

# Revisions to the EITI Articles of Association

For decision

## Summary

At the Kyiv Board meeting, the EITI Board agreed proposed amendments to the Articles of Association. The EITI Board proposes these revisions to the EITI Articles of Association for approval by the EITI Member's Meeting on 17 June 2019. Proposed new wording in each article is marked in red.

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### Supporting documentation

None

### Has the EITI competence for any proposed actions been considered?

Article 12 of the Articles of Association mandates the EITI Board to “consider general and specific policy issues affecting the EITI Association” (i) and “agree on the arrangements for the EITI Conference and the EITI Members’ Meeting” (iii).

### Financial implications of any actions

None

### Document history

Board paper approved by the Governance and Oversight Committee	13 February 2019
Submitted to the EITI Board	13 February 2019
Discussed by the EITI Board	28 February 2019
Updated paper submitted to the Board	05 April 2019

# REVISIONS TO THE EITI ARTICLES OF ASSOCIATION

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## 1 Draft Articles of Association

### ARTICLE 1 NAME

- 1) The name of the association shall be “The Association for the Extractive Industries Transparency Initiative (EITI)” (hereinafter referred to as “the EITI Association”).

### ARTICLE 2 BACKGROUND AND OBJECTIVE

- 1) The EITI Association is an international multi-stakeholder initiative with participation of representatives from governments and their agencies; oil, gas and mining companies; asset management companies and pension funds (hereinafter referred to as “Institutional Investors”) and local civil society groups and international non-governmental organisations.
- 2) The objective of the EITI Association is to make the EITI Principles and the EITI requirements 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.

### ARTICLE 3 LEGAL PERSON, LIMITED LIABILITY

- 1) The EITI Association is a non-profit association organised under Norwegian law (“forening”).

- 2) The Members of the EITI Association shall not be responsible, individually or collectively, for any of the EITI Association's debts, liabilities or obligations.

#### ARTICLE 4 ORGANISATION

- 1) The permanent institutional bodies of the EITI Association are:
  - i) The EITI Members' Meeting, which is held in connection with the EITI Conference;
  - ii) The EITI Board led by the EITI Chair;
  - iii) The EITI Secretariat led by the **Executive Director** ~~Head of Secretariat~~;
- 2) The EITI Board may establish committees in accordance with Article 14;
- 3) The EITI Association's organisation operates transparently **and encourages diversity in terms of gender, nationalities and culture**.

#### ARTICLE 5 MEMBERSHIP AND CONSTITUENCIES

- 1) A Member of the EITI Association is a personal representative of a country (meaning state), company, organisation or legal entity that is appointed by a Constituency as set out in Articles 5 (2) and (3).
- 2) The Members are organised in three Constituencies which are:
  - i) The Constituency of Countries, which comprise:
    - a) Implementing Countries, meaning states, that have been classified by the EITI Board as ***such either Candidate countries or Compliant countries***; and
    - b) Supporting Countries, meaning states or union of states, that support the objective of the EITI Association **as defined by the EITI Board**.
  - ii) The Constituency of Companies, which comprise:
    - a) Companies in the extractive sector that have committed to support the objective of the EITI Association **as defined by the EITI Board** and associations representing these companies; and
    - b) Institutional Investors that have committed to support the objective of the EITI Association **as defined by the EITI Board**.
    - c) **Commodity traders that have committed to support the objective of the EITI Association as defined by the EITI Board.**
  - iii) The Constituency of Civil Society Organisations, which comprise non-governmental organisations, global action networks or coalitions that support the objective of the EITI Association **as defined by the EITI Board**.
- 3) Each Constituency decides on its rules governing appointments of Members of the EITI Association. The Membership shall be limited to the following:
  - i) From the Constituency of Countries, up to one representative from each Implementing Country and each Supporting Country (or their unions);

- ii) From the Constituency of Companies, up to one representative from each company and associations representing them, and a maximum of five representatives from Institutional Investors;
  - iii) From the Constituency of Civil Society Organisations, up to one representative from each Civil Society Organisations.
- 4) A Constituency may replace any of its own appointed Members at any time. The Constituency shall inform the EITI Secretariat of its Members at any time.
  - 5) The EITI Board may terminate any Member's Membership of the EITI Association if:
    - i) The Member, or the country or other entity the Member represents, does not comply with these Articles of Association; or
    - ii) The Member, or the country or other entity the Member represents, has conducted his/her/its affairs in a way considered prejudicial or contrary to the EITI Principles.
  - 6) A resolution by the EITI Board in accordance with Article 5 (5) may be appealed by any Member to the Members' Meeting for final decision.

