

# EITI Candidature Application

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## Applicant country information

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# Sign-up steps

## EITI requirement 1.1

**The government is required to issue an unequivocal public statement of its intention to implement the EITI.**

At the G8 summit held in June 2013 in Lough Erne, Northern Ireland, the German government announced that it would test the EITI in a pilot region, with a view to a future candidacy of Germany. The pertinent undertaking can be found in both the [G8 communiqué](#)<sup>1</sup> (p. 10, section 38), and in the [German government's report on the G8 summit in Lough Erne](#) (p. 1).

However, during preparations for piloting, the German government decided to implement the EITI fully at the level of other implementing countries. Then, a [feasibility and stakeholder study](#) was commissioned by the Federal Ministry for Economic Affairs and Energy (BMWi), which is the lead ministry for implementing the EITI in Germany. The study aimed to identify at an early stage the views of the other federal ministries, the governments of the individual federal states (*Länder*), private industry and civil society regarding the objectives and the additional value that implementing the EITI in Germany could be expected to generate. It rapidly became clear that the sixteen *Länder* would play an especially important role in implementing the EITI, because of the federal structure of Germany. In April 2014 the Head of the Federal Chancellery thus requested the support of the Heads of the State Chancelleries in the *Länder* in the implementation of the EITI. Soon afterwards, a working group with representatives of the federal and *Länder* governments (known as the Federation-Länder Working Group) was put in place to coordinate the government side of the German EITI process in Berlin and in all 16 federal states. Apart from representatives of the *Länder* ministries and authorities responsible for fiscal and mining affairs, the Federal Institute for Geosciences and Natural Resources (BGR) and the Federal Chancellery, the following federal ministries are incorporated in the working group: the BMWi, the Federal Ministry of Finance (BMF), the Federal Ministry of Justice and Consumer Protection (BMJV), the Federal Ministry for Economic Cooperation and Development (BMZ), the Federal Foreign Office (AA), the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (BMUB), and the Federal Ministry of the Interior (BMI).

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<sup>1</sup> Please note that not all references made here are available in English. Documents linked to the English version are marked accordingly.

At a meeting on 2 July 2014, the German Cabinet formally resolved to undertake the sign-up steps for Germany's EITI candidature. The decision was officially announced the same day, along with

**June 2013**

**Announcement of a pilot scheme**

**July 2014**

**Public announcement of full implementation**

the appointment of an EITI Champion, and a declaration of the intention to involve a multi-stakeholder group (MSG) in the process. The federal government spokesperson explained the motivation of the German government to implement the EITI as follows: *"The EITI will support responsible actions and transparency in the extractive sector in Germany as in other countries.*

*We will also be helping establish a level playing field for transparency in extractive industries around the world."* The public statement was published on the BMWi website in the form of a [press release](#) (English), bringing it to the attention of a wide audience. The government also stressed that this was an important political signal, and that EITI sign-up would strengthen resource-rich developing and emerging economies in common efforts to stamp out corruption arising in conjunction with the extractive sector. The BMWi also explained its interests in implementing the EITI in more detail in its [monthly report "Schlaglichter der Wirtschaftspolitik"](#) (pp. 24-26).

The decision to join the EITI is in line with the national priorities of the German government. The [coalition agreement](#) (English) for the 18<sup>th</sup> legislative period (2013-2017), which is entitled *Shaping Germany's Future*, aims to promote political initiatives *"in order to ensure that a reliable legal and institutional framework is put in place for fair competition on international raw material markets"* (p. 10). Another declared objective of domestic policy, laid out in

**EITI implementation in Germany is in line with the national priorities of the German government.**

the coalition agreement, is to *"promote acceptance by citizens of raw material extraction at home"* (p. 10). The [German Government's raw materials strategy](#) (English) advocates further enhancing the transparency of cash flows related to the exploration and exploitation of oil, gas and mineral resources within the framework of the EITI. *"Open raw materials markets, the environmentally compatible extraction of raw materials, and the increase in welfare due to enhanced transparency, as a contribution towards economic development"* are cited as significant issues (p. 26). It is also the declared development-policy goal of the German government to help *"ensure that resource wealth can be harnessed sustainably for pro-poor economic growth. This can be achieved by managing the extractive resources sector in developing and industrialised countries alike comprehensively on the basis of economic, ecological and social sustainability principles"* ([Extractive Resources in German Development Cooperation](#) (English), p. 7). In line with the coali-

tion agreement, the quality of public services in Germany is to be enhanced through greater transparency and the provision of open data. To this end, D-EITI is part of the implementation of the Federal Government's [National Action Plan](#) (English) to implement the G8 Open Data Charter, and of the moves of the German government to join the Open Government Partnership.

