

VALIDATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE IN MALI

September 2010

Report to the Steering Committee

EITI Mali

Prepared by Hart Nurse Ltd

ACKNOWLEDGEMENTS

Hart Group would like to thank all the members of the Steering Committee for their support and highly informative meetings in Bamako. H.E. Abou-Bakar Traoré, Minister of Mines and Mr Djibouroula Togola, the Permanent Secretary of the Extractive Industries Transparency Initiative in Mali made us particularly welcome and our meetings with them were open and transparent.

We would also like to thank the company and civil society representatives who gave of their time during our visit to Bamako . Their names can be found in Annex 1 of this report.

ABBREVIATIONS AND ACRONYMS

The following is a list of the abbreviations used in the text:

CNSC	National Council for Civil Society
CSO	Civil society organisations
EITI	Extractive Industries Transparency Initiative (ITIE in French)
EU	European Union
GTZ	German Technical Cooperation
MDTF	Multi-Donor Trust Fund, World Bank
NGOs	Non-governmental organisations
PAC Project	World Bank Growth Assistance Project
PS	EITI Permanent Secretariat in Mali
TFP	Technical and Financial Partners
UNDP	United Nations Development Programme

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1 INTRODUCTION

1.1 Foreword

This report presents the conclusions of the Validation of the Extractive Industries Transparency Initiative in Mali, conducted from 3 to 8 May 2010. A further mission was undertaken from 22 to 25 August 2010 following receipt of observations from the EITI International Validation Committee with regard to the provisional report.

The report is structured as follows:

- This first chapter introduces the report and provides a summary of the EITI Validation process, the extractive industry sectors in Mali and a summary of EITI itself
- Chapter 2 describes the Country Work Plan (known as an Action Plan in Mali) and the progress made by Mali in implementing EITI
- Chapter 3 gives the Validator's assessment of each Indicator in the EITI Validation Grid
- Chapter 4 provides an overall assessment of Mali's EITI status
- Chapter 5 presents the Validator's recommendations.

The Annexes to the report comprise:

- A list of the stakeholders consulted
- The company self-assessment forms
- The companies included in the EITI Process for 2007-08
- The 2008-2010 and 2010-2012 Action Plans
- Correspondence between the Prime Minister of Mali and the Chairman of EITI.

In section 1.3, we have listed the actions that this Validation involved and would like to note, in particular, the efforts made by the Steering Committee between our two Validation missions to Mali to respond to the questions raised during the first mission. The involvement of the Minister of Mines and the Chair of the Steering Committee was particularly important at this time.

1.2 The EITI Validation Process

Validation is the process adopted by the EITI Board to establish the Candidate or Compliant status of a country. The Validation process involves:

- appointing a Validator
- organising a working visit to the country
- a Validation visit, culminating in a written report
- consideration of the Validation report by the Steering Committee, which should result in the report being adopted
- presentation of the Validator's report to the International Secretariat, after which the EITI Board decides whether the country is Compliant or not
- publication of the Validation report and action by the Steering Committee with regard to its conclusions.

The main objective of the working visit to the country is to provide an independent assessment of the country's progress in EITI implementation on the basis of evidence from the stakeholders, and to make recommendations aimed at helping to improve or ensure the future sustainability of EITI.

However, the final decision on a country's Compliance is taken by the EITI Board.

Given that Mali has been accepted as a Candidate country, it is expected to have met the Sign up criteria. This Validation does, however, also include a discussion of these indicators, bearing in mind developments since the date of Sign up.

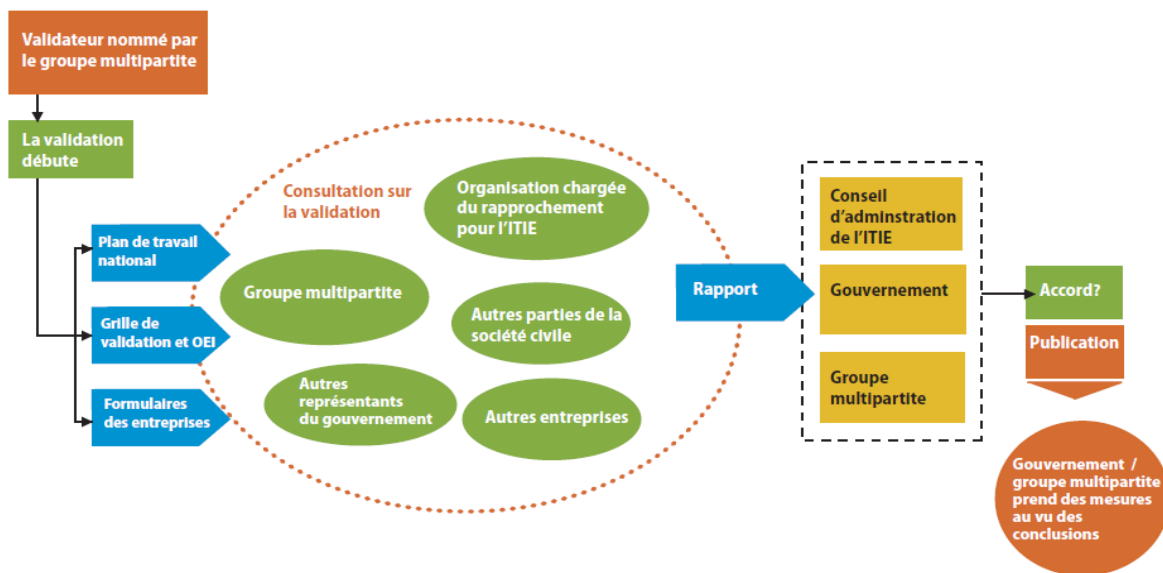
1.3 Approach to the Validation and Activities

The Validation Team comprised Mr John Cole-Baker and Mr David Quinn.

The approach and methodology adopted were as set out in the EITI Validation Guide (September 2009). They were based on:

- a review of documentation (in the office)
- meetings with members of the National Consultation Committee and other stakeholder representatives
- self-assessment forms sent to extractive industry companies operating in Mali.

This approach is illustrated by the following Validation flow chart, which is taken from the Validation Guide.



A list of all people consulted during this exercise can be found in Annex 1 of this report.

A first Validation mission to Bamako took place from 3 to 8 May 2010. Following this mission, a provisional report was drafted and submitted to the EITI Validation Committee. Once this report had been submitted, the EITI Validation Committee made a number of comments. Meanwhile, the Steering Committee endeavoured to provide us with further information, which it requested we take into account in the final report.

A second Validation mission took place from 22 to 25 August 2010 to discuss the new information and comments from the Validation Committee, and to finalise the report. During this mission, a full session of the Steering Committee took place, in the form of a workshop held on 23 August 2010 at the Azalai Hôtel Salam and, in the days following, working sessions were held with the representative working groups appointed by the Steering Committee. These sessions enabled us to examine, with those involved, the additional information provided in order to assure ourselves of the basis for this information and consequently to review our conclusions. This work enabled us to note that the Steering Committee had taken into account our observations and the comments of the EITI Validation Committee. In Mali's case, the Validation process has been particularly productive as it has enabled the stakeholders to gain a better understanding of EITI and consequently to review the details of its implementation.

1.4 The Extractive Industries in Mali

The geological potential of Mali in terms of mineral ores is relatively well known. A study of the country's mining potential, in the broadest sense, was carried out at the end of the 1970s (the 1978 "*Plan Minéral*") and was updated during the second half of the 1990s (World Bank "Technical Assistance to the Mining Sector Project", PATSM, 1998). During the 2000s, implementation of the SYSMIN Programme, financed by the European Union, made it possible, among other things, to conduct an aerial geophysical survey and geological mapping of certain regions of the country. This led to an improvement in the information available to the Ministry of Mines and mining investors.

Gold production is currently the most important source of income to the Malian economy. Archaeological research and studies show that panning for gold has taken place in Bambouk (upper Senegal, western Mali) since at least the eighth century. Industrial production began in the modern era in 1984-5 at the Kalana mine and later at the Syama mine in 1990. The Sadiola mine began to produce gold in 1996 and, since then, several other gold mines have been developed. The search for gold continues, especially in the Kenieba and Yanfolila regions. Since 2000, gold mining has developed significantly. The country's average annual production is currently in excess of 50 tonnes. According to the BCEAO (the Central Bank of West African States) figures for the first half of 2008, gold production represents just over 75% of export proceeds and around 21% of the country's GDP. Mali is the fourth largest gold producer in Africa (after South Africa, Ghana and Tanzania).

There are also diamond exploration programmes. In the Kenieba region, in the west of the country, the search for diamonds began even before independence and led to the discovery of some thirty kimberlite pipes some of which have been identified as diamondiferous. Recent studies, and the geophysical survey, have made it possible to identify potential targets. To date, there has been no commercial discovery.

Other metal showings that have not yet led to discoveries include copper and nickel.

Searches for other mineral ores, such as lithiniferous pegmatites, have not yet found deposits of commercial interest but could eventually lead to the discovery of deposits with limited exploitation potential. Mali also has resources of limestone, some of which could be used in cement production, kaolin, phosphates, gemstones, gypsum and other industrial mineral ores.

The search for oil is currently underway in the Taoudeni Basin and its digitations, the Nara Trench, and the basins at Gao, Tamesna and Iullemeden.

The legislative environment is favourable to investors and the Mining Code is recognised as being attractive.

The Mining Code stipulates the creation of companies under Malian law in which the State takes a 10% holding, free of charge. The State also reserves the right to take an additional holding of up to 10% for cash. The State is consequently directly involved in the mining companies; it is represented on the Boards of Directors and has access to the companies' accounts (see also section 1.7 below).

It is clear that mining sector activity has become an important element of the national economy and could become a real driving force for social and human development and a means of combating poverty.

1.5 EITI Implementation in Mali

The Government of Mali made its Sign up declaration to the Extractive Industries Transparency Initiative (EITI) in Letter No 0736/MEF-SG of 2 August 2006, sent by the Minister of the Economy and Finances to the President of the World Bank Group.

Following this Sign up commitment, the Ministry of Mines and Water organised an EITI launch workshop on 19 and 20 February 2007.

Mali was accepted as a Candidate country on 27 September 2007. The country was required to complete the Validation process by 9 March 2010. Following a request from Mali, and after consideration by the EITI Board, this deadline was extended to 9 September 2010. A letter from the President of EITI, dated 29 April 2010 and addressed to the President of the Republic of Mali, recommended that Mali submit a draft version of the Validation Report by 9 June 2010.

Prime Ministerial Decree No 7/180/PR-RM of 6 June 2007 established the institutional framework for the Extractive Industries Transparency Initiative (EITI) in Mali. A tripartite structure was established:

- Supervisory Committee chaired by the Prime Minister
- Steering Committee, which is the multi-stakeholder group stipulated in the EITI Guide
- Permanent Secretariat.

The Minister in charge of Mines and Energy, or a representative, is responsible for chairing the Steering Committee.

The Steering Committee in Mali comprises representatives of government bodies, companies and civil society. The Steering Committee must ensure support for Mali's Sign up to the EITI Initiative.

The Steering Committee draws support from three working groups:

- the Invoicing and Auditing group
- the Capacity Building group
- the Communications group.

The Decree stipulates that the Steering Committee's internal regulations must include explanations of how these working groups operate. To date, no internal regulations have been established. This makes it difficult to define the various responsibilities of the Steering Committee and its working groups.

The function of the Permanent Secretariat is to assist the Steering Committee. Its responsibilities are set out in Decree No 7/180/PM-RM. The Permanent Secretary and Coordinator is Mr Djibouroula Togola who acts as the focal point. He was named in Decree No 09/074/PM-RM of 25 February 2009, replacing Mr Sidi Mohamed Zouboye who has retired.

An independent Administrator, Mazars Tunisia, was appointed in 2008 and its tasks confirmed in Contract No 0011/2008/SPM/UCP-PAC. The independent Administrator started work on 5 January 2009. Its report was endorsed by the Steering Committee following a presentation workshop on 9 December 2009. The final, definitive version was submitted in December 2009.

Hart Group was appointed Validator in March 2010, following an international procurement process.

1.6 Civil Society Relations

The participation of civil society in the EITI Process is of fundamental importance in the context of the EITI Principles and Sign up Criteria.

Once Mali had sent its statement of intention to sign up to EITI to the World Bank, on 2 August 2006, civil society organisations were contacted to request their involvement in the process. Different groups and federations discussed this matter and, consequently, the National Civil Society Council (CNCS), which comprises several civil society umbrella organisations, became the venue for numerous exchanges. The CNCS is independent of government and the organisations represented undertake their own activities with independent financing.

The Steering Committee includes five members of civil society. These members were chosen by the National Civil Society Council. The selection criteria for these members are given in section 3.6 of this report. The Publish What you Pay Coalition is indirectly represented on the Steering Committee by organisations which are coalition members.

The civil society organisations (CSOs) are actively involved in activities to communicate and popularise EITI Objectives and benefits in Mali. Some of these activities are undertaken independently and with their own funds; some are undertaken in association with the PS and with EITI funding.

Both the operational aspects of the Steering Committee and the participation of civil society are included in the evaluation of Mali's compliance with the EITI Process, specifically with reference to Indicators 5 and 6 on the Validation Grid.

1.7 Implementation by companies

From the start, mining companies in the production phase in Mali have supported EITI. It is worth describing the composition of these companies' shareholders so that the reader can gain a better understanding of the Malian mining sector and its relations with other stakeholders.

Mining companies in Mali are created between private operators and the Malian State, either in association or as a joint venture. The State has a 10% holding free of charge with the possibility of purchasing up to an additional 10% holding in cash.

The table below gives a list of operating companies and details of their shareholders.

Company/Mine	Shareholders	Observations
Morila	AngloGoldAshanti: 40% Randgold Resources: 40% State: 20%	Operator: AngloGoldAshanti
SEMOS/Sadiola	AngloGoldAshanti: 38% Iamgold Corporation: 38% SFI: 6% State: 18%	Operator: AngloGoldAshanti
Yatela	AngloGoldAshanti: 40% Randgold Resources: 40% State: 20%	Operator: AngloGoldAshanti
SOMIKA/Kalana	Avnel Gold: 80% State: 20%	
SOMILO/Loulo	Randgold Resources: 80% State: 20%	
TAMICO/Tabakoto	Avion Resources: 80% State: 20%	Avion took over the shares of NEVSUN, which had a presence in 2006.
SOMISY/Syama	Resolute: 80% State: 20%	The mine was not in production in 2006 as tests were being carried out.

All the international shareholders are listed on one or more stock exchanges in Europe, North America, South Africa or Australia.

It should be noted that the State, being a shareholder in all the mining companies, is represented on the Boards of Directors and its departments automatically receive the management accounts. There is, therefore, at least in theory, complete transparency between the mining companies and the government.

The companies are represented on the Steering Committee by AngloGoldAshanti, Randgold, SOMIKA, SOMISY, TAMICO and also Wassoul'Or, which is preparing to put a mine into production. Wassoul'Or is a private Malian company.

It is notable that, during EITI implementation, the mining companies' participation in the meetings has been significant and enthusiastic.

The large mining companies have also made significant efforts to assist some of the communities in the mining regions.

As indicated elsewhere in this report, the involvement of mining companies in EITI in Mali has thus far been limited to companies in production or close to mining development. This can in part be explained by the fact that the parties in Mali thought that EITI related only to extractive industry companies in the production phase. Following the Validation exercise, and for the second EITI Report, the scope of EITI will be widened to all sector companies. This will require significant efforts to involve the exploration companies and, if necessary, subcontractors.

