy Working Group, which form the basis for this paper.

This paper does not address the need to ensure wide ranging consultations about the proposed changes. On this please see the EITI Strategy Consultation Plan ([www.eiti.org/about/strategy-review](http://www.eiti.org/about/strategy-review)).

---

<sup>1</sup> Ref. Board Paper 21-2-B EITI Standard 2013 draft outline

## 3 EITI Reports: comprehensive and reliable

This section contains proposals about the content of EITI reports.

### 3.1 Inclusion of background information

#### 3.1.1 Providing an overview of the sector

At present most EITI Reports are difficult to read and interpret. EITI Reports often benefit from contextual or background information. The EITI should encourage the provision of more background information. Most of these proposals have been elaborated by the sub-group working on how EITI could provide more information on how resources are spent<sup>2</sup>.

#### **1. It is proposed that EITI Reports are required to contain basic contextual information that provides the reader with an overview of the sector. This should include information on:**

- a. **Contribution to the economy:** direct contribution of extractive sector to GDP, fiscal revenues, total government expenditure, exports, and employment; and list of key regions/areas where production is concentrated.
- b. **Production:** production by commodity, the value of production by commodity, and state/region (when relevant); physical exports by commodity, their value, and state/region (when relevant); key companies in the extractive sector (private and state-owned); and, new large projects to start production (within the next two years).
- c. **Revenues and fiscal system:** list of key laws, codes, decrees governing extractive industry tax regime; description of fiscal regime including any sub-national elements; key institutions in charge of revenue collection.
- d. **Government accounts and budget systems:** A description of how revenues are recorded in government accounts and budget systems, and, where available, forecasts on the future production, price and revenue forecasts, and expectations of the proportion of total revenues expected to come from the extractive industries.

**2. It is proposed that each country is [required/encouraged] to include a description of how extractive industries' revenues are allocated** i.e. EITI Reports should explain how these revenues (cash and in-kind) are recorded in the national budget. Where the governments revenues (cash and in-kind) are not recorded in the budget, the use of these revenues should be explained, with links provided to relevant financial reports as appropriate, e.g. sovereign wealth/development funds, sub-national governments, state-owned companies, etc.

**3. It is proposed that,** where extractive revenues are earmarked for specific programmes or geographic regions, **clear targets and objectives are [required/encouraged]** so as to maximise accountability and focus on the efficiency with which such resources are used.

#### **4. It is proposed that each country is encouraged to:**

- a. **provide a reconciliation of data in EITI Reports to data recorded in government budgets and accounts.**
- b. **provide links to the publicly available records on budgeting and expenditures.**
- c. **provide timely information that will further public understanding of the volatile and finite nature of**

<sup>2</sup> Ref. Board Paper 21-2-C Transparency of revenue management and expenditures

**extractive industry revenues.**

**d. strengthen linkages between EITI and the country's annual budget and public financial management processes.**

### 3.2 Data: timely, comprehensive and reliable

Further improvements are needed to address the quality of EITI reporting. Firstly, it is not always clear whether EITI Reports cover all material payments and revenues. In some cases, significant payments and benefits are left out of EITI Reports. In others, it is not clear if all companies and all government entities are reporting. Secondly, the data in EITI Reports cannot always be relied upon, usually due to weak or unclear auditing and assurance practices. As a result, the EITI does not consistently deliver on its basic commitment to provide high quality data to inform public debate.

Additionally, there is concern that the current standard is too narrow to provide an adequate reflection of the financial circumstances related to the extractive industries. Accordingly, stakeholders have argued for additional requirement and guidance regarding issues like social payments, infrastructure provision and barter arrangements, and the government's management of in-kind revenues. It has also been suggested that licensing arrangements, beneficial ownership, contract terms, and descriptions of expenditure allocations need to be disclosed to provide a complete picture.

This chapter puts forward proposals to address these issues.

#### 3.2.1 Timely reporting

A number of significant improvements were introduced in the 2011 edition of the EITI Rules. Of particular importance were the new rules related to timeliness and regularity of reporting. The requirement for consistent timely reporting already addresses the issue of regularity. **No amendments to the EITI Requirements related to timeliness are foreseen.**

The revision of the standard now presents an opportunity to further clarify and simplify the requirements related to comprehensive and reliable data.

#### 3.2.2 Comprehensive and reliable data

The variable quality of EITI data is a significant concern. It is often difficult for stakeholders to determine whether EITI Reports are comprehensive and reliable. That is, it is often difficult to establish whether all material companies participated, whether the government disclosed all material revenues, and whether the disclosures can be relied upon. These issues often feature prominently in validation and secretariat reviews. Implementing countries have raised the issue that the EITI Requirements are not sufficiently clear.

In some cases it has not been possible to verify that EITI Reports cover all material payments and revenues. The emerging best practice is that the government discloses all revenues (not only the revenues received from companies that made material payments). This ensures that the coverage of the reconciliation process is clear. There is also a need to provide greater clarity on what taxes (revenue streams) must be included in an EITI report, and which are optional. Thus it is proposed to establish clearer requirements, emphasising the need for comprehensive disclosure of all material oil, gas and mining payments by companies to governments ("payments") and full disclosure of revenues received by governments from oil, gas and mining companies ("revenues"). This will include a requirement that the EITI Report provides an independent opinion (from the reconciler) on the comprehensiveness of the data.

At the request of the EITI Board, the World Bank commissioned the Chartered Institute of Public Finance and Accountability (CIPFA) to review the EITI Rules in relation to the quality and reliability of data gathered for EITI reconciliations, and to make recommendations for improvement of the directives, processes and key outputs. CIPFA concluded that "there is a substantial lack of clarity in the current set of EITI directives, [which] ... impacts

on the achievement of EITI requirements". They recommend an approach that focuses on "independent assurance" of the EITI data.

A small group of experts and Board members have considered solutions. The EITI Principles call for "a broadly consistent and workable approach to the disclosure of payments and revenues ... which is simple to undertake and to use". It also emphasises that the process "relies as much as possible on existing procedures and institutions and on international standards". It is obvious that the EITI should not seek to replace government and company accounting and audit (assurance) systems. Rather, the EITI should draw on these systems, and find alternative ways of providing accurate figures when the systems are not reliable. Where there are problems recommendations for improvement should be provided. The EITI process in Mongolia is an example of how successive EITI reports have been used to strengthen public financial management and government auditing systems.

A key aspect of this work will be assessing "the extent to which the participating entities have been subject to adequate assurance procedures". That is, the reconciler will be empowered to review the accounting and auditing practices of the participating entities, document the extent to which the participating entities have been subject to adequate assurance procedures, identify gaps or systematic weakness, and to make recommendations to strengthen these systems. EITI Reports will therefore provide a clearer assessment of whether the data is reliable, including an opinion from the reconciler on the reliability of the data. Company and government reporting entities are already encouraged to "obtain from their external auditor an opinion that the information that they have submitted is consistent with their audited financial statements". This option will be retained and elaborated.

A number of options have been considered for when these assurances are not available. The first is to require/encourage implementing countries to conduct a comprehensive audit. This would be prohibitively expensive in many cases. An alternative approach is to empower the reconciler to review other supporting documentation and reporting systems in order to verify that the data is complete and accurate. The recommended approach is that MSGs, in consultation with the Secretariat, develop a practical and cost effective alternative to providing high quality data.

**5. It is proposed to require "comprehensive disclosure of all material oil, gas and mining payments by companies to governments ("payments") and full disclosure of revenues received by governments from oil, gas and mining companies ("revenues"), including an independent opinion from the reconciler on the comprehensiveness of the data.**

**6. It is proposed that the Board reviews what types of taxes (revenue streams) must be included in an EITI Report, and which are optional, and revises the standard reporting templates accordingly.**

**7. It is proposed that implementing countries are [required/encouraged] to disclose subnational transfers where material. As at present, EITI Reports must disclose direct material payments and revenues to subnational levels.**

**8. It is proposed to require that EITI Reports must be subject to a credible reporting process ensuring reliable data, including identifying the extent to which the participating entities have been subject to adequate assurance procedures and disclosing related any gaps or systemic weaknesses. The EITI report must include an opinion from the independent administrator on the reliability of the data. Where there are weaknesses in assurance of EITI data, it is proposed that the requirement will be considered met if EITI reports document that reasonable steps have been taken to improve the quality of the company and government auditing, including a process for monitoring adoption of recommendations from previous EITI reporting cycles. In addition, where there are weaknesses in assurance of EITI data, it is proposed that the government and MSG should be encouraged to take steps to verify the quality of the data, e.g., through additional audits and spot checks where feasible.**

### 3.2.3 Level of detail (disaggregation)

Many EITI stakeholders find it inadequate that the EITI does not, at the minimum, require that EITI reconciliation reports provide revenue information broken down by company and revenue stream. The Dodd-Frank Wall Street Reform Act includes a requirement that requires oil, gas, and mining companies registered with the U.S. Securities and Exchange Commission (SEC) to publish how much they pay to governments where they operate. The new draft EU Transparency Directive proposes the same<sup>3</sup>. Key elements in the Dodd-Frank rules require US-listed extractive industry companies to report their payments to governments on a country-by-country and project-by-project basis. The new rules leave the term “project” undefined, but provide guidance on the Commission’s view as to what a project would be.