The public statement issued by the German government was positively received by international actors, and by civil society organisations and the private sector within Germany. Immediately after the announcement of the decision of the German government, the EITI International Secretariat published a [comment](#) (English) on the EITI website. Clare Short, Chair of the EITI International Board, welcomed the decision of the German government, and stated, *“The German government’s decision to implement the EITI standard confirms that it holds itself to the same high standards of transparency that it expects of other countries. The German government has been a staunch supporter and believer in the global efforts to improve governance of natural resources since the EITI’s first days. It is taking efforts to ensure good governance throughout the management of natural resources. I also hope that this German leadership will be followed in Eastern Europe, not least in countries that have significant energy transit and production.”*

The response of German civil society to the declaration of intent issued by the German government was also positive. On the very day the official announcement was made, Transparency International (TI) Deutschland e.V. published a [response](#), unequivocally welcoming this step. Professor Dr Edda Müller, Chair of the German chapter of Transparency International, pointed out that TI had already supported the EITI for many years. She welcomed the fact that the German government was at last applying for EITI candidature. *“What we rightly expect of other countries, we must also undertake ourselves.”* German industry too announced its support for implementation of the EITI in Germany. In its [July newsletter](#) (pp. 24-25), the Association of German Chambers of Commerce and Industry (DIHK), for instance, provided information about the German government’s plans to implement the EITI. In a [statement](#) issued during the BDI’s Raw Materials Congress on 3 July 2014, Ulrich Grillo, President of the Federation of German Industries (BDI), underlined the importance of the initiative in ensuring secure supplies of raw materials and achieving the energy transition (*Energiewende*) in Germany. The Heads of the State Chancelleries of the individual *Länder* also expressed highly positive responses, and assured the German government of the support of the *Länder* governments in implementing the EITI. Among other things this includes representatives of the *Länder* governments participating in sector-specific coordination of the government’s part in EITI implementation. The reasons they cited for their support included the fact that

anti-corruption and engagement to achieve greater transparency were central concerns of the work of the *Länder* governments.

The German media registered the efforts of the German government, as shown by the reports published in [Spiegel](#), [Focus](#), [Handelsblatt](#) and [Badische Zeitung](#). The public statement by the German government was thus communicated at a supraregional level.

## EITI requirement 1.2

**The government is required to appoint a senior individual to lead on the implementation of the EITI.**

Parallel to the official announcement of Germany's intention to implement the EITI, Uwe Beckmeyer, Parliamentary State Secretary at the Federal Ministry for Economic Affairs and Energy<sup>2</sup>, was appointed as Special Federal Government Commissioner for EITI Implementation in Germany (EITI Champion).



In an article<sup>3</sup> co-authored with Clare Short, Chair of the EITI International Board, Mr Beckmeyer stressed, *"A country's natural resources belong to its citizens. It is this belief which inspired the EITI to begin its work more than 10 years ago. For many people, the idea that governments and companies in the often complex international extractive sector would one day open their books to scrutiny seemed*

***"Making capital streams public and thus more transparent is an essential prerequisite in empowering citizens to demand that their governments account for the use of the funds."***

**Uwe Beckmeyer**

*unlikely at first. However, the multi-stakeholder approach has succeeded in committing a range of stakeholder groups to transparency and common standards. This paves the way for capital streams to be made public and thus become more transparent – an essential prerequisite in empowering citizens and civil society organisations to demand that their*

*governments account for the use of the funds."* Regarding Germany's candidature, the article notes, *"By signing up to EITI, Germany – a major industrial country with substantial natural resource imports – is demonstrating its willingness to assume responsibility [...]. EITI membership will significantly enhance the credibility of Germany, which has supported the EITI politically and finan-*

<sup>2</sup> The role of the Parliamentary State Secretary is to support his or her Cabinet minister in the performance of his or her political duties. The position roughly corresponds to that of deputy minister in other countries.

<sup>3</sup> Click [here](#) for the English version, which is available on the website of the D-EITI Secretariat.

cially since it was established”.

At the D-EITI Transparency Summit, which marked the official launch of preparations for Germany’s EITI candidature (see below), State Secretary Beckmeyer declared, *“With the EITI we are saying ‘Yes’ to greater transparency and accountability in the extractive sector in Germany.”* He explained the additional benefits of EITI implementation for Germany as follows: *“The EITI strengthens transparency and dialogue in German natural resources policy. The Initiative is a way of increasing acceptance of resource extraction in Germany. With the establishment of a multi-stakeholder group, we are not only creating an innovative forum for cooperation between the state, private businesses and non-governmental organisations. With the EITI we will also be making the contribution of extractive industries in Germany to securing energy and resource supplies more visible than has hitherto been possible.”* He continued: *“With the EITI, we are making the extractive sector a pioneer in the provision of open data in Germany. The most important information about the extractive sector is to be made available online for citizens and for the private sector. In this way we will achieve a digital Germany which benefits both its citizens and its industry – which is a central goal of the coalition agreement.”* A [video](#) of his address at the Transparency Summit is publicly available on the website of the D-EITI Secretariat.

