

# Validation of Tanzania

## Report on initial data collection and stakeholder consultation

## Abbreviations

AAR	Annual Activity Report
APR	Annual Progress Report
ASM	Artisanal and small-scale mining
BO	Beneficial ownership
BoT	Bank of Tanzania
CS	Civil society
CSO	Civil society organization
CSR	Corporate Social Responsibility
EITI	Extractive Industries Transparency Initiative
FEMATA	Federation of Miners' Associations
GDP	Gross domestic product
IA	Independent Administrator
MEM	Ministry of Energy and Minerals
MoF	Ministry of Finance
MSG	Multi-Stakeholder Group
NC	National Coordinator
NSSF	National Social Security Fund
OGAT	Oil and Gas Association of Tanzania
OGP	Open Government Partnership
ONGEA	Oil, Natural Gas & Environment Alliance
PMORALG	Prime Minister's Office Regional Administration & Local Government
PPF	Parastatal Pension Fund
PSA	Profit Sharing Agreement
PWYP	Publish What You Pay
SOE	State-owned enterprise
STAMICO	State Mining Corporation
TCME	Tanzania Chamber of Minerals and Energy
TEITA	Tanzania Extractive Industries (Transparency and Accountability) Act, 2015
TEITI	Tanzania Extractive Industries Transparency Initiative
TIN	Taxpayer Identification Number
TMAA	Tanzania Minerals Audit Agency
ToR	Terms of reference
TPDC	Tanzania Petroleum Development Corporation
TRA	Tanzania Revenue Authority
TZS	Tanzania Shilling
VAT	Value Added Tax

## Table of Contents

<b>Abbreviations</b> .....	<b>2</b>
<b>Executive Summary</b> .....	<b>5</b>
Overall conclusions.....	5
Recommendations.....	6
<b>Introduction</b> .....	<b>11</b>
<b>Part I – MSG Oversight</b> .....	<b>17</b>
<b>1. Oversight of the EITI process</b> .....	<b>17</b>
Government engagement in the EITI process (#1.1).....	17
Industry engagement in the EITI process (#1.2).....	20
Civil society engagement in the EITI process (#1.3) .....	21
MSG governance and functioning (#1.4).....	23
Work plan (#1.5).....	28
<b>Part II – EITI Disclosures</b> .....	<b>33</b>
<b>2. Award of contracts and licenses</b> .....	<b>33</b>
Legal framework (#2.1) .....	33
License allocations (#2.2) .....	34
License registers (#2.3).....	35
Contract disclosures (#2.4).....	36
Beneficial ownership disclosure (#2.5).....	37
State participation (#2.6) .....	38
<b>3. Monitoring and production</b> .....	<b>42</b>
Overview of the extractive sector, including exploration activities (#3.1).....	42
Production data (#3.2) .....	43
Export data (#3.3).....	43
<b>4. Revenue collection</b> .....	<b>46</b>
Materiality (#4.1).....	46
In-kind revenues (#4.2) .....	48
Barter and infrastructure transactions (#4.3) .....	48
Transport revenues (#4.4).....	48
Transactions between SOEs and government (#4.5) .....	49
Subnational direct payments (#4.6) .....	50
Level of disaggregation (#4.7) .....	50
Data timeliness (#4.8) .....	51
Data quality (#4.9).....	52
<b>5. Revenue management and distribution</b> .....	<b>57</b>
Distribution of revenues (#5.1) .....	57
Sub-national transfers (#5.2).....	58
Additional information on revenue management and expenditures (#5.3) .....	58

<b>6. Social and economic spending .....</b>	<b>60</b>
Social expenditures (#6.1) .....	60
SOE quasi fiscal expenditures (#6.2) .....	60
Contribution of the extractive sector to the economy (#6.3) .....	61
<b>Part III – Outcomes and Impact .....</b>	<b>64</b>
<b>7. Outcomes and Impact .....</b>	<b>64</b>
Public debate (#7.1) .....	64
Data Accessibility (#7.2) .....	66
Lessons Learned and follow-up on recommendations (#7.3) .....	67
Outcomes and impact of implementation (#7.4) .....	68
<b>8. Impact analysis .....</b>	<b>71</b>
<b>Annexes .....</b>	<b>73</b>
Annex A - List of MSG members and contact details .....	73
Annex B – MSG meeting attendance .....	74
Annex C – Cost of EITI Reports .....	75
Annex D - List of stakeholders consulted .....	76
Annex E - List of reference documents / Bibliography .....	78

## Index of figures and tables

Figure 1– initial assessment card .....	9
Table 1 - Summary initial assessment table: MSG oversight.....	31
Table 2 - Summary initial assessment table: Legal and institutional framework .....	39
Table 3 - Summary initial assessment table: Monitoring and production .....	45
Table 4 - Summary initial assessment table: Revenue collection.....	55
Table 5 - Summary initial assessment table: Revenue management and distribution .....	59
Table 6 - Summary initial assessment table: Social and economic spending.....	63
Table 7 - Summary initial assessment table: Outcomes and impact.....	69

## Executive Summary

Tanzania committed to implementing the EITI in 2008 and was accepted as a candidate country in February 2009. A multi-stakeholder group was formed in late 2009 to oversee EITI implementation. The country became compliant with the then EITI Rules in December 2012.

On 2 June 2016, the Board agreed that Tanzania's Validation under the 2016 EITI Standard would commence on 1 January 2017. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures<sup>1</sup> and applied the Validation Guide<sup>2</sup> in assessing Tanzania's progress with the EITI Standard. While the initial assessment has not yet been reviewed by the MSG nor been quality assured, the Secretariat's preliminary assessment is that requirements 1.1, 1.4, 1.5, 2.2, 2.3, 2.4, 2.6, 3.2, 3.3, 4.4, 4.5, 4.7, 5.1, 6.2, 6.3 and 7.1 have not been fully addressed in Tanzania. The recommendations and suggested corrective actions identified through this process relate in particular to government engagement and MSG governance which are seen as particularly necessary to improve the impact of the process. In addition, there is work to be done on the workplan, license data, contract disclosures, information on state-participation, production and export data, transport revenues, SOE transactions, direct subnational payments, distribution of revenues, SOE quasi-fiscal expenditure, contribution to the economy, and public debate.

## Overall conclusions

The Government of Tanzania joined the EITI as part of a wider reform effort. Opportunities to make the EITI relevant to wider public debates about the governance of the sector – of which there have been many – do however appear to have been largely missed. Across several recent TEITI workplans, the reporting process and institution-building have dominated TEITI's high-level objectives/outcomes, while strategic uses of TEITI to improve understanding and governance of the sector have remained in the background. Improved disclosures of revenue streams, enhanced institutional framework for EITI implementation, increased capacity for TEITI Secretariat and MSG, although important, are only loosely linked to the EITI Principles. Thus, TEITI has failed to ignite genuine interest and commitment, not least within government. Although rising up to the passage of dedicated TEITI legislation in 2015, government engagement has visibly weakened since then. As a result, the MSG is floating, lacking clear terms of reference and, of late, even a substantive chairperson. Other stakeholder groups take their cue from the government, not expecting vibrant discussions in the MSG or a national secretariat responding to the MSG rather than the line ministry.

Core EITI reporting of revenue streams and the reconciliation between payer and recipient are professionally executed after many years of experience, but, despite only a small state-owned segment of the extractive sector and clear EITI requirements, SOE transactions—especially those of TPDC—remain opaque. Many, but not all, of the more recent contextual information requirements are met.

For the Tanzania EITI to be able to have its potential impact on the natural resource governance in the country, it will be important that the recommendations from this initial assessment are considered. This can help the government's efforts to address challenges such as clarifying the processes for allocating and registering licences, contract transparency, state participation in the petroleum sector and beneficial

ownership disclosure. Following up on the findings of the recent minerals audit highlighting potential tax revenue losses, there are also opportunities for TEITI to help communicate the findings and consequences of the audit to the public, monitor follow-up and engage with companies in particular, as improved trust might be needed. This will require leadership by the government and meaningful engagement by industry and civil society in the EITI process.

## Recommendations

The initial assessment includes recommendations for specific improvements the MSG may wish to consider implementing, which aim at helping Tanzania make greater use of the EITI as an instrument to support reforms.

- High-level government engagement in the EITI process will be critical for it to have a potential impact on improved extractive sector governance in Tanzania. It is recommended that the government demonstrates commitment regarding its intention to implement EITI and to be fully, actively and effectively engaged in the EITI process. This would include ensuring that government agencies are represented on the MSG at the adequate level to allow them to take decisions and follow up on agreed matters. Government representatives on the MSG should also ensure that links are made between TEITI objectives/activities and ongoing work within their respective agencies.
- To strengthen implementation of EITI in Tanzania, each constituency (in particular government) should ensure that their representatives' attendance at MSG meetings is consistent and at sufficiently high level to allow the MSG to take decisions and follow up on agreed matters.
- The MSG should develop TORs for its work, with input from all constituencies represented on the MSG, which clearly outline the role and responsibilities of the MSG in their oversight of the EITI process. Such TORs should be made publicly available.
- The dispute regarding the fifth CSO seat on the MSG needs to be resolved.
- If the MSG has a practice of per diems for attending EITI meetings or other payments to multi-stakeholder group members, this practice should be transparent and should not create conflicts of interest.
- The MSG should ensure that minutes of its meetings reflect the discussion as well as the decisions made.
- The MSG should adopt a regular cycle of operational workplans and ensure that objectives/outcomes of the work plan are clearly linked to the national priorities for the extractive sector. The MSG could also encourage stakeholder input and discussion on the work plan and its objectives, and duly record these in the appropriate minutes
- EITI Reports should disclose licensing policies and practices, including an overview of oil/gas or mining licences were awarded or transferred during the reporting period, information on the technical and financial criteria for awarding licenses, and any non-trivial deviations from the applicable legal and regulatory framework for awarding licenses. The Independent Administrator

offers no commentary on the efficiency and effectiveness of licensing procedures. Should any of this information already be available, the MSG should consider providing direct references to the relevant sources. The MSG may also wish to include commentary on the efficiency and effectiveness of licensing procedures.

- The government and MSG should ensure that oil and gas license information is disclosed, including name of license holder(s), date of application, date of award and duration of the license, and the commodity being produced. The government could consider establishing a public oil and gas license cadastre. The MSG should also ensure that license coordinates are included in the mining license cadastre, if collated. If coordinates are not collated, the government should ensure that the size and location of the license area are disclosed.
- The MSG should ensure that the EITI Report clearly states the government's policy and contract disclosure, and actual practice. This should include reference to the relevant provisions in the TEITA Act.
- The rules and practices governing TPDC's role as conduit of company payments to government should be disclosed and supported by payment figures where applicable. This should include an explanation of the rules and practices governing transfers of funds between the TPDC and the state, retained earnings, reinvestment and third-party financing. The EITI Report should also confirm whether any loans or loan guarantees have been granted from the government/SOEs to companies operating in the country during the fiscal year covered by the report.
- The description of exploration activities should be comprehensive. The MSG may also wish to include direct links to further sources of information, such as to the TPDC website's map of exploration activity.
- There are many different sources of production data in the EITI Report. The MSG should seek to improve the consistency and comprehensiveness of production and export data in volume and value terms across the extractive sector, and to ensure to include the value of gas production as well as data on export values in the EITI Report.
- The MSG should investigate and document in the EITI Reports whether the government or SOEs receive revenues from the transportation of oil, gas and minerals, and if this is the case, determine whether these are deemed material.
- The MSG should ensure that transactions related to SOEs operating in the oil, gas and mining sector, in particular TPDC, are adequately disclosed. This should include revenues that TPDC pass on to MEM after deducting its costs.
- The MSG should ensure that direct subnational payments disclosed in EITI Reports are disaggregated by recipient local authorities.
- The MSG might wish to verify that the Terms of Reference for the Independent Administrator for the next EITI Report is in accordance with the Standard Terms of Reference for Independent Administrators approved by the EITI Board.
- The MSG should seek to shed more light on the operations of TPDC, distinguishing clearly between its public functions and its operations on own account. This should include considering

whether there are any material quasi-fiscal expenditures by TPDC in accordance with provision 6.2, and develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams.

- The MSG should ensure that the EITI Report adequately explains how extractive sector revenue is distributed beyond the first receiving government entity. The MSG could also consider to initiate a discussion of extractive sector revenue in a broader budgetary context, including requesting more detailed information on the management of extractive sector revenue and related expenditures to be included in the EITI Reports. The MSG may further wish to refer to revenue classification systems in the reports.
- The MSG should expand on the contribution of the extractive sector to the economy and ensure that contribution of the extractive sector to GDP in absolute terms, and the share of total government revenue, exports and employment. This could also include providing direct links to further data on extractive sector contribution to the economy.
- TEITI should seek to raise greater public awareness of the EITI and understanding of what the figures mean and create public debate about how resource revenues can be used effectively. This could be done through more strategic engagement with the media, concerted efforts to disseminate information to affected communities, and wider outreach efforts beyond the EITI launch of the EITI Report.
- The MSG is encouraged to make EITI Reports machine readable and agree on an open data policy on the access, release and re-use of EITI data.
- The MSG could consider a more systematic follow-up by the MSG on the EITI Report recommendations and ensuring that these highlight gaps identified through the reporting process to help ensure that the EITI could serve as a tool for improved extractive sector governance.
- All stakeholders should be able to participate in reviewing the impact of EITI implementation and the production of the annual progress report, in particular civil society groups and industry involved in the EITI.

Figure 1– initial assessment card

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

*Legend to the assessment card*

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

## Introduction

### Brief recap of the sign-up phase

On 18 November 2008, following a recommendation from the 2007 Mineral Sector Review Commission, the Government of Tanzania issued a public statement of its decision to join the EITI to increase transparency and accountability in the national extractive industries.<sup>1</sup> Led by the Ministry of Energy and Minerals, the sign-up requirements were met in time for Tanzania to be accepted as a candidate country at the 7<sup>th</sup> EITI Board Meeting on 16 February 2009 in Doha, Qatar. It then took nine more months (to 17 November 2009) until the Deputy Minister of Energy and Minerals inaugurated the MSG and the President appointed the first MSG Chair (retired Judge Mark Bomani, 15 December 2009). The size and composition of the first MSG was much as it is today, with civil society and industry representatives freely selected from within their own constituency.

Tanzania completed its first Validation under the EITI Rules on 13 May 2011, including publishing a final Validation report.<sup>2</sup> On 16 August 2011, the Board declared that Tanzania had made meaningful progress.<sup>3</sup> Following a review by the International Secretariat in November 2012<sup>4</sup>, Tanzania was declared compliant on 12 December 2012.<sup>5</sup>

### Objectives for implementation and overall progress in implementing the workplan

All recent TEITI workplans distinguish four main objectives/outcomes of EITI implementation in Tanzania: (1) increased compliance in disclosure of payments and revenues; (2) increased understanding and awareness of TEITI; (3) enhanced legal and institutional framework for EITI implementation; and (4) increased capacity, skills and knowledge of TEITI Secretariat and MSG. While these objectives/outcomes are only loosely linked to the EITI Principles, President Kikwete affirmed in his speech to the 5<sup>th</sup> Global Conference in Paris on 3 March 2011 “Tanzania’s commitment to EITI principles and values.” And further: “we are committed to the EITI process because it is aligned with our policy of promoting transparency and accountability in the management and use of our natural resources. It is critical for promoting sustainable development and poverty eradication in the country”.

---

<sup>1</sup> TEITI, Second Reconciliation Report, May 2012, p. 16.

<sup>2</sup> Final Validation Report, Adam Smith International, May 2011, [https://eiti.org/sites/default/files/documents/2011\\_tanzania\\_final\\_validation\\_report.pdf](https://eiti.org/sites/default/files/documents/2011_tanzania_final_validation_report.pdf).

<sup>3</sup> Decisions on EITI Validation of Mozambique, Tanzania, Zambia, EITI, 23 August 2011, <https://eiti.org/news-events/decisions-eiti-validation-mozambique-tanzania-zambia>.

<sup>4</sup> Secretariat Review: Tanzania, EITI International Secretariat, November 2012, <http://eiti.org/files/Secretariat%20Review%20Tanzania%20Final%202012-11-16.pdf>.

<sup>5</sup> Iraq and Tanzania declared 'EITI Compliant', EITI, 12 December 2012, <https://eiti.org/news/iraq-and-tanzania-declared-eiti-compliant>.

In May 2011, the then Validator (Adam Smith International) deemed the workplan indicator (#4) of the EITI Rules to have been met.<sup>6</sup> The Validator nonetheless suggested that the workplan be more widely disseminated and that it feature a “status” column to enable effective monitoring and evaluation. Consultation, dissemination, and monitoring of the workplan remained challenges also in recent years, as evidenced by the present Validation against the 2016 EITI Standard (see below, provision 1.5).

Throughout, TEITI’s stated objectives have remained focused on the reporting requirements on hand, without much thought being given to the further development and future role of the extractive sector nor how to make the process relevant to on-going public debate and sectoral reforms. The MSG does not appear to have a clear plan for how TEITI is aiming to have an impact on improving extractive resource governance, and recommendations from the Independent Administrators in successive EITI Reports have not particularly encouraged a broader view on the sector.

