

Validation of Burkina Faso
Draft Validation Report
Adam Smith International Independent Validator
December 11th 2017

1. EXECUTIVE SUMMARY

The government of Burkina Faso committed to implement in 2008. On 16 April 2008, the Council of Ministers adopted decrees creating the Supervisory Committee, a Steering Committee and a Permanent Secretariat. On 15 May 2009, the country was admitted a candidate country. In February 2013, Burkina Faso was recognised as compliant with the EITI Rules (EITI, 2013). Burkina Faso EITI Reports have covered the fiscal years 2008 to 2015, with the first EITI Report covering fiscal 2008 and 2009. The seventh EITI Report, covering the fiscal year 2015, was published in March 2017.

On 25 October 2016, the Board agreed that Burkina Faso's Validation under the 2016 EITI Standard would commence on 1 April 2017 (EITI Board, 2016). This draft validation report follows on from a quality assurance review of the International Secretariat's initial assessment. The Validator agrees the initial assessment apart from requirement 2.2, which we recommend be upgraded to satisfactory progress.

2. BACKGROUND

The mining sector in Burkina Faso is considered one of the most dynamic in West Africa (Chamber of Mines, 2017). The development of the mining sector was achieved through intensified investment, the opening of industrial mines and an evolution of the legal and regulatory context for the sector. The main resources are gold, zinc, copper, manganese, phosphate and limestone. Traces of diamonds, bauxite, nickel and vanadium have been recorded in various geological formations. However, gold remains the most exploited ore in Burkina Faso.

According to the 2015 EITI Report, revenues from the mining sector grew to USD 250.4 million in 2015, including social payments of USD 1.59 million. 99.36% of this went to the state budget, mainly from gold production (95%) and zinc production (3%). The mining sector accounted for 65.2% of exports, 15.9% of state revenues, 6.9% of GDP and 0.22% of the country's employment (BF-EITI, 2015, pp. 7-8).

The 2015 EITI Report notes that the socio-political crisis in Burkina Faso affected mining activities in that year through acts of vandalism against companies such as Bissa Gold, Riverstone Karma SA etc.. This is thought to have hampered foreign direct investment in the country and delayed the adoption of the draft mining code introduced in October 2014 at the National Assembly (p. 24).

Burkina Faso was declared an EITI Candidate country in 2009 and was declared an EITI compliant country in February 2013 under the 2011 EITI Rules, after completion of corrective actions requested by the EITI Board. EITI reporting covers the mining sector, mainly the gold and zinc sectors. The 2012 EITI Report published in December 2014 was the first report that the country produced under the EITI Standard and showed significant progress in the reporting of voluntary and mandatory social payments (EITI-Burkina Faso, 2014).

The MSG has published reports with a two-year time-lag, except for the 2013 EITI Report (EITI-Burkina Faso, 2016b). This report should have been published in December 2015 but was subsequently published in March 2016 following a request for a 3-month extension to the Board. The reason for this extension request was the political turmoil in the country from 2014-2015.

The 2014 EITI Report was published in December 2016 within the two-year time-lag (EITI-Burkina Faso, 2016). The 2015 EITI Report was published in March 2017, ahead of the reporting deadline of December 2017 and ahead of the start of the country's Validation on 1 April 2017 (BF-EITI, 2015).

In line with the Validation Guide, the International Secretariat carried out the first phase of validation—initial data collection, stakeholder consultations, and preparation of their initial evaluation of progress against the EITI requirements (the “Initial Assessment”). Adam Smith International (ASI) was appointed as the independent Validator to evaluate whether the Secretariat's work was carried out in accordance with the Validation Guide. ASI's principal responsibilities as Validator are to review and amend the Initial Assessment, as needed, and to summarize its independent review in this Validation Report for submission to the Board through the Validation Committee.

