

Validation of Madagascar

For decision

For discussion

For information

The Validation Committee recommends that the EITI Board agree that Madagascar has made *meaningful progress* in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Madagascar will be requested to undertake corrective actions before the second Validation on **<date of Board decision + 18 months>**.

Supporting documentation

Validation report [[English](#) | [French](#)]

Comments on the draft Validation Report by the MSG [[English](#) | [French](#)].

Draft Validation report [[English](#) | [French](#)].

Initial assessment by the International Secretariat [[English](#) | [French](#)].

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in late 2019. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time and travel (if needed).

Document history

Draft Board Paper reviewed by the Validation Committee	22 May 2018
Validation Committee agreement on a Board Paper	6 June 2018
Submitted to the EITI Board	14 June 2018

VALIDATION OF MADAGASCAR

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Proposed Board decision on the Validation of Madagascar

The Validation Committee recommends that the EITI Board takes the following decision:

Following the conclusion of Madagascar’s Validation, the EITI Board decides that Madagascar has made meaningful progress overall in implementing the EITI Standard.

The Board congratulates the Government of Madagascar and Multi-Stakeholder Group (MSG) on the progress made in improving transparency and accountability in the extractive industries. The Board recognises that the complexities of Madagascar’s mining licensing system, fiscal decentralization and state participation in the extractives sector are particularly well-suited to the EITI’s multi-stakeholder governance model. Overcoming funding and capacity challenges and uneven engagement of its different constituencies, EITI Madagascar is recognised for having made a tangible impact on extractives governance. While the EITI’s impact has been greatest on clarifying mining license awards since the 2011 moratorium on new licensing and contributing to the launching of an online mining cadastre in 2017, the Board considered that more work was needed in clarifying license transfers. The Board notes that EITI data on subnational payments, transfers and social expenditures has empowered mayors in communes and regions to demand their statutory share of extractives revenues. The Board recognises Madagascar’s efforts to go beyond the requirements of the EITI Standard in providing information on informal extractives activities. The Board encourages the government to continue discussions on extractives license management, production data and subnational transfers, and to expand them to other salient issues such as transparency of state owned companies (SOEs).

While stakeholder engagement has historically been inconsistent across different constituencies, the Board takes note of stakeholders’ renewed engagement following the EITI’s institutionalisation by Decree in August 2017. All three constituencies are urged to revitalise the Multi-Stakeholder Group in balancing interests between equal partners and representing the interests of their broader constituencies through proactive outreach, canvassing and dissemination.

*The Board has determined that Madagascar will have 18 months, i.e. until **<date of Board decision + 18 months>** before a second Validation to carry out corrective actions regarding the requirements relating to government engagement (1.1), civil society engagement (1.3), MSG*

governance (1.4), license allocation (2.2), contract transparency (2.4), state participation (2.6), comprehensiveness of revenue disclosures (4.1), transportation revenues (4.4), direct subnational payments (4.6), level of disaggregation (4.7), data quality (4.9), distribution of revenues (5.1), sub-national transfers (5.2), quasi-fiscal expenditures (6.2) and documenting outcomes and impact of implementation (7.4). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Madagascar's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 September 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

Background

The Government of Madagascar committed to implement the EITI in 2007 and was accepted as an EITI Candidate in February 2008. Following its suspension by the EITI Board for political instability in October 2011, interrupting the country's Validation under the EITI Rules, Prime Minister Jean Omer Beriziky issued a Ministerial Order in March 2013 establishing a permanent EITI National Committee. The EITI Board lifted Madagascar's suspension in June 2014. The government's Decree 2017/736 in August 2017 institutionalised the EITI under the Prime Minister's Office.

The Validation process commenced on 1 September 2017. In accordance with the Validation procedures, an initial assessment [[English](#) | [French](#)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report [[English](#) | [French](#)]. Comments from the MSG [[English](#) | [French](#)] were received on 8 May 2018. The Independent Validator reviewed the comments and responded to the MSG, before finalising the Validation report [[English](#)] [[French](#)].

The Validation Committee reviewed the case on 22 May 2018 and 6 June 2018. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below. The Committee also agreed to recommend an overall assessment of "meaningful progress" in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.

...

iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

The Validation Committee agreed to recommend a period of 18 months to undertake corrective actions. This recommendation takes into account that the challenges identified are relatively significant and seeks to align the Validation deadline with the timetable for Madagascar's 2016 and 2017 EITI Reports.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)			Meaningful		
	Industry engagement (#1.2)					Beyond
	Civil society engagement (#1.3)			Meaningful		
	MSG governance (#1.4)			Meaningful		
	Work plan (#1.5)				Satisfactory	
Licenses and contracts	Legal framework (#2.1)				Satisfactory	
	License allocations (#2.2)			Meaningful		
	License register (#2.3)				Satisfactory	
	Policy on contract disclosure (#2.4)			Meaningful		
	Beneficial ownership (#2.5)	No progress				
	State participation (#2.6)		Inadequate			
Monitoring production	Exploration data (#3.1)					Beyond
	Production data (#3.2)				Satisfactory	
	Export data (#3.3)				Satisfactory	
Revenue collection	Comprehensiveness (#4.1)		Inadequate			
	In-kind revenues (#4.2)	No progress				
	Barter agreements (#4.3)	No progress				
	Transportation revenues (#4.4)		Inadequate			
	SOE transactions (#4.5)	No progress				
	Direct subnational payments (#4.6)		Inadequate			
	Disaggregation (#4.7)			Meaningful		
	Data timeliness (#4.8)				Satisfactory	
	Data quality (#4.9)			Meaningful		
Revenue allocation	Distribution of revenues (#5.1)		Inadequate			
	Subnational transfers (#5.2)			Meaningful		
	Revenue management and expenditures (#5.3)	No progress				
Socio-economic contribution	Mandatory social expenditures (#6.1)				Satisfactory	
	SOE quasi-fiscal expenditures (#6.2)	No progress				
	Economic contribution (#6.3)				Satisfactory	
Outcomes and impact	Public debate (#7.1)				Satisfactory	
	Data accessibility (#7.2)	No progress				
	Follow up on recommendations (#7.3)				Satisfactory	
	Outcomes and impact of implementation (#7.4)			Meaningful		