## History of EITI Reporting

To date, Tanzania has published six EITI Reports, covering the period 1 July 2008 – 30 June 2014.<sup>7</sup> All but one report were published ahead of the two-year deadline from the end of the fiscal year covered in the report. The report for 2012/13 was delayed by 4.5 month, which led to a temporary suspension. The suspension was lifted soon after publication of this report together with the report for 2013/14—the latter 7.5 months ahead of the two-year deadline. Tanzania has also published two annual progress reports, describing implementation during 2014 and 2015, respectively. A roadmap for disclosing beneficial ownership information was issued in early-January 2017, as required under the EITI Standard (provision 2.5).<sup>8</sup>

Tanzania’s EITI Reports cover the mining, oil, and gas sectors. In 2014, TEITI commissioned a scoping study of the forestry sector, with a view to including forestry in EITI reporting.<sup>9</sup> However, no decision has yet been taken in this direction.

## Summary of engagement by government, civil society and industry

As outlined in section 1 of this report, the current level of engagement by government in the EITI process is weak—much weaker than it has been during the sign-up phase and early years of EITI implementation, culminating in the passage of the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015. Poor participation in the MSG, absence of a clear champion in government, a national secretariat dominated by the sector ministry, and an inability to find a substantive chair for the MSG are all symptoms of this malaise, which is amply corroborated by stakeholder views. Industry engagement is still intact but beginning to lack motivation, pushed into a role of “rubber-stamping”. The same could be said about civil society, except the situation here is complicated by a puzzling and heavy-handed intervention by the sector ministry in the selection of civil society representatives on the MSG. The resulting under-

<sup>6</sup> Final Validation Report, Adam Smith International, May 2011, p. 10, [https://eiti.org/sites/default/files/documents/2011\\_tanzania\\_final\\_validation\\_report.pdf](https://eiti.org/sites/default/files/documents/2011_tanzania_final_validation_report.pdf).

<sup>7</sup> Accessible from the TEITI website: <http://www.teiti.or.tz/?cat=4>.

<sup>8</sup> TEITI Beneficial Ownership Roadmap, <https://eiti.org/document/tanzania-beneficial-ownership-roadmap>.

<sup>9</sup> TEITI Report - Scoping Study of the Forestry Sector, <http://www.teiti.or.tz/?p=452>.

representation of civil society on the MSG has lasted about half a year already, with some stakeholders considering a boycott. Urgent leadership by government is thus required.

## Key features of the extractive industry

Tanzania possesses significant mineral resources of high economic value, including metallic minerals (gold, iron and silver), gemstones (diamonds and tanzanite), industrial minerals (kaolin, phosphate, and lime), and building material (stone and sand)<sup>10</sup>. Tanzania also possesses energy minerals such as coal and uranium. Tanzania is Africa's fourth largest gold producer, after South Africa, Ghana, and Mali, and accounts for 1.3% of total global production.<sup>11</sup> There are both small and large-scale operations dominated by nine major mines: seven for gold and one each for diamonds and tanzanite.

The past few years have seen a big increase in exploration for gas and oil along the coast. Gas production is concentrated in the south in the Songo Songo and Mnazi bay fields. Production of natural gas from large proven reserves has started to ease Tanzania's chronic power shortage. The EITI Report for 2013/14 noted that MEM and TPDC had jointly signed 21 Production Sharing Agreements (PSA) with private operators.<sup>12</sup> TPDC is the only state-owned enterprise in the oil/gas sector, operating both on own account and as agent of the government in promoting and monitoring the exploration for oil and gas; TPDC also serves as conduit of certain payment streams from companies to the government.

Tanzania's future revenues from the extractive sector are threatened by lower prices for natural gas and gold. Furthermore, there are ongoing public debates on whether the state receives a 'fair share' from its extractive deals, and how revenues are being used to the benefit of citizens.<sup>13</sup>

## Investigation of a case of fraud and International Secretariat response

In June 2016, a supplier of capacity-building services based in Germany and the TEITI Secretariat in Tanzania became subjects of a fraud, involving a substitute invoice—as it later turned out—directing payment for the service in question (EUR 7,400) to an account in the United Kingdom in the name of, but not held by, the supplier in Germany. On 11 June 2016, MEM is reported to have made the payment through the Bank of Tanzania, following the payment instructions on the fraudulent invoice. On 16 September 2016, MEM received an overdue payment notice from the supplier. On 4 October 2016, MEM requested the Bank of Tanzania to call back the payment which had been made to a non-bonafide payee. Furthermore, on 18 October 2016, MEM requested the Tanzania Police Force (Interpol section) to launch a criminal investigation. Interpol Tanzania has said that it has since sought the collaboration of Interpol UK in investigating the apparent fraud that involved a UK bank. On 6 March 2017, the National Coordinator informed the International Secretariat team conducting stakeholder consultations for the present Validation that the Permanent Secretary of MEM had just received a letter from Interpol Tanzania with

<sup>10</sup> Mineral Sector, Ministry of Energy and Minerals of Tanzania, <https://mem.go.tz/mineral-sector/>.

<sup>11</sup> USGS Tanzania Minerals Yearbook 2013, <http://minerals.usgs.gov/minerals/pubs/country/2013/myb3-2013-tz.pdf>.

<sup>12</sup> TEITI 2013/14 Report, <https://eiti.org/document/20132014-tanzania-eiti-report>.

<sup>13</sup> See for instance "Dar keen on transparency in mining, gas deals", Daily News (Tanzania), 8 December 2015 and "Transparency is pointless if it's just rhetorical", Oxfam Tanzania, 23 November 2015, <https://politicsofpoverty.oxfamamerica.org/2015/11/transparency-is-pointless-if-its-just-rhetorical/>.

information pertinent to the investigation. The letter was not shared with the team, but it was noted that Interpol Germany was now involved.

On 11 October 2016, the EITI International Secretariat informed the Board of the investigation and of its decision—whilst the investigation was ongoing - “not to provide support to the TEITI Secretariat” and to inform the MSG accordingly. On 6 March 2017, the review team of the International Secretariat raised the matter with the MSG. The above steps in the investigation appeared familiar to the MSG, which strongly criticized the suspension of support as implying an allocation of blame to TEITI. The review team sought to dispel the latter concern—pointing to a heightened fiduciary risk. Two members of the MSG demanded an immediate reinstatement of support for TEITI.

The International Secretariat remains concerned about the length of time taken by the process and questions whether the most appropriate investigation processes are being undertaken. The International Secretariat is also concerned that they have not been kept abreast of developments in the investigation. This report on details of the case and progress of the investigations is offered for information, without consequence for the present assessment of Tanzania’s compliance with the EITI Requirements. However, in due course, the Board will need to take a decision on what is a credible amount of time for this issue to be resolved and whether it is satisfied that the most appropriate investigatory process is taking place.

## Explanation of the Validation process

Validation is an essential feature of the EITI process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation report will, in addition, address the impact of the EITI in the country being validated, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI. The Validation process is outlined in chapter 4 of the EITI Standard.<sup>14</sup>

In February 2016 the EITI Board approved a revised Validation system. The new system has three phases:

1. Preparation for Validation by the multi-stakeholder group (MSG)
2. Initial data collection and stakeholder consultation undertaken by the EITI International Secretariat.
3. Independent quality assurance by an independent Validator who reports directly to the EITI Board
4. Board review.

In May 2016, the Board agreed the [Validation Guide](#), which provides detailed guidance on assessing EITI Requirements, and more detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of

---

<sup>14</sup> See also <https://eiti.org/validation>.

reference for the Validator. On 25 October 2016, the EITI Board agreed the Validation schedule for all EITI implementing countries. Find the full schedule here: <https://eiti.org/document/validation-schedule>.

The Validation Guide includes a provision that: “Where the MSG wishes that validation pays particular attention to assessing certain objectives or activities in accordance with the MSG workplan, these should be outlined upon the request of the MSG”. The TEITI MSG did not request any issues for particular consideration.

The International Secretariat’s work was conducted in three phases:

### 1. Desk Review

Prior to visiting the country, the Secretariat conducted a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including but not limited to:

- The EITI work plan and other planning documents such as budgets and communication plans;
- The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;
- EITI Reports, and supplementary information such as summary reports and scoping studies;
- Communication materials;
- Annual progress reports; and
- Other information of relevance to Validation.

This work included initial consultations with stakeholders, who were invited to submit any other documentation they considered relevant. Without prejudice to the ability of the Board to exercise their discretion to consider all available evidence, the Secretariat did not take into account actions undertaken after the commencement of Validation. The desk review was conducted in the period 1 January-4 March 2017 and included documents provided by TEITI.

### 2. Country Visit

The country visit took place from 6-10 March 2017. All meetings took place in Dar es Salaam. The secretariat met with the multi-stakeholder group and its members and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group. The International Secretariat team were not able to meet with the Independent Administrator during the stakeholder consultations. In addition to meeting with the MSG as a group, the Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders are able to freely express their views and that requests for confidentiality were respected.

The list of stakeholders to consult was prepared by Benedict Mushingwe, TEITI National Coordinator,

with inputs and suggestions from the International Secretariat. It is the International Secretariat's view that the report covers views of the key stakeholders engaged in the EITI process.

### 3. Reporting on progress against requirements

Based on these consultations, the International Secretariat prepared this report, which includes an initial evaluation of progress against requirements in accordance with the Validation Guide. The report does not include an overall assessment of compliance. The report is submitted to the Validator. The MSG are encouraged to defer any major commentary until they receive the Validator's draft report.

The International Secretariat's team comprised: Jürgen Reitmaier (Senior Advisor), Emine Isciel, (Country Manager), and Ines Marques (Country Manager).

In accordance with the EITI Standard, the EITI Board will appoint a Validator who will report to the Board via the Validation Committee. The Validator will assess whether the Secretariat's initial assessment been carried out in accordance with the Validation Guide. This will include: a detailed desk review of the relevant documentation for each requirement and the Secretariat's initial assessment of each requirement, a risk-based approach for spot checks, and further consultations with stakeholders. The Board may request that the Validator undertake spot checks on specific requirements.

The Validator comments on the Secretariat's initial assessment and prepares a Draft Validation Report. The MSG will be invited to comment on the Draft Validation Report. Having considered the MSG's comments, the Validator will compile a Final Validation Report. The Validator will also write to the MSG to explain how it has considered their comments. The Final Validation Report will include the Validator's assessment of compliance with each provision, but not an overall assessment of compliance.

The Validation Committee will review the Final Validation Report and the supporting documentation (including the MSG's comments). The Validation Committee will make a recommendation to the EITI Board on the country's compliance with the EITI Requirements and, where applicable, any corrective actions required. The EITI Board will make the final determination of whether the requirements are met or unmet, and on the country's overall compliance in accordance with provision 8.3.a.ii of the EITI Standard.

The initial assessment, Validation Report and associated MSG comments are considered confidential until the Board has reached a decision.

## Part I – MSG Oversight

### 1. Oversight of the EITI process

#### 1.1 Overview

This section relates to stakeholder engagement and the environment for implementation of EITI in country, the governance and functioning of the multi-stakeholder group (MSG), and the EITI work plan.

#### 1.2 Assessment

##### Government engagement in the EITI process (#1.1)

##### Documentation of progress

###### *Public statement:*

On 18 November 2008, following a recommendation by the 2007 Mineral Sector Review Commission, the Government of Tanzania issued a public statement of its decision to join the EITI to increase transparency and accountability in the national extractive industries.<sup>15</sup> Led by the Ministry of Energy and Minerals, the sign-up requirements were met in time for Tanzania to be accepted as a candidate country at the 7<sup>th</sup> EITI Board Meeting on 16 February 2009 in Doha, Qatar. It then took nine more months (to 17 November 2009) until the Deputy Minister of Energy and Minerals inaugurated the MSG.

On 3 March 2011, President Kikwete addressed the EITI Global Conference in Paris, reiterating Tanzania's commitment to EITI Principles and values. On 6 July 2015, the National Assembly passed the Tanzania Extractive Industries (Transparency and Accountability) Act 2015 "for purposes of ensuring transparency and accountability in extractive industries". The Act was assented to by President Kikwete on 4 August 2015. It enshrines the EITI objectives, institutions and procedures into law, thus formalizing continuing government engagement in the EITI process.

###### *Senior lead:*

In 2009, as Tanzania signed up to the EITI, the Minister of Energy and Minerals was the EITI Champion. On 15 December 2009, retired Judge Mark Bomani, who had gained respect as chair of the Mineral Sector Review Commission, was appointed Chair of the TEITI MSG. In his speech to the EITI Global Conference in Paris, President Kikwete acknowledged the independent chairmanship of Judge Bomani.<sup>16</sup> In May 2016, Judge Bomani retired from the Chair of the MSG but chaired one additional meeting in June 2016 after ending his term. The search for a new chairperson was governed by the TEITA Act but proved difficult, as

<sup>15</sup> TEITI, Second Reconciliation Report, May 2012, p. 16.

<sup>16</sup> TEITI Validation Report, May 2011, pp. 7-8.

no suitable candidates responded to repeated advertisements of the position. Thus, with effect from 23 January 2017, the Minister of Energy and Minerals appointed an Interim TEITI Chairperson, Ms. Augustinah K. Rutaihwa, the recently retired Director of Laboratory Services at the Geological Survey of Tanzania.<sup>17</sup>

The Government is represented on the MSG by Prime Minister's office, Ministry of Energy and Minerals, TRA, Ministry of Finance and TPDC. Government representatives are nominated based on their relevant experience and skills.

The national secretariat, which was initially located within the Ministry of Energy and Minerals, is independent and was given a legal basis by the TEITA Act 2015. The Head of the TEITI Secretariat is also Executive Secretary of the MSG and is appointed by and reports to the Minister of Energy and Minerals, the Executive Secretary is in practice reporting to the Minister (see more in the section on MSG governance and functioning (#1.4)).

The Annual Activity Report 2015 notes that for the financial year 2015/16, the funding commitments from the Government of Tanzania was TzS 1.65 billion, but that the amount that had been disbursed at the time of production of the report (published in July 2016) had been 18.79% of the total committed budget). Most of the work plan activities appear to have been covered by funds from the Canadian Government and the European Union.<sup>18</sup>

*Active engagement:*

Several indicators suggest a less than active engagement by Government. Across the 15 most recent MSG meetings (held during 5 Dec 2014 – 29 Jun 2016), average attendance by government representatives was only 1.7, compared with 3.0 for industry and 3.7 for civil society (see Annex B). Among the three meetings held in 2016, whose minutes are on public record, one meeting had no government representative attending, whereas the other two meetings were each attended by only one government representative. The signal effect from this low level of government attendance may have contributed to the poor response to advertisements for the position of MSG chair. As MSG meetings are in practice initiated by the TEITI Secretariat, with deep roots in MEM, the low frequency of MSG meetings is a further indicator casting doubt on government engagement in the EITI process. While passage of the TEITA Act in mid-2015 was an important boost for TEITI by the then outgoing leadership, work on the much-expected regulations has not yet started. Also, there are no public statements of political support for TEITI on record from the political leadership that took office in October 2015. The TEITI homepage still highlights a supportive statement by Tanzania's previous President.

At the same time, the Operational TEITI Workplan for 2016/17 and 2017/18 targets the government contribution to TEITI's required budget to rise from 25% in the base year 2011/12 to 65% by 2017/18. Important other funding is provided by a group of donors (carried in the workplan as "G7-Tanzania

---

<sup>17</sup> Information provided by TEITI NC by email on 26 January 2017.

<sup>18</sup> TEITI Annual Activity Report 2015, pp. 27-29: [https://eiti.org/sites/default/files/documents/teiti-annual-activity-report-2015\\_0.pdf](https://eiti.org/sites/default/files/documents/teiti-annual-activity-report-2015_0.pdf)

Partnership”) under the leadership of Canada.

## Stakeholder views

It is a widely-held view among stakeholders consulted for this Validation that the government is not adequately engaged in the EITI process, with adverse consequences for the implementation and impact of the EITI.

Civil society stakeholders explained that the government officials who regularly attend EITI meetings are often alternates or too junior to make any real decisions or compel higher-ranking officials to aid in the disclosure and reconciliation process. Industry stakeholders reaffirm this by adding that there is “no regularity in attendance, no follow-up or dedication” by government officials in the MSG. Industry stakeholders noted that it will be important to send representatives with decision-making power to strengthen the implementation of TEITI. Civil society described TEITI as “unique” in its set-up as it brings stakeholders together as enshrined in law. However, it was expressed that “the reality is different” and that “TEITI is dysfunctional”.

The former chair of the MSG confirmed that government representatives did not attend the MSG meeting of 29 June and that the government engagement had been low due to several factors: notably new members and the lack of a MSG chair.

A government representative noted that he and his colleagues were senior enough; the TRA was represented through their large-taxpayer office, and TPDC’s mandate was lodged with the Managing Director.

On political commitment to transparency and EITI, civil society stakeholders and one journalist noted that the former government had shown more commitment to these issues than the present government. A journalist acknowledged challenges related to transparency and government openness, explaining that access to information and knowledge was not always easy. This view was confirmed by civil society explaining that there is limited interaction and dialogue between the new government and other stakeholders- “the door is closed from the other side”. Civil society representatives said there was “low government buy-in to the EITI” and “lack of knowledge about EITI among government and how it can be used as a tool for transparency.” One government official on the MSG confirmed that the government had not given much attention to EITI after the change in leadership in October 2015. Donors also expressed concerns about low government commitment to transparency which might have led to the inability to find a suitable chair.