Within the D-EITI process, State Secretary Beckmeyer represents not only the lead ministry, the Federal Ministry for Economic Affairs and Energy, which is responsible for formulating Germany’s policy on raw materials and resources. He also champions the involvement of other relevant federal ministries and stakeholders within society. In his capacity as an elected representative of the people, and a link to the German Bundestag in particular, he ensures a broad based representation in the D-EITI process. More information about State Secretary Beckmeyer can be found online on the [website](#) (English) of the Federal Ministry for Economic Affairs and Energy.

**State Secretary Beckmeyer is committed to an inclusive approach to the D-EITI process at all levels.**

State Secretary Beckmeyer attended three of the four multi-stakeholder group meetings held in 2015. Furthermore, he chaired the inaugural meeting of the already appointed MSG members at the D-EITI Transparency Summit held in Berlin in November 2014 (see below). In his capacity as EITI Champion, State Secretary Beckmeyer also participated in numerous events held inside and outside Germany. In the United Kingdom, for instance, he held talks with Jo Swinson, then the UK’s EITI Champion and Parliamentary Under-Secretary at the UK Department for Business, Innovation and Skills (BIS), and with representatives of the EITI International Board regarding



implementation of the EITI. In Germany, he attended various events staged by political, private sector and civil society organisations in the course of the year, including the discussion organised in Berlin in October 2015 by the non-governmental organisations of the German MSG entitled “[Mehr Transparenz – Mehr Wert?!](#)” (Greater Transparency – Added Value?!) (see below).

In his capacity as EITI Champion, State Secretary Beckmeyer is supported by the International Raw Materials Policy Division of the Federal Ministry for Economic Affairs and Energy, which is respon-

**The EITI Champion has the support of:**

- **BMW’s International Raw Materials Policy Division**
- **The independent D-EITI Secretariat**

sible for EITI implementation. To provide additional support for the EITI Champion and all stakeholders in the D-EITI process, the BMWi established a Secretariat for implementing the EITI in Germany. The D-EITI Secretariat is managed by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, which already has longstanding experience in implementation of

the EITI within the scope of German development cooperation. The Secretariat acts as an independent service provider and mediator for all stakeholder groups involved in the D-EITI process. Hence, it provides administrative and substantial support for the implementation of the EITI in Germany. It has a staff of three and is based in an easily accessible office building in the heart of Berlin that is independent of the German government. The [Terms of Reference](#) (English) of the Secretariat are publicly available on the website of the D-EITI at [www.D-EITI.de](http://www.D-EITI.de) (English).

In his capacity as EITI Champion, State Secretary Beckmeyer has already made a binding pledge to supply the necessary resources for implementation of the D-EITI process up to first validation.

### EITI requirement 1.3

**The government is required to commit to work with civil society and companies, and establish a multi-stakeholder group to oversee the implementation of the EITI.**

Germany’s unequivocal public statement of its intention to implement the EITI on 2 July 2014 (see BMWi [press release](#) (English)), also encompassed a commitment to establish a multi-stakeholder group. EITI Champion Uwe Beckmeyer commented: “*The introduction of the internationally successful EITI model offers fresh opportunities for greater transparency and dialogue in the German raw materials sector. We want to work together with the German business community and civil society over the next few months on putting the conditions in place for a successful EITI candidacy.*”

In July 2014, immediately following the public statement issued by the German government, the BMWi organised Round Tables for German civil society and German industry, in order to inform them about the D-EITI process and to call on them to participate in the MSG. The invitation to take part in the Round Tables was sent openly to a wide spectrum of potentially interested organisations, private companies and associations. The BMWi website too called openly and transparently for interested parties to get involved. The meeting minutes of the [civil society](#) and [industry](#) Round Tables can be consulted on the website of the D-EITI Secretariat. Both stakeholder groups subsequently mandated their own representatives to the MSG in a process that was free of any external influences.

**Involvement of relevant stakeholders in the MSG through:**

- **Round Tables**
- **Open invitation on the website [www.D-EITI.de](http://www.D-EITI.de)**
- **Self-coordination on the part of the three stakeholder groups**
- **Publicly appointed coordinators of the stakeholder groups**
- **Transparency Summit in Berlin**

The website of the D-EITI Secretariat still invites interested parties to become engaged in the process and to contact the MSG. As part of an independent process, industry and civil society appointed coordinators, who act as contact persons for actors interested in the D-EITI process. The coordinators' [contact details](#) are available on the website of the D-EITI Secretariat.