At its meeting in Lima in June 2012, there was an emerging consensus that company by company reporting should be required. It was recognised that the EITI could not require lower reporting standards than Dodd-Frank and the EU regulations. It has been argued since that EITI should require the same reporting standard for companies that are not covered by Dodd-Frank and EU requirements in order to level the playing field for all. The Board agreed to continue the discussion about project-by-project reporting and alternative proposals are set out below.

**9a. It is proposed that it is required that EITI Reports provide information by company and by revenue stream.**

**9b. It is alternatively proposed that revenues are required to be reported at project level.**

### 3.2.4 State-owned enterprises (SOEs)

State-owned enterprises (SOEs) often collect revenues, in particular in-kind revenues, from resource companies on behalf of the state, and then transfer a portion of these revenues to the government treasury. In some cases, SOEs directly spend a portion of these revenues and/or net out amounts due to them by the government. In such cases only a part of the revenue collected by the SOEs is transferred to the government. In other cases, SOEs receive funds from the government to cover their expenses. Some stakeholders consider that these transactions need to be disclosed.

**10. It is proposed that EITI Reports are [required /encouraged] to disclose material SOE-government transfers in a disaggregated form, whether monetary or in-kind, and reconcile these transfers.**

**11. It is proposed that EITI Reports are [required/encouraged] to include an explanation of the prevailing rules and practices that govern exchanges between government and the SOE including provisions for how the SOE is financed.**

**12. It is proposed that EITI Reports are [required/encouraged] to include a unilateral statement from SOEs on their quasi-fiscal expenditures, such as on social programmes, infrastructure projects, or subsidies.**

### 3.2.5 Sale of in-kind revenues

SOEs are often responsible for selling the state’s share of production, with prices and buyers often remaining unknown, making it difficult to establish whether a fair price is obtained. The management of the state’s share is often an area of perceived corruption and lack of accountability. However, it can be difficult to obtain payment data from buyers who do not necessarily operate within the implementing country.

**13a. It is proposed that it is [required/encouraged] that EITI Reports reconcile information from the buying company on the sale of the state’s share of production, with information from the selling SOE or**

<sup>3</sup> Ref. SWG submission by Theodore H. Moran [“Reform EITI to Require Compliant Countries to Publish Disaggregated Company-by-Company Revenue Payments”](#)

**government agency.**

**13b. Alternatively, it is proposed that it is [required/encouraged] that SOE report on the volumes sold and revenues received, broken down by the type/grade of product, month, market and type of buyer, and provide a list of buyers, including term contract holders and spot buyers.**

## 3.2.6 Social expenditures

Operating companies in many countries make significant so called social payments and transfers, sometimes to the government. Several implementing countries already disclose social payments, including Mongolia and Zambia. Where reconciliation is not possible, social payments are typically unilaterally disclosed by the companies.

**14. It is proposed that disclosure of social expenditure remains encouraged.**

## 3.2.7 Transit fees

The EITI currently requires disclosure of upstream payments. Disclosure of midstream payments would enable users of EITI Reports to access information on revenues from transportation of oil, gas and mining, including transit revenues in countries like Bulgaria and Ukraine which are currently considering EITI implementation.

**15. It is proposed that implementing countries are [required/encouraged], where material, to disclose payments and revenues related to the transportation of oil, gas and minerals.**

## 3.2.8 Licences and beneficial ownership

A sub-group has considered the feasibility of including license transparency in the EITI<sup>4</sup>, noting that the majority of EITI countries already have license registries and that these can be developed at a relatively low cost<sup>5</sup>. At the same time, all implementing countries – including large federate countries, must reasonably be able to implement any new requirements on license transparency.

Stakeholders have put forward a number of proposals<sup>6</sup> addressing the award of extractive rights to companies, or changes in ownership to such rights. Mongolia's 2010 EITI Report includes an overview of licenses and license holders, noting licenses issued, purchased or expired during the course of the fiscal period.

**16a. It is proposed that implementing countries are required, unless there are significant barriers, to disclose basic information regarding each license, including license type, coordinates of the tenements, license holders, date of application, date of granting and date of expiration or first renewal deadline.**

**16b. Alternatively, it is proposed that implementing countries are required to provide a summary and a link to publicly available information regarding the licensing of companies covered by the EITI Reporting process. MSGs would be encouraged to particularly focus on the licenses that were held, awarded and transferred during the accounting period covered by the EITI Report. MSGs would also be encouraged to provide additional information relating to the beneficial ownership for each active license.**

**17. It is proposed that implementing countries are [required/encouraged] to disclose key information related to tender bids and auctions, such as name of applicants and selected winner, bid amount and compliance with technical requirements.**

<sup>4</sup> Ref. Board Paper 21-2-D.

<sup>5</sup> The World Bank advises that a basic system (an Excel spreadsheet with basic information on each license posted on a governmental website) can be achieved at a low cost (typically US\$ 20,000-50,000) and in a short period of time, depending on the quality of the existing information. Before any detailed requirements are approved, further analysis of the costs and barriers are likely to be required.

<sup>6</sup> Ref. SWG submission by RWI and WB on [Licence and contract disclosure](#), 23.07.2012

### 3.2.9 Contracts

Contracts detail the commitments between government and companies that determine the payments and revenues from natural resource extraction. Contract disclosure may enable users of EITI Reports to compare revenue data with financial terms of a contract, including incentives, government share in a project, social and environmental provisions, etc. Arguments against required contract transparency within the EITI include concerns that commercially relevant information might be revealed and that the EITI should refrain from introducing new core compliance requirements.

In some implementing countries, including the Kurdish region of Iraq, Mauritania, Peru and Timor Leste, contracts are made publicly available or disclosure is provided for in legislation and codes. As of May 2013, extractive sector projects financed by the IFC will require public disclosure of the principal contract between a company and the relevant government, with appropriate redactions of commercially sensitive information.

**18a. It is proposed that EITI implementing countries are [required/encouraged] to disclose on a government website any contracts that establish the terms attached to the grant and operation of a license.**

**18b. Alternatively, it is proposed that implementing countries may decide to make contracts public.**

**18c. Alternatively, it is proposed that the disclosure requirements are limited to contracts or projects that generate the material revenue streams included in the EITI Report.**

## 4 National dialogue: MSGs and use of data

It is a fundamental EITI commitment that the EITI contributes towards public debate. This requires effective multi-stakeholder oversight including a functioning multi-stakeholder group (MSG) with companies and the full, independent, active, and effective participation of civil society.

The functioning of MSGs has not been extensively discussed by the Strategy Working Group.

### 4.1 Civil society participation

Some countries seeking to implement the EITI have not been admitted as the Board has not been able to conclude that civil society can participate freely in a MSG. In some implementing countries, concerns have been raised that civil society representatives are not able to effectively participate.

The EITI already has detailed provisions related to the participation of civil society representatives. It is not envisaged that there is a need for new provisions, but some restructuring could be considered. However, there may be a need to consider whether the provisions are fairly implemented across the world. It is therefore proposed that no major changes are made to the requirements, even if they are set out differently, and that the Board appoints a group to consider the implementation of these provisions.

**19. It is proposed that the Board in Sydney appoints a working group to consider whether the EITI's practices are consistent regarding the effective participation of civil society representatives.**

### 4.2 Workplan

The workplan forms the basis for all implementing activities. This is where the MSG, based on the international standard, agrees implementing actions to be taken. Previously, as pointed out in the 2011 Evaluation, there have at times not been adequate links between planned activities and the purpose/delivery against the EITI Principles.

**20. It is proposed that MSGs must always have a current workplan, fully costed, formally endorsed and accessible to the public. These plans must include a statement of agreed objectives relevant to the implementing country based on the EITI Principles. The plans must set out the specific activities which are required to meet these objectives with measurable and time bound targets, [using where feasible appropriate indicators]. The scope of EITI implementation and links to other reforms should then be tailored to contribute to these desired objectives.**

### 4.3 Use of data

Stakeholders have often found it difficult to access, interpret and utilise EITI data. The move toward publishing summary EITI Reports is positive. However, in most cases EITI data cannot easily be comprehended or related to the country's overall public finance statistics (e.g. it is difficult to determine the extractive industries' contribution to total government revenues), or to other data regarding the development of these sectors. It is also difficult to compare EITI data through time, and to compare data across countries. Greater efforts are needed both in implementing countries and globally to ensure that EITI data is easy to use. It is recommended that the EITI standard requires the publication of EITI data files, and encourages MSGs to make EITI Reports machine readable. Furthermore, implementing countries would be encouraged to code or tag EITI Reports and data, so that it can be compared with other public financial information.