1. Work Performed by the Independent Validator

The Secretariat's Initial Assessment was transmitted to ASI on 16th November, 2017. Our Validation Team undertook this phase of the Validation process through: (1) In-depth review and marking up of the EITI Assessment by each team member; (2) Detailed review and comments by the Multi-Stakeholder Specialist of Requirements 1 and the Civil Society Protocol; (3) Detailed review and comments by the Financial Specialist of Requirements 4, 5 and 6; (4) Consolidation of reviews and the production of this draft Validation Report, sent to the International Secretariat on 6th December, 2017.

2. Comments on the Limitations of the Validation

The Validator carefully reviewed the Secretariat's Initial Assessment and at this stage has no comments on the limitation of the validation process.

3. Comments on the International Secretariat's Initial Assessment

The initial data collection, stakeholder consultations, and drafting of the Initial Assessment were generally undertaken by the International Secretariat in accordance with the 2016 Validation Guide. The data collection took place across three phases. Firstly, a 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
- Any other information of relevance to Validation.

Secondly, a country visit, which took place on 12th – 17th June 2017. All meetings took place in Ouagadougou. The secretariat met with the multi-stakeholder group and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group.

Finally, the International Secretariat prepared a report making an initial assessment of progress against requirements in accordance with the Validation Guide. The initial assessment did not include an overall assessment of compliance. The report was submitted to the Validator, with the Permanent Secretary of BF-EITI also receiving a copy.

3. GENERAL COMMENTS

- **Progress in EITI Implementation**

The EITI process in Burkina Faso has improved public access to information on the country's key mining sector. Active EITI dissemination and outreach has catalysed public debate about key issues of concern, most notably regarding the transfer and utilization of subnational mining revenues. EITI Reports have become a trusted source of information on gold production, exports, and the sector's contribution to fiscal revenues. In addition to French, EITI Reports are translated into six local languages including Mooré, Dioula, Fulfulde, Bissa, Lyéléet and Dagara. Community radio also plays a key role in disseminating reports and promoting debate. The increasing decentralisation of multi-stakeholder consultation forums through "local EITI committees" at the local level is channelling public demand for information and grievances through institutionalised mechanisms for dialogue. Following the 2014 political transition from decades of one-party rule under President Blaise Compaore, the public administration is using the EITI to drive institutional reforms and oversight of the mining sector, from licensing procedures to funding for environmental rehabilitation. Stakeholders on the MSG have also played a key role in the reforms of the mining sector, with the adoption of a new mining code in June 2015. Implementation of the EITI has also proved resilient to the volatile post-2014 transition, which included a failed coup d'état in September 2015 and presidential and parliamentary elections in November 2015.

Burkina Faso has innovated with its EITI implementation including through disclosure of voluntary social expenditures and its of CO2 emissions in the mining sector, including possible reduction and mitigation measures. The MSG has also provided input to key legal and regulatory reforms in the mining sector, most notably the 2015 Mining Code.

- **Impact of EITI Implementation**

The country has a unique opportunity in terms of a responsive government and active civil society, working together to implement reforms to improve transparency and accountability. There is a willingness by companies and government to make governance of the mining sector more transparent, but stakeholders highlight constraints in financial and human resources. On 30 November 2016, Burkina Faso submitted its letter of intent to commit to the Open Government Partnership (BF-Law, 2016). Burkina Faso's Open Data platform aims to provide the public with data in reusable format, which can play an important role in Burkina Faso's mainstreaming ambitions.¹







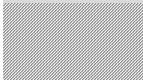
¹ See: Open Data Platform of Burkina Faso, <http://data.gov.bf/about>

The Independent Validator's Assessment of Compliance

Figure 1 – Validator's assessment

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

Legend to the assessment card

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	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.
	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.
	The country is compliant with the EITI requirement.
	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.

4. DETAILED FINDINGS

This section highlights areas where the Validator disagrees with the findings of the Initial Assessment or requires further clarification. The Validator recommends that requirement 2.2 on licence allocations be upgraded to satisfactory progress. There is no evidence of deviations from the statutory allocation process, and the Independent Administrator notes in the 2015 report that all awards were made in accordance with the statutory licence allocation process.