In November 2014 the D-EITI Transparency Summit marked the launch of preparations for Germany's EITI candidature. The aim was to inform interested stakeholders and a wide audience about the process, and to call on them to engage actively within the scope of the MSG. More than 100



national and international representatives from the fields of politics, industry, civil society, research and the press attended. Following the Summit, an initial meeting was held with the MSG representatives already appointed at that time, facilitated by the EITI Champion. A [publication](#) (English) laying out the results of the Summit, and including a summary of the

addresses and discussion inputs of Clare Short, Uwe Beckmeyer, numerous high-ranking representatives of German and international industry and civil society, as well as the EITI International Board and Secretariat can be found on the website of the D-EITI Secretariat. [Videos](#) of the individual speeches can also be viewed online. These measures and an additional [press release](#) published on the BMWi website aimed to inform a wide section of the population about D-EITI.

The constituent meeting of the German MSG was held on 10 March 2015 on the premises of the BMWi. In independent processes, each of the three stakeholder groups appointed five representatives (and five alternates) to the MSG. At its first meeting, the MSG agreed on the [Terms of Reference](#) (English) of the D-EITI Secretariat and the [Rules of Procedure](#) (English) for the



MSG. Several weeks before the meeting, the D-EITI Secretariat shared drafts of both documents, and of all other documents, with the MSG, which was free to add its comments and suggestions. The MSG also decided on a time schedule for EITI implementation with the aim of submitting the EITI Candidature Application to the EITI International Secretariat by the end of 2015. The [minutes](#) of this and all subsequent meetings are available to all interested parties on the website of the D-EITI Secretariat. On 14 April 2015, State Secretary Beckmeyer officially appointed the members of the MSG with the symbolic presentation of the letters of appointment to the Head of the D-EITI Secretariat. The letters of appointment were subsequently sent to the individual members of the MSG. A [press release](#) issued by the BMWi then announced the establishment of the German MSG.

The MSG met a total of four times in the course of 2015, with all-day meetings held in March, June, September and November. The meetings were very well attended, with an average of 13 of the 15 MSG members, as well as 16 observers in attendance. The observers included international visitors such as Jonas Moberg, Head of the EITI International Secretariat, representatives of UK EITI and of the Netherlands. Every meeting achieved the quorum required by the Rules of Procedure for the MSG. All decisions were taken by consensus. In this way, the MSG significantly and independently steered the D-EITI process as required under the provisions of the EITI Standard. The [minutes and outcomes](#) of all meetings are publicly available on the website of the D-EITI Secretariat.

**Independent MSG members selected in a self-organised process. German MSG covers a wide spectrum of interest groups within society.**

The government stakeholder group of the MSG was constituted in the above-mentioned Federation-Länder Working Group on D-EITI. The five MSG members and their alternates were selected by unanimous decision. Since most revenue from the extractive sector in Germany is generated in the *Länder* and municipalities, *Länder*

ministries and authorities responsible for fiscal and mining matters were accorded the three of five seats on the government side. The government side is thus represented by high-ranking government representatives (BMWi and BMF) and by the *Länder* governments.

On the civil society side, organisations and networks active in the fields of transparency, accountability, open government and open data, the environment, development, as well as labour and social affairs are members of the MSG. Civil society members were selected within the scope of an autonomous, open process. The civil society groups independently organised the selection of MSG members and the way they cooperate following the Round Table initiated by BMWi in July 2014. Within the scope of the Round Table and in the run-up, Transparency International Deutschland and the trade union for the mining, chemical and energy industries (Industriegewerkschaft Bergbau, Chemie, Energie (IG BCE)) announced that they were willing in principle to engage in the MSG. The Open Knowledge Foundation Deutschland (OKFN), also represented at the Round Table, declared its readiness to become involved in the D-EITI process following preliminary discussions within civil society. The same applies to the Arbeitskreis (AK) Rohstoffe (a network of German NGOs working for human rights, social standards and the environment, see below), which asked the Forum Umwelt und Entwicklung (FUE – Forum on Environment and Development) to represent it within the D-EITI process, and to the Forum Ökologisch-Soziale Marktwirtschaft (FÖS – Green Budget Germany). Following the Round Table, these five organisations and other representatives of German civil society discussed and clarified, in a series of internal meetings and talks, the roles and expectations of the different civil society groups with respect to D-EITI and the MSG. Some important criteria when selecting members were to ensure that civil society interests were as well represented as possible, and that representatives were able to provide competent technical and sector-specific support in the fields relevant for the EITI.