There was a common view among stakeholders that TEITI does not have a champion in the government system. This has often hampered the implementation of EITI in Tanzania and led to a disconnect between government and activities undertaken by the MSG. Government officials within the MSG have not succeeded in making the links and communicating important messages to their respective agencies. An industry representative thought that the PS of MEM was the EITI Champion. A civil society representative said that, in a way, the TEITA Act was now the Champion.

There was a consensus among stakeholders that the appointment of an interim chair was necessary to make progress. A few civil society representatives said that the process of appointing an interim chair

had not been satisfactory, expressing that there had not been consultations or discussions about appointing the interim chair. Instead, information was only passed by email to the MSG-members. Civil society expressed concern about lack of clarity of the duration of the interim chair. One representative of civil society on the MSG said that many decisions are taken without consultations and discussions which leads to “decisions with poor quality”.

Industry expressed the need for a strong chair with the capacity to lead the implementation of the EITI and with authority to take actions across relevant agencies. Some civil society representatives did not consider the interim chair to have the necessary authority to lead the process. It was also underlined that the law does not foresee or describe the appointment of an interim chair and this might even be a breach of the TEITA Act. Civil society also expressed that the appointment of the interim chair should have been done by the President and not the Minister, empowering the chair to make important decisions.

The former MSG Chair cited several challenges with the TEITA Act when it comes to appointment of the chair: senior level candidates are invited to apply, but “senior professionals might see it below their dignity to apply for a job – difficult to attract the right people for the position”. This issue was raised when the bill was drafted but the consensus was that it needed to be announced to make the process more transparent. In practice, this has proved to be challenging.

Industry representatives on the MSG supported this view and said that there is “no government awareness about TEITI,” which is one of the reasons for them failing in appointing a Chair. “If the government had been committed to EITI and understood the role of the Chair, the MSG might have been successful in appointing a chair when it was announced the first time”.

The National secretariat explained that the MSG is working on a new framework for selecting a new chairperson and will also consider suggesting amendments to the TEITA Act on the provisions related to appointing an MSG-chair. MSG-stakeholders on the other hand had limited to no information about the way forward expressing that next steps are yet to be discussed.

## Initial assessment

The International Secretariat’s initial assessment is that Tanzania has made **meaningful** progress in meeting this requirement. The passage of the Tanzania Extractive Industries (Transparency and Accountability) Act in 2015 was an important milestone. However, since then, apparent disregard by Government for the role of the MSG, poor attendance at MSG meetings, inability to appoint a strong MSG chair, the absence of an EITI Champion, and apparent lack of political support at the highest level—all corroborated by strong stakeholder views in the same direction—suggest weak government engagement in the EITI process.

## Industry engagement in the EITI process (#1.2)

### Documentation of progress

Five representatives of the private sector are appointed to the MSG, representing the following

organizations:

- Tanzania Chamber of Minerals and Energy (TCME) (2);
- Oil and Gas Association of Tanzania (OGAT) (2);
- Small Scale Mining (1) represented by FEMATA

On average, three industry representatives attended MSG meetings over the past 1.5 years (15 meetings), giving the sector an effective voice in EITI implementation in Tanzania. Industry participation in EITI reporting, including the unilateral disclosure of voluntary social payments, testifies to good industry engagement in the EITI process. However, the weaker engagement by government, as perceived by industry, may eventually put the present level of industry engagement at risk.

Company representatives are available for communication and dissemination activities organized by the TEITI Secretariat in order to encourage active participation of communities and to respond to participants' questions (APR 2015, p. 12).

## Stakeholder views

Government stakeholders and the former MSG Chair noted that industry is well engaged and represented during MSG meetings. Industry representatives on the MSG explained that they have created channels to communicate with their wider constituencies. For example, through the TCME, representatives will consult members before attending the MSG. A TCME representative and the ASM representative said that the five industry members seek to speak with one voice during MSG meetings.

Civil society representatives did not express any particular views on industry engagement in the EITI.

## Initial assessment

Industry appears to be fully, actively and effectively engaged and is showing steady engagement in the EITI process and effective collaboration within the MSG. Industry representatives seem to be at ease with their civil society counterparts, more perhaps than with government representatives or even the TEITI Secretariat. The International Secretariat's initial assessment is that Tanzania has made **satisfactory** progress in meeting this requirement.

## Civil society engagement in the EITI process (#1.3)

### Documentation of progress

#### Expression:

Civil society has been a driving force behind EITI in Tanzania. The first engagement with civil society took place in May 2008, nine months before Tanzania was accepted by the International Secretariat as a candidate country. Freedom of expression for civil society and the media is well established and not

threatened by specific restrictions, including indirect ones tied to particular funding sources. The International Secretariat team heard civil society representatives—whether members or not of the MSG—freely challenge representatives of government and the TEITI Secretariat, underscoring the actual practice of freedom of expression for civil society in Tanzania.

#### Operation:

There are no legal, regulatory or administrative obstacles affecting the ability of civil society representatives to participate in the EITI process.

#### Association:

Exchanges between the International Secretariat consultation team and civil society members and non-members of the MSG allow the conclusion that civil society representatives are able to communicate and cooperate with each other regarding the EITI process.

#### Engagement:

One civil society member to the MSG who was nominated in May 2016 has not been appointed. Some civil society representatives suggest that the Minister of Energy and Minerals has thus been impeding civil society's ability to "fully contribute and provide input to the EITI process" (Civil Society Protocol, Paragraph 2.4, on Engagement). However, this appears to be largely a dispute within the civil society constituency. The protagonists of the dispute over PWYP representation on the MSG visit freely the TEITI premises and speak freely at meetings, such as the stakeholder consultations for the present Validation. Nonetheless, the lingering dispute over the fifth seat for civil society is sapping civil society engagement in the EITI process, which is otherwise traditionally strong.

The range and nature of opinions expressed by civil society representatives at the stakeholder consultations (e.g. about government engagement, see above) testify to the freedom of expression (Civil Society Protocol, Paragraph 2.1) and implicitly the freedom of operation (2.2) and that of association (2.3). With the notable exception of the recent case of government interference described more fully under civil society representation (see below, Provision 1.4), no evidence of violations of the Civil Society Protocol has come to the attention of the International Secretariat consultation team.

The minutes of MSG meetings (see list of meetings in Annex B) focus on actions and decisions and thus do not allow conclusions concerning different stakeholders' engagement in the deliberations. Reports on dissemination and outreach activities in the APR are similarly brief and do not describe in detail different stakeholders' interventions.

#### Access to public decision-making:

The International Secretariat consultation team has not become aware of any impediments to civil society's ability to speak freely on transparency and natural resource governance issues or to help ensure that the EITI contributes to public debate. At the same time, there are not many opportunities to engage in this way, as MSG meetings are infrequent and focused on adopting prepared documents, with little time for thorough discussion ("rubber-stamping"; see below, stakeholder views on provision 1.4).

## Stakeholder views

Civil society representatives both within the MSG and outside confirmed that civil society had held a meeting at end-May 2016 to nominate their five representatives to the MSG. The meeting was attended by 64 participants from over 40 organizations and was deemed by participants to have been adequately representative.

Government stakeholders noted that civil society regularly attended meetings, making useful contributions.

A civil society representative not on the MSG mentioned that the information flow with their representatives within the MSG was efficient and that they were well informed of ongoing TEITI activities.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **satisfactory** progress in meeting this requirement. Tanzania's record of respecting civil society's rights and freedoms as key to EITI implementation has traditionally been strong. The recent case of a disputed nomination of a civil society representative has presented a challenge to full engagement and all parties are urged to come to a quick resolution. Overall, the freedoms guarded by the Civil Society Protocol are not impeded.

## MSG governance and functioning (#1.4)

### Documentation of progress

#### MSG composition and membership:

Upon Tanzania's accession to the EITI, the three constituent stakeholder groups adopted in March 2010 a Memorandum of Understanding with provisions for a multi-stakeholder group of fifteen members—five each nominated by government, civil society, and companies, respectively—and a chairman appointed by the President. The Draft Rules adopted in 2015 formalize a long-standing practice of an allotment for ASM within the company constituency and of drawing civil society members from among “the agreed five sub-constituencies” (Draft Rules). The composition of the MSG by stakeholder group is also reflected in the TEITA Act, Section 5, without, however, a special allotment for ASM or recognition of special sub-constituencies within civil society. Instead, the TEITA Act stipulates that the government representatives include the Attorney General or his representative.

#### Civil society representation:

Civil society is represented on the MSG by five members from five different sub-constituencies, including faith-based organizations, trade unions, gender and special needs, traditional NGOs, and PWYP. Since the formation of the MSG in November 2009, two three-year terms of MSG members have been completed, running until November 2015. This latter date coincided with the national elections and formation of a new government. Hence, MSG terms were extended by six months, until May 2016. In that month, a representative group of interested CSOs working on minerals and oil and gas convened on a platform called HakiRasilimali to select five new members for the MSG. HakiRasilimali sought to join Publish What

You Pay (PWYP) as an affiliated coalition and was recognized as such by the PWYP Global Council—first temporarily in May 2016, and then fully in September 2016. At the civil society meeting in May 2016, the HakiRasilimali platform selected five members for the new MSG and put forward their names to the Minister for Energy and Minerals for formal appointment, as provided for under the TEITA Act. Notwithstanding this limited role for the Minister in announcing civil society (and, similarly, industry) nominees from the lists submitted to him, the Minister announced only four civil society nominees, citing an internal civil society dispute over the PWYP seat; the National Coordinator supported the Minister in this action. The HakiRasilimali platform protested this as interference, and threatened a civil society boycott of the MSG. The lingering dispute over the fifth seat for civil society is sapping civil society engagement in the EITI process, which is otherwise traditionally strong (see above Provision 1.3).

Industry representation:

Extractive industry is represented on the MSG by five members, of which two are nominated by the TCME, two by OGAT, and one by the ASM sector.

Government representation:

The Government is represented on the MSG by five members from the following institutions: Ministry of Energy and Minerals, the Ministry of Finance, the KRA, the Attorney-General's Office, and TPDC.

Terms of reference:

The ToRs of the MSG are woven into the “Draft Internal Governance and Administrative Rules of TEITI” (Draft Rules, discussed below). Although applied in practice since 2015, these Draft Rules have not yet been adopted by the MSG nor made public, contravening provision 1.4.b under which MSGs are required to agree clear public ToRs for its work. Meanwhile, part of the Draft Rules was incorporated into the TEITA Act 2015 and to that extent made public.

Representation:

Constituencies seem comfortable with their representation on the MSG. The distribution of the CS group across five sub-constituencies dates back to the inauguration of the MSG in 2009. The industry constituency changed composition following the discovery and exploitation of hydrocarbons. The initial distribution between three mining and two ASM representatives changed to include two mining, two oil/gas, and only one ASM representative.

Internal governance and procedures:

In July 2015, the MSG reviewed “Draft Internal Governance and Administrative Rules of TEITI” (Draft Rules) which had been prepared by a sub-committee.<sup>19</sup> Considering that these Rules related to implementation of the TEITA Bill, the MSG agreed to postpone discussion of the Rules until the Bill was enacted. The Draft Rules were not published at the time and communicated to the EITI International Secretariat only in mid-January 2017. While the TEITA Bill has since been enacted, covering very similar (but not identical) ground, the Internal Governance and Administrative Rules have yet to enter into effect.

---

<sup>19</sup> The sub-committee was appointed on 22 April 2015, consisting of a Chair from Government, two industry and one CS representative, and a staff member of the TEITI Secretariat. The sub-committee was tasked with refining “draft internal governance procedures and code of conduct” (Minutes of 52<sup>nd</sup> MSG Meeting, 22 April 2015).

There is no record of any discussions within the MSG or among its constituents on the Draft Rules. However, the Draft Rules, amplified in important respects by the TEITA Act 2015, appear to be applied in practice.

The Draft Rules expand on the Memorandum of Understanding between Government, civil society and companies of 10 March 2010 that established the MSG as governing body of TEITI. The Draft Rules are organized into 14 sections as follows:

1. Preamble;
2. TEITI MSG;
3. Composition of TEITI MSG—five each from government, companies, and civil society, *plus* a Chairman;
4. Qualification for MSG Membership;
5. Functions of MSG;
6. Functions of TEITI Chairperson;
7. Executive Secretary for MSG—also Head of the Secretariat;
8. Functions of Executive Secretary;
9. TEITI Secretariat;
10. Functions of TEITI Secretariat;
11. Tenure of Office;
12. Conduct for MSG-Constituencies;
13. Conduct for MSG Members;
14. Proceedings of TEITI MSG Meetings.

The Draft Rules contain many, but not all, of the specific requirements noted in provision 1.4. Notable exceptions are:

- The requirement for MSG to agree clear public ToRs for its work (provision 1.4.b);
- The requirement for MSG to approve EITI Reports and annual activity reports (1.4.b.iv);
- The requirement for sufficient advance notice of meetings and timely circulation of documents (1.4.b.vii);
- The requirement for written records not only of MSG decisions but also of discussions (1.4.b.viii);
- The requirement to ensure transparency and avoid conflicts of interest (1.4.b.vi).

A clause in the Draft Rules requiring civil society members of the MSG to “disclose annual updates on source of funding received within their respective organization” is questionable, particularly if it goes beyond regularly required financial reporting by CSOs. This requirement is not repeated in the TEITA Act 2015.

#### Decision-making:

The Draft Rules contain provisions for quorum (no less than half of MSG membership, minimum of two per constituency) and decision-making (consensus of all members present). The latter refer to “provisions relating to a casting vote” whose holder and potential use is not clear. The impact of attendance at MSG meetings on decision-making is discussed below. The TEITA Act has relaxed the quorum rules to still no less than half of MSG membership, but then only “provided that each group is represented” TEITA Act, Schedule, para. 3).

#### Record-keeping:

The main vehicle of recording MSG decisions are the minutes of MSG meetings. Such minutes are accessible on the TEITI website from the 34<sup>th</sup> meeting (held on 14 August 2013) to the 63<sup>rd</sup> meeting (held on 29 June 2016)<sup>20</sup>; there are no minutes as yet of the 64<sup>th</sup> meeting held on 23 November 2016, nor of any meeting since then. All available minutes are brief and focused on results and decisions; they do not contain a record of the discussions, let alone their flavour. It thus occurs that the proceedings of a 5-hour meeting (such as held on 30 June 2015) are recorded in just over one page of minutes.

#### Capacity of the MSG:

Owing to clear standards for qualifications and abilities of MSG members, as laid out in TEITI's Draft Rules, and to capacity building for the MSG, it appears that members of the MSG have the capacity to carry out their duties (Provision 1.4.b.i).

#### Per diems:

Under the EITI Standard, the practice of per diems "should be transparent and should not create conflicts of interest" (Provision 1.4.b.vi). Against this, the Draft Rules allow "time compensation fees and allowances", albeit after consultation with the Minister, suggesting a more discretionary approach than intended by the EITI Standard. The International Secretariat was not able to obtain information on the actual practice regarding per diems.

#### Attendance:

Under the Draft Rules, the appointing authority of each constituency may replace MSG members who are absent from three consecutive meetings without reasonable cause. Possibly as a result of this pressure, attendance at MSG meetings by civil society and industry has generally been adequate for effective decision-making (minimum of two per constituency), judged by the available MSG minutes of 30 meetings spanning from August 2013 to July 2016. This has often not been the case for government representatives who have been completely absent from some meetings and often failed to fulfil the minimum-of-two requirement for decision-making, thus constituting a breach of the Draft Rules in this respect.

#### National secretariat:

From Tanzania's accession to the EITI, the MSG has been able to draw on the support of a national secretariat. Initially lodged within the Ministry of Energy and Minerals, the Secretariat has since gained operational independence and was given a legal basis by the TEITA Act 2015. The Head of the TEITI Secretariat is also Executive Secretary of the MSG and accountable to the MSG. The minimum qualifications and functions of the Executive Secretary and the functions of the TEITI Secretariat are spelled out in some detail in the Draft Rules. The TEITA Act fails to state to whom the Executive Secretary is accountable; by not mentioning the MSG and by virtue of being selected and appointed by the Minister of Energy and Minerals, the Executive Secretary is in practice reporting to the Minister.

The national secretariat has 11 full time staff: eight technical (Head of the Secretariat, two legal officers, two financial officers, one communication officer, one accountant, one geologist) and three supporting officers (one driver, one office attendant and one record manager), in addition to two interns. Currently a

---

<sup>20</sup> <http://www.teiti.or.tz/minutes-3/>

consultant is undertaking a scoping study on beneficial ownership disclosure. The secretariat is also in the process of procuring a consultant for a needs assessment which will be ready in June 2017.

## Stakeholder views

Many stakeholders expressed a high level of frustration with the functioning of the MSG, calling it dysfunctional and reduced to rubber-stamping ill-prepared decisions. A civil society representative considered that the absence of regulations to the TEITA Act was responsible for this condition. Some stakeholders thought that the Draft Rules were still alive, complementing the TEITA Act, while others thought that the Act had superseded the Draft Rules. The apparent reporting relationship of the Executive Secretary to the Minister was criticised by a civil society representative, who suggested that the Secretary should report to the MSG (as indeed provided for in the Draft Rules, see above). Another civil society representative considered the TEITI Secretariat as dysfunctional and unresponsive to initiatives from the MSG; TEITI needed a rigorous Head and team at the Secretariat and a passionate chair of the MSG. The former MSG Chairman felt that the Secretariat had difficulty at gaining access to the Minister of Energy and Minerals. A donor representative thought that the TEITI Secretariat was “quite invisible” and that transparency issues were not “on the agenda.” CS representatives provided several examples on how they had made various efforts to engage the Secretariat in their ongoing activities to create greater awareness and public debate. They said that the secretariat is not engaging in ongoing activities relevant to the transparency agenda. While one donor confirmed this view, another development partner found the Secretariat responsive and attentive.