The International Secretariat currently extracts a core data set from every EITI Report<sup>7</sup>, which forms the basis for the extracting data publications. Subsequent to the Board clarifying the required scope of EITI reporting (e.g.,

<sup>7</sup> The EITI Reporting database (<http://eiti.org/countries/reports>) provides information on: the period covered, revenue stream covered, coverage of in-kind payments, total payments by companies, total revenues received by government, the currency

benefit streams that must be covered, the level of disaggregation that is required, etc) it is recommended that the Board agrees new standard reporting templates. It is also recommended that implementing countries are required to submit a core set of data from each published EITI Report which would feed into a more detailed global EITI report database.

**21. It is proposed that the EITI standard requires the publication of EITI data files, and encourages MSGs to make EITI Reports machine readable, exploiting opportunities to classify and code the information so that it can be compared with other public financial information.**

**22. It is proposed that, based on the standard reporting template, implementing countries are required to submit a core set of data from each published EITI Report which will feed into the EITI global report database.**

---

unit, level of disaggregation, the number of companies reporting, a list of companies reporting, the publication date, and the name of the reconciler.

## 5 Impact and Validation

“The main recommendation is that the EITI should move towards a more open, broad –based and flexible performance certification scheme...The challenge will be to operationalize the EITI Principles and link this with a more dynamic validation scheme...”, EITI 2011 Evaluation.

There are two key issues to be considered. Firstly, the EITI needs to have a systemic quality assurance mechanism (Validation) that tests whether countries implement the EITI in accordance with its Rules. The reality must simply be accepted that the existing system is not adequate. Secondly, there is need for more regular analysis, assessment and recognition of progress and impact. A number of different efforts, from the redesign of the requirements to the priorities and focus of the Board’s and Secretariat’s activities (IPRs, best practice notes, etc.) can together contribute towards a shift in focus and increased attention on the quality of implementation.

### 5.1 Validation in context

#### 5.1.1 Annual reports (self-assessment)

Each country should have the opportunity to explain how it has met the EITI Requirements and its own broader objectives (as set out in its workplan). Where possible these assessments should demonstrate progress in delivering on the EITI Principles. The self-assessment should explain the approaches used by the country to extend EITI implementation beyond the minimum requirements. The self-assessment would be an elaboration of the present annual progress report provision introduced with the 2011 Rules, though it would now be required by all implementing countries.

**23. It is proposed that implementing countries are required to submit annual self-assessments as part of the annual progress report (current requirement 21-c), assessing performance against the EITI Requirements and against wider commitments agreed in the workplan.**

#### 5.1.2 Annual review of EITI Reports

As of 2012, all implementing countries are required to publish EITI Reports annually. A more systematic analysis of these reports is needed, both to ensure that the data is better used and to ensure that the quality of the reports are in line with the EITI standard. Building on the Secretariat’s publication ‘Extracting Data’, an annual review of the quality of EITI Reports could be further developed to provide regular feedback to implementing countries on the quality of their EITI Reports, recognising innovation, and highlighting areas where further improvements is needed. It is foreseen that the results of the annual review will feed into an annual global report prepared by the Secretariat, possibly with the support of an accounting firm, creating greater incentives for progress and innovation and more potential for recognition.

**24. It is proposed that all EITI Reports are compiled and analysed annually, with particular reference to timeliness, comprehensiveness, data reliability, and whether the discrepancies have been addressed.**

#### 5.1.3 Expert panel

The 2011 Evaluation revealed the difficulty to assess the overall impact of EITI implementation. Nonetheless, it is important to establish whether natural resource governance has improved in EITI implementing countries and whether progress against the EITI Principles is being made.

The Strategy Working Group has therefore considered the possibility of an Expert Panel to review progress against the EITI Principles on a rolling basis in a selection of EITI implementing countries. The findings could feed in to the annual global report and the EITI website as another means of incentivising progress and innovation. The Expert Panel would not be involved in Validation or otherwise in determining a country’s compliance, but be tasked by the Board to analyse impact.

Such a panel could be relatively easy to establish, with the Board appointing a few, possibly 4-5, distinguished

experts, mainly from implementing countries. panel would be given terms of reference to consider impact in a few countries annually. The mandate could be reviewed every two or three years. The panel would be supported by the Secretariat. The panel is likely to cost US\$100 000–150 000 per year.

**25. It is proposed that the Board in Sydney appoints an Expert Panel to review EITI's impact globally and in implementing countries, for an initial period of two years.**

## 5.2 Proposal for a revised Validation model

The evaluation noted that 'the two dimensions of EITI as a global standard – the standard itself, and how it is certified (validation) – require Board attention in the period to come' (Evaluation, p.4). The current system is based on assessing 18 requirements as met or unmet. The evaluation recommended that rather than the binary pass/fail approach, "the EITI should move towards a more broad-based Standard in line with the EITI Principles with a revised certification scheme based on a scaling system that provides performance incentives" (Evaluation, p.5). There are also several challenges with the current Validation model that need to be addressed. Validation is costly and time-consuming, and often Validation reports are inconsistent, of poor quality and insufficiently consultative. This may partly be explained by the fact that validators are contracted by implementing countries and are therefore incentivised to offer a positive assessment.

The Strategy Working Group and a smaller group has considered various options for improving Validation. Board Paper 21-2-F set out the details of these discussions and the proposal for a revised Validation model. Several have expressed a strong preference for keeping the current arrangements with external validators. However, it has been proposed that the responsibilities for procurement and financing should shift to the EITI Board and the Secretariat in order to ensure objective and consistent quality assessments and reduce the burden on the MSGs. There is general agreement that the pass/fail assessment should remain as a minimum. Several stakeholders have strongly argued for that this needs to be complemented by a more nuanced assessment.

### 5.2.1 What to validate

**26. It is proposed that, as at present, Validation should assess progress against all EITI Requirements and determine whether they are met or unmet. What is being validated will change in line with the proposal to revise and simplify the requirements as set out below.**

### 5.2.2 How to validate

**27a. It is proposed that the current pass/fail assessment is complemented by more nuanced assessments. This could be done through a simple numerical grading (or awarding of for example stars). The awarding would be complemented by narrative reports.**

**27b. It is proposed that the nuanced assessment is applied to all requirements. It could for example elaborate on the present no progress - meaningful progress - Compliance distinctions in the present Rules, adding a fourth distinction for where countries have exceeded the minimum requirements.**

**27c. Alternatively, it is proposed that a nuanced assessment is only applied to innovations and efforts to exceed requirements.**

### 5.2.3 When to Validate

**28. It is proposed that all implementing countries should be validated every three years.**

#### 5.2.4 Who validates

**29a. It is proposed that, as at present, Validation should be undertaken by independent validators, but that the modalities for procurement and contracting of validators are changed.**

**29b. It is proposed that procurement and contracting is overseen by the EITI Board and the Secretariat. The Secretariat would administer the tender process for each Validation, and draw on a small pool of accredited validators. The Secretariat would review technical and financial proposals and present a shortlist to implementing countries, allowing them to select one of the shortlisted validators. The contract would be between the validator and the Secretariat.**

**29c. It is alternatively proposed that, as at present, procurement and contracts remain with the implementing countries.**

#### 5.2.5 Who pays

**30a. It is proposed that Validation is financed by the EITI international management/MDTF. At present, implementing countries are required to finance the majority of the Validation cost (Policy note #4). MDTF funds the majority of EITI Reports. It is suggested that this is revised so that implementing countries are required to finance part of the EITI reporting costs. This would ensure that EITI reporting becomes more mainstreamed into government systems, while the global quality assessment is mainstreamed into the international process.**

**30b. It is alternatively proposed that Validation is financed through an implementing country membership fee.**

## 6 Changes to the way the EITI is set out

The current EITI Rules encompass the EITI Principles, the EITI Criteria, the EITI Requirements and the Policy Notes. There are some weaknesses with the way in which these Rules are set out. The most obvious is the lack of links between the detailed requirements and the objectives, as captured in the Principles. “If the Standard were more in line with its own Principles and if it had more focus on strategic partnerships beyond the sector, EITI would be more likely to reach its objectives.”, EITI 2011 Evaluation.