For the industry side, the BDI and the DIHK organised the consultation process with the private sector. The BDI is the umbrella organisation of German industries and represents 36 member associations, with a combined membership of over 100,000 private businesses. The DIHK is also an umbrella organisation, and represents 80 chambers of commerce and industry, which together have more than 3.6 million member companies of every size, from every branch of industry and every region. In the interests of the process, the members of the two bodies were invited to take part in the Industry Round Table initiated by the BMWi, and subsequently to participate in an EITI Task Force. The first meeting of the Task Force took place on 27 August 2014 on the premises of the BDI. It was agreed, among other things, that the industries likely to be the focus of the EITI (oil

and gas, potash and salt, coal and quarrying (stone and earth)), should each be represented by one member and one alternate. It was decided that the BDI and the DIHK should also have one member and one alternate in their capacity as associations spanning all branches of industry. By mid-October, the industries concerned had all held internal consultations, and submitted their proposals to the BDI and the DIHK as to whether they should be represented within the MSG by their respective sector association or by a private company. The BDI and the DIHK then agreed on the representatives and alternates for the industry side with BDI and DIHK members by means of a circular. German industry is now represented in the MSG by umbrella associations and sector associations of the German extractive sector, and directly by extractive companies.

The organisations represented within the MSG thus embrace wide sections of the interest groups involved in the German raw materials sector, ensuring the pluralist and diversified representation of stakeholders within the MSG.

Every stakeholder group represented within the MSG has internal communication and consultation mechanisms to coordinate joint positions and activities; these go beyond the confines of the

**Internal consultations mechanisms of the stakeholder groups ensure optimum feedback of positions.**

MSG. In addition to the regular meetings of the Federation-Länder Working Group on D-EITI on the government side (five meetings have been held to date), additional discussions have been held at national level, as well as meetings

within the framework of the Federation-Länder Mining Committee and a meeting between the Federal Ministry of Finance and the ministries of finance of the individual *Länder* on D-EITI. The process of consultation with the EITI Task Force of private industry primarily takes the form of written circulars and regular telephone conferences. Civil society too meets regularly for internal coordination meetings.

All civil society organisations involved in the D-EITI have initiated outreach processes with a view to ensuring the participation of a wide spectrum of civil society actors, organisations and networks. The AK Rohstoffe, for instance, a network of non-governmental organisations working for a globally equitable and viable policy on natural resources, is involved in the D-EITI process. There is also a lively exchange of views with international representatives of civil society, including the international secretariat of the Publish What You Pay coalition in the United Kingdom, representatives of Publish What You Pay Norway and numerous Eastern European and Central Asian NGOs.

Blogs<sup>4</sup>, newsletters<sup>5</sup> and articles in (member) journals<sup>6</sup> also reach a wide audience. In October 2015 a [fact sheet](#) was published by the FUE on transparency in the extractive sector, with a focus on (D-)EITI. Moreover, in October 2015 the civil society organisations involved in D-EITI organised an event entitled “[Mehr Transparenz – Mehr Wert?!](#)” in Berlin, which discussed the opportunities and challenges involved in implementing the EITI in Germany in front of a wide audience. Two more events are scheduled to be held in December 2015: an expert discussion on the German EITI

**Outreach processes ensure efficient communication of the results of the D-EITI process beyond the circle of the MSG.**

implementation with EITI co-founder and former Chair of the EITI International Board, Professor Dr Peter Eigen, and an information event on mining law and the EITI. Private industry too is working hard to disseminate the facts behind the process, over and above the work of the MSG. The BDI, for instance, uses [articles](#) on D-EITI on

its website and a [policy paper on resource policy in the 21<sup>st</sup> century](#) (p. 27) to address member companies. The DIHK has also informed<sup>7</sup> numerous German companies, chambers of commerce and industry inside and outside Germany and other interested parties about the initiative. The government side also communicates information about EITI implementation in Germany through official bodies, public statements, inter-ministerial information rounds and information events staged at national and *Länder* level. The organisations and institutions represented within the MSG thus act successfully as multipliers, explaining the facts behind the D-EITI process to their respective interest groups, and beyond them to the population as a whole.

<sup>4</sup> [Blog posts](#) and [Twitter account](#) of the Open Knowledge Foundation on D-EITI.

<sup>5</sup> [Newsletter issues 67](#) and [68](#) of the FÖS and the keynote article on D-EITI in [Newsletter No. 11](#) (October 2015) of the AK Rohstoffe.

<sup>6</sup> [Issues 65](#) (p. 16) and [66](#) (p. 19) of the journal “Scheinwerfer” published by TI Deutschland, and an [article](#) on D-EITI (pp. 22-24) in the circular issued by the FUE.