2 PROGRESS AGAINST WORK PLAN OBJECTIVES

Mali published a public statement of its intention to sign up to EITI by means of Letter No. 0736/MEF-SG of 2 August 2006 addressed to the President of the World Bank Group. The key institutions for process management were put in place in Mali during 2007.

An Action Plan for the years 2008-2010 was developed and endorsed by the Steering Committee on 29 October 2008. The following remarks are based on the version of the Action Plan given to the Validator. This is the version endorsed by the Steering Committee and sent to partners, including the World Bank. A copy is given in Annex 4. An Action Plan for the period 2010-2012 was produced in July 2010, i.e. after the submission of the provisional Validation report. Where appropriate, reference is made to this plan in this section, but it is analysed in greater detail in section 3.4.

The Action Plan has five main objectives:

- Objective No. 1: Capacity Building
- Objective No. 2: Awareness Raising and Communications
- Objective No. 3: Preparation, Publication and Dissemination of the Mali EITI Report
- Objective No. 4: Support for the Establishment and Operations of the Permanent Secretariat
- Objective No. 5: Validation Procedure

The Plan is generally well presented as it includes:

- Actions
- Expected Outcomes
- Indicators
- Validation Resources
- Responsibility at Institutional Level and
- Other participants

The Plan also includes a timetable and a budget, with budget source, for each post. However, the following weaknesses should be noted:

- The institutional level of responsibility is, in most cases, allocated to one or other of the Steering Committee working groups. However, the absence of internal regulations relating to the Steering Committee means that the working groups do not operate effectively. There is no effective delegation of functions or responsibilities to these working groups. Several participants have mentioned this issue as an obstacle to EITI implementation. This matter was raised by the Steering Committee (see minutes of Steering Committee meeting, 10 April 2009).
- The budgets allocated to some of the activities were insufficient.
- The activities are planned by quarter but the budget is given for the whole period of the Plan, and not by year. The statement of expenditure (under or over budget) is thus difficult to identify and the funds required for any given year are not obvious.
- The sources of funding are identified but it appears that the costs of activities have not been guaranteed by the government. As a result, delays in the availability of funds could create an obstacle to EITI implementation.
- There is no procedure for the regular updating of the Plan, either in terms of monitoring outcomes or progress. The Activities Plan for 2010/12 was produced in July 2010.

- The time allocated to creating the first independent Administrator’s report was too short. This is a remark made with hindsight, however: it was difficult to predict how much time would be needed to compile the first report.

The Source Book stipulates that the government will identify and establish sources of sustainable financing for EITI implementation (Suggested Action 10). The fact that the government has secured a funding commitment from the World Bank confirms that this action has been implemented. However, a delay in the availability of these funds led to a delay in the implementation of the planned actions. The Source Book also says, under this heading, that: “in order to ensure sustainability of the implementation process, the government should identify as soon as possible a sustainable domestic source of funding”. The production of the 2010-2012 Action Plan and the budgets allocated to EITI activities by the government provide a good basis for EITI sustainability in Mali. The detailed budgets allocated to EITI by the government are given under Indicator 8.

The Source Book stresses the need to find domestic funding in the remarks relating to Suggested Action 14, in which it recommends putting arrangements in place to provide sustainable financing for the role of the Administrator. It is also suggested that, even where initial funding is coming from an external source, the government should identify a sustainable source of funding from the outset.

The following chapters describe the actions relating to each of the objectives. They are followed by general remarks intended to improve the process of monitoring the Plan in future.

2.1 OBJECTIVE NO. 1: CAPACITY BUILDING

The creation of a training programme for members of the Steering Committee, the Permanent Secretariat, civil society, the media and other key partners did not take place due to lack of sufficient funding.

We note that correspondence with the World Bank regarding support for Mali’s Sign up to EITI had already been initiated in 2006 (see, for example, the aide memoire of Mr Boubacar Bocoum’s visit of 8 – 19 September 2006). A letter dated 14 February 2008 from the Ministry of the Economy, Industry and Commerce to the World Bank representative in Bamako makes reference to the eventual availability of “EITI Trust Funds – Mali”, following a visit to Mali by Mr Craig Andrews of the World Bank. A formal request was subsequently made by the same Ministry on 30 October 2008. In a letter dated 3 April 2009, addressed to the World Bank Delegation in Bamako, the EITI Permanent Secretary in Mali reiterated the urgent need for funds for EITI implementation. On 28 December 2009, a World Bank internal memorandum, signed by Mrs Brigitte Bocoum, requested that EITI-MDTF funds be made available for EITI implementation in Mali. These funds were finally available in January 2010. This brief study of the correspondence shows that Mali had effectively tried to find funding for the implementation of its Action Plan. Delays in the availability of MDTF funds are also considered in section 2.4.

2.2 OBJECTIVE NO. 2: AWARENESS RAISING & COMMUNICATIONS

The actions envisaged under this objective were also subject to delay, mainly due to delays in the availability of World Bank MDTF funding.

Awareness-raising activities, including EITI launch workshops, were however in large part funded by counterpart funding (coming from the AUREP – the Authority for the Promotion of Oil Research).

2.3 OBJECTIVE NO. 3: PREPARATION, PUBLICATION AND DISSEMINATION OF THE EITI MALI REPORT

Responsibility for the main actions in this Objective, that is to say implementation of the first three EITI Reports, was assigned to the Invoicing and Auditing Working Group of the Steering Committee. Planning for these was as follows:

		Quarter 2008		Quarter 2009				Quarter 2010			
		3	4	1	2	3	4	1	2	3	4
Report 1	Projected										
	Actual										
Report 2	Projected										
	Actual										
Report 3	Projected										
	Actual										

Drafting of the Terms of Reference and recruitment of the independent Administrator for the first report commenced in 2008. The procurement process for this service followed World Bank procedures (PAC Project). The Administrator was appointed by the end of 2008. The firm in question was Mazars Tunisia, which began its work in January 2009.

The Administrator discovered discrepancies in some of the reports. Attempts to explain these discrepancies, on the part of the Administrator and the Steering Committee, took several months. The independent Administrator's final report was submitted on 10 December 2009, that is, more than nine months behind schedule.

Production of the 2006 Report was also behind schedule in respect of the timescale established in the Action Plan. This envisaged that the first EITI Report would be compiled, revised by the Steering Committee and endorsed within a three-month period. Furthermore, within these three months, it was envisaged that workshops would be held and the report disseminated by the Communications Working Group. With hindsight, and taking into account experiences elsewhere, this timescale was wholly insufficient.

The independent Administrator's preliminary report was discussed at Steering Committee meetings, for example:

- At the Steering Committee meeting of 10 April 2009, it was decided that the Invoicing and Auditing Working Group should study the report in detail.
- A summary of comments on the report appeared on the agenda for 29 May 2009.
- The Administrator's pre-final report was discussed at the Steering Committee meeting of 17 July, discussion centred on explanations for the discrepancies identified and the lack of clear explanation.
- During the Steering Committee meeting of 9 October, it was recognised that the discrepancies were largely due to cases of adjustment, compensation, advances and interim payments.

We understand that the delays in publication of the final report were due, firstly, to a lack of diligence in the revision of the preliminary report on the part of Committee members and, secondly, to a concerted attempt to explain the discrepancies.

The provisional final version of the report was presented at a workshop in Bamako on 9 December 2009 and the definitive, final version was submitted in December 2009.

For the compilation of the second EITI Report (2007), the Plan envisaged that the independent Administrator would be appointed during the third quarter of 2009 and that the report would be endorsed and disseminated by the end of 2009. These actions were not initiated, however, due to lack of funds. The Steering Committee has now commenced the process of appointing the independent Administrator for the second EITI Report. Draft Terms of Reference were produced and discussed at a Steering Committee meeting on 16 July 2010. These ToRs will be reviewed and validated during forthcoming Committee meetings.

This second EITI Report is being financed with funds from the special investment budget (see section 3.4) and the 2010-2012 Action Plan anticipates appointing an independent Administrator, and undertaking the data collection and reconciliation work, during the last quarter of 2010. To comply with this deadline, and then the adoption of the ToRs, the next stages of the process will be: the publication of a call for expressions of interest; the production of a shortlist; and the procurement and appointment procedure as stipulated by the Directorate General for Public Contracts.

2.4 SUPPORT FOR THE ESTABLISHMENT AND OPERATIONS OF THE PERMANENT SECRETARIAT

The first action identified was the creation of an Action Plan. This plan was published in the third quarter of 2008.

The remaining points set out under this chapter heading relate to funding for the implementation of the Plan and the payment of current costs and salaries of the Permanent Secretariat, together with acquisition of equipment. This funding depended largely on the contributions of development partners. According to the Action Plan, this funding should have been mobilised at the end of the last quarter of 2008 or during the first quarter of 2009 at the latest. This did not happen: the World Bank grant did not become effective until the end of 2009.

The Action Plan established deadlines for the implementation of financing for the Permanent Secretariat. For the most part, these deadlines have not been respected. Failure to meet the deadlines relative to each Objective has been cited as the reason for the delays in the effective implementation of EITI. The PS's operating costs in 2006 and 2008 were taken from a PAC budget.

2.5 VALIDATION PROCEDURE

According to the Action Plan supplied to the Validator, the process of drawing up Terms of Reference, the request for proposals, the selection of the candidate and the signing of the contract should have been completed by the end of December 2009. In reality, the contract with Hart Group was not signed until April 2010, with the team being sent to Bamako on 3 May.

The deadline for Validation of Mali's EITI Compliance was 9 March 2010. Mali was not in a position to meet this deadline and the country requested an extension. The reasons for the delay are set out in a letter from the EITI Permanent Secretary in Mali to the Chair of the EITI Board, Letter No 27/MM-SG, dated 3 March 2010. This request was given consideration by the EITI Board in Berlin on 14 and 15 April 2010. The timetable was subsequently amended as follows:

Final Validation report to the EITI Secretariat	9 July 2010
Validation deadline	9 September 2010
Consideration by the EITI Board	October 2010

(see the letter from the EITI Chairman – Annex 5)

According to the EITI Permanent Secretary in Mali, the delays in awarding the Validator contract were caused by the lack of funding for that contract. A financial contribution from GTZ Germany to fund part of the Validation exercise was made available at the end of 2009. This made it possible to put the contract into effect.

2.6 SUMMARY

Mali published a fully costed national Work Plan, containing measurable targets and a timetable for EITI implementation. There was no assessment of capacity constraints and the Plan was not made widely available.

The Plan envisages an evaluation of capacity constraints (government, private sector and civil society), and the implementation of appropriate training covering the issues identified as a result of said assessment. However, given the absence of the assessment, the training provided was limited.

Budgeting for the Action Plan is not in phase with the planned actions and there is no evidence of monitoring of progress or expenditure by the Steering Committee. The Plan was not developed to include planning of future actions. The delay in the availability of funding from partners was the cause of delay in the implementation of several actions.

Significant progress has been made, both in the government's commitment to participate in the EITI Process with companies and civil society and also in the regular meetings of the Steering Committee and the compilation of a report on the payments and revenues between companies and the government for 2006.

However, in order to guarantee the sustainability of EITI implementation in Mali, an ongoing planning process, with provision for monitoring and tracking rates of progress, is necessary. Furthermore, the government must publicly commit to providing all the funds necessary for implementing the National EITI Plan even if assistance is sought from external agencies for certain projects.

The involvement of civil society and companies in the process and the publication of the first EITI Report represents significant progress.

3 PROGRESS AGAINST VALIDATION GRID INDICATORS

3.1 INDICATOR 1: Has the government issued an unequivocal public statement of its intention to implement EITI?

Progress

The Government of Mali made its Sign up declaration to the Extractive Industries Transparency Initiative (EITI) in a letter from the Minister of the Economy and Finances, No 0736/MEF-SG of 2 August 2006, addressed to the President of the World Bank Group.

An EITI launch workshop was held on 19 and 20 February 2007. The workshop report records the participation of 107 persons representing the following:

- the government
- representatives and leaders from mining regions
- mining companies
- civil society
- communities from mining regions

Subsequently, Prime Ministerial Decree No 7/180/PR-RM of 6 June 2007 established the institutional framework of the Extractive Industries Transparency Initiative (EITI) in Mali. A tripartite structure was established:

- Supervisory Committee chaired by the Prime Minister
- Steering Committee, which is the multi-stakeholder group stipulated in the EITI Guide
- Permanent Secretariat

The Minister in charge of Mines and Energy, or a representative, is responsible for chairing the Steering Committee.

Stakeholder views

The Validator was able to meet stakeholder representatives during the visit to Bamako. They were of the opinion that Mali was serious in its intention to implement EITI.

Validator's Assessment

The government has indeed declared its intention to implement EITI and has begun the process. The decree establishing the EITI structures, published in June 2007, included the establishment of a Supervisory Committee comprising representatives of the Ministries concerned, the President of the National Civil Society Council and the President of the Chamber of Mines, currently being formed. Committee responsibilities include, among others, defining the key political and strategic directions of EITI and assessing the impact of EITI implementation on sustainable development. This committee is required to meet at least once a year. The Chair of this Supervisory Committee is the Prime Minister.

The same decree establishes the Steering Committee with representatives of the government, companies and civil society. It names the Minister responsible for Mines, or a representative, as Committee Chair.

Mali is Compliant with this Indicator.

3.2 INDICATOR 2. Has the government committed to work with civil society and companies on EITI implementation?

Progress

The composition of the EITI start-up workshop, 19 - 20 February 2007, showed the willingness of the government to work with civil society and companies.

The Steering Committee comprises six representatives of mining companies together with five representatives of civil society. The mining companies represented are those which are in the production phase. For the first year, companies in the exploration phase were not included within the scope of EITI. In the same way, oil companies which are only exploring are not currently included within the scope of EITI. Decree No 7/180/PM-RM of 6 June 2007 envisages two representatives of the Chamber of Mines. This body is currently being formed in Mali. However the Validator has received confirmation that, once it has been established, two representatives will be appointed to represent mining companies more broadly.

Stakeholder views

The civil society representatives were appointed following a request from the Minister of Mines, Energy and Water in a letter to the President of the National Civil Society Council, Letter Ref: 02335/MMEE-SG, dated 22 December 2006. This letter requested the nomination of five persons. The stakeholders feel that these persons, and their organisations, adequately represent civil society in Mali.

We note that the Publish What You Pay Coalition is represented and that the Sahel Development Foundation (*Fondation pour le Développement au Sahel*), which is active in the mining regions, is very active on the Committee and in communications in the regions.

Mining companies in the production phase when the Steering Committee was established were invited to represent companies in the extractive industry sector. There were no oil companies in the production phase. Their representatives confirmed the opinion that the government was committed to working with companies to implement EITI.

Validator's Assessment

Mali is Compliant with this Indicator.

3.3 INDICATOR 3. Has the government appointed a senior individual to lead on EITI implementation?

Progress

Prime Ministerial Decree No 7/180/PR-RM of 6 June 2007 established the institutional framework of the Extractive Industries Transparency Initiative (EITI) in Mali. A tripartite structure was established:

- Supervisory Committee chaired by the Prime Minister
- Steering Committee ,which is the multi-stakeholder group stipulated in the EITI Guide
- Permanent Secretariat.

The Minister in charge of Mines and Energy, or a representative, is responsible for chairing the Steering Committee.

The Permanent Secretary is an experienced senior adviser from the Ministry responsible for Mines.

These persons are all senior officials.

Stakeholder views

The stakeholders are satisfied that the government has made these senior officials available.

Validator's Assessment

Mali is Compliant with this Indicator.

3.4 INDICATOR 4. Has a fully costed Work Plan been published and made widely available, containing measurable targets, a timetable for implementation and an assessment of capacity constraints (government, private sector and civil society)?