Thus it is necessary to more clearly link the requirements to the objectives of the EITI, capturing desired outcomes and emphasising ‘what should be achieved’ rather than ‘how to achieve it’. There would be a greater focus on the theory of change - on how reporting of data can lead to improved natural resource management.

Such restructuring could encourage countries to articulate what they want to achieve with the EITI and how to achieve this. A revised Validation system and greater efforts alongside Validation, such as annual reporting analysis, to recognise good performance would also contribute to better assess whether implementation delivers on the desired objectives.

Also, the current 21 EITI Requirements are overlapping, repetitive, not necessarily sequential, and mix process with outputs. The EITI must become clearer. The expectations of the global standard have to be easily understood. The requirements must facilitate national ownership and the ability to design implementation to address national needs and circumstances.

It is also important that implementing countries are able to seek feedback from the Board regarding the acceptability of a particular approach. Should a country wish to deviate from the implementation requirements, it is proposed that it may in its candidature application or in advance of the reporting process seek pre-approval for such alternative approaches to implementation. For example the Zambian EITI Council and the EITI pilot MSG in Australia are currently exploring alternative disclosure models that have the potential to generate timely, comprehensive, reliable and accessible EITI data. In considering such alternative approaches, the Board would need to consider the country’s particular challenges while at the same time making sure that the EITI Principles are not undermined through any kind of amended implementation.

**31. It is proposed that the current EITI Criteria, Requirements and additional proposals for new minimum requirements are condensed to the following seven requirements:**

**The EITI requires:**

- 1. Effective multi-stakeholder oversight and stakeholder engagement.**
- 2. Timely publication of EITI Reports.**
- 3. EITI reports that are comprehensive, including full government disclosure of extractive industry revenues, and covering all material payments to government by oil, gas and mining companies.**
- 4. A credible reporting process ensuring reliable data**
- 5. That EITI reports are comprehensible and publically accessible, and contribute to public debate.**
- 6: That the government and the multi-stakeholder group take steps to act on lessons learnt, address discrepancies and recommendations from the reconciler, and ensure that EITI implementation is sustainable.**
- 7. That the government and the multi-stakeholder group identify and deliver on wider commitments demonstrating adherence to the EITI Principles.**

**32. It is proposed that the five sign-up requirements remain broadly the same but that they include a provision on applying for adapted implementation, i.e. should a country wish to deviate from the implementation requirements, it may in its candidature application or in advance of the reporting process seek pre-approval for such for alternative approaches to implementation.**

**33. It is proposed that the current Policy Notes are integrated into the requirements, annexes and Validation chapter as appropriate<sup>8</sup>.**

---

<sup>8</sup> Ref. Ref. Board Paper 21-2-B EITI Standard 2013 draft outline.

Board Paper 21-2-B

# EITI Standard 2013

## Draft outline

*For information*

### Summary/Abstract

This paper is a draft outline of the EITI Standard 2013. The purpose of the paper is to illustrate a potential structure for the revised standard, including the restructuring of the present implementation requirements.

# EITI STANDARD 2013: DRAFT OUTLINE

---

## Table of Contents

<b>Foreword</b> .....	<b>2</b>
<b>Introduction</b> .....	<b>2</b>
<b>Chapter 1: The EITI Principles</b> .....	<b>2</b>
<b>Chapter 2: Requirements for EITI implementing countries</b> .....	<b>2</b>
<b>2.1 Sign up</b> .....	<b>2</b>
<b>2.2 Implementation requirements</b> .....	<b>3</b>
<b>Chapter 3: Validation guide</b> .....	<b>4</b>
<b>Chapter 4: EITI governance, management and administration</b> .....	<b>4</b>

## Foreword

By the EITI Chair as per page 7 of the EITI Rules.

## Introduction

As per page 9 of the EITI Rules.

## Chapter 1: The EITI Principles

No changes. As per page 10 of the EITI Rules.

## Chapter 2: Requirements for EITI implementing countries

Combining current chapter 2 EITI Criteria, chapter 3 EITI requirements and associated Policy Notes.

### 2.1 Sign up

It is proposed that the sign up steps remain broadly the same but that they include a provision on applying for adapted implementation, i.e. should a country wish to deviate from the implementation requirements, it may in its candidacy application or in advance of the reporting process seek pre-approval for such for alternative approaches to implementation. In considering such alternative approaches, the Board would need to consider the country's particular challenges while at the same time making sure that the EITI Principles are not undermined through any kind of amended implementation.

Sign-up:

- a) The government is required to issue an unequivocal public statement of its intention to implement the EITI, and commit to work with civil society and companies on EITI implementation.
- b) The government is required to appoint a senior individual to lead on the implementation of the EITI.
- c) The government is required to establish a multi-stakeholder group to oversee the implementation of the EITI.
- d) The multi-stakeholder group, in consultation with key EITI stakeholders, should agree and publish a fully costed work plan, containing measurable targets and a timetable for implementation and incorporating an assessment of capacity constraints.

## 2.2 Implementation requirements

There are some weaknesses with the way in which these Rules are set out. The most obvious is the lack of links between the detailed requirements and the objectives, as captured in the Principles. The present 21 requirements are also overlapping, repetitive, not necessarily sequential and mix up process with outcomes. Thus it is necessary to more clearly link the requirements to the objectives of the EITI, capturing desired outcomes and emphasising 'what should be achieved' rather than 'how to achieve it'. The requirements would be presented in a clearer and more concise manner, and be easier to communicate and to validate.

The present 21 EITI requirements include a mix of provisions that implementing countries 'must', 'should' or are 'encouraged' to consider. Some requirements include guidance for multi-stakeholder groups and propose options for how countries may wish to go about meeting the requirements. It is suggested that the seven requirements should outline key provisions, and that additional detail on the requirements as well as any options or guidance on particular issues related to the requirements are provided in annexes.

**It is proposed that the current EITI Criteria and requirements and additional proposals for new minimum requirements are distilled to the following seven requirements. As at present, each requirement would contain a set of provisions as illustrated by the bullets below, with further details, options and guidance set out in the associated annexes.**

### **Requirement 1: Effective multi-stakeholder oversight and stakeholder engagement.**

Includes provisions on:

- Full, independent, active and effective stakeholder engagement
- Establishing a multi-stakeholder group, including ToRs for MSG
- Developing workplans
- Removing obstacles to implementation
- Overseeing the EITI reporting process

[Incorporating current requirements 1-8, 10, 16, 19 and Policy Notes 5 and 6]

### **Requirement 2: Timely publication of EITI Reports.**

Includes provisions on:

- Deadlines for EITI reporting

[Incorporating current requirement 5e]

### **Requirement 3: EITI reports that are comprehensive, including full government disclosure of extractive industry revenues, and covering all material payments to government by oil, gas and mining companies.**

Includes provisions on:

- Defining material payments and revenues and consequently which company and government entities should be required to report
- Full government disclosure
- Encouraging additional information that will increase the comprehensiveness of reporting, such as social payments, sub-national transfers, sales of state's share of production, state owned enterprises, midstream payments etc.
- Developing reporting templates
- Levels of disaggregation

[Incorporating current requirements 9, 11, 14 and 15]

### **Requirement 4: A credible reporting process ensuring reliable data**

Includes provisions on:

- Assurance and reliability of EITI data
- Requiring an independent opinion regarding the comprehensiveness and reliability of the data.

[Revision of current requirements 12 & 13]

**Requirement 5: That EITI reports are comprehensible and publically accessible, and contribute to public debate.**

Includes provisions on:

- Dissemination and ensuring that the EITI report contributes to public debate
- Including contextual information in EITI reports, such as contribution to the economy, production data, information about fiscal regime, contracts, licenses and expenditures.
- EITI data standard

[Incorporating current requirement 18]

**Requirement 6: That the government and the multi-stakeholder group take steps to act on lessons learnt, address discrepancies and recommendations from the reconciler, and ensure that EITI implementation is sustainable.**

Includes provisions on:

- Lessons learned and ensuring that EITI implementation is mainstreamed and linked to wider reform efforts.
- Annual progress reports with self-assessments
- Identifying and resolving discrepancies
- Validation

[Incorporating current requirements 17 and 20]

**Requirement 7: That the government and the multi-stakeholder group identify and deliver on wider commitments demonstrating adherence to the EITI Principles.**

Includes provisions on:

- Demonstrating progress on meeting objectives beyond the minimum requirements, with reference to the objectives set out in the workplan
- Strengthening linkages between EITI and the country's annual budget and public financial management processes

[Incorporating current requirement 21]

### **Chapter 3: Validation guide**

Combining current Chapter 4 and Policy Notes 2, 3 and 4.

It is proposed that this chapter, including the standard Terms of reference for validators, is updated to reflect changes to the Validation model as per the proposal for a revised Validation.