<sup>7</sup> An article on the EITI in the July 2014 issue (pp. 24-25) and on D-EITI in the September 2015 issue (p. 5) of its monthly [newsletter on the environment, energy and raw materials](#).

The D-EITI Secretariat supports D-EITI stakeholders by offering trainings on the EITI Standard and the guidance notes for implementing countries, as well as technical and administrative assistance on all aspects of reporting. It also encourages networking and an exchange of lessons learnt with the EITI International Secretariat and other actors in EITI implementing countries. Representatives

**The D-EITI Secretariat provides technical and financial support to the individual stakeholder groups.**

of all stakeholder groups involved in the MSG, for instance, have taken part in meetings of the multi-stakeholder group of UK EITI in London in the course of the year. Representatives of civil society, of the BMWi and of the D-EITI Secretariat attended

the EITI International Board Meeting in October 2015 in Berne and in December 2015 in Kiev. The Secretariat was requested by the MSG to commission a comparative study on implementation of the EITI in EU, G7 and OECD countries, in order to find out more and thus learn from the way the process is implemented in other industrialised countries.

With the goal of ensuring the active, equal and well-informed participation of civil society organisations in the D-EITI process, the civil society organisations involved in the MSG receive support from the D-EITI Secretariat, totalling EUR 140,000 in grants for 2015 to help them develop the capacities required. At the outset of the process it emerged that the experience and knowledge of German civil society with respect to the EITI was not adequate, which represented an obstacle to civil society participation in the D-EITI process. One major concern of the D-EITI Secretariat was thus to overcome this obstacle in line with EITI requirement 1.3.c, and to enable civil society to develop knowledge and expertise such that from the outset an objective and well informed debate could be conducted. Independence and professional involvement in implementation of the EITI in Germany requires not only knowledge and understanding of the German extractive sector and of the EITI, but also the financial leeway to acquire this knowledge and understanding. With financial support, the organisations involved in the process can now help shape the work of the MSG in a targeted fashion with their technical expertise, and can network within their interest group and conduct PR work to communicate the D-EITI process. This guarantees the extensive dissemination of information about the EITI within civil society structures. The financing was the subject of heated and open discussion because of the potential risk of a conflict of interests. To retain the independence of civil society, participants agreed to award project-related grants, which make no requirements in terms of subject matter and which do not provide for the financing of an MSG member. The grants are rather to be used to build a support structure inside and between the non-governmental organisations involved, as well as networking with the broader

interest group of civil society in general. The financing is rendered transparent on the D-EITI website. The subsidies are awarded by the D-EITI Secretariat, which is an independent body, thus avoiding creating any direct operational and political dependence on the government or on private companies on the part of civil society groups. In this way, the independence of the civil society organisations engaged in the D-EITI process is assured.

## EITI requirement 1.4

**The multi-stakeholder group is required to maintain a current workplan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board.**

At its first meeting in March 2015, the MSG took a consensual decision that the individual stakeholder groups should draw up their comments on the objectives and scope of the D-EITI, as the first step in the elaboration of the workplan. These comments were then to be discussed at the following MSG meetings. To further facilitate the work of the MSG, the D-EITI Secretariat had a comprehensive [scoping study](#) conducted by PricewaterhouseCoopers (PwC). This study was to lay out recommendations for the scope of the D-EITI, and provide a foundation on which the MSG could draw up its workplan.

Once the individual stakeholder groups had independently produced their own comments and submitted these to the MSG, the MSG set up a working group to draw up recommendations regarding the objectives and scope of the D-EITI. At two meetings in May and June 2015, the working group worked out a list of possible objectives for the D-EITI based on the comments submitted by the different stakeholder groups. The objectives were closely aligned with the EITI Principles. In particular Principles 4 (public understanding of government revenues and expenditure could help public debate), 5 and 9 (encouraging high standards of transparency and accountability), and 12 (the multi-stakeholder approach) were directly taken into account when drafting the objectives. The objectives were also closely aligned to the national priorities of the German government in the natural resource sector (see above).