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. The country has gone beyond the requirements.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Madagascar. Progress in addressing these corrective actions will be assessed in a second Validation commencing on *<date of Board decision + 18 months>*:

1. In accordance with Requirement 1.1, the government must be fully, actively and effectively engaged in the EITI process. The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation. To further strengthen implementation following the institutionalisation of EITI Madagascar through the 2017 Decree, the government is encouraged to further entrench EITI funding in government budgeting to ensure the sustainability of EITI implementation over the long term. In accordance with requirement 8.3.c.i, the government constituency should develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment.
2. In accordance with requirement 1.3.a, the civil society constituency should demonstrate that they are fully, actively and effectively engaged in the EITI process. Specifically, civil society should ensure that they fully contribute and provide input to the EITI process and that they have adequate capacity to participate in the EITI. In accordance with requirement 8.3.c.i, the civil society constituency should develop and disclose an action plan for addressing the deficiencies in civil society engagement documented in the initial assessment.
3. In accordance with Requirement 1.4.b.vii, the MSG should ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption. The MSG is encouraged to ensure that deviations from their ToR are recorded and transparent. Government and company constituencies are encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow

the MSG to take decisions and follow up on them. In accordance with Requirement 1.4.b.viii, the MSG must keep written records of its discussions and decisions.

4. In accordance with Requirement 2.2, a description of the process for transferring or awarding the license and the technical and financial criteria used should be publicly available. Not least given the significant debate surrounding license movements in the mining sector, EITI Madagascar is encouraged to use EITI reporting as a diagnostic tool for non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. In cases of competitive tender for mining, oil and gas licenses, the MSG will have to disclose the list of applicants and the bid criteria for licenses awarded through a bidding process. The MSG is encouraged to consider stakeholders calls for further analysis on the efficiency and effectiveness of licensing procedures in Madagascar.
5. In accordance with Requirement 2.4, EITI Madagascar should clarify and document the government's policy on disclosure of contracts and licenses, as well as actual practice, including any reforms that are planned or underway.
6. In accordance with Requirement 2.6, the MSG should ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. The MSG must also clarify the rules and practices governing financial relations between SOEs (most notably KRAOMA) and the state. The MSG may wish to liaise with relevant government entities and development partners to assess the extent to which clarification of such issues could support progress under the IMF extended credit facility. Stakeholders are encouraged to embed reporting of such information through routine government systems, for instance in publishing extractives SOEs' statutes and audited financial statements on a regular basis.
7. In accordance with Requirement 4.1.a, the MSG should ensure that its materiality decisions related to selecting companies and revenue streams for reconciliation are clearly documented. In its approach to the materiality of revenue streams, the MSG is encouraged to strike a balance between comprehensiveness and relevance for stakeholders, to ensure that a workable approach to reconciliation is adopted and to facilitate the embedding of revenue transparency in government and company systems. In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity is clearly assessed to support the IA's overall assessment of the comprehensiveness of reconciliation. In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of reconciliation, including revenues that fall below agreed materiality thresholds.
8. In accordance with Requirement 4.4, the MSG should assess the materiality of government revenues from the transportation of minerals, clarifying the management of port-related fees on the transportation of minerals.
9. In accordance with Requirement 4.6, the MSG should establish whether direct subnational payments, within the scope of the agreed benefit streams, are material. Where material, the MSG is required to ensure that reconciled information on company payments to subnational government entities and the receipt of these payments be publicly accessible. EITI Madagascar

may wish to provide more information on the disbursement of ristournes from Ambatovy to host communes built-up since the start of production in 2012 given the materiality of such delayed payments.

10. In accordance with Requirement 4.7, the MSG is required to ensure that EITI data is presented by individual company, government entity and revenue stream. To strengthen implementation, the MSG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018.
11. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:
 - a. examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his/her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.
 - b. ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
 - c. ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.
12. In accordance with Requirement 5.1, EITI Madagascar should publicly clarify which extractive industry revenues, whether cash or in-kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable. To strengthen implementation, EITI Madagascar may wish to use EITI reporting to monitor the migration of government finances towards a single Treasury account system, providing a platform for public information on the

management of off-budget extractives revenues.

13. In accordance with Requirement 5.2, the MSG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity. The MSG is encouraged to reconcile these transfers.
14. In accordance with Requirement 6.2, the MSG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.
15. In accordance with Requirement 7.4, the annual progress report should be the product of consultations with all stakeholders and include a review of the impact of EITI implementation. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the MSG, should be able to provide feedback on the EITI process and have their views reflected in the APR.

The government and the MSG are encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the MSG's responses to these recommendations in the next annual progress report.