### **Chapter 4: EITI governance, management and administration**

As per current chapter 6.

**EITI Expenditure and revenue management working group**

17 September 2012

Board Paper 21-2-C

# EITI Rules and transparency of revenue

*For information*

## 1 Recommendation

1. That each country is [required/encouraged] to include in the background information section of their reconciliation reports:

- a. A description of how extractive industries' revenues are allocated i.e. reconciliation reports should explain how these revenues (cash and in-kind) are recorded in the national budget. Where the governments revenues (cash and in-kind) are not recorded in the budget, the use of these revenues should be explained, with links provided to relevant financial reports as appropriate e.g. sovereign wealth/development funds, sub-national governments, state-owned companies, and other extra-budgetary purposes.
- b. Where extractive revenues are earmarked for specific programmes or geographic regions, clear targets and objectives should be set so as to maximise accountability and a focus on the efficiency with which such resources are used.
- c. Where available, future revenue forecasts and the basic production and price assumptions that underlie the forecasts.

This provision will be added to the draft 'background information' section that forms part of new EITI Requirement 3.

2. That each country is encouraged to:

- a. provide a reconciliation of data in EITI reports to data recorded in government and budgets and accounts. Reports could compare the amount of extractive sector revenues collected with the amount of extractive sector revenues that enter the national budget, and explain the discrepancies. Reconciliations could also occur between collecting agencies and recipient agencies, such as sovereign wealth funds, with both parties reporting the amounts allocated/received.
- b. provide links to the publicly available records on budgeting and expenditures;
- c. provide timely information that will further public understanding of the volatile and finite nature of extractive industry revenues, including production, price and revenue forecasts, current and projected non-resource revenues, and the non-resource fiscal balance; and promote public debate around issues of revenue sustainability and resource dependence.
- d. strengthen linkages between EITI and the country's annual budget and public financial management processes. These could include: adding external measures of budget transparency (e.g. Open Budget Index) and public expenditure efficiency (e.g. PEFA scores) to the reconciliation report; establishing mechanisms for EITI reports to feed into and draw from the annual budget process and the preparation of budget documents including end-of-year reports and medium-term expenditure frameworks; jointly tackle the recommendations from EITI reports with the appropriate financial sector authority (auditor general, tax authority, parliament).

## 2 Background

The EITI Principles state that "a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development". Accordingly, EITI Reports should address how government revenues are allocated and distributed.

The note from the Strategy Working Group meeting in The Hague states:

*Acknowledging that resource revenues can be both a dominant source of revenues and highly volatile, a working group on expenditures was established to consider means of encouraging implementing countries to establish a planning framework for their sustainable management (Alex, Edward, Epifanio, DFID, with support from the Secretariat). This framework might include possibilities for EITI reporting on expenditures and linkages with other international standards for PFM, but it would avoid getting EITI into the delicate areas of expenditure priorities. It was recognized that extensive additional work would be required in order to see if it would be feasible to include this proposal in the new standard. However, a discussion around the sustainability of such a management framework was considered to be something to which all three stakeholder groups could make an informed contribution.*

On the basis of that conversation, background contributions on the means of encouraging implementing countries to establish a planning framework for the sustainable management of their resource revenues, were received from DFID, RWI, Epifanio, and ICMM. These papers emphasised strongly the relevance of transparency of expenditure for sound management of natural resources in terms of opacity, patterns of expenditures, questions of community compensation, and volatility of revenues. These were closely associated with the EITI principles esp. #1 on prudent use of natural resources, #4 on informed public debate on government revenue and expenditure, and #8 on stewardship of revenue streams and public expenditure. The group agreed that the present focus of EITI was currently unbalanced towards a focus upon revenues whereas transparency around the use to which such revenues are put may be central to achieving better development outcomes and achieving a positive impact upon citizens' lives.

A meeting of the working group was held on 31 August. Based on the submitted papers, it was recognised that that there were many potential government revenues from the extractive sector, and many government and quasi-government budgets that might be directly allocated these revenues. These included national budgets, sovereign wealth/development funds, fuel subsidies, extra-budgetary infrastructure and other projects, refineries, local governments, SOE dividends, SOE spending, and special purpose allocations (e.g. to communities).

It was noted that there are a number of existing examples of these transfers in some EITI reports e.g. Ghana and Peru cover local government allocations, including reconciliation of these funds; and Kyrgyzstan and Timor Leste include allocations to the Social Fund and other extra-budgetary social expenditure. The group agreed that this should be encouraged whether these involve direct transfers from the revenue or whether it transfers from the central government to a sub-national level is required. Given that there no common methodology for coverage of these transfers, participants agreed the figures should not yet be required in the new standard. However, a description of them should be included in the background information section which is being developed. This should also, where practicable, include a presentation of the assumptions about *future* resource revenue flows.

Furthermore, the group agreed that public debate about the management of such resources and expenditures should be promoted as part of oversight of the budget process and outcomes through parliaments, media, and citizen consultations. This would reduce the risks of resource-related macro-economic and fiscal shocks since a focus on the sustainability of such revenues in the light of anticipated commodity prices might encourage informed policy making.

### 3 Implications for the new standard

There was a further conversation about what might be done to improve accountability of allocations that end up in the national budget, and how to link this with development outcomes. For example, should the EITI link more with other measures to improve public financial management oversight systems, such as PEFA, or include reconciliation of EITI reports with those systems e.g. budget reports accounts to parliament? It was agreed that this could not yet be a requirement, but that there might be scope for guidance on this for EITI reporting and when considering possible indicators.

The group agreed that the requirement to describe how the EI revenues are recorded in accounts and budget systems should be included in the background information in the reconciliation reports set out under the comprehensiveness requirement (#3).

Any further information on the transfer figures themselves and linkages to wider PFM reform (e.g. PEFA) could be assessed under the “beyond compliance” requirement (#7).

### 4 Further issues

The group agreed that there needs to be further exploration about the implications of the above for who is on the MSG (e.g. local government, infrastructure project managers, Supreme Audit Body)?

There also needs to be discussion between the SWG/EITI Secretariat and other work to strengthen public financial management of extractives e.g., PEFA review, INTOSAI, IMF ROSC – in order to ensure these approaches are linked to more detailed guidance for EITI reporting.

Board Paper 21-2-D

# Feasibility of including License Transparency in the EITI

*For information*

## 1 Number of countries that have license registries

All countries in the world have registry databases to help them manage their extractive industries licensing process. Keeping an accurate registry system is essential to maximize the sector's contribution to the country, to protect investors' property rights and to avoid conflicts over the location of tenements (overlap). These repository data bases can vary from simple Excel spreadsheets to very sophisticated systems including a GIS interface for plotting the coordinates of the tenements, geological data on each area and other information regarding the licensing process.

The publication of key basic information regarding each license is extremely common in oil producing countries where the award of new rights is increasingly done by auctioning. The information about available and awarded blocks is a fundamental criterion to guide the oil companies' prospecting efforts and is essential to contribute to the success of the rounding bids from the point of view of the concession authority.

The auction process is less common in the mining industry but more and more mineral rich countries have decided to publicly disclose essential information of their licensing system in order to attract private investments into exploration activities and improve the business climate of the industry.

As of today, more than 50% of mining EITI implementing countries have disclosed their information on mineral licenses and more are on the process of doing so (see tables attached). The same applies to large mining countries like South Africa, Brazil, Colombia and PNG that are considering implementing EITI and that have already adopted full transparency in their licensing processes. In the oil industry the tendency is even clearer with about two thirds of the EITI implementing countries having adopted transparent methods for their licensing procedures and publicly disclosing their repository databases. The same applies to large oil and gas producing countries that are considering joining EITI.

## 2 Process to include License Transparency in the EITI

Some EITI implementing countries like Mongolia already include full disclosure of all extractive industries mining permits as a permanent feature of their EITI reports. In countries with a lot of titles this procedure can turn out to be very cumbersome if the EITI report needs to include information on several hundred mining and/or oil and gas titles.

An easier alternative would be to include licensing transparency as one of the criteria for a country to become EITI compliant. In order to be validated, a country would have to post on an official website basic information about all the licenses currently active in the country. The validator would make sure that the website has been updated recently and regularly, that the minimum information on each license is included, and that the link is active and of easy access to everyone. At least in a first phase, the validator would not check for the accuracy of the information. But to the extent that the information is made publicly available, the private sector and NGOs could exert a watchdog role on the quality of the information.

If a country is just conducting EITI at the federal or central level, only the titles awarded by the Federal or Central authority would have to be disclosed. As the country would move to the sub-national level, the sub-national authorities would also have to adopt full transparency in their licensing procedures.