Purpose: The Country Work Plan is the foundation of the country Validation process. The sixth EITI criterion requires that a Work Plan be produced that is agreed with key EITI stakeholders and is publicly available.

Evidence: To give this indicator a tick, the Validator is expected to see evidence that the Work Plan has been agreed with key stakeholders and that it contains:

- measurable targets;
- a timetable for implementation;
- an assessment of potential capacity constraints;
- how the government will ensure the multi-stakeholder nature of EITI, particularly in terms of the involvement of civil society;
- a timetable for Validation during the stage at which a country is a Candidate. This should reflect country needs, but should take place once every two years;
- the Work Plan should also elaborate on how the government will pay for Validation.

The Validator will need to assess progress on the implementation of the EITI against these targets and timetables, and assess whether a country has acted on the identified capacity constraints.

A key element in the country Validation process will be whether the timetable for implementation is being followed. If the timetable is not being met, the Validator – based on evidence from key stakeholders and others – will need to determine whether delays in meeting the timetable are reasonable. If unreasonable, the Validator will need to consider whether to recommend that the country be de-listed from the list of Candidate countries.

Progress

Mali published an Action Plan for the years 2008-2010 which was adopted on 29 October 2008. This Plan was discussed by the Steering Committee in November 2007 and adopted after certain amendments as a result of consultations among the Committee and with partners, especially the World Bank.

After our first Validation mission, an Action Plan for the years 2010, 2011 and 2012 was produced in July 2010 and sent to us. On studying this Plan, we note that, in addition to a three-year presentation, activities for 2011 and 2012 are also detailed by quarter and by annual budgets allocated to these activities, which will facilitate monitoring.

These two Plans, 2008-2010 and 2010-2012, are attached as Annex 5 to this report. They are well presented in terms of actions, expected outcomes, indicators, Validation resources, institutional level of responsibility and the list of other

participants. Timetables are set out on a quarterly basis. Budgets are presented for each action and not detailed on a yearly basis. However, as previously noted, activities in the 2010-2012 plan are also broken down by quarter. The source of each budget is given: State or partner counterpart funds.

With reference to the items of evidence listed above and in chapter 2 of this report, training workshops for Steering Committee members took place during 2010. We consider that the current Action Plan, with activities defined by quarter, is appropriate to enable regular updating. We note that Objective 5: Validation Procedure has previously been fully revised (see reports of Steering Committee meetings of 9 October and 25 November 2009).

An assessment of the implementation of this Plan requires a consideration of the funding made available for the activities. If we assess the allocations proposed in the first Action Plan (mid-2008 to end 2010), they are as follows:

- | | |
|--|-------------|
| • PAC Project (World Bank Growth Assistance Project) mining component: | US\$135 000 |
| • MDTF (World Bank Multi-Donor Trust Fund): | US\$210 000 |
| • Other partners: | US\$146 800 |
| • Counterpart: | US\$268 100 |

The counterpart funds were, above all, aimed at covering ongoing costs and, to a lesser degree, goods and consultancy services.

MDTF funds were primarily intended for capacity building workshops and/or conferences.

PAC and counterpart funds (from AUREP – the Authority for the Promotion of Oil Research) were indeed used to cover ongoing costs and EITI launch workshops.

We have examined the available written evidence and held meetings with the PS to enable us to gain an understanding of the process for requesting funding through the MDTF. There is an obvious lack of clarity in the PS files: neither the current Permanent Secretary nor his Assistant formed part of the PS during the first period of putting the financing in place. The first correspondence provided to us is a letter from the General Secretariat of the Ministry of the Economy, Industry and Trade dated 14 February 2008 to the World Bank Resident Representative, referring to a mission to Mali by Mr Craig Andrews of the World Bank in September 2007. According to the terms of the letter, it would seem that the World Bank's procedures were not known. A letter from the General Secretariat of the Ministry of the Economy, Industry and Trade dated 30 October 2008 and sent to Mr Benjamin McDonald comprises the official request. The grant agreement was signed on 26 June 2009. In an "Office Memorandum" dated 28 December 2009, Mrs Brigitte Bocoum recommended to Mr Habib M. Fetimi that the grant in question should be declared effective. The first instalment became available at the end of February 2010. Three conditions were imposed on the grant being made available and these were declared to have been fulfilled. One of these conditions relates to establishing an official responsible for managing the funds. This person was appointed by Letter No. 287/MM-SG dated 29 September 2009 sent by the General Secretariat of the Ministry of Mines to the World Bank Resident Representative in Bamako.

We have not been able to understand the reasons for such a delay between the first request and the provision of the funds, a delay that might be due to correspondence not reaching its addressee.

Meanwhile, the PS established contact with a number of bilateral and multilateral partners, which resulted in an agreement in principle on the part of GTZ to fund certain activities, including part of the Validation study. (The GTZ is financing 41% of the cost of the study.)

With regard to current and future funding of the activities of the PS and the Validation Committee, we have been informed that the operating budgets for the PS and the Validation Committee for 2008 and 2009 were covered out of the ordinary State budget: 20 million FCFA for 2008 and 37.2 million FCFA for 2009.

The PS has informed us that the PS running costs will continue to be sourced from the ordinary budget (37.2 million FCFA for 2010) and that an amount of 100 million FCFA per year has been allocated from a Special Investment Budget as of 2010. This budget can be used for the Validation costs and independent Administrators' reports.

Stakeholder views

All represented stakeholders acknowledge that the Action Plan was adopted by the Steering Committee.

Workshops to present EITI were organised by the government (Workshop of 19 and 20 February 2007) and by civil society organisations (Sahel Development Foundation, 1 and 2 February 2007). However, it was not possible to implement the part relating to training. The reason for this, as all those involved agree, was the significant lack of funding.

The civil society section organised regular workshops and presentations to disseminate information about EITI, including the Action Plan. These actions were above all targeted at communities in the Kayes and Sikasso regions, which are the regions where mining activity is most significant. The CSOs have also cooperated with the PS to organise a capacity building Workshop for National Assembly members. This workshop, which was held on 24 October 2009, enabled parliamentarians to raise questions concerning the EITI Process and the roles of the different government institutions in this process.

The mining company representatives consulted also expressed the need for better management of the Action Plan, with ongoing updating and timetable revision throughout its implementation (or non-implementation). Furthermore, comments from company representatives appear in the minutes of some of the Steering Committee meetings expressing concern that if the Plan were not adhered to, the Validation deadline would not be met. We believe that these comments, and those we made at the time of the first Validation mission, have led to a reformulation of the plan for 2010-2012, which will improve its monitoring.

Validator's Assessment

A more detailed assessment of Action Plan implementation is presented in chapter 2. Although it can be said that Mali has made progress by adopting this Action Plan, it is clear that several of the deadlines set by the Action Plan, as adopted, were not met, particularly in the early years. We made comments and recommendations in the provisional Validation report aimed at Mali possibly being able to achieve Compliance. The Steering Committee and the PS have begun to implement those recommendations, as described below.

We recommended producing a 2010-2012 Action Plan with clearly defined objectives and including the following points:

- an assessment of potential capacity constraints and production of an executive training programme for stakeholders
- a communications plan which takes into account the recommendations of the EITI Guide concerning dissemination of information and which also has the objective of presenting EITI Values and Objectives to the public
- compilation, swift publication and dissemination of the following EITI Reports: 2007, 2008, 2009 etc.
- operations of the Permanent Secretariat.

In order to facilitate the costing of these actions, we recommended that budgets should not only be presented by action but also on a yearly basis. This will make it possible to have an overview of the operating costs of EITI in Mali. It should also lend weight to the arguments of the ministers responsible (i.e. the Prime Minister in his capacity as Chair of the Supervisory Committee and the Minister of Mines as Chair of the Steering Committee), enabling the government to demonstrate the importance it places on EITI by guaranteeing funding, with or without contributions from partners.

Following submission of the provisional report, the Steering Committee took into account these observations and drafted the Action Plan for 2010, 2011 and 2012, as mentioned above. In addition to a three-year presentation, the activities for 2011 and 2012 are also detailed by quarter and by annual budgets allocated to these activities. Implementation of the production of the next EITI Report for 2007 and 2008 is included in this Plan.

The Steering Committee's Communications Working Group produced an EITI Mali Global Communications Plan in July 2010 (see also section 3.6).

The World Bank placed conditions on approval of the Mali EITI financing with MDTF funds, one of which was the establishment of an official responsible for managing these funds. This person was appointed by Letter No. 287/MM-SG dated 29 September 2009 from the General Secretariat of the Ministry of Mines to the World Bank Resident Representative in Bamako. We feel that measures are now in place to provide monitoring of the Plan.

Mali is Compliant with this Indicator.

3.5 INDICATOR 5. Has the government established a multi-stakeholder group to oversee EITI implementation?

Purpose: Implementation of the EITI should be overseen by a group comprising all appropriate stakeholders, including – but not limited to – the private sector, civil society (including independent civil society groups and other civil society, such as the media and parliamentarians) and relevant government ministries (including government leads). The group should agree clear, public terms of reference (ToRs). These ToRs should at least include: endorsement of the Country Work Plan – following revisions where necessary; choosing an auditor to undertake audits where data submitted for reconciliation by companies or the government are not already based on data audited to international standards; choosing an organisation to undertake the reconciliation; and other areas as noted in the Validation Grid.

Evidence: To give this indicator a tick, the Validator is expected to see evidence that a multi-stakeholder group has been formed, that it comprises the appropriate stakeholders and that its terms of reference fit the purpose.

Evidence should include:

- stakeholder assessments where these have been carried out;
- information on the membership of the multi-stakeholder group:
 - Was the invitation to participate in the group open and transparent?
 - Are stakeholders adequately represented? (This does not mean stakeholders have to be equally represented.)
 - Do stakeholders feel that they are adequately represented?
 - Do stakeholders feel they can operate as part of the committee – including by liaising with their constituency groups and other stakeholders – free of undue influence or coercion?
 - Are civil society members of the group operationally, and in policy terms, independent of government and/or the private sector?
 - Where group members have changed, has there been any suggestion of coercion or an attempt to include members that will not challenge the status quo?
 - Do group members have sufficient capacity to carry out duties?
- Do the ToRs give the committee a say over the implementation of the EITI? These ToRs should at least include: endorsement of the Country Work Plan – following revisions where necessary; choosing an auditor to undertake audits where data submitted for reconciliation by companies or the government are not already based on data audited to international standards; choosing an organisation to undertake the reconciliation; and, other areas as noted in the Validation Grid.
- Are senior government officials represented on the committee?

Progress

Prime Ministerial Decree No 7/180/PR-RM of 6 June 2007 established the institutional framework of the Extractive Industries Transparency Initiative (EITI) in Mali. A tripartite structure was established:

- Supervisory Committee chaired by the Prime Minister

- Steering Committee, which is the multi-stakeholder group stipulated in the EITI Guide
- Permanent Secretariat.

Supervisory Committee

The Supervisory Committee comprises representatives of the Ministries concerned, the President of the National Civil Society Council and the President of the Chamber of Mines, currently being formed. The Committee is responsible for, among other things, defining the key political and strategic directions of EITI and assessing the impact of EITI implementation on sustainable development. The chair of this Supervisory Committee is the Prime Minister. This committee is required to meet at least once a year.

It is important that this committee meets at least once a year to give strategic direction to the Steering Committee and to examine progress made and possible obstacles to implementation. The Committee only met for the first time in March 2010. As the committee members are high-level members of the government, regular meetings would lend weight to evidence of support for EITI at the highest levels of government.

Steering Committee

The Minister of Mines, or a representative, chairs the Steering Committee.

The Steering Committee in Mali comprises representatives of government bodies, companies and civil society. The Steering Committee must ensure support for Mali's Sign up to the EITI Initiative. The committee's composition has changed since its first establishment, and the current members are:

GOVERNMENT COMPONENT:

Mr Dramane DEMBELE,	National Director for Geology and Mines;
Mr Mamadou SIMPARA,	Director General of the Authority for the Promotion of Oil Research;
Mr Souleymane SIDIBE,	National Assembly;
Mr Soungalo TOGOLA,	National Assembly ;
Mr Cheick Bougadary SIDIBE,	High Council for Local Authorities;
Mr Mohamed El Haki KEITA,	Ministry for the Economy and Finances;
MrMr Seydounour DIALLO,	Ministry for Industry, Investment and Trade;
Mr Ibrahima TRAORE,	Ministry for the Economy and Finances;
Mr Tidiani SAKO,	Ministry for Housing, Land Affairs and Urban Planning;
Mr Cheickné SIDIBE,	Ministry for the Environment and Sanitation;
Mr Bassidy COULIBALY,	Ministry for Regional Administration and Local Authorities;
Mr Makan MAKADJI,	Ministry for Communications and New Technologies.

MINING COMPANY COMPONENT

Mr Mamadou COULIBALY,	Anglogold SA.
Mr Mahamadou SAMAKE,	Randgold Sarl
Mr Issaka COULIBALY,	Wassoul'Or
Mr Issa DIALLO,	SOMIKA SA
Mr Adama BAGAYOKO,	SOMISY SA
Mr Hassimi Bagna SIDIBE,	TAMICO

CIVIL SOCIETY COMPONENT

Mr Tiémoko S. SANGARE,	Sahel Development Foundation (FDS)
Mr Abdoul W. DIAKITE,	Malian Consumer Association (ASCOMA)
Mr Yéro DIALLO,	Malian Network of Journalists against Corruption and Poverty (RMJLCP)
Mr Soufiana KONARE,	Coalition for African Debt and Development Alternatives (CAD)
Mrs LY Fatoumata COULIBALY,	Coordinating Body of Women's Associations and NGOs (CAFO)

The role of the Permanent Secretariat is to assist the Steering Committee. Its responsibilities are set out in Decree No 7/180/PM-RM. The Permanent Secretary and Coordinator is Mr Djibouroula Togola who acts as the focal point. He was appointed by Decree No 09/074/PM-RM of 25 February 2009, replacing Mr Sidi Mohamed Zouboye (appointed by Decree No. 07-266/ PM-RM of 3 August 2007), who has retired.

The following is evidence relevant to this Indicator:

- The choice of stakeholders comprised the selection of civil society representatives (see section 3.6 for more detail), the involvement of mining companies in the production phase, and actors from the relevant ministries. The stakeholders are satisfied with the tripartite representation: government, companies and civil society (see below).
- With reference to information on members of the multi-stakeholder group:
 - Members representing the government are drawn from state institutions which operate in the sector, plus two parliamentarians. The producer companies all have a representative on the Committee. Representation of these companies is discussed in more detail in section 3.11.
 - The invitation to civil society to participate was overseen by the National Civil Society Council (described in more detail in section 3.6), which is the body that represents civil society's umbrella organisations. The appointed representatives include members of the Publish What You Pay Coalition in Mali which therefore means that there are links with international groups.
 - The five civil society representatives are clearly committed to the process and participate freely and without constraint.
 - Activities implemented by CSOs represented on the Steering Committee outside of the scope of EITI are financed independently and without recourse to government, which thus has no influence over their independence. The important role of CSO representatives in the Steering Committee's tasks is clearly recognised and they are able to express themselves without constraint or coercion.
 - The representatives of the mining companies participate fully in the work of the Steering Committee and communicate with their staff. They are not subject to any external influences.
 - It is envisaged that two members of the Chamber of Mines (being formed in Mali) will also participate in the Steering Committee.

- The Steering Committee works through three working groups:
 - Invoicing and Auditing group
 - Capacity Building group
 - Communications group.