### Objectives of D-EITI

At a second meeting on 10 June 2015, the MSG discussed and adopted the following seven [objectives of the D-EITI](#) (English) based on the recommendations of the working group; they were immediately published on the website of the D-EITI Secretariat:



*We, the Multi-Stakeholder Group, commit to the principles set forth in the EITI Standard 2013 by setting ourselves the following objectives with respect to EITI implementation in Germany in which we undertake to:*

- 1. Produce timely reports that are understandable and accessible to the general public and based on a transparent, open and innovative EITI process in Germany.*
- 2. Process contextual information concerning the German extractive sector, with a view to promoting a broad debate on resource policy that includes aspects of sustainability (economic, environmental, and social).*
- 3. Engage in understandable, commensurate and increasingly comprehensive reporting to the general public in compliance with the EITI Standard and in harmony with the EU Accounting and Transparency Directives. Concomitantly, additional value shall be generated.*
- 4. Contribute to the further development of the EITI Standard and its implementation and acceptance as a de-facto global standard, to support the global striving for transparency and accountability as well as the fight against corruption in the extractive sector.*
- 5. Share experience from the multi-stakeholder process, in particular with respect to participatory democracy, citizen engagement and knowledge transfer, and also with regard to EITI implementation in a federal state.*
- 6. Substantially enhance Germany's credibility as regards its political and financial support for EITI.*
- 7. Ensure ongoing implementation of the D-EITI with the intended multi-stakeholder model while building capacity for broad-scale public debate.*

At its meetings on 10 June, 9 September and 9 November 2015, the MSG discussed and adopted the following aspects of the scope of German EITI reporting.

#### Scope of D-EITI

#### Material resources

Material resources to be covered by the reconciliation report and the contextual information of the D-EITI report are as follows: **oil, natural gas, potash and salts, quarrying (stone and earth), lignite**. Germany's coal mining, which is to be phased out by 2018, is a special case. It is subsidised by the government, which means that it does not generate payments to the state. This will be explained in the contextual information for the D-EITI report. As things stand, the MSG assumes that so-called **industrial minerals** and **metals** will essentially be covered by the reporting of the extractive industries sectors laid out above. Should

it emerge in the course of reporting in line with the EU Accounting Directive and the German Law to Implement the Accounting Directive (BilRUG) (see below), that, contrary to expectations, companies operating in these two sector do in fact fall within the scope of the D-EITI, the MSG shall discuss the option of including relevant companies as of the second D-EITI report.

The federal structure of the Federal Republic of Germany will be a crucial factor in D-EITI reporting. It is reflected in particular in the division of responsibilities in terms of setting and collecting taxes and royalties. Material revenue streams that will be covered by D-EITI reporting are **corporation tax** (Körperschaftsteuer), and the extractive-industries-specific **mining royalties** (Förderabgaben) and **acreage fees** (Feldesabgaben). In Germany, corporation tax is collected by the tax office (Finanzamt) in the federal state in which the head office of the company is situated. The mining authorities of the individual federal states are responsible for collecting mining royalties and acre-

#### Material payments

age fees. Other important payments are made to the state within the framework of **trade tax** (Gewerbsteuer), which is levied at the municipal level. At its meeting on 9 September 2015, the MSG decided to have an expert report drawn up to identify the challenges entailed in including trade tax in reporting. A final decision regarding the way taxes are to be included in the scope of reporting is to be taken after thorough consideration of the report and the work of a relevant MSG working group. How to deal with **consumption taxes**, i.e. electricity and energy taxes, which are paid by companies in every sector in Germany and not only by the extractive sector to the Federal Customs Administration, is to be noted in the MSG workplan as a matter needing further discussion. This also regards the presentation of subsidies and tax reliefs, and the way of addressing trade tax.

The MSG agreed on a materiality threshold for the payments to be disclosed of **EUR 100,000**. To bring reporting into line with EU requirements, the **provisions of the EU Accounting Directive**

#### Materiality threshold and companies required to report

(implemented in Germany through the Bilanzrichtlinien-Umsetzungsgesetz – BilRUG) are to be used to identify which companies will be required to report. According to these provisions, companies that meet two of the following three criteria over a period of two years will be required to report: 1. balance sheet total of at least EUR 20 million, 2. net turnover of at least EUR 40 million, 3. average number of employees during the financial year of at least 250. In addition, all publicly traded companies, especially stock exchange listed companies, will be included. The aim of this measure is, following the logic of the directive, to minimise the workload on small and medium-sized companies imposed by the duty to report. However, the MSG assumes that a rate of cover-

age of the sectors relevant for D-EITI will be guaranteed, irrespective of the criteria laid out above. On the basis of the materiality threshold proposed and the criteria laid out above for companies including subsidiaries, the scoping study commissioned by the D-EITI Secretariat concludes that the following coverage rates will at least be achieved for the individual sectors: oil (95.76%), natural gas (99.38%), potash (100%), lignite (99.1%), coal (100%). Private industry currently assumes a rate of coverage of 95% for the salts sector. Intensive written research undertaken by the MSG indicates that only in the quarrying (stone and earth) sector will reporting on material payments cover a significantly lower percentage of the total extraction volume. Because of the fragmented nature of this sector, with many smaller businesses (1,550 companies operating around 3,100 quarries), the MSG assumes that a large percentage of the payments here will fall below the EITI materiality threshold.