## ARTICLE 6 THE EITI CONFERENCE

- 1) An EITI Conference shall be held at least every three years in order to provide a forum for EITI stakeholders, being all with an interest in the EITI Association, to further the objective of the EITI Association and to express their views on the policies and strategies of the EITI Association. The EITI Chair shall act as chairman for the Conference. The EITI Conference is a non-governing body of the EITI Association.
- 2) The EITI Members, the EITI Board and the EITI Secretariat have the right to attend or be represented at the EITI Conference. Other EITI stakeholders should also be invited, in each case, to the extent that it is reasonably practical to make arrangements in order to do so as decided by the EITI Board.
- 3) The EITI Conference shall be summoned by the EITI Board on the EITI website and by written notice to the Members and Constituencies with at least four weeks notice. The written notice shall include the agenda of the EITI Conference.
- 4) The EITI Conference shall:
  - i) Provide an important and visible platform for debate, advocacy, continued fund raising, and inclusion of new EITI stakeholders;
  - ii) Review progress based on the activity report for the period since the preceding ordinary Members' Meeting;
  - iii) Provide suggestions to the EITI Board as to the activities of the EITI Association until the next ordinary Members' Meeting;
  - iv) Mobilise and sustain high level coordination, political commitment and momentum to achieve the objective of the EITI Association; and
  - v) Provide an informal communication channel for those EITI stakeholders who are not formally represented elsewhere in the governance structure of the EITI Association.
- 5) Views on the issues set out in Article 7 (4) above may be expressed in a non-binding Statement of Outcomes which shall be agreed upon by the EITI Conference and communicated to the EITI Members' Meeting and the EITI Board. The EITI Conference shall

make every effort to adopt resolutions by consensus. Taking account of the view of the EITI stakeholders, the EITI Chair may decide that a vote is required. Every EITI stakeholder, except the Members of the EITI Board in this capacity and the Secretariat, has one vote. Resolutions of the EITI Conference are adopted by simple majority of those present and voting.

## ARTICLE 7 THE EITI MEMBERS' MEETING

- 1) The governing body of the EITI Association is the EITI Members' Meeting.
- 2) The EITI Members' Meeting is comprised of the Members of the EITI Association.
- 3) The ordinary EITI Members' Meeting shall be held at least every three years in connection with the EITI Conference. The ordinary EITI Members' Meeting shall be summoned by the EITI Board to the Members with at least four weeks written notice.
- 4) An Extraordinary Members' Meeting may be summoned by the EITI Board to the Members with at least three weeks written notice. The EITI Board shall ensure that an Extraordinary Members' Meeting shall be held within four weeks of the receipt by the EITI Chair of a request to hold an Extraordinary Members' Meeting.
- 5) Members who wish to take part in an EITI Members' Meeting, must give notice to the EITI Secretariat by the date stated in the summons. A Member may be represented in the EITI Members' Meeting by written proxy. The proxy may also include specific voting instructions.

A duly signed proxy must be received by the EITI Secretariat by the date stated in the summons.

- 6) The EITI Chair shall act as chairman for the EITI Members' Meeting.
- 7) The quorum of a Members' Meeting shall be a minimum of **one third** ~~half~~ of the, Members, and must include at least one third of the Members from each Constituency.
- 8) The Members' Meeting shall make every effort to adopt resolutions by consensus. If a vote is required, resolutions are adopted by qualified majority requiring the support of at least two thirds of the total votes cast and must include the support of at least one third of the votes cast by the Members representing each Constituency. The total number of votes for the Members of each Constituency shall be equal and be determined as follows:
  - i) Members from the Constituency of Countries shall have one vote each; and
  - ii) The votes for Members from the Constituency of Companies and the Constituency of Civil Society Organisations shall be determined by dividing the total of Country votes by the number of Members of the Company and Civil Society Constituencies respectively.
  - iii) The EITI Chair shall announce the number of votes for each Member from the different Constituencies prior to voting.