5. RECOMMENDATIONS

1. In line with Requirement 1.4, the MSG should task each stakeholder group to clarify their internal nominations and representation procedures to improve the transparency and participation in the process. The MSG should also agree a process to ensure greater accountability of MSG representatives to the constituencies and ensure that its per diem practice is publicly codified. As a matter of urgency, the MSG should agree a clear and formalised ToRs in line with Requirement 1.4.b. The MSG may also wish to formalise its relations with local multi-stakeholder chapters to guide developments and ensure that vibrant discussions at the local level are fed into the national MSG's discussions.
2. In line with Requirement 1.5, the MSG should agree a work plan linked to national priorities and that is the product of wide consultation with stakeholders. The MSG is encouraged to consider how more meaningful discussions through the EITI, linking to national priorities, could encourage more active participation by all stakeholder groups.
3. In line with Requirement 2.2, the MSG should ensure comprehensive disclosure of the mining, oil and gas licenses awarded and transferred in the year(s) under review, a description of the detailed procedures for transferring mining, oil and gas licenses, including technical and financial criteria assessed, and highlight any non-trivial deviations in practice in the award and transfer of licenses in the year(s) under review.
4. In line with Requirement 2.3, the MSG should ensure comprehensive disclosure of the dates of application and license coordinates for all licenses held by material companies, if not for all extractives licenses irrespective of the license-owner's identity. This information may be made available through government and company reporting systems as a routine feature of their management systems.
5. In line with Requirement 2.4, the MSG should encourage comprehensive disclosure on actual practice of contract disclosure in the mining sector as well as the implication of the revised government policy on contract transparency.
6. In line with Requirement 2.5, to strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that the MSG continues to pilot beneficial ownership reporting in future EITI reporting.
7. In line with Requirement 2.6, the MSG should ensure comprehensive disclosure of the extractives companies in which the government, or any SOE, holds equity and the terms associated with this equity. It should also work with government stakeholders to clarify and document the rules and practice related to the financial relation between SOEs and the government (such as those related to retained earnings,

reinvestment and third-party funding) as well as the existence of any loans or loan guarantees from the state or any SOE to companies operating in the mining sector.

8. In line with Requirement 3.2, the MSG is encouraged to comprehensively disclose production volumes and values for each mineral commodity produced in the year under review. The MSG may wish to work with relevant government entities to distinguish between official data on industrial and artisanal production. The MSG may also ensure that information on domestic prices of all minerals is published as part of routine government disclosures.
9. In line with Requirement 3.3, the MSG is encouraged to ensure comprehensive disclosure of the official figures for export volumes and values for each of the minerals exported in the year(s) under review. The MSG may also wish to distinguish between industrial and artisanal production in future disclosures.
10. In line with requirement 4.1, it is recommended that the MSG revise the scope and thresholds of reporting to expedite the reporting process and facilitate mainstreamed disclosures.
11. In line with requirement 4.9, the MSG may wish to liaise with key revenue collecting agencies and sector regulators to explore means of embedding disclosures of EITI-required information in routine government and company systems to ensure timelier disclosures.
12. In line with Requirement 6.3, the MSG should ensure comprehensive disclosure, in absolute and relative terms, of the extractive industries' contribution to employment as well as an overview of informal activities, such as artisanal mining.
13. In line with Requirement 7.3, the MSG should ensure broad consultations on all recommendations from Burkina Faso's EITI process, including Validation as a means of building stakeholder buy-in to following up on concrete reforms. The MSG should act upon lessons learned and identify, investigate and address the causes of any discrepancies in company and government reporting, establishing a clear timeframe and responsibilities for implementation of reforms. The MSG, in consultation with government stakeholders in particular, may wish to consider institutionalising its mechanisms for following up on recommendations from the EITI process, including Validation, as a means of ensuring closer attention to implementation.