In principle, the Steering Committee is responsible for implementing EITI through these working groups. However, the Decree stipulates that the internal regulations of the Steering Committee must include explanations of how these working groups function. During our first mission to Bamako, we noted that there were no internal regulations for the Steering Committee. Internal regulations have since been produced and responsibilities and Terms of Reference for the Steering Committee and Working Groups defined ¹.

- Decree No 7/180/PM-RM appointed the Minister of Mines as Chair of the Steering Committee. Representatives of State bodies such as the Ministry of the Economy and Finances and the Customs Agency are reasonably well represented and as such can effectively communicate decisions of the Steering Committee to their respective government bodies and also present the concerns of those bodies.

Recommendations for effective capacity building of the Steering Committee are given in chapter 5.

The Steering Committee has met regularly since its inception and has given consideration to the various issues in its remit, for example, appointing an independent Administrator, endorsing the EITI Report etc.. As discussed below, the stakeholders have expressed their satisfaction regarding the actions undertaken by the Committee. In the provisional report, we recommended that the Steering Committee produce and adopt appropriate procedures. Following the submission of this provisional report, internal regulations were drafted and adopted on 2 July 2010.

The way in which the Steering Committee operates is described in the 2008-2010 and 2010-2012 Action Plans and guaranteed by the State budget. It will be important for the government to provide funding for this Committee's activities and all actions that are to support the Initiative, in order to reassure the stakeholders of the sustainability of EITI activities in Mali.

Stakeholder views

During a plenary session of the Steering Committee with the Validator on 7 May 2010, all those involved were of the opinion that the Steering Committee was effectively fulfilling its functions. The stakeholder interviews confirmed this opinion. In particular, the civil society representatives expressed their opinion that the invitation to the National Civil Society Council represented an open and transparent invitation, that civil society was appropriately represented and that they were not subject to any coercion on the part of the government, from which they were independent.

If, for reasons of work, members of the Steering Committee cannot be present, they often send substitutes. We do not consider that this has had a negative effect on the work of the Committee as the substitutes that we met were well informed of the activities of EITI.

With reference to the skills of Steering Committee members, the civil society members said that, as they were not accountancy experts, they had difficulty in understanding the reports of independent Administrators. This observation highlights the need to evaluate capacity constraints.

Validator's Assessment

¹ Internal Regulations of the EITI Mali Steering Committee, signed by Mr Abou-Bakr Traoré, Minister of Mines and Chair of the Steering Committee, 2 July 2010.

Mali is Compliant with this Indicator.

The Validation process has enabled the members of the Steering Committee, and particularly its Chair, to understand the benefits associated with establishing internal regulations defining responsibilities.

The Validator also noted that, in the absence of the Minister, the Committee was initially chaired by a representative of the Minister of Mines (one of his advisors) but that, for some time now, it had been the Permanent Secretary who had been responsible for chairing the meetings. The Validator feels that effective management of a Plan requires that the executive, i.e. the Permanent Secretary, should be separate from the governing body or chair. Consequently, the office of Committee Chair should revert to the Minister or a representative independent of the Permanent Secretary. This has not actually had any effect on the discussions within the Steering Committee.

3.6 INDICATOR 6. Is civil society engaged in the process?

Purpose: This indicator reinforces Indicator 5. The EITI Criteria require that civil society be actively engaged as a participant in the design, monitoring and evaluation of the process, and that it contributes to public debate. To achieve this, EITI implementation will need to engage widely with civil society. This can be through the multi-stakeholder group, or in addition to the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government, and the EITI multi-stakeholder group where appropriate, have sought to engage civil society stakeholders in the process of implementation of the EITI. This should include the following evidence:

- outreach by the multi-stakeholder group to wider civil society groups, including communications (media, website, letters) with civil society groups and/or coalitions (e.g. a local Publish What You Pay coalition), informing them of the government's commitment to implement EITI, and the central role of companies and civil society;
- actions to address capacity constraints affecting civil society participation, whether undertaken by government, civil society or companies;
- civil society groups involved in EITI should be operationally, and in policy terms, independent of government and/or the private sector;
- civil society groups involved in EITI are free to express opinions on EITI without undue restraint or coercion.

Progress

As described above (Indicator 5), civil society has been involved since the very beginning of EITI implementation. In fact, following Mali's letter of intention to sign up, sent to the World Bank on 2 August 2006, civil society organisations were contacted to request their involvement in the process². Different groups and federations were involved in the consultations. The National Civil Society Council (CNCS) comprises a number of civil society umbrella organisations and, consequently, has been the forum for numerous exchanges. The CNCS is independent of the State.

The choice of representatives took certain criteria into consideration:

- Gender representation: the Coordinating Body of Women's Associations and NGOs (CAFO) was chosen; it has a presence throughout Mali and therefore also fulfils the second criteria
- National representation: Malian Consumer Association (ASCOMA)
- Thematic representation: the Coalition of African Debt and Development Alternatives (CAD Mali), the Sahel Development Foundation (FDS) and the Malian Network of Journalists Against Corruption and Poverty (RMJLCP) were chosen as they are already working on the issue.

The five representatives are highly committed to the process and participate freely and without constraint.

² Note prepared on EITI by Mr Tiémoko Souleymane SANGARE for the Network of Malian Civil Society Organisations, Bamako, 24 August 2010.

Activities implemented by CSOs represented on the Steering Committee outside the scope of EITI are funded independently and without recourse to government, which therefore has no influence over their independence. The important role of CSO representatives in the running of the Steering Committee is clearly recognised and they are able to express themselves without constraint or coercion.

Civil Society has taken part in awareness raising activities as well as being involved in workshops organised by the Steering Committee and other specific activities. To give a few examples:

- the Sahel Development Foundation, in partnership with Oxfam-America, organised a dissemination workshop for the document “Launch of the Report on Transparency of Revenues in Mali” on 1 and 2 February 2007
- the Publish What You Pay Coalition met with the Minister of Mines in October 2008
- the Sahel Development Foundation, together with CECIDE Guinea (International Trade Development Centre) and the Africa Canada Partnership, organised a workshop on the Kimberley Process and EITI on 23 and 24 February 2010.

The local Publish What You Pay Coalition is directly involved through its members that are on the Steering Committee.

The civil society representatives all expressed the need for training to enable them to understand the industry better, to participate actively in discussions on the preparation and endorsement of EITI Reports, and to be able to communicate the outcomes of EITI comprehensively in the country. Training workshops for all stakeholders are anticipated in the 2011 Action Plan. The counterpart funds are stated as being the source of funding for training of members of the Steering Committee, PS, local authorities and civil society.

Stakeholder views

Members of the Steering Committee representing civil society, along with other members of the group, believe that civil society is adequately represented. The Steering Committee’s Communications Working Group is chaired by a CSO representative (Mr Sangaré). This working group has produced an EITI Mali Global Communications Plan³, which demonstrates that the growing communications efforts are heading in the right direction in terms of involving the population and initiating possible questions or discussions on the Initiative’s activities at all levels.

All those interviewed believe that the Initiative is a first step towards good governance, an issue of importance to civil society in general.

Validator’s Assessment

Mali is Compliant with this Indicator.

³ EITI Mali Global Communications Plan and emergency communications plan, July 2010.

3.7 INDICATOR 7: Are companies engaged in the process?

Purpose: This indicator reinforces Indicator 5. EITI implementation requires that companies are actively engaged in implementation and that all companies report under the EITI. To achieve this, EITI implementation will need to engage widely with oil, gas and mining companies. This can be through the multi-stakeholder group, or in addition to the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government, and the EITI multi-stakeholder group where appropriate, have sought to engage companies (oil, gas and mining) in the implementation of the EITI. This should include the following evidence:

- outreach by the multi-stakeholder group to oil, gas and mining companies, including communications (media, website, letters) informing them of the government's commitment to implement EITI, and the central role of companies;
- actions to address capacity constraints affecting companies, whether undertaken by government, civil society or companies.

Progress

The Malian Government has not passed an "EITI Law" and company participation is therefore on a voluntary basis.

The Steering Committee decided only to include companies in the production phase within the scope of the first EITI report and to set the threshold of materiality at 50 000 000 FCFA. These decisions were taken by the Steering Committee when producing the Terms of Reference for the independent Administrator responsible for compiling the 2006 EITI Report. The PS was unable to find the minutes of the Steering Committee meetings that ruled on this issue but all members of the Steering Committee confirmed, during our meetings from 23 to 25 August 2010, that these points were discussed and adopted by the Steering Committee.

The following were therefore excluded from the scope:

- Artisanal mining, by virtue of its informal status
- Mining and oil companies operating under the threshold of materiality, defined below.

Consequently, seven companies were included within the scope of the 2006 report, three of which have international companies as shareholders.

The companies in question are:

- Morila
- SEMOS
- Yatéla
- SOMIKA
- SOMILO
- TAMICO
- SOMISY

In all, six international companies hold shares in these seven operating mines. The government is also a shareholder in each of the mining companies. The details of this shareholding are explained in section 1.7. Each of the six companies is represented on the Steering Committee, plus one other company, Wassoul'Or, which is in the process of developing its mine.

The 2006 Report, the only one published, shows that all the mining companies invited participated in the process.

During our meeting with the Steering Committee on 24 August 2010, we were given clarification that the action taken to contact the mining companies had been limited to companies in the production phase.

Stakeholder views

The mining companies in production expressed their support for the process.

Members of the government also appear to agree that these companies have responded to the invitation.

The civil society representatives expressed the view that the companies had responded willingly to requests for information. One of the members expressed a desire that the government would consider passing an "EITI Law" as he knew that Nigeria had done this and that Liberia was in the process of doing so. The other civil society representatives present appeared to agree with this suggestion as it would enshrine EITI in law for the future in case of a change of government. The companies we met also supported implementation of legislative or regulatory measures to enshrine EITI in law.

Validator's Assessment

The Validator sent self-assessment forms to all the companies identified in the mining and oil sectors and the responses are analysed in chapter 3.19. The companies in the production phase are actively supporting EITI and this is very clear in the responses to these forms.

However, the Steering Committee did not include mining and oil exploration companies in its definition of extractive industry companies in Mali and so the dissemination of EITI Objectives in Mali was limited.

It is our opinion that all the extractive industry companies should be made aware of EITI, not only those which form part of the scope of the report that the independent Administrator has to prepare. Consequently, greater awareness-raising efforts must be undertaken to encourage all companies in the sector to familiarise themselves with EITI (see also chapter 3.19).

Following the different discussions on the scope of EITI during the Validation process, the Steering Committee took the decision to include all mining companies, including those in the exploration phase, within the scope of the next EITI Report.

The companies that formed part of the EITI scope as defined by the Steering Committee took an active part in the EITI Process. However, given that companies in the exploration phase were not consulted, we have to conclude that Mali is not Compliant with this Indicator.

The decision to widen the scope of EITI to all companies in the sector should enable Mali to achieve Compliance, if awareness-raising and communications activities are undertaken by the multi-stakeholder group with all these companies.

3.8 INDICATOR 8: Did the government remove any obstacles to EITI implementation?

Purpose: Where legal, regulatory or other obstacles to EITI implementation exist, it will be necessary for the government to remove these. Common obstacles include confidentiality clauses in government and company contracts and conflicting government departmental remits.

Evidence: : To give this indicator a tick, the Validator should see evidence that the government has removed any obstacles. This might involve following a proactive assessment of obstacles, or through reactive action to remove obstacles as they arise. There is no one way of dealing with this issue – countries will have various legal frameworks and other agreements that may affect implementation, and will have to respond to these in different ways.

The sort of evidence the Validator will want to see could include:

- a review of the legal framework;
- a review of the regulatory framework;
- an assessment of obstacles in the legal and regulatory framework that may affect implementation of the EITI;
- proposed or enacted legal or regulatory changes designed to enable transparency;
- waiver of confidentiality clauses in contracts between the government and companies to permit the disclosure of revenues;
- direct communications with, e.g., companies, allowing greater transparency;
- Memoranda of Understanding setting out agreed transparency standards and expectations between government and companies.

Progress

Analysis of this question requires an understanding of potential obstacles to EITI implementation. Such obstacles might include the legal and regulatory framework, for example, confidentiality clauses in government contracts and/or agreements, or the absence of legislation obliging companies to sign up to EITI.

In some countries, there may be other obstacles to implementation, for example, financing of the Initiative.

The Malian legal and regulatory framework is very clear on the payments to be made and taxes and levies due. The typical Establishing Agreement defined by Decree No. 99- 256/ PM-RM of 15 September 1999 complements the law by defining, among other things, all payments due from a mining company in Mali, so that the parties understand each other's responsibilities. One of its clauses refers to the confidentiality of information provided to the State by an operating company even though, in the same article, the company is required to make its accounts open to inspection by the State and/or its specifically mandated representatives. In reality, the figures required have to be declared in reports on activities submitted to the Ministry of Mines.

The Malian Oil Code is equally clear and transparent. The sector is relatively young in Mali and the Steering Committee must be vigilant to ensure that this situation does not change.

The Steering Committee does not envisage the need to make any legal or regulatory amendments as it considers that current legislation does not form an obstacle to transparency. Nevertheless, the idea of a future regulation or future legislation is not ruled out.

Delays in the availability of external funding presented an obstacle to EITI implementation in Mali. An Action Plan for the years 2010, 2011 and 2012 was produced in July 2010 (see section 3.4). An updated Action Plan for the years 2011 and 2012 provides detailed descriptions of activities by quarter and the annual budgets allocated to these activities (section 3.4), which will improve monitoring.

We have noted the need for capacity building of Steering Committee members. This aspect is now clearly planned within the Action Plan (see 3.4).

Stakeholder views

All the stakeholders agree that, from a legislative point of view, there are no obstacles to EITI implementation. This opinion is supported by the fact that the State holds an 18-20% share in companies in the production phase (see section 1.7).

Validator's Assessment

The Validator agrees that, from a legislative and legal point of view, there are currently no obstacles to EITI implementation. However, in order to avoid potential obstacles in the future, and to consolidate EITI in Mali, the Validator recommends that the government envisage passing legislation that would oblige companies active in the natural resources industries in Mali to disclose their figures. This could possibly take the form of an article in the Establishing Agreements.

Meanwhile, the principal obstacle to EITI implementation, and which led to delays in implementing activities, has been the absence of guaranteed funding for the activities of the Steering Committee and the Permanent Secretariat. The current state of financing efforts is given in section 3.4 and the government's efforts, along with those of the TFPs, now seem to offer more confidence with regard to the sustainability of funding for the Initiative.

Mali is Compliant with this Indicator.

3.9 INDICATOR 9: Have reporting templates been agreed?

Purpose: Reporting templates are central to the process of disclosure and reconciliation, and the production of the final EITI Report. The templates will define which revenue streams are included in company and government disclosures. The templates will need to be agreed by the multi-stakeholder group.

The EITI Criteria require that “all material oil, gas and mining payments to government” and “all material revenues received by governments from oil, gas and mining companies” are published. EITI templates will therefore need to define by agreement of the multi-stakeholder group what these material payments and revenues comprise, and what constitutes “material”. It will also be necessary for the multi-stakeholder group to define the time periods covered by reporting. A revenue stream is material if its omission or misstatement could materially affect the final EITI Report.

It is commonly recognised that the following revenue streams should be included:

- host government’s production entitlement;
- national state owned company production entitlement;
- profits taxes;
- royalties;
- dividends;
- bonuses (such as signature, discovery, production);
- licence fees, rental fees, entry fees and other considerations for licences and/or concessions;
- profit oil;
- other significant benefits to government as agreed by the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the multi-stakeholder group was consulted in the development of the templates, that wider constituencies had the opportunity to comment, and that the multi-stakeholder group agreed the final templates. This could include the following evidence:

- draft templates provided to the multi-stakeholder group;
- multi-stakeholder group minutes of template discussions;
- communications to wider stakeholders (e.g. companies) regarding the design of the templates;
- arrangement to enable stakeholders to understand the issues involved;
- a statement by the multi-stakeholder group that they agreed the templates, including all revenue streams to be included.