Civil society, industry and the former chair confirmed low attendance and engagement by the government constituency. There is a need to convene more regular meetings, especially in times when there are pressing issues such as preparation for next report and appointment of a new chair and MSG members.

All constituencies showed concern about the inability to find suitable candidates for the chair position which was advertised two times in 2016. Based on consultation with different stakeholders, it is not clear to the International Secretariat whether a list of names reached the President’s office or not, following the first advertisement. The appointment of an interim chair was considered as a necessary step, but one CS representative regretted that the likely duration of the interim chair had not been discussed with the MSG and not revealed.

CS representatives considered that the end goal of EITI should be public debate and creation of awareness in communities. The National Secretariat had a limited understanding of communication work and what needed to be done to engage local communities. Civil society provided examples of their limited involvement and input in producing work plans, annual progress report and other key documents.

CSOs on the MSG held that there is a “top-down approach” by the National Secretariat and that the MSG is not “playing its oversight role”. They expressed the need for more regular meetings, better attendance record from the government constituency, and the need for a strong chair to provide guidance and direction.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress towards meeting this requirement. The MSG does not have clear terms of reference. For its practice, it draws from both the TEITA Act (that is still lacking regulations) and the Draft Rules (that are a bit more detailed but remain in draft form and not public). Frustrated by the top-down approach of the national secretariat, the MSG is unable to play its oversight role. The circumstances regarding the "internal civil society dispute" over the PWYP seat are unclear and the matter needs to be resolved. The reporting relationship of the National Secretary to the Minister instead of the MSG contributes to dysfunction. The inability to attract suitable candidates for MSG chair may be symptomatic. MSG meetings lack sufficient advance notice and timely distribution of documents. The attendance record of Government is particularly poor, while the quorum rule is weaker in the TEITA Act than in the Draft Rules. The rules for per diems are not transparent.

## Work plan (#1.5)

### Documentation of progress

TEITI operates with rolling multi-year workplans, leaving uncertain what is the current operational workplan and how it relates to a longer-term plan. In January 2014, TEITI issued a "2-Year TEITI Workplan for 2013-2015", following a decision by the MSG in March 2013 to develop a plan "in line with the EITI Standard". In May 2015, a "TEITI Work Plan" was issued, described in the introductory text as a five-year plan, but showing timed activities only for 2015-17. As of February 2017, this is the only workplan appearing under the workplan tab of the TEITI website.<sup>21</sup> A "5-year TEITI Workplan" was appended in June 2016 to TEITI's Annual Progress Report (APR) for 2015. This workplan shows timed activities for 2015-18 but it is currently [February 2017] not accessible through the TEITI website (along with the whole APR). Despite this access problem, and unless otherwise noted, this latter workplan is described and assessed below. This workplan, along with the APR to which it is appended, was approved by the MSG on 29 June 2016; in keeping with the style of MSG minutes in Tanzania, no discussion of the workplan is recorded.

In response to a request by the International Secretariat of 16 December 2016, the TEITI Secretariat noted on 20 January 2017 that the "TEITI 5-year (2013-18) workplan has been reviewed in order to align implementation with 2016 EITI Standard and to focus on activities that are impact-oriented in the coming two years, 2016-18." The resulting "Operational TEITI Workplan for the Fiscal Years 2017 and 2018" was communicated with the said message of 20 January 2017. Although this workplan was to have been uploaded on the TEITI website three days later, it did not appear there for several more weeks.

#### Publicly accessible workplan:

Throughout the phase of stakeholder consultations for the present Validation, the TEITI website featured a "TEITI Work Plan" that was dated May 2015. The two subsequent workplans described above were not accessible on the TEITI webpage, although the 5-year TEITI Workplan that was appended to TEITI's APR

---

<sup>21</sup> <http://www.teiti.or.tz/workplan/>

for 2015 was made available in print at the time.

Objectives for implementation:

All recent TEITI work plans distinguish four main objectives/outcomes: (1) increased compliance in disclosure of payments and revenues; (2) increased understanding and awareness of TEITI; (3) enhanced legal and institutional framework for EITI implementation; and (4) increased capacity, skills and knowledge of TEITI Secretariat and MSG. These objectives/outcomes are not linked to the EITI Principles nor do they appear broad enough to reflect “national priorities for the extractive industries” (Requirement 1.5.a).

Measurable and time-bound activities:

The workplan shows the calendar quarter in which activities are planned to occur, the agent responsible for the execution of the activity, a budgeted amount (in USD), and a source of funds. In most cases, the status of past activities is marked as such. Curiously, the envisaged dates for the launch of the next two EITI reports (covering fiscal years 2015/16 and 2016/17) lie beyond the respective deadlines for timely reporting.

Activities aimed at addressing any capacity constraints:

The objective/outcome 4 promotes “increased capacity, skills and knowledge of TEITI Secretariat and MSG”. Under this heading, the workplan foresees several training events for MSG and Secretariat, including for the new MSG. Despite the narrow focus of objective/outcome 4 on TEITI Secretariat and MSG, the workplan also foresees training for CSOs on activities in the gas sector and on the use of EITI data as well as capacity building for local government, company representatives and community leaders.

Activities related to the scope of EITI reporting:

The workplan contains a section on exploring options and opportunities to extend the transparency agenda, including conducting, and implementing recommendations of, a scoping study for the forestry sector. The final report of this scoping study is dated December 2014 and has been available on request from the TEITI Secretariat.<sup>22</sup> The MSG has so far not acted on the recommendation of this study to include forestry in the scope of TEITI.

Activities aimed at addressing any legal or regulatory obstacles identified:

The objective/outcome 3 promotes an “enhanced legal and institutional framework for EITI implementation”. The relevant section of the work plan contains the (already completed) steps in the legislative process toward passage of a TEITI Bill and, forward looking, the establishment of TEITI as an independent legal entity.

Plans for implementing the recommendations from Validation and EITI reporting:

The workplan provides for a workshop on lessons learnt from Validation, involving the MSG and wider stakeholder groups. The workplan also foresees opportunities for “ascertaining recommendations” from

---

<sup>22</sup> Scoping Study of the Forestry Sector for the purpose of including the industry in revenue disclosure through the Tanzania Extractive Industries Transparency Initiative, final report, Green Advocates International Inc., TEITI December 2014.

previous reports.

*Costings and funding sources, including domestic and external sources of funding and technical assistance:*

The budget figures and funding sources shown in the work plan for most, but not all, past and future activities appear indicative. They do not appear to be updated to reflect revised timings of activities and also make no reference to technical assistance sought or committed.

## Stakeholder views

Civil society stakeholders on the MSG highlighted concerns regarding the development and monitoring of the work plan and its activities. They argued that the work plan reflected the needs of donors rather than the needs or objectives of the MSG. At the time of Validation, MSG members had not updated the annual work plan for 2017 as there had not been a meeting since November 2016. They explained that a final draft is often presented to the MSG for approval, and that there is little room for inputs and discussions around the plan. A civil society representative not on the MSG noted that, in practice, the TEITI workplan was a prerogative of the MSG and TEITI Secretariat, without discussion with stakeholders at large.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress towards meeting this requirement. TEITI operates with rolling multi-year workplans that are however not accessible in one place. A detailed operational plan for the respective year-ahead is not normally prepared and was thus not available for 2016. The minimum elements of an acceptable workplan, as highlighted in requirement 1.5, are mostly met, a notable exception being an inconsistency between the deadlines for EITI reporting and the target dates included in the workplan. The objectives/outcomes of the workplan are not linked to the EITI Principles nor do they appear broad enough to reflect "national priorities for the extractive industries" (Requirement 1.5.a). The workplan was approved by the MSG, but there is no record of stakeholder input and discussion.

**Table 1 – Summary initial assessment table: MSG oversight**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Government oversight of the EITI process (#1.1)	Insufficient commitment to functioning MSG, poor attendance at MSG meetings, inability to appoint strong MSG chair, absence of an EITI Champion, and apparent lack of political support at the highest level—all corroborated by strong stakeholder views in the same direction—suggest weak government engagement in the EITI process, notwithstanding passage of commendable TEITA Act (2015).	Meaningful progress
Company engagement (#1.2)	Industry is showing steady engagement in the EITI process and effective collaboration within the MSG.	Satisfactory progress
Civil society engagement (#1.3))	Tanzania's record of respecting civil society's rights and freedoms as key to EITI implementation has traditionally been strong. The freedoms guarded by the Civil Society Protocol are broadly upheld.	Satisfactory progress
MSG governance and functioning (#1.4)	The MSG lacks clear terms of reference, as it draws on, both, the TEITA Act and older Draft Rules. Frustrated by the top-down approach of the National Secretariat, the MSG is unable to play its oversight role. The reporting relationship of the National Secretary to the Minister instead of the MSG contributes to dysfunction. The inability to attract suitable candidates for the MSG chair may be symptomatic of current governance problems. The dispute regarding the fifth CSO seat on the MSG needs to be resolved and the MSG needs to clarify the practice regarding per diems.	Meaningful progress

Work plan (#1.5)	The minimum elements of an acceptable workplan are mostly met. The objectives/outcomes of the workplan are not linked to the EITI Principles nor do they appear broad enough to reflect national priorities for the extractive industries. The workplan was approved by the MSG, but there is no record of stakeholder input or discussion.	Meaningful progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• High-level government engagement in the EITI process will be critical for it to have a potential impact on improved extractive sector governance in Tanzania. It is recommended that the government demonstrates commitment regarding its intention to implement EITI and to be fully, actively and effectively engaged in the EITI process. This would include ensuring that government agencies are represented on the MSG at the adequate level to allow them to take decisions and follow up on agreed matters. Government representatives on the MSG should also ensure that links are made between TEITI objectives/activities and ongoing work within their respective agencies.</li> <li>• To strengthen implementation of EITI in Tanzania, each constituency should ensure that their representatives' attendance at MSG meetings is consistent and at sufficiently high level to allow the MSG to take decisions and follow up on agreed matters.</li> <li>• The dispute regarding the fifth CSO seat on the MSG needs to be resolved.</li> <li>• If the MSG has a practice of per diems for attending EITI meetings or other payments to multi-stakeholder group members, this practice should be transparent and should not create conflicts of interest.</li> <li>• The MSG should develop TORs for its work, with input from all constituencies represented on the MSG, which clearly outline the role and responsibilities of the MSG in their oversight of the EITI process. Such TORs should be made publicly available.</li> <li>• The MSG should ensure that minutes of its meetings reflect the discussion as well as the decisions made.</li> <li>• The MSG should adopt a regular cycle of operational workplans and ensure that objectives/outcomes of the work plan are clearly linked to the national priorities for the extractive sector. The MSG could also encourage stakeholder input and discussion on the work plan and its objectives, and duly record these in the appropriate minutes.</li> </ul>		

## Part II – EITI Disclosures

### 2. Award of contracts and licenses

#### 2.1 Overview

This section provides details on the implementation of the EITI requirements related to the legal framework for the extractive sector, licensing activities, contracts, beneficial ownership and state participation.

#### 2.2 Assessment

##### Legal framework (#2.1)

##### Documentation of progress

###### Legal framework:

The 2013/14 EITI Report contains a description of the legal framework governing the extractive sector, separately for the oil and gas sector (pp. 38-39) and the mining sector (p. 44). The applicable laws and regulations are cited with adequate precision, enabling the reader to access them on the relevant government websites; a hyperlink in the EITI Report (p. 38) to the Petroleum Act 1980 did not work.

###### Government agencies' roles:

The EITI Report (p. 22) lists the reporting government agencies and refers to the Scoping Report for "background information" on these agencies. Such background information includes the main legal instrument(s), the summary mandate, and the broad institutional setup, and is offered for the Ministry of Energy and Minerals (MEM), the Tanzania Revenue Authority (TRA), the National Social Security Fund (NSSF) / Parastatal Pension Fund, local government authorities, the Tanzania Petroleum Development Corporation (TPDC), the Ministry of Finance, and the National Audit Office (Scoping Report pp. 36-45).

###### Fiscal regime:

The fiscal regime for each subsector is described in the EITI Report together with the legal framework, accompanied by an explanation of relevant fiscal terms (oil and gas sector pp. 39-40; mining sector p. 45). The types of fees/taxes are listed in the EITI Report with details on the base, the rate/amount, the payment system, and the responsible collecting authority (pp. 22-32).

###### Degree of fiscal devolution:

The EITI Report contains no reference to fiscal devolution as a concept, let alone objective, of public financial management. Payments by reporting companies to local authorities are included in EITI reporting and reconciliation, irrespective of the size of individual payments.

###### Reforms:

The EITI Report describes numerous legislative, institutional, and regulatory reforms applicable to the extractive sector, including in the oil/gas sector (p. 37) a National Natural Gas Policy, a Natural Gas Master Plan, a Local Content Policy, the Oil and Gas Revenues Management Act (2015), and the Petroleum Act (2015). The Report also refers to a new Model Production Sharing Agreement (2013) for oil and gas operations (p. 39) and the establishment of a team of experts for oil/gas contract negotiations (p. 42). Furthermore, the Report describes the Tanzania Extractive Industries (Transparency and Accountability) Act 2015 (TEITA Act 2015) that institutionalizes the EITI in Tanzania, containing inter alia provisions for the disclosure of contracts and beneficial ownership (pp. 54-55).

#### Recommendations:

In addition to citing key legislative and regulatory texts and naming institutions, active hyperlinks to laws and institutions would be helpful.

## Stakeholder views

A government representative on the MSG noted that the new government emphasized the importance of local content, allowing local communities to benefit from extractive sector investment. He mentioned further that the Government was presently drafting regulations for the Petroleum Act 2015, emphasizing local content, the pricing of gas to large-scale investors, and the formulation of an integrity pledge.

## Initial assessment

The legal framework and fiscal regime of extractive industries and the responsibilities of relevant government agencies are disclosed. Ongoing and proposed reforms are also described, as encouraged by Provision #2.1b. The International Secretariat's initial assessment is that Tanzania has made **satisfactory** progress in meeting this requirement.

## License allocations (#2.2)

### Documentation of progress

#### Awards/transfers:

The EITI Report contains no information on whether oil/gas or mining licences were awarded or transferred during the reporting period. Nonetheless, a table entitled "Active licences in 2013 and 2014" (p. 46) shows a more than doubling of primary mining licences to 28,502 and significant increases in other mining and prospecting licences between the two periods (2013 and 2014), suggesting important licensing activity during the reporting period, which remains however uncommented.

#### Award/transfer process:

The awarding agency (MEM) and the standard duration/extension of exploration and development licenses in the oil and gas sector are mentioned in the report (p. 40) but without any disclosure of awards or transfers during the reporting period. Regarding mining licenses, the report notes that they are granted by MEM on a first-come-first-served basis under four broad categories: prospecting, exploiting, trading, and processing (p. 45). The report explains the purpose, size, and period of such licences, but again

without reference to the actual process of awarding/transferring any mining licenses during the reporting period.

Technical and financial criteria:

The EITI Report contains no information on technical and financial criteria for awarding oil/gas and mining licenses. There is no reference to a bidding process.

Commentary on efficiency:

The Independent Administrator offers no commentary on the efficiency and effectiveness of licensing procedures.

## Stakeholder views

On the doubling of primary mining licences between 2013 and 2014, the MSG explained that this could be due to a combination of factors:

- Improvement of systems including online license applications;
- Formalization of the ASM sector;
- Loan programmes for the ASM sector tied to the existence of licences.

A representative of the oil/gas sector on the MSG clarified that the Government had not offered any new licenses in the oil/gas sector since 2014, and the licensing round in that year had not been well received by industry. An ACS representative on the MSG suggested that the regulations of the Petroleum Act 2015 should explain the practice of licensing and should also recognize the concept of a social license in addition to the legal license. Investors needed to be socially accepted by the communities, as the Mtwara case showed, where the social license had been evidently missing.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **inadequate** progress towards meeting this requirement. Disclosures in the EITI Report on license allocations fall well short of the information mandated/encouraged by this provision.

## License registers (#2.3)

### Documentation of progress

The oil and gas sector does not have a public register of licenses issued, but full records are kept by TPDC and are (supposedly) "regularly published" on its website (p. 40). However, at several checks, no license information could be found on TPDC's website. The EITI Report does contain a list of 17 major oil and gas companies with their country of origin and area of operation (p. 41); in addition, Annex 9 shows the type of licence held by companies included in the reconciliation. Also, the website of TPDC shows a list of

exploration and development licenses with the name of the license holder.<sup>23</sup>

For the mining sector, MEM maintains a central register of all mineral rights and a public online Mining Cadastre Portal, with a link from the EITI Report (p. 47). The interactive map shows the license area and all other required information on mining licenses, except for the coordinates of the license area. The coordinates can be accessed in person at the Licensing Unit of MEM (Annual Progress Report 2015, p. 10).