### 3 Process to implement License Transparency in the EITI

On a basic level, all it takes to implement licensing transparency is to have an Excel spreadsheet with basic information on each license posted on a governmental website. This can be achieved at a very low cost (typically US\$ 20,000-50,000) and on a very short period of time, depending on the quality of the existing information. In order to be more effective, the database should have a GIS interface to plot the coordinates of the tenements on a basic geological or topographic map. Software to do that is available off the shelf and a full GIS informed database can be set up for less than US\$ 200,000. Several consultant companies are available to help countries to set up their licensing data base and computerized procedures to help manage their licensing system. A full repository data base including geological information and other relevant information regarding the licensing process can cost about US\$ 1 million or more, depending on the size of the country and its geological prospectivity.

Board Paper 21-2-E

# EITI Rules and Workplans

## 1. Recommendation

*It is proposed that MSGs must always have a current workplan, fully costed, formally endorsed and accessible to the public. These plans must include a statement of agreed objectives relevant to the implementing country based on the EITI principles. The plans must set out the specific activities which are required to meet these objectives with measurable and time bound targets, [using appropriate indicators]. The scope of EITI implementation and links to other reforms should then be tailored to contribute to these desired objectives.*

MSGs should frame their operational workplans based on a strategic vision or a results-oriented plan, developed in consultation with stakeholders, showing the causal path from outputs to outcomes. The operational workplan would set out the detailed activities, capacity and resource needs and gaps and timeline for implementation and should be refreshed regularly with reference to the strategic vision.

The workplan forms the basis for all implementing activities and links EITI implementation strategically to wider objectives for management of extractives as set out in the EITI principles. Thus is relevant to several new EITI requirements e.g.

- the new requirement 6: The EITI requires that the government and multistakeholder group identify and deliver on wider commitments demonstrating adherence to the EITI Principles, and
- the new EITI requirement 1: The EITI requires effective multi-stakeholder oversight and stakeholder engagement - with respect to developing workplans.

It is proposed that more detailed guidance on workplanning (which has also been developed by the Working Group (WG) on Theory of Change for MSGs) and the transitional arrangements for introducing a more strategic and outcome-oriented approach is incorporated in new guidelines for the EITI. The WG is also developing a menu of possible indicators that countries might use to monitor and evaluate the outcomes and impact of these activities, which could serve as a reference guide to support MSGs in developing their own milestones and targets.

## 2. Background

When EITI was established, the EITI Principles and Article of Association 2.2 stated *“The objective of the EITI Association is to make the EITI Principles and Criteria the internationally accepted standard for transparency in the oil, gas and mining sectors, recognising that strengthened transparency of natural resource revenues can reduce corruption, and the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries.”*

The Scanteam evaluation 2011<sup>1</sup> suggested, among other points, that:

- there is not any solid theory of change (ToC) behind some of the EITI aspirations;
- there is a *perception* that there are limited backward and forward linkages on the ground;
- little impact at societal level could be discerned largely due to lack of links with larger public sector reform processes and institutions;
- there is a need to identify results at national level and build results frameworks (at global and national levels) and knowledge management system around this;

---

<sup>1</sup> Evaluation of the EITI, Scanteam. Oslo. May 2011.

- EITI activity does not currently start from logframe analysis ie. what are principles and how best to achieve these. It starts from operational consensus on revenue transparency.

Following the EITI Board Meeting and Strategy Working Group meeting in February 2012, a working group was established to consider how to respond to the findings of the 2011 evaluation which suggested that the EITI needed a more detailed theory of change to support workplanning, monitoring and evaluation of its results and impact.

The objectives of this work were:

- to enable the EITI systematically to explain its **impact** and **effectiveness** globally and in implementing countries, based on evidence from common and country-specific indicators and results framework(s).
- to inform the shape and **design** of EITI in implementing countries and internationally in future with explicit, evidence-based results chains.
- to assist implementing countries and EITI internationally to select **linkages** to other initiatives based on an explicit theory of change.
- to make available indicators for MSGs in implementing countries to assist with establishing **baselines** and reporting over time to **assess progress** towards EITI compliance and development outcomes.

Experience suggests that MSGs’ workplanning has historically focused on defining a path to validation following EITI requirements. The proposed approach aims to inform workplanning with strategic thinking about desired outcomes and then the activities required during EITI implementation and through other linked reforms to achieve these.

A theory of change is a **results-based planning, monitoring and evaluation tool**. It describes causal links between impact, outputs and outcomes/results and is a tool to assist with workplanning, design, monitoring and evaluation in implementing countries.

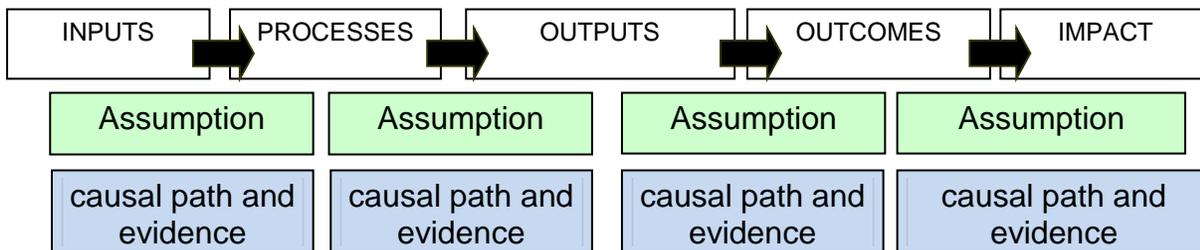


Fig. 1 linear ToC describing causal links from inputs to impacts

Board Paper 21-2-F

# Proposal for a revised Validation model

*For discussion*

This paper proposes a revised methodology for validating EITI implementation performance, building on the strengths of the current Validation model and seeking to address its limitations. It seeks to reflect the discussions of the SWG sub-group on Validation, outlining areas of emerging consensus and proposing options in the areas where further discussion is needed.

# PROPOSAL FOR A REVISED VALIDATION MODEL

---

<b>Summary</b> .....	<b>2</b>
<b>Background</b> .....	<b>4</b>
<b>Detailed description of the proposal for a revised Validation model</b> .....	<b>4</b>
<b>What to Validate?</b> .....	<b>4</b>
<b>How to Validate?</b> .....	<b>5</b>
<b>Validation in context</b> .....	<b>7</b>
<b>When to Validate?</b> .....	<b>8</b>
<b>Who Validates?</b> .....	<b>8</b>
<b>Who pays?</b> .....	<b>9</b>
<b>Suggested modifications to improve quality of Validation</b> .....	<b>10</b>
<b>Suspension and delisting</b> .....	<b>11</b>
<b>Assessment timeline, piloting and transition</b> .....	<b>11</b>

## Summary

1. This paper proposes a revised methodology for validating EITI implementation performance, building on the strengths of the current Validation model and seeking to address its limitations. It seeks to reflect the discussions of the SWG sub-group on Validation, outlining areas of emerging consensus and proposing options in the areas where further discussion is needed. The details of the proposals are set out below.
2. According to the EITI Rules, the objective of Validation is to “provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the EITI Principles and Criteria”. Whilst this paper suggests ways to ensure that this assessment is more nuanced, it is proposed that complementary mechanisms, such as an Experts Panel, assess the impact of implementing countries’ EITI processes.
3. Overall, the group agreed that the best way forward is to improve the existing EITI validation system. More specifically the group agreed that the EITI validation system could be improved in the following ways:
  - a) **What to Validate:** There is a consensus that, as at present, Validation should assess progress against all EITI requirements and determine whether they are met or unmet. What is being validated will change in line with the proposal to revise and simplify the requirements and any new requirements as agreed by the EITI Board. The current 21 requirements would be replaced by seven output requirements, including a requirement that implementing countries agree wider accountability commitments and innovations (requirement 7).