Progress

In the case of Mali, the Terms of Reference developed for the call for proposals for the independent Administrator for the 2006 Report requested that bids include a proposed reporting template. There is, therefore, no specific reference to discussion of the templates in the minutes of the Steering Committee meetings or in the minutes of the Invoicing and Auditing working group responsible for endorsing the templates. The only references are in the context of the minutes of discussions regarding the Terms of Reference and the presentation by the independent Administrator, Mazars Tunisia, during their first visit. Mazars has confirmed that they did present the templates, which were subsequently approved by the companies, the Permanent Secretary, and the Chair of the Invoicing and Auditing working group.

The Terms of Reference for the independent Administrator for the 2006 report provide a list of revenues from mining production. This list is identical to the conditions of the Establishing Agreements:

	Revenues coming from production, tax on profit
1	Ad valorem tax
2	Service provision contribution
3	Dividends
4	Corporation tax
	Revenues from assets
5	Surface fees
6	Patents
	Taxes on inputs
	Taxes on income and social contributions
7	Tax on wages and salaries
8	Accommodation tax
9	Vocational Training tax
10	Lump Sum Employer Contribution
11	National Social Security Institute
12	Import duties
13	VAT (discharged and VAT credits to be repaid)
14	Business income tax
15	Other taxes on inputs

The threshold of materiality was set at 50 000 000 FCFA and the period covered by the report was 2006.

One of the reasons given for setting the threshold of materiality at 50 000 000 FCFA was to limit data collection for this first report to companies in the production phase.

The Terms of Reference also state that the contribution of the mining sector to the national economy is valued by the National Directorate for Geology and Mines (DNGM) at nearly 100 billion FCFA, excluding the support mines may provide to local populations.

Apart from possible discussions within the Steering Committee, there has been no communication to other stakeholders.

Stakeholder views

The Steering Committee and the stakeholders agree that the procedure described above was followed. All agree that the Mining Code clearly states which streams are to be disclosed and that the templates reflect these requirements appropriately. Furthermore, no-one expressed a view that there were weaknesses in the templates.

During meetings throughout the second Validation mission, members of the Steering Committee (particularly those representing companies and the government) explained that they had interpreted the definition of extractive industry companies as those actually in production, which meant that companies involved in mining or oil exploration would not fall within the scope of EITI.

However, it was explained to us that one of the reasons why it was decided to ask the independent Administrator to propose reporting templates was the fact that there were no standard templates for EITI data collection. The Steering Committee could have referred to the EITI Source Book, which provides reporting templates.

Validator's Assessment

With regard to evidence:

- A preliminary version of the templates was not provided to the Steering Committee.
- The discussions conducted by the Steering Committee on the subject of the templates took place after presentation of the independent Administrator's proposals. There has been no communication to the stakeholders in a broader sense concerning the design of the templates although the companies that received requests for reports are all represented on the Steering Committee.
- The threshold of materiality was set at a level that meant that only mining companies in the production phase were involved and we note that the impact of this threshold on the independent Administrator's report has not been discussed.
- The revenue streams to be included are clearly detailed in the Mining Code and defined in the independent Administrator's Terms of Reference, which were approved by the Steering Committee.

The members of the Steering Committee believe that the templates are appropriate and meet the stated requirements. The mining and financial legislation clearly states the necessary payments. It should be recalled that there are no formal records of discussions on the part of the Committee with regard to the templates prior to the issuing the Terms of Reference for the independent Administrator. Discussions on the templates took place in the Steering Committee between the independent Administrator and the government, company and civil society representatives following the Validator's recommendations.

The threshold of materiality was set at a total payment per company of 50 000 000 FCFA in order to limit the data collection to companies in the production phase. However, there was no discussion of the impact of this threshold on the results in the report. The effect of the Steering Committee's decision was to limit the data collection to the seven mining companies in production only, which also confirmed their interpretation of the scope of EITI.

We have considered the threshold of materiality and the revenues declared by the companies in order to issue an *a posteriori* opinion on this threshold. The total payments declared by the mining companies were 120 billion FCFA. The amount of 50 000 000 FCFA represents 0.04% of these declared revenues, which indicates that the impact of payments below this threshold that were not taken into consideration is probably minimal. The Ministry of Mines demonstrated that the sums paid by companies in the exploration phase were significantly below this threshold of materiality by providing us with a report on payment of surface fees for the years 2005 to 2009. After submission of the provisional Validation report, the Steering Committee decided, during its meeting of 9 July 2010, to revise the reporting template.

This has led to the production of a standard reporting form and the writing of an explanatory note. Draft Terms of Reference for the next EITI Report, covering the years 2007 and 2008, were also prepared. The data collection will cover all payments defined in mining and oil legislation and in Establishing Agreements, and also voluntary contributions to local development (for example, health infrastructure, schools, roads). Data collection will concern all companies in the extractive industries sector in the production or exploration phase and also sub-contractors in the mining sector. This draft does not establish the threshold of materiality.

We consider that the decision to widen the data collection to all companies in the extractive industries sector is positive. In our opinion, there is a need to anticipate communications with stakeholders who were not involved in data collection for the 2006 report in order to ensure that they understand EITI and to take their views into account. We also think that the Steering Committee should formulate an opinion on the meaning of the term "material", as the issue of such a definition will certainly be raised during the compilation of the next EITI Report. In any case, the definition of "material" is central to the EITI Criteria (see Source Book). Given the growing number of companies in the extractive industries sector, it may be that individual payments that are beneath the threshold, when considered cumulatively, become material and, for this reason among others, it is preferable to obtain reports from all actors.

We are evaluating Mali's Compliance with this Indicator in terms of the activities that led to the production of the first EITI Report. As the evidence required by EITI is not available, we find that Mali is not Compliant with this Indicator.

Once the actions taken by the Validation Committee during July 2010 to produce the independent Administrator's Terms of Reference for the second EITI Report are taken into consideration, Mali should be able to achieve Compliance with this Indicator. This is also dependent on communications with stakeholders and discussions taking place within the Steering Committee on the reporting template and threshold of materiality.

3.10 INDICATOR 10: Is the multi-stakeholder group content with the organisation appointed to reconcile figures?

Purpose: An organisation will need to be appointed to receive the disclosed company and government figures, to reconcile these figures, and to produce the final EITI Report. This organisation is variously known as an administrator, reconciler, or auditor. It is vital that this role is performed by an organisation that is perceived by stakeholders to be credible, trustworthy, and technically capable.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the multi-stakeholder group were content with the organisation appointed to reconcile figures. This could include the following evidence:

- TORs agreed by the multi-stakeholder group;
- transparent liaison with the EITI Secretariat and Board to identify potential Validators;
- agreement by the multi-stakeholder group on the final choice of organisation.

Progress

There has been a weakness in the Steering Committee with regard to keeping and making available the minutes of its meetings, especially at the start of EITI implementation. The following is mostly based on explanations provided to us by the PS and members of the Steering Committee.

The process for recruiting the independent Administrator was as follows:

- adoption of ToRs by the Steering Committee
- submission to the World Bank's PAC Project, Mines Component, for initiation of procurement process
- opening of technical bids in the presence of three stakeholders represented on the Steering Committee
- technical assessment by a joint committee (PAC representatives and three stakeholders represented on the Steering Committee)
- no objection by the World Bank to the technical assessment of bids
- opening and assessment of financial bids in the presence of three stakeholders represented on the Steering Committee
- choice endorsed by the Steering Committee.

A report from the Steering Committee describes receiving the statement of no objection from the World Bank with regard to the assessment of technical bids. The contracts system used for procurement was that of the World Bank and so the process followed can be considered to comply with international practice.

The independent Administrator confirmed that, during the procurement process, he dealt with the Permanent Secretary and the Chair of the Invoicing and Auditing working group, who were responsible for managing the process of appointing the independent Administrator.

Stakeholder views

All the stakeholders said that they were happy with the procedure for choosing the independent Administrator. Given that funding for this recruitment came from the PAC funds of the World Bank project, the process followed was independent and transparent.

Validator's Assessment

The ToR's were approved and adopted by the Steering Committee. Given that the services of the independent Administrator were financed by the World Bank's PAC Project, it was the PAC Project that implemented the procurement process. The stakeholder representatives on the Steering Committee participated in assessing the technical and financial bids and, following the statement of no objection from the World Bank, the Steering Committee endorsed the choice of independent Administrator. As with other activities of the Steering Committee, it is advisable to improve procedures for keeping minutes of discussions and decisions.

Mali is Compliant with this Indicator.

3.11 INDICATOR 11: Has the government ensured that all companies will report?

Purpose: The EITI Criteria require that all companies – public (state owned), private, foreign and domestic – report payments to the government, according to agreed templates, to the organisation appointed to reconcile disclosed figures. The government will need to take all reasonable steps to ensure that all companies do report. This might include the use of voluntary agreements, regulation or legislation. It is recognised that there might be good (albeit exceptional) reasons why some companies cannot be made to report in the short term. In this situation, government must demonstrate that they have taken appropriate steps to bring these companies in to the reporting process in the medium term, and that these steps are acceptable to other companies.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has done one of the following:

- introduced/amended legislation making it mandatory that companies report as per the EITI Criteria and the agreed reporting templates;
- introduced/amended relevant regulations making it mandatory that companies report as per the EITI Criteria and the agreed reporting templates;
- negotiated agreements (such as Memoranda of Understanding and waiver of confidentiality clauses under production sharing agreements) with all companies to ensure reporting as per the EITI Criteria and the agreed reporting templates;
- where companies are not participating, the government is taking generally recognised (by other stakeholders) steps to ensure that these companies report by an agreed (with stakeholders) date.

Progress

Following the Steering Committee's decision to set the threshold of materiality at 50 000 000 FCFA, only companies in the production phase in 2006 were requested to communicate their figures for the 2006 Report. On 28 December 2008, the Permanent Secretary wrote to the companies informing them that the International Strategy & Business Consulting Bureau Mazars - Tunisia (Mazars Tunisia) was the successful bidder for the "Contract for fact-finding relative to the Audit of Payment Streams from Mining Companies and Revenues received by the State during financial year 2006". This letter informed them that Mazars would begin its work on 5 January 2009. Companies were requested to ensure that the information would be available and to facilitate access to it for the auditors.

As the payments in question are those stipulated in the Mining Code and in the Establishing Agreements, the Steering Committee did not feel that it was necessary to request the passing of an EITI law or to establish specific agreements with the producer companies.

All the companies provided the requested figures. However, it should be noted that Mazars, in its recommendations for EITI implementation in Mali, commented that the mining companies had not put procedures in place enabling the information necessary for the reconciliation process to be established, in line with the EITI template, on the basis of the companies' internal information sources. This comment leads us to believe that the information given to companies should be improved.

Mazars also commented that the period in which it had to request the figures, January and the beginning of February, presented problems for the companies because it was the period in which they closed their accounts and prepared their annual reports.

Stakeholder views

During the interviews with the civil society representatives, they made known their opinion that an EITI law would consolidate EITI in Mali. No one claimed that the companies had not willingly disclosed their figures. But they felt that the passing of such a law would serve to ensure that, in future, all companies would be obliged to cooperate.

One of the mining companies stated its agreement with this point of view. None of them expressed a negative opinion on implementing an initiative of this nature.

A potential weakness was identified during the various meetings and discussions relating to payments made by mining company subcontractors. The company AngloGold Ashanti is a persuasive example, as mining subcontractors can represent more than 50% of their operating costs. This is especially the case in companies involved in excavation and transportation of mineral ores in opencast mines.

The Steering Committee and all the stakeholders agree that it is necessary to take these payments into account in the implementation of future EITI Reports. During July 2010, the Steering Committee produced the Terms of Reference for the next EITI Report covering 2007 and 2008. The scope covered by these ToRs includes companies in production, oil and mining companies in the exploration phase, and mining sub-contractors.

Validator's Assessment

In producing the first EITI Report, the Steering Committee decided to include only mining companies in the production phase.

Two key aspects concerning this Indicator can be identified:

(i) Actions taken by the government to ensure that companies disclose their figures

The Mining Code and related texts clearly explain the payments to be made and there are no confidentiality clauses restricting company reporting. However, there is no legislation nor regulations obliging companies to disclose their figures for EITI and the government has not established any agreements or conventions with the operators in this regard.

It was explained to us that the regulatory authorities and government bodies had made great efforts to follow the matter up with the companies in order to ensure the success of the Initiative. Letters were sent to the companies in question and, furthermore, each company is represented on the Steering Committee. Assessment of this Indicator must therefore take into account government actions and company responses. These actions appear sufficient in the context of Mali.

(ii) The scope of companies included in EITI Reports

The scope of companies for inclusion was defined by the Steering Committee. Following our first Validation mission to Bamako and the submission of our provisional report, this scope was reviewed. The ToRs for the preparation of subsequent reports stipulate that exploration companies and mining sub-contractors should also be taken into consideration.

We have noted that the threshold of materiality of 50 000 000 FCFA set by the Steering Committee represents only 0.04% of revenues relating to the extractive industry sector. Exploration companies pay amounts below this threshold. We have no information on the amounts relating to subcontracting firms. On the basis of the available information, we conclude that the first EITI Report is sufficiently representative to be considered reliable.

On the basis of the scope of EITI decided by the Steering Committee, Mali is Compliant with this Indicator.

3.12 INDICATOR 12: Has the government ensured that company reports are based on audited accounts to international standards?

Purpose: The EITI Criteria require that all data disclosed by companies is based on data drawn from accounts which have been audited to international standards. This is a vital component of EITI implementation.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has taken steps to ensure that data submitted by companies is audited to international standards. This could include the following:

- government passes legislation requiring figures to be submitted to international standards;
- government amends existing audit standards to ensure that they are to international standards, and requires companies to operate to these;
- government agrees an MoU with all companies whereby companies agree to ensure that submitted figures are to international standards;
- companies voluntarily commit to submit figures audited to international standards;
- where companies are not submitting figures audited to international standards, the government has agreed a plan with the company (including SOE) to achieve international standards against a fixed time-line;
 - where figures submitted for reconciliation are not to audited standards, the group is content with the agreed way of addressing this.

Progress

The Validation Guide explains that the objective of this Indicator is as follows: "The EITI Criteria require that all data disclosed by companies is based on data drawn from accounts which have been audited to international standards. This is a vital component of EITI implementation".

The Terms of Reference for the audit of payment streams for the 2006 financial year note that: "The consultant will verify whether the payments and receipts of taxes and levies were undertaken in compliance with the fiscal provisions anticipated by the respective Establishing Agreements".

The independent Administrator has confirmed that it was not within its remit to confirm that the figures provided by the companies were audited or drawn from audited accounts. However, the independent Administrator did include obtaining copies of auditor's reports for 2006 within its work programme, although it does not indicate what reports it was able to obtain.

There is no legislation nor any specific memoranda of understanding that stipulate that the figures supplied for the purposes of EITI must be based on audited financial information.

Mali is not a member of the International Federation of Accountants (IFAC), which has 140 member countries around the world, and the accounts prepared for internal use within the country are not audited to IFAC international standards. Several of the companies active in the country belong to international groups that habitually prepare financial reports audited to international standards. These companies should be able to give guarantees on this issue in

the future. However, private companies in the exploration phase might have more difficulty than large companies in providing a separate audit.

Stakeholder views

The representative of one of the mining companies (RandGold Resources) said that Mazars had requested figures from audited accounts.