## Stakeholder views

A CS representative not on the MSG mentioned that, despite efforts by MEM to disclose the mining licensing procedure/process, including creating the cadastre, core information is not transparently available in the public domain yet; accessing license information requires cutting bureaucracy at MEM.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **inadequate** progress towards meeting this requirement. The online license register for the mining sector meets all requirements except for license area coordinates. The oil and gas sector does not have a public license register, nor does the EITI Report disclose any license information.

## Contract disclosures (#2.4)

### Documentation of progress

Extractive contracts are not published in Tanzania, and government policy in this respect is not described in the EITI Report. Looking ahead, the Report describes the provisions for contract disclosure contained in the TEITA Act 2015<sup>24</sup>, which are comprehensive but have yet to enter into force (p. 55). Meanwhile, the current practice of not publishing contracts continues.

## Stakeholder views

The national secretariat explained that a government letter had been sent to 27 companies to get their views on contract transparency where 2 companies showed some concerns. This will be subject to discussion at the next MSG meeting. The MSG members did not express any particular views on contract transparency.

---

<sup>23</sup> <http://www.tpdz-tz.com/activitymap.php>

<sup>24</sup> Paragraph 16(1)(a) of the TEITA Act stipulates as follows: "In order to ensure transparency and accountability in extractive industries, the Committee [i.e. MSG] shall cause the Minister to publish in the website ... all concessions, contracts and licenses relating to extractive industry companies".

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress towards meeting this requirement. Although current government policy and actual practice on contract disclosure are not described in the EITI Report or on MEM's website, looking ahead, relevant provisions of the TEITA Act are pertinent and are described in the EITI Report.

## Beneficial ownership disclosure (#2.5)

### Documentation of progress

#### Government policy:

In January 2014, Tanzania volunteered as one of eleven countries to participate in a pilot study to assess the feasibility of requiring beneficial ownership disclosure through EITI reporting. Since then, mandatory disclosure of the beneficial owners of extractive companies has been included in the TEITA Act 2015, as discussed *inter alia* in the EITI Report (p. 47). On 6 January 2017, the National Coordinator sent to the International Secretariat Tanzania's "BO Roadmap" as required under provision 2.5.b.ii. The roadmap addresses all aspects of requirement 2.5.b.ii, but in some cases lacks detail on how activities will be carried out. TEITI has also been developing a beneficial ownership scoping study to help inform implementation of beneficial ownership disclosure.

#### Actual practice:

The EITI Report includes an annex (Annex 9) entitled "Immediate Beneficial Ownership" of the companies included in the reconciliation "as reported by the companies"—but many companies did not report or disclosed only the immediate legal owners. Out of the 59 companies in the scope, 13 did not provide any ownership information and 43 provided information on the name of their immediate legal owner, although it is not clear whether these are the only legal owners and what % share of the company they hold. Two of the companies are fully government owned, while one company appears to disclose three natural persons as their beneficial owners, although it is uncertain what stake these own in the company relative to each other and how control is exercised. Beneficial ownership information on oil, gas and mining companies does not appear to be made publicly available elsewhere.

## Stakeholder views

The national secretariat noted that a consultant is currently finalizing the scoping study which will identify next steps for implementing the BO roadmap. One concrete proposal is to include in the register of the Business Registration and Licensing Authority (BRELA) information about beneficial owners of the companies.

A journalist explained that he wanted this kind of information in the public realm underlining that citizens are interested in knowing the ultimate owners of extractive companies in the country.

## Initial assessment

Tanzania's BO roadmap addresses all aspects of requirement 2.5.b.ii, but in some cases lacks detail on how activities will be carried out. Implementing countries are not yet required to address beneficial ownership and progress with this requirement does not yet have any implications for a country's EITI status.

## State participation (#2.6)

### Documentation of progress

The Petroleum Act (2015) designates TPDC as the "official national oil company" (EITI Report, p. 37); TPDC is a "wholly owned government parastatal" that began operations in 1973<sup>25</sup>. As a subsidiary agency under MEM, TPDC may enter into PSAs and joint ventures with oil and gas companies and is signatory to all PSAs (p. 40). TPDC also collects several revenue streams from oil and gas companies and passes the proceeds on to MEM after deducting a part for its operational use (Scoping Report p. 40, referred to in EITI Report, p. 22). The rules governing this transfer to MEM and partial retention of revenue by TPDC are not disclosed. The revenue streams involved in this practice are identified among the 21 major taxes and payments in Tanzania's extractive sector (Annex 6); they figure in this list as Protected Gas Revenue, Additional Gas Revenue, Profit per PSA, Signature Bonus, and Production Bonus. Meanwhile, the detailed reconciliation tables by company show no payments to either TPDC or MEM under these line items (if they appear at all), but they do show payments to TPDC by some oil/gas companies under the titles license charges/fees and training fees (pp. 68-127). Payments disclosed under TPDC (p. 118) show no sign of TPDC acting as conduit for other companies' payments to government under the item headings listed above (as identified in Annex 6).

The State Mining Corporation (STAMICO) is a wholly owned government parastatal under MEM that may engage directly or indirectly in mineral prospecting and mining (p. 47). Under the Mining Act, the state can have free carried interest in mining ventures, and STAMICO is designated to oversee government interest in this regard (p. 47). Unlike TPDC, STAMICO is not identified in either the Scoping Study or the EITI Report as recipient or conduit of any other companies payments.

#### Materiality:

Payments to government by TPDC and STAMICO are included in the reconciliation.

#### Financial relationship with government:

The financial relationship between TPDC and the government is explained only in broad terms in the Scoping Study (p. 44; cross referenced in the EITI Report, p. 22). The rules and practices governing this relationship are not disclosed, nor is there any evidence of actual payments flowing along the lines described in the Scoping Study. There is also no statement explaining or confirming the absence of such payments.

---

<sup>25</sup> <http://www.tpdz-tz.com/aboutus.php>

STAMICO appears solely as a company reporting payments to government, not itself as recipient of other companies' payments.

Government ownership:

Annex 3 lists mining/exploration projects (both operating and under development) owned by STAMICO, with a link to further information on STAMICO's website. Annex 9 shows NSSF and the Ministry of Finance among the immediate beneficial owners of Mbeya Cement Co Ltd, although their relative shares are not disclosed.

Ownership changes:

The report does not address any changes in state ownership during the fiscal year covered by the report.

Loans and guarantees:

The report does not address any loans or loan guarantees from the government/SOEs to companies operating in the country during the fiscal year covered by the report.

## Stakeholder views

A STAMICO representative confirmed that payment figures in the report are comprehensive and that they would be the transit point for dividends if there were any. Such payments did not occur in 2013/14.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress in meeting this requirement. The oil/gas and mining subsectors in Tanzania each feature a state-owned enterprise that is, both, an operating concern (participating in EITI reporting) and holder of certain developmental and regulatory functions. TPDC is introduced in the Scoping Study and the EITI Report as a conduit of certain revenue streams from the oil/gas sector destined in part to MEM, but the rules and practices of this role are not disclosed and the payment figures do not bear evidence of it. Considering STAMICO's limited role in the mining sector, it is adequately described in the EITI Report.

**Table 2- Summary initial assessment table: Legal and institutional framework, including allocation of contracts and licenses**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Legal framework (#2.1)	The legal framework and fiscal regime of extractive industries and the responsibilities of relevant government agencies are disclosed. Ongoing and proposed reforms are also	Satisfactory progress

	described, as encouraged by Provision #2.1b.	
License allocations (#2.2)	Disclosures in the EITI Report on license allocations fall well short of the information mandated by this requirement.	Inadequate progress
License registers (#2.3)	The online license register for the mining sector meets all requirements except for license area coordinates. The oil and gas sector does not have a public license register, nor does the EITI Report disclose any license information.	Inadequate progress
Contract disclosures (#2.4)	Although current government policy and actual practice on contract disclosure are not described in the EITI Report or on MEM's website, looking ahead, contract disclosure is foreseen under the TEITA Act but not yet in force.	Meaningful progress
Beneficial ownership disclosure (#2.5)	Tanzania's "BO Roadmap" addresses all aspects of requirement 2.5.b.ii, but in some cases lacks detail on how activities will be carried out.	
State-participation (#2.6)	The rules and practices governing TPDC's role as conduit of company payments to government are not disclosed, and payment figures do not support the limited explanations in the text. STAMICO's more limited role in the mining sector is adequately explained.	Meaningful progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>EITI Reports should disclose licensing policies and practices, including an overview of oil/gas or mining licences were awarded or transferred during the reporting period, information on the technical and financial criteria for awarding licenses, and any non-trivial deviations from the applicable legal and regulatory framework for awarding licenses. The Independent</li> </ul>		

Administrator offers no commentary on the efficiency and effectiveness of licensing procedures. Should any of this information already be available, the MSG should consider providing direct references to the relevant sources. The MSG may also wish to include commentary on the efficiency and effectiveness of licensing procedures.

- The government and MSG should ensure that oil and gas license information is disclosed, including name of license holder(s), date of application, date of award and duration of the license, and the commodity being produced. The government could consider establishing a public oil and gas license cadastre. The MSG should also ensure that license coordinates are included in the mining license cadastre, if collated. If coordinates are not collated, the government should ensure that the size and location of the license area are disclosed.
- The MSG should ensure that the EITI Report clearly states the government's policy and contract disclosure, and actual practice. This should include reference to the relevant provisions in the TEITA Act.
- The rules and practices governing TPDC's role as conduit of company payments to government should be disclosed and supported by payment figures where applicable. This should include an explanation of the rules and practices governing transfers of funds between the TPDC and the state, retained earnings, reinvestment and third-party financing. The EITI Report should also confirm whether any loans or loan guarantees have been granted from the government/SOEs to companies operating in the country during the fiscal year covered by the report.

## 3. Monitoring and production

### 3.1 Overview

This section provides details on the implementation of the EITI requirements related to exploration, production and exports.

### 3.2 Assessment

#### Overview of the extractive sector, including exploration activities (#3.1)

##### Documentation of progress

The 2013/14 EITI Report contains an informative overview of the extractive sector in Tanzania (pp. 37-55). For the oil/gas sector, this includes the history of exploration and discoveries (p. 37) and a list of major oil and gas companies with their country of origin and area and nature of operation (production or exploration) (p. 41). Important additional information is available in the “Information Centre” on the website of TPDC<sup>26</sup>, including an activity map, a seismic survey, and various documents pertaining to the sector for downloading.

For the mining sector, the report offers a summary of sector development (pp. 43-44); a brief overview of ASM in Tanzania (p. 48); a description of recently closed and prospective mining projects (pp. 50-51); and a discussion of challenges facing the sector (p. 53).

##### Exploration:

Although not specifically quoted or linked in the EITI Report, the TPDC website provides a map showing exploration activity and license status as of December 2016 and a detailed presentation on oil and gas exploration.

For the mining sector, the EITI Report presents brief descriptions of five “prospective projects” by different operators (pp. 50-51) and a list of mining/exploration projects owned by STAMICO (Annex 3).

##### Stakeholder views

Stakeholders did not express any particular views on this requirement.

##### Initial assessment

The EITI Report contains an adequate overview of the extractive sector, including exploration activities.

---

<sup>26</sup> <http://www.tpdz.com/index.php>

However, the latter might be better organized, to give confidence that exploration activity is comprehensively covered. Nonetheless, the International Secretariat's initial assessment is that Tanzania has made **satisfactory** progress towards meeting this requirement.

## Production data (#3.2)

### Documentation of progress

The EITI Report discloses gas production from each of the two producing fields (Songo Songo and Mnazi Bay) in volume terms for 2013 and 2014 (p. 42, sourced from TPDC); the value of gas production is not reported.

The report also discloses production (and exports) by large-scale miners in volume terms during the reporting period, along with prices of gold, silver, and copper (pp. 48-49, sourced from TMAA). The nature of these prices are not described.

In addition, the production volumes and sales values reported by 15 main producing companies across both sectors are shown in a special summary table (p. 10). The location of production is not separately reported but can in part be deduced from the main areas of activity of the respective companies.

### Stakeholder views

Stakeholders did not express any particular views on the disclosure of production data.

### Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress towards meeting this requirement. Production volume and value data are not consistently reported across the extractive sector but useful figures have nonetheless been assembled.

## Export data (#3.3)

### Documentation of progress

#### Export volumes:

The EITI Report notes that, during the reporting period, Tanzania exported gold, silver, copper, diamonds, and tanzanite (p. 48). A table shows the quantity of exports by commodity and by company (pp. 48-49, sourced from TMAA). The gas produced from two fields is used domestically for generating electric power in Tanzania (p. 37).

#### Export values:

Export values are not reported but the above-cited table shows USD prices of gold, silver, and copper.

However, the basis for these prices is not clear.

## Stakeholder views

Stakeholders did not express any particular views on the disclosure of export data.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress towards meeting this requirement. Export volume and value data are not consistently reported across the extractive sector but useful figures have nonetheless been assembled.

**Table 3- Summary initial assessment table: Monitoring and production**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Overview of the extractive sector, including exploration activities (#3.1)	The EITI Report contains an adequate overview of the extractive sector, including exploration activities.	Satisfactory progress
Production data (#3.2)	Production volume and value data are not consistently reported across the extractive sector but useful figures have nonetheless been assembled.	Meaningful progress
Export data (#3.3)	Export volume and value data are not consistently reported across the extractive sector but useful figures have nonetheless been assembled.	Meaningful progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• The description of exploration activities should be organised in such a way to give confidence that it is comprehensive. The MSG may also wish to include direct links to further sources of information, such as to the TPDC website's map of exploration activity.</li> <li>• The MSG should seek to improve the consistency and comprehensiveness of production and export data in volume and value terms across the extractive sector, and to ensure to include the value of gas production as well as data on export values in the EITI Report.</li> </ul>		

## 4. Revenue collection

### 4.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue transparency, including the comprehensiveness, quality and level of detail disclosed. It also considers compliance with the EITI Requirements related to procedures for producing EITI Reports.

### 4.2 Assessment

#### Materiality (#4.1)

##### Documentation of progress

###### Materiality threshold for revenue streams:

The Scoping Study notes that the “focus should be on the major payments” (Scoping Study, p. 45), suggesting—although not documenting with numbers—that this focus is realized in Table 12 (“Payment flows of major payments made by the extractive companies to the government agencies”) and Annex 6 (“Description of major taxes and payments in the extractive sector”) of the Scoping Report. Following validation of the Scoping Report by the MSG (as reported on p. 13 of the Scoping Report), the list of revenue streams was adopted for use in the EITI Report (see pp. 33, 22-32, and Annex 6). The Scoping Study further states that “our scoping study of the existing payments and income streams in the extractive industry did not find the existence of other benefit streams ...” (Scoping Study, p. 45).

###### Descriptions of material revenue streams

The major taxes and payments described on p. 33 and in Annex 6 of the EITI Report include the revenue streams intended by requirement 4.1.b.

###### Materiality threshold for companies:

The materiality threshold for companies was proposed in the Scoping Report, and is set in the EITI Report, at a total receipt of at least TZS 150 million during the reporting year, for a company to be included in the reconciliation. This leads to 59 participating companies (38 in the mining sector and 21 in the oil/gas sector) as listed on pp. 17-18. Annex 7 lists a further 360 companies (with their respective TINs) who paid less than TZS 150 million during the reporting year.

###### Material companies:

Companies whose payments to government during the reporting period exceed the materiality threshold of TZS 150 million are listed in the EITI Report on pp. 17-18.

###### Material company reporting:

Among the 59 material companies, 55 returned completed reporting templates, while four companies (identified in the report, p. 6) failed to do so. These latter companies accounted for only 0.2 percent of total government reported receipts (p. 6). The (unsuccessful) efforts by the IA and the TEITI Secretariat

to obtain reporting information from these four companies are described on p. 6. TPDC's transactions as conduit of other company payments through TPDC to the government are not comprehensively disclosed, as would be in keeping with TPDC's mandate (Scoping Report p. 44, referred to in EITI Report, p. 22); this gap is more fully assessed below under provision 4.5.

Material government entities:

Reporting government agencies are proposed in the Scoping Study (p. 47) and confirmed in the EITI Report (p. 22); they include MEM, TRA, TPDC, MoF, and NSSF/PPF. In addition, the MSG selected 13 local government authorities that collected levies from extractive companies as reporting entities (p. 22).

Government reporting:

The EITI Report notes that "all government agencies complied with the reporting requirements" (p. 6). Meanwhile, TPDC's transactions as conduit of other company payments through TPDC to the government are not comprehensively disclosed, as would be in keeping with TPDC's mandate (Scoping Report p. 44, referred to in EITI Report, p. 22); this gap is more fully assessed below under provision 4.5.

Discrepancies:

The reconciliation results and final discrepancy are reported in several dimensions: (1) totals by payment type and receiving government entity (pp. 65-67); and (2) by taxpayer and payment type (pp. 68-127). The total discrepancy after reconciliation amounted to 0.2 percent of total payments/receipts (p. 7).

Full government disclosure:

Full government disclosure of extractive sector revenue is achieved in the EITI Report through detailed disclosure of payments/receipts by company and payment type on account of 59 reporting companies and unilateral disclosure of government receipts by main agency from a further 360 companies (pp. 65-67 and Annex 7). The latter receipts are not detailed by payment type, but their total accounts for only 0.3 percent of total revenue from the extractive sector.

## Stakeholder views

Stakeholders did not express any particular views on the issues of materiality and comprehensive disclosure of taxes and revenues.