The MSG agreed to take **fiscal year 2016** as the basis for reporting. The aim is firstly to use data that is as recent as possible, while also making use of the disclosure obligation of the companies in line with the EU Accounting Directive (and the pertinent German legislation BilRUG). In this way, an attempt can be made to launch parallel reporting under the EU Accounting Directive (and BilRUG) and the EITI, which could also be of interest to other EITI implementing countries.

#### Reporting period

Extractive companies are to report on a voluntary basis about payments made to state agencies within the Federal Republic of Germany. The payments are to be broken down by type of payment and projects for each state agency, in line with the reporting requirements of BilRUG. Parallel to this, the state agencies (i.e. as explained above, the tax offices of the individual federal states, the mining authorities of the individual federal state, and if appropriate the Federal Customs Administration and the municipalities) are to report on revenues, broken down by company. The data for the first D-EITI report is to be compiled by the independent administrator no later than 30 June 2017. Companies that are not publicly traded, and which will thus only be required to report under the provisions of BilRUG as of 31 December 2017, are to be convinced within the framework of D-EITI reporting to provide the pertinent data earlier on a voluntary basis. Pertinent reporting forms are to be designed by the independent administrator in cooperation with the D-EITI Secretariat for the MSG. The contextual information for the first report, with extensive information on Germany's extractive sector, is to be produced for the most part in the course of 2016.

#### Technical aspects of reporting

Possible legal or regulatory obstacles to implementation of the EITI in Germany arise in direct rela-

**Legal and regulatory obstacles and plans to overcome them**

tion to matters of **data protection and privacy** and **fiscal secrecy**. Data relating to acreage fees and mining royalties, for instance, is regarded as **company and trade secrets** in Germany. This means that this data may not be published or communicated to third parties without the authorisation of the party affected. The publication of licenses in the D-EITI report is directly affected by this legal provision. The German government has, however, already taken initial steps to find a way of dealing with this challenge. The state of Lower Saxony, for instance, provides a map server that is generally accessible, thus ensuring far-reaching publication of licenses and relevant information in this context. The data published is what is known as non-critical geological data. Information relating to individuals, and company and trade secrets, is not published. **Fiscal secrecy** (as laid out in Article 30 of the German Tax Code (Abgabenordnung)) is another challenge to implementation of the EITI in Germany; tax-related data is protected under these provisions. The affected party can, however, decide to waive the entitlement to fiscal secrecy. A company is thus at liberty firstly to publish its own tax liability, and secondly to free the tax authorities from the obligation to retain fiscal secrecy to the required extent. Within the framework of D-EITI reporting, companies are to be convinced to voluntarily waive their legal rights and free the government agency in question from the obligation to retain fiscal secrecy with respect to the data to be published. A tax waiver is to be developed for the MSG by the independent administrator in cooperation with the D-EITI Secretariat.

Based on the D-EITI objectives, the D-EITI Secretariat drew up the first draft workplan in mid-2015.

**Workplan**

According to this, the MSG will discuss relevant correlations between Germany's energy transition and the extractive sector. The MSG also agreed to further discuss the points recommended in the EITI Standard, such as the voluntary commitments regarding the publication of contracts and licenses, as well as economic ownership in the course of the process. The workplan was discussed and adjusted in August by a working group established for this purpose by the MSG. The working group included one member from each of the stakeholder groups. The new draft was presented to the MSG at its meeting on 9 September. In the following weeks, intensive consultations took place between the individual MSG members and the D-EITI Secretariat. Thanks to the individual items of feedback the workplan was modified and extended. The MSG decided to adopt the current version of the workplan at its meeting on 9 November 2015. At the same meeting, the EITI Candidature Application was also adopted. The [workplan](#) and the [Candidature Application](#) are freely accessible on the website of the D-EITI Secretariat.

The MSG is fully aware that the workplan is a living document, which is to be reviewed and updated at annual intervals within the scope of the reporting process. The MSG has set itself the goal of adopting an inno-

**Innovative approaches  
in the workplan**

vative EITI process, and is endeavouring, with the D-EITI, to contribute to the further development of the EITI Standard. This is why innovative approaches to extending implementation of the EITI are to be examined. Pertinent aspects for the first report have already been laid out in the workplan. In the course of reporting, the following topics are to be discussed with respect to the scope of the D-EITI: **reserves of the mining industry to cover environmental costs at a later date, compensatory payments pursuant to intervention provisions of the Federal Nature Conservation Act, water** as a source of energy, from the point of view of consumption and from an environmental stance, and **deep geothermal energy**.

The BMWi has pledged to provide the funding required for all activities laid out in the workplan.

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