It would seem that a discussion on the importance of receiving reports based on accounts audited to international standards has not taken place within the Steering Committee: there is a lack of minutes of the first meetings of the Steering Committee. The mining companies believe that the fact that they are audited by international firms is sufficient. Members of civil society and the government mentioned their capacity building needs with regard to such technical aspects.

Following the discussions that took place during our first Validation mission to Mali and the questions that were raised at that time, the representative of the Ministry of the Economy and Finances on the Steering Committee, Mr Ibrahima TRAORE, drafted a note on the West African Accounting System (SYSCOA) and the OHADA (Organization for the Harmonization of African Business Law) Accounting Plan. This note explains that methods for producing financial accounts and statements, for submitting accounts, and for legal monitoring of commercial or industrial company accounts are established in Mali on the basis of the following: the OHADA Uniform Act on organisation and harmonisation of company accounts and the rules of the West African Accounting System (SYSCOA). The note also refers to the ROSC (Report on the Observance of Standards and Codes) Accounting and Auditing Study in Mali⁴.

The ROSC study indicates particularly that, in Mali, the legal auditing of annual accounts is compulsory for all public limited companies (*sociétés anonymes* - SA) and limited liability companies (*sociétés à responsabilité limitée* - SARL) with a share capital of more than 10 million FCFA, a turnover of more than 250 million FCFA or a permanent staff of more than 50 people. The mining companies in the production phase in Mali would all fall within these definitions. The report also notes weaknesses in overseeing these audits, particularly in relation to SMEs.

The official term used in designating the legal audit in OHADA texts is "*commissariat aux comptes*" i.e. "audit office" and the OHADA Uniform Act requires companies to have their accounts certified by a "*commissaire aux comptes*" or "statutory auditor". The ROSC report indicates that the functions of the auditor must be exercised by private individuals or companies registered with the National Order of Chartered and Approved Accountants of Mali (ONECCA). ONECCA Mali is currently affiliated to the International Federation of French-speaking Accountants (FIDEF), which has 18 active members, including the seven French-speaking countries of the West African Economic and Monetary Union (UEMOA) and six associate members. FIDEF is a forum for exchange and cooperation between representative organisations of the accounting profession in the French-speaking world. ONECCA is a member of FIDEF but not of IFAC; steps have recently been taken with a view to joining the latter.

The Steering Committee is of the opinion that Malian legislation requires the auditing of accounts for companies established in the country according to the SYSCOA/OHADA system and that this system is "international". However, members representing the mining companies emphasised that their accounts are also certified by international firms on behalf of their shareholders.

⁴ Available on the World Bank website: www.worldbank.org/ifa/rosc_mali

As regards the capacities of the members of the Steering Committee, civil society members mentioned that they had difficulty in understanding the reports of independent Administrators as they did not have sufficient accountancy expertise. This observation highlights the need to evaluate capacity constraints.

Validator's Assessment

We have no evidence that, prior to our first visit as Validator, the Steering Committee had considered the stipulation that EITI Reports must be based on accounts audited to international standards or the issue of Mali's Compliance with this Indicator.

It is our opinion that the discussions initiated during the Validation process, which confirmed our opinion that this aspect had not been adequately considered during the implementation of the first EITI Report, enabled the Steering Committee members to gain a better appreciation of this Indicator.

The PS has provided us with a copy of the draft Terms of Reference for the report that will cover 2007 and 2008. We note that this draft uses the same phraseology in terms of reliability of reporting, specifying that the consultant will verify whether payments and receipts of taxes and levies are taking place in compliance with the fiscal provisions anticipated in the respective Establishing Agreements or not. However, this discussion relates to the second report, which has not yet commenced, and is in no way related to the first report.

Given all these aspects, we conclude that Mail is not Compliant with this Indicator.

3.13 INDICATOR 13: Has the government ensured that government reports are based on audited accounts to international standards?

Purpose: EITI criteria require that all data disclosed by the government is audited to international standards.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has taken steps to ensure that data submitted is audited to international standards. This could include the following:

- government passes legislation requiring figures to be submitted to international standards;
- government amends existing audit standards to ensure they are to international standards, and ensures compliance with these;
- where figures submitted for reconciliation are not to audited standards, the multi-stakeholder group is content with the agreed way of addressing this.

Progress

There are three levels of oversight of State revenues, from local authorities and public bodies, in Mali⁵:

- Administrative oversight
- Parliamentary oversight
- Jurisdictional oversight.

The Support Unit for Administrative Oversight Structures (CASCA), attached to the Office of the President, is responsible for monitoring and implementing recommendations made during inspections.

For the most part, these bodies can penalise management failures noted during monitoring. As such, they are oriented more towards financial management control than to the audit procedure itself.

Jurisdictional oversight falls to the Supreme Court's Accounts Section. The financial and accounting auditing of organisations with legal personality and financial independence in which the State has an interest is the responsibility of the Accounts Section. However, it is not fully operational in terms of considering public accounts.

Order No 10-1251/MEF-SG of 11 May 2010 from the Ministry of the Economy and Finances enforces a financial and accounting audit reference guide for the use of companies and different control and audit structures, produced under the guidance of the World Bank. This guide, which covers both the public and private sectors, is linked to the ISA (international standards on auditing) published by IFAC (International Federation of Accountants).

Stakeholder views

The minutes of Steering Committee meetings do not mention discussions on this issue. Committee members from civil society and the government mentioned their needs for capacity building on technical issues such as this. Members of

⁵ Note on the Oversight Function in Mali, Ibrahima Traoré, Technical Advisor to the Ministry of the Economy and Finances, 22 July 2010.

the Steering Committee feel that it is difficult to envisage certification of reports according to international auditing standards. However they did not raise any concerns regarding the reliability of the figures disclosed by the government.

The stakeholder members of the Steering Committee consider that the government's accounts are adequately monitored and the note on the oversight function in Mali, stated above, certainly reflects this opinion.

Validator's Assessment

The State oversight structures, in all probability, do not serve to audit the specific revenues in the detail required for such an exercise.

It is probable that the implementation of Order No 10-1251/MEF-SG of 11 May 2010 will facilitate an audit according to international standards in the future. However, the provisions of the order are not applicable to the accounts for years to be taken into account when the next EITI Report is compiled.

We recommend that, for future reports, the Steering Committee should, following appropriate training, review how to comply with this Indicator. It could, for example, ensure that the government's reports are certified by a senior civil servant under oath.

Although the Steering Committee expressed its satisfaction regarding the handling of government reporting, we do not consider that there was enough informed debate on this aspect during the implementation of the first EITI Report and so, on this basis, Mali is not Compliant with this Indicator.

Given the difficulty in certifying government accounts according to international standards, it would perhaps be useful to review this Indicator and/or for the country to propose an acceptable process of certifying State reporting.

3.14 INDICATOR 14: Were all material oil, gas and mining payments by companies to government (“payments”) disclosed to the organisation contracted to reconcile figures and produce the EITI Report?

Progress

There has been a weakness in the Steering Committee with regard to keeping and making available minutes of its meetings, especially at the start of EITI implementation. The Steering Committee members who were present at the first meetings told us that the scope of the 2006 EITI exercise was limited to mining companies in the production phase that exceeded the materiality threshold of 50 000 000 FCFA in terms of government revenues. Within this scope, all payments were disclosed to the independent Administrator.

During the second Validation mission to Bamako, we received additional information on payments from mining companies - in production or exploration - relating to surface fees (requested by the National Directorate for Geology and Mines) and to payments by way of contributions to the Government Lands and Property Register. These figures appear to show that the exploration companies have not reported payments above the 50 000 000 FCFA defined by the EITI scope in this regard.

In the future, it is possible that if deductions at source and social contributions were taken into account, some large mining or oil exploration companies might fall within the defined EITI scope. It has also become clear that the use of some subcontracting companies could lead to the omission of certain payments which would otherwise be included. The Steering Committee took these observations into account when producing the draft Terms of Reference for the 2007 and 2008 Report, which widened the scope to include all companies in the extractive industries sector and subcontracting companies.

Stakeholder views

The Steering Committee is satisfied with the data submitted for the 2006 report. As all the companies that were requested to submit reports are represented on the Steering Committee, it has not been difficult to ensure that said reports were submitted.

Interviews with stakeholders also resulted in a suggestion that the "voluntary" contributions of mining companies to community development would be desirable. In addition to civil society representatives, the mining company representatives also thought that this would be a good way of showing the real contribution of the mining sector. The government representatives agreed.

Validator's Assessment

As mentioned above in section 3.9, the understanding of materiality on the part of the government and the Steering Committee members in the context of the data provided in the reporting templates needs to be revised.

In the future, it will also be necessary to envisage including mining exploration companies and oil companies. We include this in our recommendations in section 5.2 and observe that the Steering Committee has already taken note of this.

Mali published an EITI Report for 2006. All the payments included in the scope as set by the Steering Committee were declared to the independent Administrator, who noted and explained the discrepancies between the amounts declared by the government and by companies.

Mali is Compliant with this Indicator.

3.15 INDICATOR 15: Were all material oil, gas and mining revenues received by the government ("revenues") disclosed to the organisation contracted to reconcile figures and produce the EITI Report?

Progress

The mining industry is subject to 14 taxes and levies, which fall into 3 categories: those based on production and commercial profits, those based on assets and, finally, those based on inputs. The bodies to which these payments are paid are as follows:

- the Public Treasury for all taxes on production and industrial profits as well as all taxes on inputs, with the exception of welfare contributions
- the State domain for taxes on assets and State-shareholder dividends
- the National Institute for Social Security (INPS) for taxes on revenues and contributions.

The independent Administrator presented the streams from each source in detail and noted no particular problems with communication of these payments.

The ministries responsible for all these revenues are represented on the Steering Committee and we think that this has contributed to a good understanding of the information requested on the part of the ministries.

Stakeholder views

The Steering Committee is satisfied that the figures presented by the government include all material revenues.

Validator's Assessment

As noted in section 3.9 above, the understanding of materiality on the part of the government and the Steering Committee members in the context of the data provided in the reporting templates needs to be reviewed.

Mali has published an EITI Report for 2006. All revenues included within the scope defined by the Steering Committee were declared to the independent Administrator, who noted and explained the discrepancies between the amounts declared by the government and the companies.

Following our request, the National Directorate for Geology and Mines provided us with a summary of the situation of surface fee payments on the part of mining companies in the prospecting, research and production phases, which demonstrates the relevance of the threshold of materiality defined by the Steering Committee. We also received, from the Government Lands and Property Register, a summary of the total contributions to this department from mining companies for 2002 to 2009. These departments and other departments of the Ministry of the Economy and Finances confirmed that the proposed widening of the scope to companies in the exploration phase would not raise any particular problems for revenue reporting.

Mali is Compliant with this Indicator.

3.16 INDICATOR 16: Was the multi-stakeholder group content that the organisation which was contracted to reconcile the company and government figures did so satisfactorily?

Progress

The process for selecting the independent Administrator followed the World Bank rules and is described in section 3.10. Representatives of the Steering Committee participated in the selection of the independent Administrator, as explained in section 3.10 of this report. The Committee approved the appointment of the International Strategy & Business Consulting Bureau Mazars - Tunisia, which produced the 2006 EITI Report. Its report clearly explains the work that was conducted.

Mazars presented its first impressions during a meeting of the Steering Committee on 4 February 2009 and submitted its preliminary report in March 2009. A meeting of the Steering Committee on 10 April 2009 decided that the Invoicing and Auditing working group should study the report in detail. On 29 May 2009, a summary of comments on the report was included on the agenda. It was during this meeting that one of the members, a company representative, urged the Permanent Secretary to hold a consultation among absent committee members in order to obtain their views. The Steering Committee meeting of 17 July discussed Mazars' pre-final report. Discussion centred on explaining the discrepancies identified and the lack of clear explanation. The representative of the Ministry of Finances informed the Committee that his department's technical services were attempting to find the missing information. He was certain that the information would be available in the offices of the General Directorate of Taxes, the Customs Agency and the Public Treasury.

During the Steering Committee meeting of 9 October 2009, it was recognised that the discrepancies were largely due to cases of adjustment, compensation, advances and interim payments. It is therefore clear that the delays in the publication of the final report were due firstly to a lack of diligence in the revision of the preliminary report on the part of Committee members and subsequently to a serious attempt to explain the discrepancies.

The provisional final version of the report was presented at a workshop in Bamako on 9 December 2009 and the definitive final version was submitted in December 2009 and approved by the Steering Committee.

The Steering Committee has commenced the process of choosing the independent Administrator for the second EITI Report. Draft Terms of Reference have been produced and were discussed at a Steering Committee meeting on 16 July 2010. These ToRs will be reviewed and validated during forthcoming Committee meetings.

This second EITI Report is being financed with funding from the special investment budget (see section 3.4). The Action Plan 2010-2012 anticipates choosing the independent Administrator and then undertaking the data gathering and reconciliation work in the last quarter of 2010. To meet this deadline, following the adoption of the ToRs, the next stages of the process comprise the publication of a call for expressions of interest, the production of a shortlist and the bidding and appointment procedure stipulated by the Directorate General for Public Contracts.

Stakeholder views

The Steering Committee expressed its satisfaction at the quality of Mazars' final report. Nevertheless, some members noted that there was a period of uncertainty at the beginning because the firm was not familiar with State structures and this caused delays in the verification of figures. The Committee is going to discuss the need to recommend that the independent Administrator have a local partner.

It should also be noted that, during this period, the change of Ministers responsible for Mines and the replacement of the first EITI Permanent Secretary, who retired, perhaps also caused delays in finalising discussions on the report.

Validator's Assessment

Compilation of this first report resulted in numerous lessons learnt for the Steering Committee members. These should serve to improve timetabling when future reports are prepared.

Mali is Compliant with this Indicator.

3.17 INDICATOR 17: Did the EITI Report identify discrepancies and make recommendations for actions to be taken?

Progress

The EITI Report identified discrepancies, which were discussed at length by the Steering Committee (see 3.16). The independent Administrator's report analysed each discrepancy by budget heading and by company and the Steering Committee has taken note of this. As indicated in section 3.16, the specific reasons for some of the discrepancies could not be explained.

During our second mission to Bamako, the PS provided us with an explanatory note relating to the discrepancies. In general, they can be explained as follows:

- Discrepancies in terms of the payments reported by the companies being greater than the sums declared by the State:
 - Declarations of interim payments for offset declared by mining companies: mining companies are exempt from VAT but must pay it when importing and then claim it back (offset). Following agreements between the companies and the government, this offset payment is deducted from the taxes to be paid by the company. It is this handling of these offsets that has led to the biggest discrepancies: companies may have declared them as paid without the government considering them received. We have been informed that the system has been reviewed and has since been improved.
 - Customs duties: the amounts paid by companies are allocated directly to sub-regional structures and therefore not taken into account by the Malian State.
- Discrepancies in terms of the payments declared by the State being greater than the sums declared by the companies:
 - Primarily adjustments declared by the State for duties due from previous years and paid in 2006.

We were informed that this exercise had facilitated a review of the State's practices with a view to improving the management system.