## Initial assessment

Materiality considerations are adequately documented in the Scoping Report and, after MSG approval of the latter, the result is confirmed in the EITI Report. The reporting threshold in terms of a company's total payments to government is clearly stated. Total revenue from the extractive sector is disclosed, although a small fraction of it (0.3 percent) is not detailed by payment type but only by main receiving government agency. However, there are concerns regarding disclosures by TPDC, transportation payments and direct sub-national payments as outlined below. Accordingly, the International Secretariat's assessment is that Tanzania has made **meaningful** progress towards meeting this requirement.

## In-kind revenues (#4.2)

### Documentation of progress

The Scoping Study notes (p. 45), and the EITI Report confirms (p. 34), that in-kind revenues do not feature among the benefit streams in the extractive sector in Tanzania.

### Stakeholder views

The representative of TPDC on the MSG confirmed the absence of in-kind revenues in Tanzania.

### Initial assessment

The International Secretariat's initial assessment is that provision 4.2 is **not applicable** to Tanzania.

## Barter and infrastructure transactions (#4.3)

### Documentation of progress

The Scoping Study notes (p. 45), and the EITI Report confirms (p. 34), that barter and infrastructure transactions do not feature among the benefit streams in the extractive sector in Tanzania. In reviewing this case, the International Secretariat has not encountered any agreements, or sets of agreements involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities.

### Stakeholder views

There were no particular stakeholder views on the presence or absence of barter and infrastructure transactions in Tanzania.

### Initial assessment

The International Secretariat's initial assessment is that provision 4.3 is **not applicable** to Tanzania.

## Transport revenues (#4.4)

### Documentation of progress

There is no discussion of actual or possible revenue from the transportation of oil/gas and minerals in either the Scoping Report or the EITI Report, suggesting, but not confirming, that there are no material

revenues of this nature. Indeed, the use of several gas pipelines in the country begs the question of transport revenues that would need to be addressed in the EITI Report in connection with this requirement.

## Stakeholder views

There were no particular stakeholder views on the presence or absence of transport revenues in Tanzania.

## Initial assessment

In the absence of any commentary on this issue, the International Secretariat is obliged to conclude that there has been **no progress** in addressing this requirement.

## Transactions between SOEs and government (#4.5)

### Documentation of progress

Disclosure of TPDC's transactions in the EITI Report is incomplete. In Section 6.2 (Reconciliation by payment type, pp. 65-67), TPDC is shown as having received TZS 24.7 billion during the reporting period, under the following headings (in order of importance): profit per PSA, protected gas revenue, training fees, and license charges/fees. The first two, totalling TZS 19 billion, are being collected by TPDC, which in turn "pays this revenue to the MEM after deducting its cost" (Annex 6). Meanwhile, the company report by TPDC shows no trace of such payments to MEM (p. 118). The only payments by TPDC to the government shown here are much smaller, consisting of VAT, PAYE, and PPF contributions and totalling TZS 1.5 million. TPDC's function as conduit of certain company payments through to the government can thus not be traced in the figures—unless, of course, TPDC has retained the full TZS 19 billion for its cost, which would, however, beg for an explanation. For STAMICO, no such conduit function is mentioned; hence, STAMICO's company report (p. 112) is not contradicted by other information.

### Stakeholder views

The representative of TPDC on the MSG explained that all revenues from companies had remained in TPDC accounts at the end of 2013/14, pending the statutory transfer of 50 percent to MEM in the following fiscal year. The representative hoped that, for the next EITI report, the reporting template for TPDC be better adapted to TPDC's special role and situation.

### Initial assessment

Disclosure of TPDC's transactions in the EITI Report is incomplete, missing the accounting for revenues that TPDC should pass on to MEM after deducting its costs. The International Secretariat's initial assessment is that Tanzania has made **inadequate** progress in meeting this requirement.

## Subnational direct payments (#4.6)

### Documentation of progress

A local government levy and a service levy are charged by local authorities to the gas and mining companies operating in their respective jurisdictions (p. 66 and Annex 6). The levies are collected by the respective local authorities. Thirteen local authorities were selected as reporting entities for this purpose (p. 22), all of which submitted reporting templates (p. 6). Payments and receipts are reconciled with payment figures reported by each company and disclosed in the aggregate, without breakdown by local authority (see section 4.7, below). In the detailed reconciliation by company and revenue stream (pp. 68-110), company reports of payments to local authorities are reported, but this does not indicate to which local authority these payments were made.

### Stakeholder views

One stakeholder from local government confirmed that service levies are charged by local authorities. This is an important part of their budget which is distributed into three posts: administration, development projects, and small business loans to women and young people. The EITI Report would be more useful for local councils if the data was disaggregated. He saw it as a challenge that TPDC was not giving proper statements supporting their payments to local councils. He explained that he has met TPDC in November 2016 demanding more transparency around these payments. He sees TEITI as a useful platform to address the needs of local councils and stakeholders.

### Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress towards meeting this requirement. Subnational direct payments of local levies are disclosed and reconciled, albeit aggregated across the local authorities hosting extractive operations.

## Level of disaggregation (#4.7)

### Documentation of progress

As required, EITI data is presented by individual company, government entity, and revenue stream (Annexes 6.1 "Detailed reconciliation by taxpayers and tax category, pp. 68-110 and 6.2 "6.2. Reconciliation by payment type", pp. 65-67), with the exception that payments made to local authorities are aggregated across the 13 reporting local authorities. This aggregation affects 0.7 percent of total revenue from extractives. Given the small share of these payments, this is treated under the initial assessment of provision 4.6 on subnational direct payments (see section above).

### Stakeholder views

A representative from local government underlined the importance of disaggregated figures also for the

thirteen reporting local authorities.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **satisfactory** progress in meeting this requirement. EITI data is disaggregated as required, with the exception of direct subnational payments to local authorities which are not shown by receiving entity.

## Data timeliness (#4.8)

### Documentation of progress

The 2013/14 EITI Report was published on 27 November 2015, seven months ahead of the two-year deadline. On the same day, TEITI published the 2012/13 EITI Report, which was thus almost five months overdue. As shown in the latest report (p. 4), all (four) preceding EITI reports were published ahead of the deadline.

### Stakeholder views

The national secretariat explained that public procurement rules significantly slowed the process for selecting a different accounting firm to complete the 5th report. As a result, Tanzania was suspended from EITI in September 2015 for failing to publish their 5th reconciliation report on time. In November, two reconciliation reports (covering 2012/13 and 2013/14) were published, so in December, the EITI Board lifted the suspension. At the time of Validation, the MSG was in the process of procuring an IA for its next (7<sup>th</sup>) report (for 2014/15). The National Secretariat cautioned that existing public procurement rules might also slow the process of the 7<sup>th</sup> Report.

The former chair of the MSG agreed that the existing public procurement rules have slowed the process for timely reports which had led to suspension in 2015. He added that they are facing serious challenges for their next report underlining the importance of having a chair with the power to “mobilize high-level people” and to “make calls to the right people within the Ministry” to avoid failing the deadline in June 2017. Having personal connections in the Ministry had enabled the former chair to influence decision-making.

A civil society representative recognized that the MSG has a responsibility to produce timely reports. They would need regular MSG meetings—not a gap from November to March as presently experienced.

## Initial assessment

The record across now six EITI reports shows efforts to respect the timeliness requirement, there having been a delay only in the 2012/13 report. The International Secretariat's initial assessment is that Tanzania has made **satisfactory** progress towards meeting this requirement.

## Data quality (#4.9)

### Documentation of progress

#### Appointment of the Independent Administrator (IA):

At its meeting on 17-18 June 2015, the MSG endorsed the appointment of BDO East Africa as IA for the 2012/13 and 2013/14 EITI Reports.<sup>27</sup>

#### Terms of Reference for the Independent Administrator:

At its meeting on 14 August 2014, the MSG approved the terms of reference for the IA for the 2012/13 and 2013/14 EITI Reports.<sup>28</sup> The Terms of Reference for the Independent Administrator were not made available to the International Secretariat. It was therefore not possible to ascertain whether the Terms of Reference were in accordance with the Standard Terms of Reference for Independent Administrators approved by the EITI Board.

#### Agreement on the reporting templates:

Reporting templates for companies and government entities for the 2012/13 and 2013/14 EITI Reports were proposed by the IA and approved by the MSG at its meeting on 30 July 2015.<sup>29</sup> Reporting templates are attached to the Scoping Study for these two reports which was approved at that same meeting.

#### Review of audit practices and assurance methodology:

The audit process for government entities is explained briefly in the EITI Report (p. 35), with reference to a detailed guide on “Understanding the Budget Process in Tanzania”.<sup>30</sup> The IA noted that all reporting stakeholders (companies and government entities) provided audited financial statements for the year ended 30 June 2014. All financial statements had been audited in accordance with International Standards on Auditing and had received a clean audit opinion (p. 34). The audit reports of central and local governments are published on the website of the National Audit Office of Tanzania.<sup>31</sup>

In the Scoping Report for the 2012/13 and 2013/14 EITI Reports that was approved by the MSG on 30 July 2015, the IA recommended that reporting templates be signed by the respective external auditor and senior company/government official (Scoping Report p. 49). With the exception of five companies (named in the EITI Report, p. 6), the templates of all reporting stakeholders carried audit certifications issued either by the companies’ independent external auditors or the CAG for government entities. In the five exceptions, as noted in the EITI Report (p. 6), the MSG decided to accept management sign-off as assurance.

#### Confidentiality:

In the Scoping Report for the 2012/13 and 2013/14 EITI Reports that was approved by the MSG on 30 July 2015, the IA recommended the following approach to confidentiality: “Data provided in reporting

<sup>27</sup> TEITI/MIN 53/2015.

<sup>28</sup> TEITI/MIN 46/2014.

<sup>29</sup> TEITI/MIN 55/2015.

<sup>30</sup> [http://www.policyforum-tz.org/files/EnglishUnderstandingtheBudgetProcessinTanzaniaCSOGuide\\_0.pdf](http://www.policyforum-tz.org/files/EnglishUnderstandingtheBudgetProcessinTanzaniaCSOGuide_0.pdf)

<sup>31</sup> <http://www.nao.go.tz/category/cag-reports/cag-general-reports/>

templates should be treated confidential, given its raw nature. In addition, the draft reconciliation reports should not be put into the public domain until the MSG had the opportunity to review them and authorized their release” (Scoping Report, p. 49). In actual practice, data pertaining to individual companies, before and after reconciliation, are routinely published in EITI reports and summary data templates.

Reconciliation coverage:

Four companies that had closed their operations in Tanzania and were no longer present in the country failed to submit reporting templates. The total revenue from these companies reported by government entities amounted to only 0.2 percent of total government reported receipts (p. 6).

Assurance omissions:

Five companies did not submit certified (by an external auditor) reporting templates but merely templates signed off by management—albeit accompanied by audited annual financial statements and supporting documents. The MSG decided to accept these submissions as “sufficient for data reliability ... in the absence of the audit certificate” (p. 6).

Data reliability assessment

The IA does not provide a clear assessment from the Independent Administrator on the comprehensiveness and reliability of the (financial) data presented, but the presentation of quality assurances as proposed by the IA in the Scoping Report (p. 49) and adopted by the MSG as part of the Scoping Report suggests agreement by the IA with the MSG’s approach. A section of the EITI Report describes the “completeness and accuracy of data” (p. 6), including the efforts by the IA and MSG to pursue the few companies lagging in their quality assurances.

Past recommendations:

The 2011/12 EITI Report describes the follow-up to the recommendations of the 2009/10 and 2010/11 Reports. Coinciding with, if not owing to, a switch in IA in 2014, the 2012/13 EITI Report does not follow up on the response to recommendations made in the 2011/12 EITI Report.

Current recommendations:

The APR for 2015 (Section 4) contains a detailed account of MSG responses to the (identical) recommendations of the 2012/13 and 2013/14 EITI Reports. Recommendations in Tanzania’s EITI Reports have always remained closely focused on reporting issues, having become somewhat broader only with the requirement of contextual information.

## Stakeholder views

The representative of the TRA on the MSG mentioned that the TRA was subject to continuous audit by Controller and Auditor-General (CAG) officers based inside the TRA and continuously monitoring the work of the TRA.

## Initial assessment

The International Secretariat’s initial assessment is that Tanzania has made **satisfactory** progress

towards meeting this requirement. The listed dimensions of data quality are adequately assured in the EITI Report, supported by the preceding Scoping Study. Approval of the ToR and the appointment of the IA are documented in the (public) MSG minutes. Recommendations in Tanzania's EITI Reports have always remained closely focused on reporting issues, having become broader only with the requirement of contextual information.

**Table 4- Summary initial assessment table: Revenue collection**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Comprehensiveness (#4.1)	Materiality considerations are adequately documented in the Scoping Report and confirmed in the EITI Report. The reporting threshold in terms of a company's total payments to government is clearly stated. Total revenue from the extractive sector is disclosed. However, there are concerns regarding disclosures by TPDC, transportation payments and direct sub-national payments as outlined below.	Meaningful progress
In-kind revenues (#4.2)	In-kind revenues do not feature among the benefit streams in the extractive sector.	Not applicable
Barter and infrastructure transactions (#4.3)	Barter and infrastructure transactions do not feature among the benefit streams in the extractive sector.	Not applicable
Transport revenues (#4.4)	The absence of any commentary on the possibility of transport revenue from existing gas pipelines suggests no progress on this requirement.	No progress
Transactions between SOEs and government (#4.5)	Disclosure of TPDC's transactions is incomplete, missing the revenues that TPDC should pass on to MEM after deducting its costs.	Inadequate progress
Subnational direct payments (#4.6)	Subnational direct payments of local levies are disclosed and reconciled, albeit aggregated across the local authorities hosting extractive operations.	Meaningful progress
Level of disaggregation (#4.7)	EITI data is disaggregated as required, except for direct subnational payments to local authorities, which are not shown	Satisfactory progress

	by receiving entity.	
Data timeliness (#4.8)	The record across six EITI reports shows strong efforts to respect the timeliness requirement, there having been a delay only in the 2012/13 report.	Satisfactory progress
Data quality (#4.9)	The various dimensions of data quality are adequately assured in the EITI Report, supported by the preceding Scoping Study.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• The MSG should investigate and document in the EITI Reports whether the government or SOEs receive revenues from the transportation of oil, gas and minerals, and if this is the case, determine whether these are deemed material.</li> <li>• The MSG should ensure that transactions related to SOEs operating in the oil, gas and mining sector, in particular TPDC, are adequately disclosed. This should include revenues that TPDC pass on to MEM after deducting its costs.</li> <li>• The MSG should ensure that direct subnational payments disclosed in EITI Reports are disaggregated by recipient local authorities.</li> <li>• The MSG should verify that the Terms of Reference for the Independent Administrator for the next EITI Report are in accordance with the Standard Terms of Reference for Independent Administrators approved by the EITI Board, and that the final Report includes a clear assessment from the Independent Administrator on the comprehensiveness and reliability of the (financial) data presented.</li> </ul>		

## 5. Revenue management and distribution

### 5.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue management and distribution.

### 5.2 Assessment

#### Distribution of revenues (#5.1)

##### Documentation of progress

The 2013/14 EITI Report details payment flows by the first receiving government entity (p. 33), without offering information on the further distribution of revenues, in particular relating to the component going into the government budget. While revenue collected by the TRA is most likely recorded in the government budget, this is less clear for revenue collected by MEM or MOF. The incomplete disclosure of TPDC's transactions is relevant in this context and is noted in connection with provision 4.5 above.

The budget and audit process is described in general terms (p. 35), with a reference and link to a CS Guide to "Understanding the Budget Process in Tanzania".

The report does not reference a national or international classification system for revenue, and extractive sector revenue is not put into a broader budgetary context.

##### Stakeholder views

Apart from the ever-present interest in how extractive sector revenues are benefitting "the community", stakeholders expressed no particular views on the distribution of revenue. The representative of the TRA on the MSG confirmed that all revenue collected by the TRA was paid into the single Treasury account at the Bank of Tanzania.

##### Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **inadequate** progress in meeting this requirement. The distribution of extractive sector revenue is not disclosed, beyond the first receiving government entity. Extractive sector revenue is not put into a broader budgetary context, and revenue classification systems are not referenced.

## Sub-national transfers (#5.2)

### Documentation of progress

The possibility of subnational transfers is not addressed in either the Scoping Study or the EITI Report, and such transfers do not appear to be part of the extractive sector revenue system.

### Stakeholder views

Stakeholders did not express any particular views on the presence or absence of sub-national transfers.

### Initial assessment

Sub-national transfers do not appear to be part of the extractive sector revenue system in Tanzania. The International Secretariat's initial assessment is that provision 5.2 is **not applicable** to Tanzania.

## Additional information on revenue management and expenditures (#5.3)

### Documentation of progress

The budget and audit process is described in the EITI report in general terms (p. 35), with a reference and link to a Civil Society Guide to "Understanding the Budget Process in Tanzania". The report does not discuss issues of revenue management or commodity forecasts potentially impacting on extractive sector revenue in the future.

### Stakeholder views

Stakeholders did not express any particular views on issues addressed by provision 5.3.

### Initial assessment

Reporting on revenue management and expenditures is encouraged but not required by the EITI Standard and progress with this requirement will not have any implications for a country's EITI status. Apart from a general description of the budget and audit process, the EITI report does not contain information on the management of extractive sector revenue and related expenditures.