## ARTICLE 8 THE FUNCTIONS OF THE EITI MEMBERS' MEETING

- 1) The EITI Members' Meeting shall:
  - i) Approve the activities report, the accounts and the activity plan of the EITI Board;
  - ii) Elect the Members, and Alternates for each Member, of the EITI Board, on nomination from the Constituencies;

- iii) Elect the EITI Chair, on proposal of the EITI Board; and
- iv) Consider any other matters pursuant to requests from a Member. Such requests shall be submitted in writing to the EITI Chair in time for any such matters to be included in the agenda for the EITI Members' Meeting stated in the summons.

## ARTICLE 9 THE EITI BOARD

- 1) The executive body of the EITI Association is the EITI Board, elected by the EITI Members' Meeting and operating under the guidance from the EITI Members' Meeting.
- 2) In order to reflect the multi-stakeholder nature of the EITI Association, the EITI Board shall consist of 20 EITI Board Members ("Board Members") and shall be made up as follows:
  - i) A Chair;
  - ii) Nine Board Members being Members of the EITI Association from the Constituency of Countries, of which a maximum of three Board Members should represent Supporting Countries and the remainder should represent Implementing Countries. ~~When possible, Implementing Countries should be represented by at least 3 Compliant Countries;~~
  - iii) Six Board Members being Members of the EITI Association from the Constituency of Companies, of which a maximum of one should represent Institutional Investors;
  - iv) Five Board Members being Members of the EITI Association from the Constituency of Civil Society Organisations.
- 3) All Board Members retire with effect from the conclusion of the ordinary EITI Members' Meeting held subsequent to their nomination, but shall be eligible for re-nomination at that EITI Members' Meeting.
- 4) The Constituencies may nominate, and the EITI Members' Meeting may elect, one alternate Board Member (an "Alternate") for each Board Member that the Constituency has nominated. An Alternate may deputise for the Board Member. If there is no Alternate, the relevant Constituency shall nominate a new Board Member and Alternate.
- 5) If a Board Member is absent from a Board Meeting, that Board Member's Alternate may attend, participate in discussions, vote and generally perform all the functions of that Board Member in the Board Meeting.
- 6) In the case of a vacancy on the EITI Board between two EITI Members' Meetings, this vacancy shall be filled by the resigning Board Member's Alternate, with the concerned Constituency nominating a new Alternate to be elected by the Board. Alternatively, the concerned Constituency may nominate a new Board Member to be elected by the Board.
- 7) The EITI Association shall obtain liability insurance for Board Members. The terms and conditions should be approved by the EITI Board.
- 8) The EITI Board may decide that a Board Member representing an implementing country that is suspended during the tenure may keep the status as a Board Member, but refrain from engaging in Board activities during the period of suspension. Should the suspension be in force for more than a year, the EITI Board may decide that the Board membership should be terminated.

## ARTICLE 10 EITI OBSERVERS

- 1) Representatives from relevant international organisations, such as the World Bank, the International Monetary Fund and other relevant stakeholders, should be invited by the EITI Board to attend EITI Board Meetings and Members' Meetings as observers, when this can be practically accommodated. They have no voting rights, but may be invited to express their views on specific matters. The EITI Board may decide that certain items should be discussed without observers present.