The independent Administrator proposed the following 13 recommendations with regard to EITI implementation:

- Implement capacity building activities
- Put in place a communications strategy (two recommendations)
- Mobilise sources of funding
- Disseminate the statements of approval from mining companies with regard to EITI Principles and Criteria more widely
- Integrate EITI into the mining companies' policies and/or internal reporting systems
- Submit reports prepared according to the EITI template for verification by the companies' external auditors
- Principles for noting and taking into consideration offset payments and advance payment of taxes have not been drawn up (main reasons for the discrepancies)
- Check the compliance of figures declared by the State with the amounts coming from the "SIG *taxe*" tax information system, as the Independent Administrator noted discrepancies in the figures
- Open a special "Mining Fund" Treasury account through which revenues from the mining sector are channelled as they are currently collected by different independent government bodies: we were informed that an information system enabling all revenues received by the Malian State from mining companies to be centrally managed has now been implemented

- Clarify the responsibilities in terms of monitoring, recovery and collection of dividends, of the ad valorem tax and surface fees, as several departments are authorised to collect the monies in question, which does not allow cash streams to be traced
- Design, produce and implement an information system that enables all of the revenues collected by the Malian State from mining companies to be centrally managed: this system has been in place since the end of the Validation workshop for the 2006 audit report
- Require the mining companies to submit their annual accounts and the texts of resolutions taken by their shareholders' meetings, particularly decisions relating to the distribution of dividends, to the Government Lands and Property Register: the companies submit these documents to five departments, including the Directorate General for Taxes and the National Statistics Institute. As the State is a shareholder, and present on the Boards of Directors of companies in the production phase, we think that this information is available.

At the time of conducting this Validation, Mali had not had time to put all these recommendations into effect. However, the 2010-2012 Action Plan has taken them into account. We were informed that the procedures for data collection have also been amended; a Mining Fund is in place and the methods for handling "offsets" have been improved.

Stakeholder views

The Steering Committee members expressed their satisfaction with regard to the quality of the report and confirmed that production of the 2006 report had been a success. At the same time, they recognised the need to improve the process and reconsider the scope. The recommendations were considered by the Steering Committee, which takes recommendations into account when compiling the Terms of Reference for future reports (currently underway).

Validator's Assessment

The production of this first EITI Report has brought to light a number of failings in the monitoring of payment streams and brought into focus the fact that several bodies are involved in revenue collection. We noted that the PS and members of the Steering Committee have taken serious note of the independent Administrator's recommendations.

Mali is Compliant with this Indicator.

3.18 INDICATOR 18: Was the EITI Report made publicly available in a way that was publicly accessible, comprehensive and comprehensible?

Purpose: the EITI is ultimately fully implemented when the EITI Report is made public and is widely disseminated and openly discussed by a broad range of stakeholders. The EITI Criteria require that the Report is publicly available in a way that is publicly accessible, comprehensive and comprehensible.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has ensured that the Report was made publicly available in ways that are consistent with the EITI Criteria, including by:

- producing paper copies of the Report, which are distributed to a wide range of key stakeholders, including civil society, companies, the media and others;
- making the Report available on-line, and publicising its web location to key stakeholders;
- ensuring that the Report is comprehensive and includes all information gathered as part of the Validation process and all recommendations for improvement;
- ensuring that the Report is comprehensible, including by ensuring that it is written in a clear, accessible style and in appropriate languages;
- ensuring that outreach events – whether organised by government, civil society or companies – are undertaken to spread awareness of the Report.

Progress

There have been significant efforts made to publicise the EITI Report. These include:

- The Validation workshop for the first audit report, held on 9 December 2009. This workshop brought together participants from the government, civil society, mining companies and technical and financial partners. It concluded with a press conference attended by representatives of the audio-visual and print media.
- The following workshops:
 - 1 March 2010, in the conference room of the National Directorate for Geology and Mines, to raise awareness and present information to journalists. The workshop featured in the print media
 - 2 March 2010, in the conference room of the National Directorate of Geology and Mines, bringing together participants from mining companies in the exploration phase in Mali with the Office of the Ministry of Mines and the EITI Secretariat. The workshop was covered by ORTM (Office of Radio and Television, Mali)
 - 3 March 2010, in the conference room of the National Directorate of Geology and Mines, bringing together participants from government departments and the EITI Secretariat. The workshop was covered by the national print and audiovisual media
 - 5 March 2010, in the conference room of the National Directorate of Geology and Mines, bringing together participants from Malian NGOs and civil society and the EITI Secretariat. The workshop was covered by the national print and audiovisual media
 - 16 April 2010, in the conference room of the Governor of Sikasso, bringing together participants from Malian civil society NGOs and associations with officials from decentralised government services, independent local radio stations from the region and the EITI Secretariat

- 19 April 2010, in the conference room of the Governor of Segou, bringing together participants from Malian civil society NGOs and associations with officials from decentralised government services, mining companies, financial operators and independent local radio stations from the region and the EITI Secretariat
- 19 April 2010, in the meeting room of the Governor of Kayes, bringing together participants from government departments, mining companies and civil society
- 20 April 2010, in the conference room of the Governor of Koulikoro, bringing together participants from Malian civil society NGOs and associations, officials from decentralised government services, mining companies, economic operators and independent local radio stations from the region and the EITI Secretariat.

Some thirty copies of the report were printed for each region.

The EITI Mali Global Communications Plan, drafted in July 2010 and mentioned in section 3.6, sets out the objectives, tasks, actions and impact of communications activities. This plan envisages a whole range of communication methods that, in the future, should contribute to improving the dissemination of information on EITI activities and reports.

EITI Mali recently set up a website – www.itie.mines.gouv.ml. This is most welcome, albeit tardy, as, despite limited Internet access among the general population, a website is important for providing information about EITI to those who do have Internet access. For example:

- companies considering investing in Mali
- companies operating in Mali but not yet included within the scope of EITI
- NGOs which might have access to the website and which could print and make copies of the information in order to distribute it
- international organisations: financial partners, embassies, investors, NGOs, etc..

The 2006 EITI Report is available on this site.

Stakeholder views

During the first Validation mission, civil society representatives felt that arrangements should be made to disseminate the EITI presentation in the national languages. The EITI Mali Global Communications Plan, which was produced under the authority of the Chair of the Communications/Information Working Group of the Steering Committee, himself a civil society representative, will facilitate the planning of these activities.

Validator's Assessment

The report produced by the independent Administrator is comprehensive and, in particular, it clearly summarises the Malian mining sector and explains the activities of gathering and reconciliation and the information collected in the context of this exercise. It is written in a clear and accessible style. The independent Administrator analysed and reconciled the reports in a clear and succinct manner.

There have been significant efforts to publicise the EITI Principles and the 2006 EITI Report. During the first Validation mission, and notwithstanding the considerable efforts already made, we recommended implementing a communications plan to ensure the dissemination of reports to all members of civil society, including those whose first language is not French and who do not have access to the Internet, and including the setting up of a website.

Real efforts have been made to publicise the first EITI Report and, while work still remains to be done, we believe that there has been significant progress and that Mali is Compliant.

3.19 How have gas, oil and mining companies supported EITI implementation?

Purpose: In accordance with the EITI Principles and Criteria, all companies operating in the relevant sectors in countries implementing the EITI have to disclose material payments to the government in accordance with agreed reporting templates and to support EITI implementation. This includes: expressing public support for the Initiative; taking part in, or supporting, the multi-stakeholder process; disclosing agreed data, which is audited to international standards; and cooperating with the Validator where they have queries over Company Forms.

Evidence: This indicator does not require the Validator to provide an overall assessment. The Validator should provide a written assessment in the EITI Validation Report based on the self assessed Company Forms (below) which each company is required to complete. Where companies do not fill in forms, the Validator should note this in the final Report. In addition, the Validator should include in the final report any relevant information on the company concerned that is already in the public domain. The company should be given the opportunity to check this information. As well as using the forms to summarise company performance in the EITI Report, the forms should be publicly available and a table collating company responses should be included in the EITI Report.

The Validator should contact all the companies required to fill in forms at the start of the Validation, inform them of the requirement to complete the form and request that the forms be returned to the Validator. In addition, the Validator should ask companies to comment on lessons learnt and best practice. Companies will have two ways of providing such comments:

- companies can use the space provided on the self assessment forms, or
- companies can provide verbal evidence to the Validator where issues the company wishes to note are of a sensitive nature. The Validator will summarise anonymised lessons and experiences in the Validation Report.

The self-assessment form should be filled in, in the first instance by the company, as follows:

Country-level:

- Each oil, gas or mining company active in the country being validated should complete a country-level Company Form as a self-assessment and should submit it to the Validator.
- The national Validator will collate responses and may contact companies if they have additional questions or require further supporting information. Companies should respond positively to such requests.
- Companies should make forms for each country of operation publicly available on their external websites

International level:

- Companies that have made international commitments to support the EITI should fill in an international-level self assessment form.
- The international Company Form should be completed by each company and this should be sent to the EITI Secretariat who will put it on the EITI website.
- Companies should also provide clear endorsement of the EITI on their website.

Progress

The principal mining companies support EITI implementation. There are currently seven mining companies in the production phase in Mali. The six private groups that represent the shareholders of these mines have all appointed representatives to the Steering Committee (see section 1.7). These representatives are senior managers who play an active role in Steering Committee activities.

In general, the production companies support EITI. Some of the minutes from meetings show that representatives voice strong opinions about the development of EITI including comments on perceived shortcomings in the action planning process. Of the companies active in the sector, AngloGoldAshanti has made the clearest declaration of its Sign up to EITI on its website.

The EITI self-assessment forms were sent to 78 companies on the basis of details supplied by the Permanent Secretary of the Steering Committee. As of 30 June 2010, responses had been received from nine companies.

Of the 78 companies, only seven are in the production phase. The other 71 companies are conducting mining studies. The seven producer companies were included in the 2006 reconciliation exercise and they all submitted reports to the independent Administrator. Responses to the questionnaires have been received from five of these producer companies. Four of the companies in the exploration phase have returned the questionnaire. One of them told us that they had never been contacted about EITI in the past. Another requested more information about the data to be submitted.

Details of the companies which received the questionnaires and the completed company self-assessment forms are given in Annex 2. The table below gives a summary of the responses. The negative responses are from companies which are only involved in exploration.

Company	Question					Remarks
	1	2	3	4	5	
Semos SA	Yes	Yes	Yes	Yes	Yes	
Yatela SA	Yes	Yes	Yes	Yes	Yes	
Somisy SA	Yes	Yes	Yes	Yes	Yes	
Somika SA	Yes	Yes	Yes	Yes	Yes	
Randgold	Yes	No	Yes	Yes	Yes	
MMR SA	No	No	No	•	No	
Eureka Geo (Metalex)	No	Yes	Yes	Yes	No	
Oklo Uranium	Yes	Yes	Yes	Yes	No	
Wassoul Or SA	Yes	Yes	•	•	•	

- No response to this question

Validator's Assessment

Taking into account the active support of the production companies and the responses to the independent Administrator, we conclude that Mali can be considered Compliant with this Indicator.

However, the lack of response from companies in the exploration phase is due to a decision of the Steering Committee only to include companies in production within the scope of EITI. In future, significant efforts will be needed to ensure the active participation of all companies involved in the extractive industries.

The Steering Committee and the mining companies that actively support EITI should work together to spread information about EITI to companies in the exploration phase and to companies that are commencing activities in Mali. As there is no formal association of mining companies in Mali which could take charge of this initiative, the companies currently involved in EITI should assume responsibility, in partnership with the Steering Committee and the government, for leading an awareness-raising campaign among other companies in the sector including, if necessary, service providers (subcontractors). This campaign will need to start immediately, and before the implementation of the second EITI Report.

In drafting the Terms of Reference for the next EITI Report, the Steering Committee has already demonstrated its intention to include all the companies in the sector.

3.20 What steps have been taken to act on lessons learnt, address discrepancies and ensure that EITI implementation is sustainable?

Purpose: The production and dissemination of an EITI Report is not the end of implementation of the EITI. The value comes from the process as much as the product, and it is vital that lessons learnt in implementation are acted upon, that discrepancies identified in the EITI Report are addressed and that EITI implementation is on a stable, sustainable footing.

Evidence: The Validator should see evidence that a review mechanism has been established that takes account of the purpose outlined above. The Validator should comment on this in the Validation Report.

Progress

Throughout this report, we have commented on issues which need improvement, both in terms of lessons which can be learnt from earlier experiences and in terms of implementing procedures which are currently lacking.

We note specifically the following actions taken following lessons learnt:

- A reporting template with an explanatory note was produced and considered by the Steering Committee before being included in the Terms of Reference for the second EITI Report.
- The scope of the second report will be widened to all companies in the extractive industries sector, including exploration companies and sub-contractors.
- The Steering Committee informed us that an information system enabling all revenues collected by the Malian State from mining companies to be centrally managed had been in place since the end of the Validation workshop for the 2006 audit report.
- Drafting of internal regulations for the Steering Committee to improve the way in which it operates.

The audit standards applied to the certification of company accounts and State reporting were widely discussed during the Validation process. This aspect needs to be clarified before implementation of the second EITI Report.

Stakeholder views

All the stakeholders support EITI implementation in Mali and would like the process to continue and improve. It is generally recognised that implementation thus far is proceeding in the right direction and constitutes genuine progress. While there are aspects which require further effort, there is now a solid basis for future progress.

At the end of June, we received the minutes of a Steering Committee meeting during which the programme and parameters for the 2007-2008 reconciliation were discussed. This demonstrates Mali's willingness to pursue EITI.

Validator's Assessment

We have observed real progress in EITI implementation in Mali, although the speed of implementation has been too slow and there are omissions, and actions to be undertaken, that are described in this report. As Mali has thus far published only one EITI Report, we can only comment that Mali has shown progress in EITI implementation by publishing this report. The minutes of recent Steering Committee meetings appear to show that our remarks have been taken into account.

The recommendations and comments we have provided in this report, and the recommendations in the payment streams reconciliation report for 2006 constitute a good framework for producing a revised Action Plan with which to continue implementation. The Supervisory and Steering Committees must demonstrate progress in putting actions in place that take account of these recommendations prior to producing the second EITI Report. Following these actions, Mali should be able to demonstrate its Compliance with the EITI Indicators.

4 VALIDATION GRID

The following table gives a summary evaluation of Mali's Compliance with the Indicators.

Indicator		Compliant?
SIGN-UP		
1.	Has the government issued an unequivocal public statement of its intention to implement EITI?	✓
2.	Has the government committed to work with civil society and companies on EITI implementation?	✓
3.	Has the government appointed a senior individual to lead on EITI implementation?	✓
4.	Has a fully costed Work Plan been published and made widely available, containing measurable targets, a timetable for implementation and an assessment of capacity constraints (government, private sector and civil society)?	✓
PREPARATION		
5.	Has the government established a multi-stakeholder group to oversee EITI implementation?	✓
6.	Is civil society engaged in the process?	✓
7.	Are companies engaged in the process?	x
8.	Did the government remove any obstacles to EITI implementation?	✓
9.	Have reporting templates been agreed?	x
10.	Is the multi-stakeholder group content with the organisation appointed to reconcile figures?	✓
11.	Has the government ensured that all companies will report?	✓
12.	Has the government ensured that company reports are based on audited accounts to international standards?	x
13.	Has the government ensured that government reports are based on audited accounts to international standards?	x
DISCLOSURE		
14.	Were all material oil, gas and mining payments by companies to government ("payments") disclosed to the organisation contracted to reconcile figures and produce the EITI Report?	✓
15.	Were all material oil, gas and mining revenues received by the government ("revenues") disclosed to the organisation contracted to reconcile figures and produce the EITI Report?	✓
16.	Was the multi-stakeholder group content that the organisation which was contracted to reconcile the company and government figures did so satisfactorily?	✓
17.	Did the EITI Report identify discrepancies and make recommendations for actions to be taken?	✓
DISSEMINATION		
18.	Was the EITI Report made publicly available in a way that was publicly accessible, comprehensive and comprehensible?	✓
19.	How have oil, gas and mining companies supported EITI implementation?	N/A
20.	What steps have been taken to act on lessons learnt, address discrepancies and ensure that EITI implementation is sustainable?	N/A

5 CONCLUSIONS AND RECOMMENDATIONS

5.1 Validator's Conclusions on EITI Implementation in Mali

Mali has made significant progress in EITI implementation, for example:

- i. public declaration of support for EITI and the production and publication of a Work Plan for EITI implementation
- ii. establishment of a multi-stakeholder group (Steering Committee) with appropriate representation of different stakeholders
- iii. active dialogue between the key participants – government, companies and civil society
- iv. appointment of an independent Administrator
- v. production, publication and dissemination of the country's first EITI Report for 2006
- vi. publication of EITI activities in Mali.