**Table 5 - Summary initial assessment table: Revenue management and distribution**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Distribution of revenues (#5.1)	The distribution of extractive sector revenue is not disclosed beyond the first receiving government entity. Extractive sector revenue is not put into a broader budgetary context, and revenue classification systems are not referenced (this latter being encouraged, not required).	Inadequate progress
Sub-national transfers (#5.2)	Subnational transfers do not appear to be part of the extractive sector revenue system in Tanzania.	Not applicable
Information on revenue management and expenditures (#5.3)	The EITI report does not contain information on the management of extractive sector revenue and related expenditures.	
<p>Initial conclusions and recommendations:</p> <ul style="list-style-type: none"> <li>The MSG should ensure that the EITI Report adequately explains how extractive sector revenue is distributed beyond the first receiving government entity. The MSG could also consider to initiate a discussion of extractive sector revenue in a broader budgetary context, including requesting more detailed information on the management of extractive sector revenue and related expenditures to be included in the EITI Reports. Finally, the MSG may wish to refer to revenue classification systems in the reports..</li> </ul>		

## 6. Social and economic spending

### 6.1 Overview

This section provides details on the implementation of the EITI requirements related to social and economic spending (SOE quasi-fiscal expenditures, social expenditures and contribution of the extractive sector to the economy).

### 6.2 Assessment

#### Social expenditures (#6.1)

##### Documentation of progress

Social payments are not mandated by law in Tanzania, but the “MSG acknowledged that companies through their Corporate Social Responsibility (CSR) contribute to communities around operations in different forms” (p. 34). Noting the difficulties of reconciling social contributions, the “MSG agreed to include social payments in this report for information purposes only. Companies were therefore required to disclose donations as well as payments relating to CSR” (p. 34). Such disclosures are included in the report (p. 19) as single cash value per company, without information on the beneficiary or the mode of payment (in-kind or cash).

##### Stakeholder views

A representative from local government mentioned that they had discussed CSR payments with TEITI. Companies would not give local authorities their CSR budget, but they would support local social projects (schools, dispensaries, mattresses, wheelchairs, etc.). More recently, some companies had begun to tell local authorities of their CSR plans, so that the local councils could include follow-up running costs in their budgets. Civil society representatives consulted did not express any particular views related to coverage of social expenditures.

##### Initial assessment

In the absence of mandatory social payments, the International Secretariat’s initial assessment is that EITI Requirement 6.1.a is **not applicable** to Tanzania. The MSG’s approach to the disclosure of voluntary social payments is clearly stated, resulting in a useful table of cash-equivalent discretionary expenditures by company, albeit without any information on beneficiaries.

#### SOE quasi fiscal expenditures (#6.2)

##### Documentation of progress

As noted under provision 4.5, TPDC is supposed to act as conduit for several revenue streams from oil/gas companies to MEM. While TPDC collected TZS 24.7 billion from companies in 2013/14, payments by

TPDC to the government were much smaller, consisting merely of VAT, PAYE, and PPF contributions totalling TZS 1.5 billion. If TPDC has retained receipts from companies to “cover its costs”, as it may do under the applicable law, the use of these funds may need to be disclosed under provision 6.2. Such disclosure is missing from the EITI report, and there is no financial statement on TPDC’s own website that could shed light on the conduit function.<sup>32</sup> Meanwhile, the IA states in the EITI Report (p. 40), that “during the reconciliation period, the Consultant did not find the existence of quasi-fiscal expenditures at TPDC such as payments for social services, public infrastructure, fuel subsidies or national debt servicing.” The examples of quasi-fiscal expenditures in provision 6.2 are just that—examples only—and cannot detract from the need for full disclosure of TPDC’s role in collecting and (apparently) expending government revenue from the oil/gas sector.

The EITI Report contains no evidence or discussions regarding quasi-fiscal expenditures by STAMICO in the mining sector.

## Stakeholder views

Stakeholders did not express any particular views on the presence or absence of quasi-fiscal expenditures of SOEs.

## Initial assessment

Despite an assurance to the contrary, there is evidence in the EITI Report of quasi-fiscal expenditures by TPDC whose details remain undisclosed. The International Secretariat’s initial assessment is that Tanzania has made **no progress** towards meeting this requirement.

## Contribution of the extractive sector to the economy (#6.3)

### Documentation of progress

#### Share of GDP:

The gas and electricity sector together accounted for 1.8 percent of GDP in 2014 (p. 42, sourced from BoT without a specific reference); a separate figure for gas only is not included (p. 42, fn. 7). The mining sector represented 3.3 percent of GDP in 2013/14 (p. 51, again sourced from BoT, a non-functioning link). Absolute figures are not included.

#### Government revenues:

The share of revenue from the extractive sector in total government revenue is not shown in the EITI Report.

#### Exports:

The EITI Report does not show any export values (see provision 3.3 above) for extractives of total exports. It does show a graph of percentage shares of gold (about 34 percent) and other minerals combined

---

<sup>32</sup> <http://www.tpdz.com/index.php>

(about 2.5 percent) among a commodity distribution of total exports in 2013/14 (p. 53, sourced from BoT).

Employment:

The EITI Report shows the employment contributions of eight major mines for the years 2010-14, broken down by locals and expatriates, but without any comparison with total employment in Tanzania (Annex 4, sourced from TMAA, without specific reference).

Location:

The EITI Report contains a description, map, and reserve estimates for Tanzania's producing and prospective gas fields (p. 42, sourced from TPDC). The areas of operation of major oil and gas companies are also shown (p. 41). For the mining sector, the online mining cadastre shows the main areas of activity (p. 47).

## Stakeholder views

Stakeholders did not express any particular views on disclosures under provision 6.3.

## Initial assessment

The International Secretariat's initial assessment is that Tanzania has made **meaningful** progress towards meeting this requirement. The contribution of the extractive sector to the economy is addressed separately for oil/gas and mining. Not all required dimensions are available or reported.

**Table 6- Summary initial assessment table: Social and economic spending**

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Social expenditures (#6.1)	In the absence of mandatory social payments, provision 6.1(a) does not apply. Voluntary social payments are being disclosed, albeit without beneficiaries.	Not applicable
SOE quasi fiscal expenditures (#6.2)	There is evidence in the EITI Report of quasi-fiscal expenditures by TPDC whose details remain undisclosed.	No progress
Contribution of the extractive sector to the economy (#6.3)	The contribution of the extractive sector to the economy is addressed separately for oil/gas and mining. Not all required dimensions are available or reported (even if available).	Meaningful progress
<p>Initial conclusions and recommendations:</p> <ul style="list-style-type: none"> <li>The MSG should seek to shed more light on the operations of TPDC, distinguishing clearly between its public functions and its operations on own account. This should include considering whether there are any material quasi-fiscal expenditures by TPDC in accordance with provision 6.2, and develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams.</li> <li>The MSG should expand on the contribution of the extractive sector to the economy and ensure that contribution of the extractive sector to GDP in absolute terms, and the share of total government revenue, exports and employment. This could also include providing direct links to further data on extractive sector contribution to the economy.</li> </ul>		

## Part III – Outcomes and Impact

### 7. Outcomes and Impact

#### 7.1 Overview

This section assesses implementation of the EITI Requirements related to the outcomes and impact of the EITI process.

#### Public debate (#7.1)

##### Documentation of progress

“Increased understanding and Awareness of TEITI” is one of the main objectives of the TEITI work plan, and TEITI has made some efforts to ensure that EITI disclosures are actively promoted (APR 2015, p.13). The TEITI website contains key documents related to EITI implementation.<sup>33</sup> The EITI Reports published by TEITI are in pdf format and are not machine-readable.

The simultaneous launch of the fifth and sixth Reports was covered by the news in local languages. Five hundred paper copies of the 2014 EITI Report, 1500 TEITI fliers, 1000 TEITI T-shirts and caps were distributed at various events during 2015 (APR 2015, p. 14). For the 2011-12 Report, more than 900 copies of TEITI brochures and reports were distributed to participants during workshops held in Teita, Kahama and Tarime districts in 2014. The three workshops were attended by 300 participants (APR 2014, p. 12).

According to the APR 2015, TEITI held several outreach events in communities close to mining, oil and gas operations in 2015. The focus lay on communities that are impacted by extractives operations given the large size of the country and limited resources. The APR lists selected outreach activities conducted during 2015 such as a workshop for business and financial journalists and participation in exhibitions and trade fairs. The workshop for business and financial journalists in May 2015 led to wider coverage of TEITI reports in the media in both in Kiswahili and English (APR 2015, pp. 12-13).

At the time of Validation, the MSG had not yet agreed on an open data policy governing access, release and re-use of EITI data. As the Government of Tanzania has already signed a Commitment on Open Government declaration under OGP<sup>34</sup> and the TEITI law addresses the issue of access to data, the national secretariat considered that this requirement was already fulfilled. However, as the TEITI law does not address all the essential elements in requirement 7.1 (b), the International Secretariat recommended in January 2017 that the MSG develop a clear policy on the access, release and re-use of EITI data. It was

---

<sup>33</sup> <http://www.teiti.or.tz/>

<sup>34</sup> [http://www.opengovpartnership.org/sites/default/files/attachments/OGP%2520ArticlesGov%2520Apr%252021%25202015\\_0%5B1%5D.pdf](http://www.opengovpartnership.org/sites/default/files/attachments/OGP%2520ArticlesGov%2520Apr%252021%25202015_0%5B1%5D.pdf)

evident during the Validation mission that the issue of an open data policy had not been discussed by the MSG.<sup>35</sup>

### Stakeholder views

The MSG explained that the requirement to agree on an open data policy had not been discussed within the group. The national secretariat referred to its email to the International Secretariat, saying that their understanding was that this requirement was covered by the TEITA Act which addresses the issue of accessibility and Tanzania's commitment to OGP.

On creating public debate, industry representatives explained that while six reports had been produced since TEITI's inception, the messages of these reports had not yet reached local communities. More efforts need to be made to communicate the findings to affected areas and to create public debate about sector management. Donors reiterated this statement saying that they have seen limited results of TEITI in terms of public awareness and communication.

There was a general consensus among civil society representatives on the MSG that the commitment of the secretariat to communication and outreach is very low. Several civil society representatives said that the reports should not be the end goal and that "the biggest challenge comes after the launch of the report". One CSO stakeholder on the MSG added that the secretariat has limited knowledge when it comes to communication and strategic engagement with the media. Several CSO representatives on the MSG explained that the secretariat has also not been supportive of their own efforts to reach out to communities. As a remedy, CSOs on the MSG have suggested a basket fund that would allow them to apply for outreach/dissemination support from the national secretariat.

CSO representatives on the MSG also suggested that the MSG and the secretariat bring the reports to the attention of parliamentarians to trigger discussions among decision-makers but this proposal is yet to be followed up by the MSG.

One journalist who had participated in the media training provided by TEITI underlined the importance for journalist to understand the EITI data in order to produce news items. He added that more strategic efforts aimed at journalists are critical in order to create awareness among citizens around how the extractive sector is managed; there is strong interest in extractive sector issues, including beneficial ownership, but the capacity among journalists to read EITI raw data is relatively low.

### Initial assessment

TEITI maintains only a low level of dissemination and outreach activities, with limited evidence of public debate. The MSG has not agreed on a clear policy on access, release and re-use of EITI data. The International Secretariat's initial assessment is that TEITI has made **meaningful** progress in meeting this requirement.

---

<sup>35</sup> Email from the International Secretariat to TEITI of January 9, 2017.

## Data Accessibility (#7.2)

### Documentation of progress

The EITI Reports published by TEITI are in pdf format and are not machine-readable. There is limited evidence of discussions related to the recommendation in provision 5.1.b regarding references to revenue classification systems. The 2014 EITI Report includes a comparison of the shares of each revenue stream in accordance with provision 7.2.b (p. 9).

The MSG recognises that regular disclosure of extractive industry data is of little practical use without public awareness, understanding of what the figures mean, and public debate about how resources can be used effectively. TEITI hosted an Ethiopian EITI delegation in Dar es Salaam during 13-21 January 2015. The objective of the visit was to share knowledge and exchange experience between the two countries. Some of the discussions included implementation of EITI requirements with focus on TEITI legislation and the institutional set-up to ensure sustainability of the EITI process. The mission also held meetings with the Ministry of Energy and Minerals (Licensing Unit), the Tanzania Mineral Audit Agency, and civil society organizations, and visited small scale mining operations in Mererani – Arusha (APR 2015, p. 15). The APR 2015 lists several trainings the MSG and national secretariat participated in during 2015. However, most of the capacity-building activities undertaken during 2015 were targeted to enhance and improve the knowledge of secretariat staff rather than citizens, media and others (APR 2015, pp. 15-18).

### Stakeholder views

Several stakeholders consulted noted that most local communities, organizations and governments that are directly affected by extractive industries are least able to use the reports and make sense of the data.

One journalist explained that a 2-day capacity building training was organized by the secretariat prior to the launch of the EITI Report in 2015. 20 journalists were trained in how to use and analyse the EITI data. The training had resulted in more stories about how the sector is managed in Tanzania and led to the establishment of informal networks among journalists. The journalist added that more regular trainings are needed to increase the knowledge among journalists about transparency and governance of the extractive sector. There is still limited knowledge and understanding in communities, and the work of journalists could increase building trust in affected areas.

One local stakeholder informed that the national secretariat had participated in a council meeting in February 2016 to explain and train the council members in the functioning of TEITI. This 2-day meeting was important to increase the knowledge and understanding of local stakeholders in how the sector is managed and how they can use TEITI as a platform for dialogue.

Several civil society representatives explained that they have received limited training/capacity building from TEITI adding that they organize their own capacity building activities to increase their technical knowledge and understanding of the raw EITI data.

### Initial assessment

Requirement 7.2 encourages implementing countries to make EITI reports accessible to the public in an open data format. TEITI has not yet started its work on making EITI reports machine readable, although key information is available online. Capacity-building activities have focused on enhancing the capacity

of the secretariat staff and less that of civil society, citizens, media and others. Requirement 7.2 is encouraged and the International Secretariat has therefore not provided an initial assessment.

## Lessons Learned and follow-up on recommendations (#7.3)

### Documentation of progress

#### Recommendations from the Independent Administrator

TEITI Reports have limited recommendations for sector reforms and improved extractive resource governance, relating instead to process and directed mostly to the Ministry of Energy and Minerals. The 2014 Report contained recommendations related to the slow procurement process which led to the delay in TEITI's fourth report, awareness raising of EITI and the Act, recommendations to enable more up-to-date mining cadastre and online portal so that reporting can be done by the extractive companies periodically throughout the year using the same (2014 EITI Report, pp. 129-130).

#### Follow-up on the recommendations

In 2014, the MSG held a workshop to discuss recommendations stemming from both 2010/11 and 2011/12 Reports and to which extent they will be utilized during the course of preparing 2012/13 Report, including recommendations from the EITI Gap Assessment Report against the 2011/12 Report (2014 APR, p.11). TEITI's operational workplan also provides an assessment of the percentage of recommendations and discrepancies in the reconciliation reports that were addressed.

TEITI's APRs list the recommendations made and description of actions undertaken (2014 APR, pp.23-25, and 2015 APR, pp.20-22). The 2014 APR only comments on the four recommendations from the 2010/11 EITI report. The recommendations from the 2011/12 Report are missing, although the 2014 APR was published in June 2014. On the four recommendations from the 2010/11 EITI report, some actions have been taken but they don't fully address the challenges listed (2014 APR, pp. 23-25).

The 2015 APR contains an overview of MSG responses to the recommendations from the Independent Administrator in the 2013 and 2014 EITI reports. The first recommendation relates to slow government procurement. This led to the suspension of Tanzania in 2015 as it failed to publish its fourth (2012/13) Report on time. To avoid delays in future reports, the IA recommended a fully operationalised TEITI Act. As a result, the MSG "has pushed for development of TEITA Act 2015, which provide the committee with mandate to oversee the operations of the MSG including the procurement of the IA. Future procurement will be handled by the MSG as per section 17 of the Act" (2015 APR, p. 20). During stakeholder consultations in March 2017, the International Secretariat noted that TEITI was facing similar challenges with their upcoming report. Thus, the MSG had not yet appointed an IA for their next report which is due in June 2017.

On the need for awareness raising about EITI and the TEITI Act which was also listed as a challenge in the 2014 APR, the 2015 APR notes that a consultant has been hired to design a number of billboards, TV and radio adverts, and documentaries on EITI implementation.

From 31 December 2016, in accordance with the transitional arrangements of the 2016 EITI Standard, the MSG will be expected to outline the plans for implementing the recommendations from Validation and

EITI reporting, including the rationale for deciding not to implement a recommendation.

### Stakeholder views

The question on how the recommendations from the reports are followed up was raised during a MSG meeting, but no comments were made. Civil society representatives on the MSG explained in a bilateral meeting that there was no mechanism to follow up on the recommendations and that there had been only limited discussions with the national secretariat and MSG on this matter. Civil society on the MSG said that reports, such as the annual progress reports, were often presented to the MSG as a final draft with limited opportunities to provide inputs.

### Initial assessment

Recommendations from EITI reports are aimed at process rather than reforms. The MSG has taken some steps to act upon lessons learned and in responding to the recommendations made by the Independent Administrator. The International Secretariat's initial assessment is that TEITI has made **meaningful** progress in meeting this requirement.