## ARTICLE 11 THE EITI CHAIR

- 1) The EITI Chair shall be elected at the ordinary EITI Members' Meeting. The EITI Board shall, prior to each ordinary EITI Members' Meeting, recommend a candidate for the EITI Chair for the period following that EITI Members' Meeting. The term of an EITI Chair's may be renewed once.
- 2) The EITI Chair shall:
  - i) Act as chairman of the EITI Members' Meeting;
  - ii) Act as chairman of the EITI Board Meeting;
  - iii) Present the EITI Board report to the EITI Conference and the EITI Members' Meeting;
  - iv) Represent the EITI Board in external matters;
  - v) Follow-up with the EITI Secretariat regarding the implementation of the resolutions of the EITI Board; and
  - vi) Seek to foster collaborative relationships between EITI stakeholders.
- 3) If the EITI Chair is unable to preside over a Board Meeting, the Board Members present may appoint another Board Member to chair that Meeting.

## ARTICLE 12 FUNCTIONS OF THE EITI BOARD

- 1) The EITI Board shall act in the best interests of the EITI Association at all times. The EITI Board shall exercise the executive powers of the EITI Association subject to the resolutions of the EITI Members' Meeting, including the following key functions:
  - i) Consider general and specific policy issues affecting the EITI Association;
  - ii) Agree on the work plans and budget of the EITI Association;
  - iii) Agree on the arrangements for the EITI Conferences and the EITI Members' Meetings;
  - iv) Present (through the EITI Chair) the activity report and the activity plan to the EITI Conference and obtain approval of the same from the EITI Members' Meeting;
  - v) Present (through the EITI Chair) the annual accounts and the audit reports for the accounting periods since the last ordinary EITI Members' Meeting;
  - vi) Engage the **Executive Director Head of the Secretariat**;
  - vii) Oversee and direct (through the EITI Chair) the work of the EITI Secretariat;
  - viii) Ensure that the multi-stakeholder nature of the EITI Association is maintained and fully reflected in the EITI Association at all levels, including in its Committees;

- ix) **Monitor and support implementation of the EITI in implementing countries and** establish its procedures regarding the validation process, including complaints, resolving disagreements, the question of de-listing a country and appeal procedures;
- x) Adopt more detailed procedures and rules for the management and operation of the EITI Association including the contents of country work plans and company work plans, the validation process, the management of funds, payments for projects, goods and services, auditing and reporting and the approval of projects;
- xi) Recommend a candidate for the EITI Chair prior to each ordinary EITI Members' Meeting; and
- xii) Adopt a code of conduct.

#### **ARTICLE 13 COMMITTEES OF THE EITI BOARD**

- 1) The EITI Board may create committees to further specific issues. Any such committee should include two or more Board Members or their Alternates, and its composition should, as far as is reasonable, reflect the multi-stakeholder nature of the EITI Association. The terms on which any such committee shall operate should be recorded in the Minute Book.

#### **ARTICLE 14 EITI BOARD OPERATIONS AND PROCEEDINGS**

- 1) The EITI Board should meet at least twice a year. If the circumstances so necessitate, EITI Board Meetings can be held by telephone conference. At least one EITI Board Meeting per year shall be in person.
- 2) A Board Meeting shall be convened by written notification from the EITI Chair with at least 14 days notice. Any shorter period of notice requires the written consent of all Board Members.
- 3) Board Members shall make every effort to adopt resolutions by consensus. Taking account of the view of the Board Members, the EITI Chair may decide that a vote is required. Every Member of the EITI Board has one vote. Voting can be done by written proxy.
- 4) No resolution may be made by a Board Meeting unless a quorum is present at the time of passing the resolution. At least two-thirds of the Board Members, with at least two Board Members from the Constituency of Countries (one Implementing Country and one Supporting Country), one Board Member from the Constituency of Civil Society Organisations and one Board Member from the Constituency of Companies, establish a quorum.
- 5) If a vote is required, resolutions are adopted by a qualified majority requiring 13 votes to be cast in favour of the resolution, and must include the support of at least one third of the votes of the Board Members from each Constituency.
- 6) A Board Member shall not vote in respect of any matter or arrangement in which he or she is directly interested, or if there are any other special circumstances which are apt to impair confidence in his or her impartiality. A Board Member shall declare such interests in writing to the EITI Board as soon as possible after he or she becomes aware of the same. A Board Member shall not be counted in the quorum present when any resolution is made about a matter which that Board Member is not entitled to vote upon.
- 7) The EITI Board may establish procedures regarding decision-making processes outside Board Meetings. Any decisions taken outside Board Meetings in accordance with such procedures should be recorded in the Minutes of the Board Meeting following when the decision was taken.