There is a clear desire on the part of the Steering Committee and civil society in general that Mali should continue to make progress towards Compliance. The stakeholders stated that they would like to draw on the achievements to date to carry the initiative forward and learn lessons from the difficulties they have experienced. In the future, the Supervisory Committee will need to fulfil its role as defined in Decree No 7/180/PM-RM of 6 June 2007 in order to strengthen evidence of support for EITI at the highest levels of government.

The Minister of Mines and Chair of the Steering Committee is seriously involved in ensuring that the lessons learned from producing the first EITI Report and from this Validation process are applied so that Mali can very soon be deemed Compliant with the EITI Indicators.

There have been obstacles to progress which have not been addressed and these must be resolved if Mali wishes to become a Compliant country. There are 13 recommendations in the 2006 Report of the independent Administrator and numerous observations in our report concerning issues where improvement is necessary. Mali's response to these various suggestions will determine its success in achieving Compliance.

In summary, action must be taken on:-

- i. establishing a strategic direction on the part of the Supervisory Committee and improved execution of the Objectives agreed by the Steering Committee and the Permanent Secretariat
- ii. identifying capacity constraints and implementing training for the principal stakeholders and for personnel involved in preparing information for EITI Reports.

A new National Work Plan for the 2010-2012 period was produced following our first visit to Bamako. There is a need to ensure that it is monitored, updated and published regularly.

As this report shows, Mali's current weaknesses are largely due to failings at the administrative level. Those responsible for EITI implementation in Mali must make use of all the Indicators and the Validation tools and use them as a checklist to help identify weaknesses and mitigate them.

On reading the correspondence between the government and the World Bank, it is clear that Mali expected to receive funds from the World Bank MDTF some time in 2008 and that these funds were not available before the beginning of 2010. It should be noted that the first discussions between Mali and the World Bank on this subject took place in 2006. The Validator notes that training and communications activities that should have been financed by the MDTF would probably have helped Mali to implement certain actions more promptly and these would have permitted the country to

get closer to Compliance: for example, training and capacity building activities which could have avoided certain administrative issues; and the preparation, adoption and implementation of a communications strategy, which was delayed. Recent actions are enabling these gaps to be filled.

Mali published an EITI Report for 2006 in December 2009. The Validation Guide does not stipulate that the country must publish more than one EITI Report. However, we would draw attention to the first of the EITI Criteria which stipulates “Regular publication of all material oil, gas and mining payments by companies to governments and all material revenues received by governments from oil, gas and mining companies to a wide audience in a publicly accessible, comprehensive and comprehensible manner”. We therefore consider that it is important that Mali should proceed urgently with compiling a second report, taking into account, as it does so, the recommendations set out in this report and in the reconciliation report of 2006, to show that it is committed to the regular publication of reports. The implementation of the report, which will cover the years 2007 and 2008, is currently planned for the end of 2010.

In summary, Mali has the potential to be a Compliant country if the recommendations in chapter 5.2 are followed.

We conclude that Mali has made important progress but has not yet achieved Compliance. We feel that, despite the noted weaknesses, the country will be able to show its capacity to make progress towards Compliance in a consistent manner, if the second report is produced in compliance with the indicators and published and distributed no later than the first quarter of 2011. We recommend that the Supervisory Committee adopt a new Work Plan and make a request to the EITI Board to renew their candidature with final Validation by the end of 2012.

5.2 Recommendations for Future EITI Actions in Mali

The Validator recommends that the following actions be taken to achieve Compliance:

A. Strategic Direction

The Supervisory Committee is responsible, by decree, for setting the key political and strategic directions of EITI and for assessing the impact of EITI implementation on sustainable development. We recommend that this Committee draw up Mali’s intentions under EITI, including an explanation of the sources of funding for implementation. The Committee should also adopt a new country Work Plan for the 2010-2012 period. This Plan will be prepared by the Steering Committee with the aim of implementing its strategy. It would be helpful if the Plan could be prepared before the date on which the EITI Board considers Mali’s status in October.

B. Implementation and Monitoring

The Steering Committee will need to ensure the following in relation to the National Work Plan 2010-2012:

- i. funding for the activities is available each year in good time, bearing in mind that it will be necessary to revise forecast budgets according to progress
- ii. it approves the expenditure incurred for the previous year in good time each year
- iii. progress on actions in the Plan is measured and monitored
- iv. regular publication and dissemination of the year’s plan and actual progress in relation to targets.

C. Capacity Building

Where they have not yet been identified, capacity building needs should be defined. The country Work Plan for 2010-2012 should include the results of this study and set out the necessary training programme to mitigate capacity constraints.

D. Steering Committee

The actions recommended in the provisional Validation report have been taken:

- i. internal regulations to define responsibilities, as stipulated in the decree establishing the institutional framework of EITI in Mali, have been produced
- ii. a new Order updating the appointment of Steering Committee members has been issued.

E. Obstacles to implementation

Although there are currently no obstacles, the Steering Committee will need to identify potential obstacles and take preventive action (for example, have an "EITI" article added into the Establishing Agreements).

F. EITI Reports

- i. In order to achieve Compliance with the EITI Criteria, the planned broadening of the scope of the exercise should be discussed and given consideration when the Terms of Reference are drawn up for all reports subsequent to the 2006 report, for example: companies in the exploration phase and subcontractors should be considered.
- ii. The threshold of materiality applicable to the report should be regularly reviewed: even though the Steering Committee decided that all payments/receipts would be taken into account, it will need at a given moment to take a decision on the levels of payments/receipts or discrepancies that do not have an impact on the quality of the EITI Report. The definition of threshold of materiality is central to the EITI Criteria.
- iii. The template for future reports must be discussed and endorsed by the Steering Committee: this action has already been taken.
- iv. The recommendations made in the 2006 report have been discussed and some that have been approved have already been taken into consideration in the production of Terms of Reference for the independent Administrator for the next report.
- v. The ToRs for the second EITI Report should ask the independent Administrator to verify whether the declarations come from accounts audited to international standards. Meanwhile, it would be useful to consult the EITI Board of Directors to clarify the definition of "international standards".

G. Audit Environment

- i. In view of the situation regarding accounting and audit standards in Mali, the Steering Committee will need to ensure that the companies' figures comply with international accounting and audit standards.
- ii. Verification procedures for government revenue reports should be clarified and, where appropriate, the level of audit explained.

H. Communication

- i. A communications strategy was produced in June 2010. The Steering Committee must ensure its implementation, including the dissemination strategy for future EITI Reports.

- ii. A website (www.itie.mines.gouv.ml) has been operational since June 2010 but its quality and sustainability still need to be assessed.

ANNEX 1 – PEOPLE CONTACTED

People Contacted

Government			
Name	Structure	Observations	Member of Steering Committee?
H.E. Abou-Bakar Traoré	Minister of Mines	Met on 3 and 7 May and 23 August 2010.	Yes – Chair
Mr Djibouroula Togola	EITI Permanent Secretary		
Mr Seydou Kalafo	EITI Permanent Secretariat		
Mr Souleymane Diabaté	Ministry for Regional Administration and Local Authorities		Yes
Mr Papa Bacari Cissouna	General Directorate for State Procurement		Yes
Mr Lassana Guindo	National Directorate for Geology and Mines	Participated in the meetings during the second mission to Bamako	Yes
Mr Tidiani Sako	DNDC (Government Lands and Property Register)	Meeting at the Ministry of Economy and Finances, May 2010	Yes
Mr Cheikné Sidibé	Ministry for the Environment		Yes
Mr Seydounour Diallo	General Directorate. for Industry		Yes
Mr Makan Makadji	Ministry for Communication and New Technologies		Yes
Mr Mahmoud Sako	Ministry of Economy and Finances	Meeting at the Ministry of Economy and Finances	Yes
Mr Michel Ginter	Ministry of Economy and Finances	Meeting at the Ministry of Economy and Finances	
Mr Mohamed El Haki Keita	Ministry of Economy and Finances	Meeting at the Ministry of Economy and Finances	
Mr Hamady Mahamane Tounkara	Customs Agency	Meeting at the Ministry of Economy and Finances	
Mr Ibrahima Sidibé	Ministry of Economy and Finances/Large Companies Division	Meeting at the Ministry of Economy and Finances	

Mr Adama Niaré	Ministry of Economy and Finances/Large Companies Division	Meeting at the Ministry of Economy and Finances	
Mr Salif Diallo	Ministry of Economy and Finances/Taxes Division	Meeting at the Ministry of Economy and Finances	
Mrs SIDIBE Zamilatou CISSE	Ministry of Economy and Finances/ DNTCP (National Directorate for the Treasury and Public Accounting)	Meeting at the Ministry of Economy and Finances	
Mrs Aminata Sow	Ministry of Economy and Finances/ DBNTCP/RGD	Meeting at the Ministry of Economy and Finances	
Mr Maméry Bagayoko	Ministry of Economy and Finances/DNDC (Government Lands and Property Register)	Meeting at the Ministry of Economy and Finances	
Mr Aboubacar Ogognagaly	National Directorate for Geology and Mines	Participated in the meetings during the second mission to Bamako	
Partners			
Name	Structure	Observations	
Mrs Friedericke v. Stieglitz	GTZ	Evaluation Report Validation Workshop, 23 August 2010	
Mr Ousmane Diagana	Resident Representative of the World Bank	Evaluation Report Validation Workshop, 23 August 2010	
EITI Secretariat			
Name	Structure	Observations	
Mr Tim Bittiger	EITI International Secretariat	Evaluation Report Validation Workshop, 23 August 2010	
Mrs Marie-Ange Kalenga	EITI International Secretariat	Evaluation Report Validation Workshop, 23 August 2010	
Companies			
Name	Structure	Observations	
Mrs Fatimata Anna Thera	Anglogold Ashanti Mali	At the office	Yes (deputises for Mr

			Coulibaly)
Mr Mamadou COULIBALY	Anglogold Ashanti Mali	At the office. Participated in the meetings during the second mission to Bamako	Yes
Mr Habib Diallo	Randgold Mali Sarl	Participated in the meetings during the second mission to Bamako	Yes
Mr Mahamadou SAMAKE	Randgold Mali Sarl	Met in Senegal by Mr Cole-Baker	Former member, replaced by Mr Diallo
Mr Issaka COULIBALY	Wassoul'or	Privately. Participated in the meetings during the second mission to Bamako	Yes
Mr Issa Diallo	SOMIKA	Participated in the meetings during the second mission to Bamako	Yes
Mr Abdou Karembé	SOMIKA		Yes (first mission to Bamako)
Mr Hassimi Bagna SIDIBE	TAMICO	Participated in the meetings during the second mission to Bamako	Yes
Civil society			
Name	Structure	Observations	
Mr Tiémoko S SANGARE	Sahel Development Foundation (FDS)	Meeting with civil society. Participated in the working meetings during the second mission to Bamako	Yes
Mr Soufiana KONARE	CAD	Meeting with civil society	Yes
Mrs Ly Fatoumata Coulibaly	CAFO	Meeting with civil society. Participated in the working meetings during the second mission to Bamako	Yes
Independent Administrator			
Name	Structure	Observations	

Mr Mohamed Mehdi	SBCI - Mazars Tunisia	By telephone	
Others			
18 representatives of the print media	Evaluation Report Validation Workshop, 23 August 2010: EITI presentation session		

Annex 2 – SELF-ASSESSMENT FORMS

Companies	2006 Report		EITI company self-assessment forms		Companies which did not reply
	Included	Responses received	Sent	Received	Website
Semos SA	•	•	•	•	n/a
Morila	•	•	•		to follow
Yatela SA	•	•	•	•	n/a
Somilo	•	•	•		to follow
Tamico	•	•	•		to follow
Somisy SA	•	•	•	•	n/a
Somika SA	•	•	•	•	n/a
MMR SA			•	•	n/a
Eureka Geo (Metalex)			•	•	n/a
Oklo Uranium			•	•	n/a
Wassoul Or SA			•	•	n/a
Randgold			•	•	n/a
Somirex			•		to follow
Koussili Mining			•		to follow
Accord SA et ACC					
Bauxite			•		to follow
Kadiel Mining			•		to follow
EMAS Mali SA			•		to follow
Orient d'Or Industries du Mali SA			•		to follow
CMOB c/o Touba Mining			•		to follow
SERAM			•		to follow
Tink Gold Mining International Corporation			•		to follow
Rexmetals SARL			•		to follow
African Gold Group			•		to follow
La Société Africa Resources SARL			•		to follow
La Société African Mining SARL			•		to follow
Kara Gold			•		to follow
Haida Corps SARL			•		to follow

Annex 2- Contd/...

Companies	2006 Report		EITI company self-assessment forms		Companies which did not reply
	Included	Response received	Sent	Received	Website
AfriResources Mali			•		to follow
Mina Global Mining			•		to follow
Minière Lulu			•		to follow
Tanex Ressources			•		to follow
Touareg Gold			•		to follow
Fasso Mining and International Negoce Mali Development Resources			•		to follow
Mande Construction Immobilière			•		to follow
Transafrika Mali SA			•		to follow
Great Quest Metals Mali			•		to follow
Gold Fields Ltd			•		to follow
Gold Fields Exploration Mali SARL			•		to follow
Peaks Mali			•		to follow
Sanoula SARL			•		to follow
Mali Sanu SARL			•		to follow
Société Fofana et Fils (SOFOFI) SARL			•		to follow
Tourekounda SARL			•		to follow
Société Minière Abass et Frères (SEMIAF)			•		to follow
JAG-Gold			•		to follow
Golden Rim Mali SA			•		to follow
Mali Ressources Minière SARL			•		to follow
Takine HABA SARL			•		to follow
SOEAM Or Mali SA			•		to follow
GPEM SARL			•		to follow
Kato Société Minière SARL			•		to follow

Annex 2- Contd/...

Companies	2006 Report		EITI company self-assessment forms		Companies which did not reply
	Included	Response received	Sent	Received	Website
GMR & Co			•		to follow
La Société Madem SARL			•		to follow
Somageco SARL			•		to follow
CDM SARL			•		to follow
Presco Minier SARL			•		to follow
Société Africa Mining SARL			•		to follow
La Societé GCM SARL			•		to follow
DADO Mining SARL			•		to follow
L'Orchidée GIC-SO & Co SARL			•		to follow
Delta Exploration SARL			•		to follow
Nevsun Exploration Mali Ltd			•		to follow
Geo COSUL			•		to follow
Mali Petroleum SA			•		to follow
Baraka Mali Oil Operations Limited			•		to follow
Markmore			•		to follow
Sipex Mali Branch SARL			•		to follow
Petroma			•		to follow
Falcon/Martagon			•		to follow
Afex Global			•		to follow
ENI Mali BV			•		to follow
Tink Petroleum (Mali) Corporation			•		to follow
Tambaoura Gold Resources SARL			•		to follow
Iamgold			•		to follow
Resolute Mining Limited			•		to follow
Avnel Gold			•		to follow
Avion (Nevsun)			•		to follow

Annex 3 Action Plan 2008 – 2010