- b) **How to Validate:** Several participants support having the pass/fail assessment complemented by more nuanced assessments in order to document impact, incentivise innovations and recognise efforts to exceed the minimum. The sub-group discussed whether a more nuanced assessment should be part of Validation, or whether efforts to go beyond the requirements are best recognised through other means. Several participants expressed concerns that granting awards would be inadequate to incentivize countries to go beyond the minimum requirements and emphasized the importance of having a systematic way of assessing innovations based on specific criteria. There was some support for a light touch numerical grading, elaborating on the present distinction between no progress, meaningful progress and Compliance, e.g., by adding a fourth distinction for exceeding requirements. The grading would be complemented by narrative reports. Others were strongly opposed to this proposal and suggested that other mechanisms, such as awards and narrative reports would be a more appropriate way of recognising efforts to go beyond. Further discussion of these options is needed. The sub-group also discussed whether a more nuanced assessment would be applied to all requirements or only to assessment of innovations. No agreement was reached. To help advance the discussions, the Secretariat has set out options and suggestions for nuanced assessments identified by the sub-group (para. 10-17).
- c) **When to Validate:** The sub-group agreed to recommend that all implementing countries should be validated every three years.
- d) **Who Validates:** There is a consensus that, as at present, Validation should be undertaken by independent Validators. Most members of the sub-group agreed that procurement and contracting of validators could be overseen by the EITI Board and the Secretariat. The Secretariat would administer the tender process for each Validation, and draw on a small pool of accredited validators. The Secretariat would review technical and financial proposals and present a shortlist to implementing countries, allowing them to select one of the shortlisted validators. The contract would be between the validator and the Secretariat. Others considered it important for implementing countries to retain responsibility for the procurement process as at present. Further discussion of these options is needed.
- e) **Who pays:** Several participants considered it advantageous if Validation be financed by the EITI international management rather than by implementing countries. This would help ensure greater consistency and objectivity in the assessments. The group considered various options including that Validation be financed through MDTF and/or through an implementing country membership fee. Further considerations of the implications of the various options were required. To help advance the discussions, options and suggestions for financing are set out in para. 25-29 below.
- f) It was noted that Validation cannot be considered in isolation from other activities aimed at assessing and highlighting implementation progress. A number of different efforts, from the redesign of the requirements to the priorities and focus of the Board's and Secretariat's activities (IPRs, best practice notes, etc.) can together contribute towards a shift in focus and increased attention on quality of implementation. There was some support for creating an Expert panel to assess the impact of the EITI in countries on a regular basis. The group agreed that this panel should be separate from the validation process. Its main task would be to review the

impact of the EITI in countries, drawing on amongst other things validation reports. The outcomes could feed into the global annual report and the EITI website.

## Background

4. Following the SWG's discussion in the Hague and the teleconference of the SWG sub-group on Validation on 30 August and 7 September, this paper seeks to reflect the emerging consensus on a revised Validation model so far. With regards to the areas where further discussion is needed, the paper sets out options for consideration by the SWG. The proposal draws on earlier submissions by the Secretariat and other stakeholders<sup>1</sup>.
5. The proposal has the following overall objectives:
  - To maintain the present concept of an EITI standard with minimum requirements that must be met, whilst recognising and encouraging those countries that go beyond the minimum;
  - To safeguard the EITI brand by ensuring independent assessment of compliance with the EITI requirements by a third party.
  - To put the focus of the standard and the assessment more on outcomes than on process;
  - To better integrate the EITI into the governments' financial and other oversight systems;
  - To improve the quality and consistency in Validation assessments;
  - To strengthen the emphasis on country ownership and stakeholder engagement;

## Detailed description of the proposal for a revised Validation model

### What to Validate?

6. **There is a consensus that, as at present, Validation should assess progress against all EITI requirements and determine whether they are met or unmet.** What is being validated will change in line with the proposal to revise and simplify the requirements. The current 21 requirements would be replaced by the seven more output oriented requirements, including a requirement that would look at wider accountability commitments, innovations and impact (requirement 7). The redesign of the requirements is expected to have a significant impact on the quality of EITI implementation and be reflected in the Validation. The proposed reframing of the requirements will mean that Validation will have a greater focus on assessing outputs rather than adherence to specific procedures. This new approach will be more clearly aligned with assessing whether EITI implementation is consistent with the EITI Principles. It is worth bearing in mind that the current requirements were originally 'Validation indicators' that would *indicate* whether countries were implementing EITI in accordance with the principles and criteria. Progressively, an EITI Standard has been more clearly articulated.

---

<sup>1</sup> <http://eiti.org/about/strategy-review>

7. As at present, the validator would consider workplans, including stretch targets/wider accountability commitments, EITI reconciliation reports, dissemination efforts, MSG minutes and other documentation provided by the MSGs. The validator will consult widely with stakeholders in implementing countries.
8. It is proposed that all implementing countries should be required to submit annual self-assessments as part of the annual progress report to be prepared under requirement 21-c). The validator would consider these self-assessments and review them against the workplans. This would inform the validator’s assessment of progress with meeting the seven EITI requirements, including to what extent the country has delivered on wider accountability commitments and innovations (requirement 7).

**How to Validate?**

9. **Several participants agreed that a process is needed for a more nuanced assessment of the impact of the EITI, and the effectiveness of measures that MSGs have agreed to pursue that go beyond the minimum requirements. This could be done as part of validation, as a separate exercise, or both. How a more nuanced assessment would be done would require further deliberations.**
10. In order to help advance the discussions, options for nuanced assessments are set out below. As at present, any new model would maintain a clear indication of whether the requirements (1-7) are met or unmet. Countries that have met all requirements would be designated Compliant.
11. Options for nuanced assessment:

Options	Comments
<p><b>1) Narrative reports</b>, noting where countries have exceeded requirements and highlighting areas in need of improvement.</p>	<p>Safe way of conveying sensitive feedback.</p> <p>Avoids visible country comparisons.</p> <p>Difficult to track progress over time in individual countries.</p> <p>Narrative reports are not stand-alone, they are short-lived and therefore likely to give less high profile recognition.</p>
<p><b>2) Stars or plusses</b>, noting efforts to go beyond the minimum. Stars can be awarded per requirement, i.e. ***/+++ for highest level of assurance on EITI data (requirement 4), or a */+ for each effort that is <i>encouraged</i>, i.e. disclosure of social payments as well</p>	<p>High visibility.</p> <p>Does not give an indication of progress towards meeting requirements, only on exceeding requirements.</p>

<p>as for delivery on each wider accountability commitment.</p>	<p>EITI avoids comparisons across countries since the */+ is intended to indicate improvement/decline in performance over time in individual countries. However, others might do so.</p>
<p><b>3) Numerical assessment</b>, possibly along the following scale:</p> <p><b>Higher than 2</b> efforts and progress exceeds minimum requirements</p> <p><b>2</b> efforts and progress meet minimum requirements (threshold for assessing EITI requirements as met)</p> <p><b>1</b> meaningful efforts and progress (EITI requirements not met)</p> <p><b>Below 1:</b> little or no meaningful efforts and progress to meet the EITI requirements</p> <p>The numerical assessment could be applied to all requirements or only to certain categories, i.e. reporting related requirements (2-5) and/or innovations. Figures could be replaced by letters, i.e. A-D. Further details on the methodology and assessment criteria for grading would need to be developed and could be based on the EITI Principles. It is likely that assessment criteria for all requirements, including innovations would be a combination of technical aspects (i.e., is the information comprehensive, reliable, accessible) and qualitative factors (i.e., whether the innovation is meeting a need as expressed by stakeholders, is the information influencing public debate, etc).</p>	<p>This approach incorporates a pass / fail threshold, i.e., compliance would require a 2 or above for each requirement. It also allows for a more nuanced assessment of 'meaningful progress', distinguishing between cases where there is significant effort and progress towards meeting the requirement, and cases where there is little or no progress.</p> <p>Incentivizes improvement of score, both with regards to meeting and exceeding minimum requirements.</p> <p>High visibility.</p> <p>Whilst avoiding our own ranking, scoring allows others to make comparisons across countries.</p>
<p><b>4) EITI Awards</b>, possibly along the following categories</p> <ul style="list-style-type: none"> <li>• EITI Reporting</li> <li>• Communications and public debate</li> <li>• Wider accountability commitments</li> <li>• Impact.</li> </ul>	<p>High profile.</p> <p>Few awards limit possibility for recognition and incentives for progress.</p> <p>Short-lived.</p>

12. A nuanced assessment model could also combine two or several of the options listed above. Nuanced assessment in accordance with options 1-3 above could possibly be done by the

validator, while Option 4 could be done by the Validation Committee or by establishing a separate Award Committee/Panel.

13. Having considered these options, **several participants supported the proposal for a light touch numerical grading, possibly elaborating on the present no progress, meaningful progress and Compliance distinctions in the EITI Rules, e.g., by adding a fourth distinction for exceeding requirements.** The grading would be complemented by narrative reports explaining how countries have exceeded requirements and highlighting areas where further improvement is needed. Such a system could, as illustrated above, be relatively simple. It would not be intended to rank implementing countries, but to reward efforts for exceeding the minimum while at the same time providing a clear indication of areas where improvements are needed, creating incentives for better implementation. The validator would score all requirements in accordance with the scale indicated in option 3 above. The methodology for scoring would need to take into account the circumstances in each country, i.e. considering coverage of payments in relation to the overall size of the sector, or level of assurance in context of prevailing institutions and systems. The final score would be an average of these scores.
14. **Others strongly disagreed with a system that would grade countries,** expressing concerns that it would be difficult to compare and grade innovations, and that it would be hard to avoid country comparisons and rankings. They proposed that a combination of awards and narrative reports would be a more appropriate way of recognising innovations.
15. The group discussed whether a more nuanced assessment would be applied to all requirements or only to assessment of innovations. Again, there were strong opposing views. Further discussion was needed.