- 8) The EITI Association can be committed externally by the joint signature of all Board Members. The EITI Board may elect the Chair alone, or two or several Board Members to carry the right of signature, of which any two can sign jointly.

#### ARTICLE 15 THE EITI SECRETARIAT

- 1) The EITI Secretariat ("the Secretariat") shall consist of the **Executive Director Head of Secretariat** and other necessary staff. The members of the Secretariat shall be either contracted directly or seconded by EITI Members.
- 2) The Secretariat shall be responsible for the day-to-day running of the EITI Association, **including support to implementing countries**, under the direction of the EITI Board through its Chair.
- 3) The Secretariat shall keep an updated Members' Registry at all times.
- 4) The Secretariat shall keep a record of these Articles of Association and any amendments thereto.
- 5) The Secretariat shall keep Minutes of all EITI Board Meetings, Members' Meetings and meetings of the EITI Conference in a Minute Book. All such Minutes shall be published on the EITI website. Such Minutes shall record the names of those present, the resolutions made at the meetings and, where appropriate, the reasons for the resolutions.

#### ARTICLE 16 THE HEAD OF THE EITI SECRETARIAT

- 1) The Secretariat shall be led by a full-time **Head of Secretariat Executive Director** who will manage the day-to-day running of the EITI Association, including the selection of necessary staff, oversee development of the EITI Association and provide support to the EITI Board. The Head of Secretariat shall report to EITI Board through the Chair and be responsible for the activities of the Secretariat.
- 2) The Head of Secretariat, or his appointee from the Secretariat, shall serve as Secretary to all EITI Board Meetings, EITI Members' Meetings and EITI Conferences.

#### ARTICLE 17 FUNDING

- 1) The EITI Association is a non-profit association. Its funds consist of voluntary contributions from EITI **Members contributors** and grants from bilateral and multilateral donors, international financial institutions and other agencies, organisations and entities **as determined by the EITI Board**.
- 2) The EITI Association may also operate through voluntary contributions in kind.

#### ARTICLE 18 EITI ACCOUNTS, FUND MANAGEMENT AND PAYMENTS

- 1) The EITI Association holds a separate bank account in its own name, the "EITI International Management Account". The EITI International Management Account can be used for any activity falling within the objectives of the EITI Association and the work plans approved by the EITI Board. The funds may be applied to administration and governance costs, country-specific activities and multi-country activities.

- 2) The EITI Board shall appoint an external, independent auditor to annually audit the EITI International Management Account, and to present a written audit report to the EITI Board.

The EITI Board shall develop reporting and auditing arrangements with respect to the EITI International Management Account which shall be set forth in the supplementary operating rules and procedures of the EITI Association.

#### ARTICLE 19 AMENDMENTS

- 1) These Articles of Association may be amended by the EITI Members' Meeting convened and held, pursuant to Article 8 by approval of at least two-thirds of the Members present.

A proposal for an amendment shall be communicated in writing to all EITI Members four weeks in advance of the relevant resolution.

#### ARTICLE 20 REVIEW

- 1) A review of the governance arrangements of the EITI Association should be undertaken by the EITI Board within two years of the constitution of the Association.

#### ARTICLE 21 WITHDRAWAL AND DISSOLUTION

- 1) Any Member may withdraw from the EITI Association at any time. Such withdrawal shall become effective upon receipt of a written notification of withdrawal by the **Executive Director Head of Secretariat**.
- 2) The EITI Association may be dissolved by the Members' Meeting in accordance with the provisions of Article 8. A proposal for dissolution shall be communicated in writing to all EITI Members four weeks in advance of the relevant resolution.
- 3) In the event of a dissolution, the assets of the EITI Association shall be applied to similar objectives to those of the EITI Association and as determined by the EITI Board subject to the approval of the EITI Members' Meeting.

#### ARTICLE 22 ENTRY INTO FORCE

- 1) These Articles of Association shall enter into force upon the constitution of the EITI Association.