## Outcomes and impact of implementation (#7.4)

### Documentation of progress

The MSG has produced an Annual Progress Report covering 2015, giving a detailed overview of activities undertaken by the MSG. It describes progress made, with a view to updating stakeholders and the general public on implementation of the development objectives of the TEITI 5-year work plan (2015 APR, p. 5).

The 2015 APR gives also an assessment of progress in meeting the EITI requirements including issues such as revenue management and expenditure (5.3), transportation payments (4.4), discretionary social payments (6.1), ad-hoc subnational transfers (5.2), beneficial ownership (2.5), and contracts (2.4) (pp. 19-20).

The 2015 APR also includes an overview of the MSG's response to recommendations from all the reconciliations since 2009 and an assessment of progress/status against each recommendation (pp. 20-22).

The 2015 APR also contains an assessment of progress with achieving the objectives set in TEITI's work plan (pp. 8-19). A brief analysis of specific strengths or weaknesses of the EITI process in Tanzania is also included in the report. Implementation of TEITI has led to several legal reforms including adoption of a TEITI law. In doing so, Tanzania joins a small group of EITI countries (Ghana, Liberia, Nigeria, and Ukraine) that have encoded extractive industry disclosure into national law. The law recognizes the national MSG as the legal entity in charge of EITI implementation.

### Stakeholder views

Various stakeholders expressed that progress had been made since the inception of EITI in Tanzania. One important reform which was highlighted by several representatives was the TEITA Act which has the potential to strengthen the implementation of EITI in Tanzania.

On the involvement in the development of the annual progress reports, civil society representatives on the MSG said that most documents, including the APRs, are presented by the national secretariat in a finalized version leaving limited opportunity for MSG members to provide inputs. One CSO representative said that “the top-down approach must be changed and there must be ownership of key documents”. CSO representatives on the MSG perceive the APR and many other EITI documents as “national secretariat’s documents”.

### Initial assessment

The Annual Progress Report 2015 was submitted within the deadline, and the report reflects TEITI’s main activities and progress made during 2015. The International Secretariat’s initial assessment is that TEITI has made **satisfactory** progress in meeting this requirement.

**Table 7 - Summary initial assessment table: Outcomes and impact**

EITI provisions	Summary of main findings	Validator’s recommendation on compliance with the EITI provisions (to be completed for ‘required’ provisions)
Public debate (#7.1)	TEITI has made some efforts at dissemination and outreach, with limited success in stimulating public debate. The MSG has not yet agreed an open data policy.	Meaningful progress
Data accessibility (#7.2)	Reports are not machine readable.	
Lessons learned and follow up on recommendations (#7.3)	Recommendations from reports are aimed at process rather than reforms. The MSG has taken some steps to act upon lessons learned and in responding to recommendations by the Independent Administrator.	Meaningful progress
Outcomes and impact of implementation (#7.4)	The Annual Progress Report 2015 was submitted within the deadline, and the report reflects TEITI’s main activities and progress made during 2015.	Satisfactory progress
Secretariat’s recommendations:		
<ul style="list-style-type: none"> <li>TEITI should seek to raise greater public awareness of the EITI and understanding of what the figures mean and create public debate about how resource revenues can be used effectively. This</li> </ul>		

could be done through more strategic engagement with the media, concerted efforts to disseminate information to affected communities, and wider outreach efforts beyond the EITI launch of the EITI Report.

- The MSG is encouraged to make the EITI Reports machine readable and agree on an open data policy on the access, release and re-use of EITI data.
- The MSG could consider a more systematic follow-up by the MSG on the EITI Report recommendations and ensuring that these highlight gaps identified through the reporting process to help ensure that the EITI could serve as a tool for improved extractive sector governance.
- All stakeholders should be able to participate in reviewing the impact of EITI implementation and the production of the annual progress report , in particular civil society groups and industry involved in the EITI.

## 8. Impact analysis (not to be considered in assessing compliance with the EITI provisions)

### Documentation of progress

Eight years of implementing EITI in Tanzania (2009-2017) have brought important benefits to the country. The disclosure of extractive industries payments and government revenues through EITI has helped to **improve revenue collection and accountability**. One example is the **improvement of revenue collection at the local level**, exemplified by the case of payments to the Kilwa district council highlights the importance of this work. The 2009/10 TEITI Report revealed that the 0.3 percent Service Levy paid by PanAfrican Energy Tanzania Limited from Songo Songo gas field in Kilwa region were wrongly paid to Ilala Municipality in Dar es Salaam where the company's main office was located, as opposed to paying the levy to Kilwa district council which hosts extraction of the gas. Since that revelation, the Kilwa district council receives around TzS 110,000 million (USD 61,000) every quarter of the year (MEM booklet).

The experience in the Lindi district triggered TEITI to initiate a dialogue with the Prime Minister's Office Regional Administration & Local Government (PMORALG) in August 2014 regarding benefits of mandatory disclosure of expenditures of extractive industries local levy receipts and CSR contributions for 17 district councils which host mining, oil and gas operations in Tanzania. This practice will help to disclose not only the amount of money which these councils collect, but also to account for the expenditures of such receipts. This effort will help to inform the public as to what extent service levy receipts are allocated for development expenditures.

In addition, the disclosure through EITI Reports has **informed minerals and revenue policy** and assisted in giving the government leverage to renegotiate the service levy threshold. Prior to 2014, the holders of MDAs were paying a fixed levy of USD200,000 regardless of the amount of sales turnover. Today all companies with MDAs are paying a 0.3 percent Service Levy in accordance with the mining law (2014 APR, p.3).

The EITI Implementation in Tanzania has also **informed the following legal reforms**:

- In July 2015, the Parliament of Tanzania adopted the Tanzania Extractive Industries (Transparency and Accountability) Act 2015, with the objective of making mandatory disclosure of extractive industries data.
- Amendment of Section 25 of the Mining Act 2010 to enable TEITI to acquire and publish information from mining companies. See TEITA Act 2015, Part VII Consequential Amendments, Section 36.
- Amendment of Section 140(1) of the Income Tax Act (Cap. 332) which enables TEITI Committee to publish tax information from extractive Industries Companies, see TEITA Act, 2015, Part VII Consequential Amendments, Section 58.
- Amendment of Section 25 of the Mining Act 2010 to enable TEITI to acquire and publish information from mining companies. See TEITA Act 2015, Part VII Consequential Amendments, Section 36.

- Amendment of Section 140(1) of the Income Tax Act (Cap. 332) which enables TEITI Committee to publish tax information from extractive Industries Companies, see TEITA Act 2015, Part VII Consequential Amendments, Section 58.

Industry representatives on the MSG noted that EITI **helped build trust** and led to less conflict between companies and local communities. EITI had also, according to industry representatives, promoted dialogue at the local level, in particular regarding the payments collected by local authorities.

The disclosure of company payments and government receipts has also **contributed to public debate** and discussions within government. In 2016, the debates and discussions focused on payment of corporate income tax by companies which have been operating in Tanzania for a long time. These discussions led the government and Acacia to review payment of corporate income tax. Through a dialogue between the government and Acacia, the company agreed to pay a corporate income tax of USD 14 million.<sup>36</sup>

MSG members explained that EITI had **brought openness and awareness about sector management**. One journalist highlighted the usefulness of having EITI Reports and having **extractive sector information accessible in one place**. He said, “before we had to run from one government agency to another, now all information can be found in one place”. He added that there is still not enough openness in government, and that journalists still have only limited access to information and knowledge.

Representatives on the MSG highlighted the **need for more efforts to create public debate** and improve the capacity of stakeholders to understand and advocate for more transparent and accountable management of the extractive sector.

There have been a number of discussions in recent months about the governance of the sector which led to the dismissal of Stephen Muhongo, the Minister of Energy and Mines. This included an audit of the sector. In addition, there is an on-going dispute between the Government and Acacia Mining over tax payments. It does not appear that the TEITI has been called upon to inform either of these discussions as might be expected of a quasi-government that monitors the governance of the sector.

---

<sup>36</sup> <http://www.acaciaminging.com/~media/Files/A/Acacia/press-release/2016/first-quarter-results-2016-pr.pdf>.

## Annexes

### Annex A - List of MSG members and contact details

#### Government

Mr. Sudi Abdallah, TPDC  
Mr. Alfred Mregi, Tanzania Revenue Authority  
Mr. Ezamo Maponde, Prime Minister's Office  
Mr. John S. Kinuno, Attorney General's Office  
Mr. Ally Samaje, Ministry of Energy and Minerals

#### Industry – Mining, Oil and Gas

Mr. Halfani Halfani, Ophir East Africa, OGAT  
Mr. Gerald Mturi, Tanzania Chamber of Minerals and Energy (TCME)  
Mr. Emmanuel Jengo, TCME  
Mr. Alfred Mwaswenya, Federation of Miners' Associations (FEMATA)  
Mr. Godvictor Lyimo, TEITA Gold Mine

#### Civil Society Organizations

Mr. Amani Mhinda, HakiMadini  
Ms. Blandina Sembu, SHIVYAWATA  
Ms. Philothea Ruvumbangu, TAMICO  
Dr. Camillus Kassala, Interfaith Standing Committee for Economic Justice and Integrity of Creation

## Annex B – MSG meeting attendance

23 Nov 2016 – 64<sup>th</sup> Meeting – Minutes not yet available

29 Jun 2016 – 63<sup>rd</sup> Meeting – Chairperson, Government 0, Industry 4, Civil Society 5

30 Mar 2016 – 62<sup>nd</sup> Meeting – Chairperson, Government 1, Industry 3, Civil Society 5

3 Feb 2016 – 61<sup>st</sup> Meeting – Chairperson, Government 1, Industry 4, Civil Society 5

27 Nov 2015 – 60<sup>th</sup> Meeting – Chairperson, Government 3, Industry 3, Civil Society 3

25 Nov 2015 – 59<sup>th</sup> Meeting – Chairperson, Government 3, Industry 4, Civil Society 4

13 Nov 2015 – 58<sup>th</sup> Meeting – Chairperson, Government 2, Industry 3, Civil Society 5

27 Oct 2015 – 57<sup>th</sup> Meeting – Chairperson, Government 2, Industry 0, Civil Society 3

21 Oct 2015 – 56<sup>th</sup> Meeting – Chairperson, Government 2, Industry 5, Civil Society 4

30 July 2015 – 55<sup>th</sup> Meeting – Chairperson, Government 3, Industry 4, Civil Society 2

22 July 2015 – 54<sup>th</sup> Meeting – Chairperson, Government 1, Industry 4, Civil Society 2

17 June 2015 – 53<sup>rd</sup> Meeting – Chairperson, Government 3, Industry 3, Civil Society 5

22 Apr 2015 – 52<sup>nd</sup> Meeting – Chairperson, Government 1, Industry 3, Civil Society 2

26 Feb 2015 – 51<sup>st</sup> Meeting – Chairperson, Government 2, Industry 5, Civil Society 5

5 Dec 2014 – 50<sup>th</sup> Meeting – Chairperson, Government 2, Industry 1, Civil Society 5

## Annex C – Cost of EITI Reports

Year	EITI Report	Cost	
2013	2011 EITI Report (3rd)	200,000 (USD)	Core funds (including Canada, Norway and World Bank)
2014	2011-12 EITI Report (4th)	207,000 (CAD)	Canada (DFATD)
2015	2012-13 EITI Report and 2013-14 (5th and 6th)	501,500 (CAD)	Canada (DFATD)
<i>Source: Tanzania EITI Annual Progress Reports</i>			

## Annex D - List of stakeholders consulted

### Government

Laurent J. Kadashi, Principal Tax Officer, TRA

Omari J. Kipanga, Deputy Executive Director, Mtwara District Council

Ezamo S. Maponde, Assistant Director, Prime Minister's Office

Safiel Msovu, Acting Revenue Manager, TPDC

### Industry

Halfani Halfani, Country Chairman, Ophir Energy, Oil & Gas Association of Tanzania (OGAT)

Emmanuel Jengo, Consultant, TCME

Gerald B. Mturi, TCME

Alfred A. Mwaswenya, Chairperson, Federation of Miners' Associations (FEMATA)

Aloyce L. Tesha, Asst. Commissioner of Minerals, STAMICO

### Civil Society

Bubelwa Kaiza, FORDIA/EICS

Dr. Camillus Kassala, Interfaith Standing Committee for Economic Justice and Integrity of Creation

Semkae Kilonzo, Coordinator, Policy Forum

Amani M. Mhinda, Executive Director, Haki Madini

Dennis Mwenda, Oil, Natural Gas & Environment Alliance (ONGEA)

Godfrey Nyamrunda, Researcher, Uongozi Institute

Philotea Ruvumbangu, Education and Training Officer, TAMICO – Trade Union Mining and Energy

Blandina Sembu, Gender Officer, SHIVYAWATA

## Development partners

Nathalie Garon, First Secretary, High Commission of Canada

Mette Hatten, Intern, Embassy of Norway

Salim Manji, Economic Assistant, US Embassy

Daniel E. Mbilinyi, Economic Assistant, US Embassy

Matthew Mpanda, Project Manager, EU Delegation

Svein Olav Svoldal, Country Economist, Embassy of Norway

## Media

Joseph Mwamunyange, Senior Correspondent, The East African, Nation Media Group

## Others

Mark Bomani, Former MSG Chair

## Annex E - List of reference documents / Bibliography

### Work plans and Annual progress reports:

- TEITI Annual Progress Report 2015 <http://eiti.org/document/tanzania-2015-annual-progress-report>
- TEITI Annual Activity Report 2014 <http://eiti.org/document/tanzania-eiti-2014-annual-progress-report>
- 2013 – 2015 Tanzania EITI Workplan <http://eiti.org/document/tanzania-eiti-20132015-work-plan>
- Tanzania EITI Workplan 2012/13 – 2017/18. *Not published*

### EITI Reports, Summaries, Validation Report and Secretariat Review:

- 2013/2014 Tanzania EITI Report <http://eiti.org/document/20132014-tanzania-eiti-report>
- 2012/2013 Tanzania EITI Report <https://eiti.org/document/20122013-tanzania-eiti-report>
- Scoping Report on the Preparation of EITI Reconciliation Reports for the years of 2012/2013 and 2013/2014 for Tanzania Extractive Industries Transparency Initiative [http://www.teiti.or.tz/wp-content/uploads/2017/01/2012-2013-2013-2014\\_Final-TEITI-Scoping-Report.pdf](http://www.teiti.or.tz/wp-content/uploads/2017/01/2012-2013-2013-2014_Final-TEITI-Scoping-Report.pdf).
- 2011/2012 Tanzania EITI Report <https://eiti.org/document/20112012-tanzania-eiti-report>
- 2010/2011 Tanzania EITI Report <https://eiti.org/document/20102011-tanzania-eiti-report>
- 2009/2010 Tanzania EITI Report <https://eiti.org/document/20092010-tanzania-eiti-report>
- 2008/2009 Tanzania EITI Report <https://eiti.org/document/20082009-tanzania-eiti-report>

### Legal documents and TORs related to EITI implementation:

- Tanzania Extractive Industries Transparency and Accountability Act, 2015, <http://www.teiti.or.tz/wp-content/uploads/2014/03/The-Tanzania-Extractive-Industries-Transparency-Accountability-Act-2015.pdf>
- Internal Governance and Administrative Rules of Tanzania Extractive Industries Transparency Initiative (TEITI). *Not published.*

- Letter from the International Secretariat to investigate the fraud case regarding Tanzania EITI. *Not published.*

### Other related documents:

- Tanzania EITI Beneficial Ownership Roadmap, <http://eiti.org/document/tanzania-beneficial-ownership-roadmap>.
- 5-Year- Communication Plan for July 2015-June 2020. *Not published.*

### Meeting minutes:

- Available from: <http://www.teiti.or.tz/?cat=24>.

### Other government documents/reports:

- The Petroleum Act 2015, <http://www.teiti.or.tz/wp-content/uploads/2014/03/The-Petroleum-Act-2015.pdf>.
- The Oil and Gas Revenues Management Act 2015, <http://www.teiti.or.tz/wp-content/uploads/2014/03/The-Oil-Gas-Revenues-.pdf>.
- The Mineral Policy of Tanzania, Ministry of Energy and Minerals, September 2009, [https://mem.go.tz/wp-content/uploads/2014/02/0014\\_11032013\\_Mineral\\_Policy\\_of\\_Tanzania\\_2009.pdf](https://mem.go.tz/wp-content/uploads/2014/02/0014_11032013_Mineral_Policy_of_Tanzania_2009.pdf).

### Secondary literature:

- Pedersen, Rasmus Hundsbæk and Peter Bofin, (2015), “The politics of gas contract negotiations in Tanzania: a review”, DIIS Working paper 2015:03, <https://www.econstor.eu/bitstream/10419/148171/1/842235582.pdf>.
- Brockmyer, Brandon (2016), “Global Standards in National Contexts: The Role of Transnational Multi-Stakeholder Initiatives in Public Sector Governance”, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2883203](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2883203).
- IMF (2017), “United Republic of Tanzania. Fifth Review Under the Policy Support Instrument— Press Release; Staff Report” <https://www.imf.org/en/Publications/CR/Issues/2017/01/12/United-Republic-of-Tanzania-United-Republic-of-Tanzania-Fifth-Review-Under-the-Policy-44529>.
- ICGLR (2016), “Addressing Challenges of Natural Resource Governance in The Great Lakes Region. Status of The Implementation of The Extractive Industries Transparency Initiative (EITI) In ICGLR Member States”. *Not published.*