### Validation in context

16. Validation cannot be considered in isolation from other activities aimed at assessing and highlighting implementation progress. A number of different efforts, from the redesign of the requirements to the priorities and focus of the Board's and Secretariat's activities (IPRs, best practice notes, etc.) can together contribute towards a shift in focus and increased attention on quality of implementation. Although these activities are not intended to be part of the formal Validation, they will serve as important inputs to the Validator's assessments and be a means of providing continuous feedback and recognition to implementing countries.
17. Activities foreseen to complement Validation include:
  - An annual review of the quality of EITI reconciliation reports, with particular reference to timeliness, comprehensiveness, data reliability and whether discrepancies have been addressed.. As of 2012, all implementing countries are required to publish EITI reports annually. There is a clear need for more systematic analysis of these reports, both to ensure that the data is better used, and to ensure that the quality of the reports are in line with the EITI standard. Building on the Secretariat's publication 'Extracting Data', an annual review of the quality of EITI reports would be a means of providing regular feedback to implementing countries on the quality of their EITI reports, recognising outstanding efforts and indicating areas where improvements are needed. It is foreseen that the

results of the annual review would feed into an annual global report prepared by the Secretariat, creating greater incentives for progress and innovation and more potential for recognition. Further discussion is needed to work out who would carry out this review.

- With implementing countries as of 2012 producing annual reports, which in the future could evolve to become self-assessments, these could also be better brought together, providing a clearer overview of implementation progress.
- It is also proposed that an Expert Panel be established to review and showcase the impact of EITI globally and in countries. Although this review would not be part of the Validation process, its findings could feed in to the global annual report and EITI website as another means of incentivizing progress and innovation. The proposal is that the Expert Panel would not be involved in Validation or otherwise in determining a country's compliance, but more informally be tasked by the Board to assess impact and innovations. Concerns have been raised that the findings of the Expert Panel could differ from the validator's findings. It is however likely that the Panel would have quite a different mandate from Validation, as it would not check whether requirements have been met, but more broadly look at impact and whether the EITI Principles are adhered to and realised.
- Such a Panel would be relatively easy to establish. The Board could appoint a small number, possibly 4-5, of distinguished experts, mainly from implementing countries. The Board would agree terms of reference focused on assessing the impact of the EITI in 3-4 countries annually. The mandate could be reviewed annually. The Panel would be supported by the Secretariat. The Panel would likely cost about US\$100 000–150 000<sup>2</sup>.

### When to Validate?

18. **The sub-group agreed that all implementing countries should be validated every three years.** This would allow for a more regular assessment than at present, whilst taking into account the capacity of MSGs and the Board to conduct and oversee Validation as well as cost implications. Validation every three years would enable implementing countries to demonstrate progress and delivery of wider accountability commitments, recognising the time needed to agree stretch targets as well as act on and document results from linking EITI to such wider reform efforts. It would also provide time for implementing countries to follow up recommendations resulting from each reporting and Validation cycle. The schedule for validation would be agreed in advance.

### Who Validates?

19. **There is a consensus that, as at present, Validation should be undertaken by independent Validators.**

---

<sup>2</sup> The estimated cost is based on the cost for the Evaluation in 2011, with 4-5 distinguished experts travelling to altogether 5-6 countries annually, being paid the equivalent of a consultancy fee. The administration at the Secretariat is estimated at 1 day/week for a staff member. It could be considered that the panel is appointed at Sydney, for an initial period of one year.

20. **Most members of the sub-group agreed that procurement and contracting of validators could be overseen by the EITI Board and the Secretariat. The Secretariat would administer the tender process for each Validation, and draw on a small pool of accredited validators. The Secretariat would review technical and financial proposals and present a shortlist to implementing countries, allowing them to select one of the shortlisted validators. The contract would be between the validator and the Secretariat.** This approach would ease the burden on multi-stakeholder groups, enabling them to focus their time and resources on EITI reporting and dissemination rather than on overseeing Validation. It will also address some of the quality issues related to incentives for Validators to be generous and uncritical in their assessments, as well as improve the overall consistency of Validation reports. Ownership of the process will be preserved by asking countries contribute with self-assessments, approve draft and final validation reports and select from the team of shortlisted Validators.
21. **Other participants considered it important for implementing countries to retain responsibility for the procurement process as at present. Further discussion was needed.**
22. The Validation Committee would retain its current role in reviewing draft and final Validation reports and present recommendations to the Board.

**Who pays?**

23. **Several participants considered it advantageous that Validation be financed by the EITI international management rather than implementing countries in order to ensure more objective and high quality assessments. The group considered various options including that Validation be financed through MDTF and/or through an implementing country membership fee. No consensus was reached.**
24. The group has identified and considered the following options for financing validation:

Options	Comments
1) International management / MDTF	Requires increased funding from supporting countries.  Efficient.  Allows implementing countries to dedicate their resources to EITI reporting, ensuring that reporting becomes more mainstreamed.
2) Membership fee	Administrative challenges related to collection of fees.  Validation costs vary across countries. One could consider a combination of flat fee and international bridging of any gap. Another option is a variable fee depending on region and context.  Perceptual challenges. May deter countries from committing to EITI.
3) Implementing	Conflict of interest.

countries	Validators have expressed concerns about whether payments will be effectuated, in particular in fragile states. May deter validators from bidding.
-----------	--

25. **Several participants supported the option that Validation be financed by the international management /MDTF.** At present, implementing countries are required to finance the majority of the Validation cost (Policy note #4). MDTF funds the majority of EITI reconciliation reports. This could be revised so that implementing countries are required to finance part of the reporting costs. Validation costs would be covered by the international community. This would also ensure that EITI reporting becomes more mainstreamed into government systems, whilst the global quality assessment is mainstreamed into the international process.
26. It should be noted that in light of the other changes to the EITI standard and the validation model that are currently being considered by the Board, Validations are likely to be cheaper than at present. First, the 21 requirements are likely to be recast to 7 more outcome focused requirements, making it easier for the validator to make assessments avoiding the present overlapping and process focused requirements. Second, a single company or a small pool of accredited validators would guarantee repeated validation work and could reduce tender costs. Third, validators would to a larger extent be able to draw on a number of other efforts to assess implementation performance, such as the annual reviews of the quality of EITI reports, reports from the Expert Panel on impact and innovations and self-assessments submitted by the MSG.
27. Concerns have been expressed that this option is costly and would require long term funding commitments. Assuming 15 validations per annum at USD70k per validation implies an annual cost of US\$ 1.05 million per annum. (The actual number of validations would initially be lower, and potentially at a lower unit cost). It is important to note that this additional cost to the Secretariat would be offset by reduced demands for donor finance. Although implementing countries are currently required to finance the majority of Validation costs, donor support to validation is already significant. In addition, implementing countries would be able to divert funding from validation to reporting, reducing the cost to donors. The additional cost overall is likely to be significantly less than \$1 million per annum"

### Suggested modifications to improve quality of Validation

28. In order to address some of the weaknesses in the current model, in particular to improve the quality and consistency of Validation assessments, a number of modifications to the present way of conducting Validation have been identified, including :
- a) Mandatory training for the validators;
  - b) Formalising Validation Committee’s comments on draft Validation reports, i.e. by making them public and allow more scrutiny of the validator’s performance;
  - c) Introducing a public comment period. Self-assessments, draft Validation reports and VC

comments on draft Validation reports would be published online for stakeholders to comment. The validator would need to consider any additional information or comments into account when producing the final Validation report.

- d) In cases where the evidence provided by the validator does not adequately support the conclusion of whether a requirement is met or unmet, the VC reserves the right to call upon the validator for a Committee Hearing via teleconference.

29. It is proposed that these modifications are incorporated into the revised Validation guide and standard terms of reference for validations. It should be noted that the proposed annual review of the quality of EITI reconciliation reports will be an important input to the validator's assessment of reporting related requirements (requirements 2-5), which are the requirements where validators' assessment most commonly differs from that of the Board. The MSGs' own annual self-assessment reports would also be an important input.

### **Suspension and delisting**

30. The group did not discuss suspension and delisting provisions. Depending on the scope of the changes to the Validation system, further work will be required to revise the details of the suspension and delisting mechanisms.

### **Assessment timeline, piloting and transition**

- 31. The revised Validation system could be introduced to all countries at the same time, i.e. from 2014. Further work is needed to develop detailed transition procedures for all implementing countries.
- 32. The revised Validation model could possibly be piloted in a couple of Compliant countries in early 2013, based on reconciliation reports, annual reports and workplans.