

VALIDATION REPORT

Presented by

monkeyforest
SOCIAL DEVELOPMENT CONSULTING



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CONTENTS

Acknowledgements.....	3
List of abbreviations.....	4
Introduction.....	5
- EITI Validation	
- Madagascar: Facts and figures	
- Important considerations	
- History of the EITI in Madagascar	
Important considerations	10
Validation methodology	13
Progress against the Work Plan.....	15
Validation indicators	17
- Sign up	
- Preparation	
- Disclosure	
- Dissemination	
Recommendations	58
Appendix 1: Validation grid.....	60
Appendix 2: Company self-evaluation forms.....	68
Appendix 3: List of participants.....	73
Appendix 4: List of supporting evidence.....	77

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LIST OF ABBREVIATIONS

APAM	<i>Association des Pétroliers "Amont" à Madagascar</i> (Association of "Upstream" Oil Companies in Madagascar)
EITI	Extractive Industries Transparency Initiative
RBM	Results-Based Management
GIZ	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> (German Cooperation)
HAT	<i>Haute Autorité de la Transition</i> (High Transitional Authority)
LGIM	<i>Loi sur les Grands Investissements Miniers</i> (Major mining investment law)
MEM	<i>Ministère de l'Énergie et des Mines</i> (Ministry for Energy and Mining - now known as Ministry for Mining and Hydrocarbons)
MFB	<i>Ministère des Finances et du Budget</i> (Ministry for Finance and Budget)
MMH	<i>Ministère des Mines et Hydrocarbures</i> (Ministry for Mining and Hydrocarbons)
MSG	Multi-Stakeholder Group
PWYP	Publish What You Pay
QMM	Qit Minerals Madagascar
SIGTAS	Standard Integrated Government Tax Administration System
Tana	Capital of Madagascar (abbreviation of Antananarivo)

INTRODUCTION

This Report details the results of the EITI Validation process in Madagascar, conducted in 2011. This is Madagascar's first attempt to achieve EITI Compliance. The Validation was conducted by Monkey Forest Consulting, an international social development consulting company. The in-field Validation activities took place between 31st July and 8th August 2011 and were overseen by two Monkey Forest consultants, Sylvie Charland and Trevor Kalinowsky.

EITI Validation

Validation is the EITI's quality assurance mechanism. It is an integral part of the EITI methodology. Validation fulfils two key roles: it promotes dialogue and learning at national level and it protects the quality of the EITI brand by submitting all participating countries to assessment against the same standard.

The purpose of Validation is to assess EITI implementation, in consultation with stakeholders. It is designed to measure progress against the general EITI standard and can also help to identify ways in which the EITI process may be improved in the future. This Validation Report will act as the basis for the EITI Board's decision to award Madagascar Candidate Country or Compliant Country status.

If Madagascar demonstrates that it complies with the EITI (or demonstrates significant progress towards compliance), it will receive international recognition for its effort and results. If the Validation process cannot be completed, or if the results of this process suggest that Madagascar has not made significant progress towards compliance with the EITI, the EITI Board may revoke Madagascar's Candidate Country status.

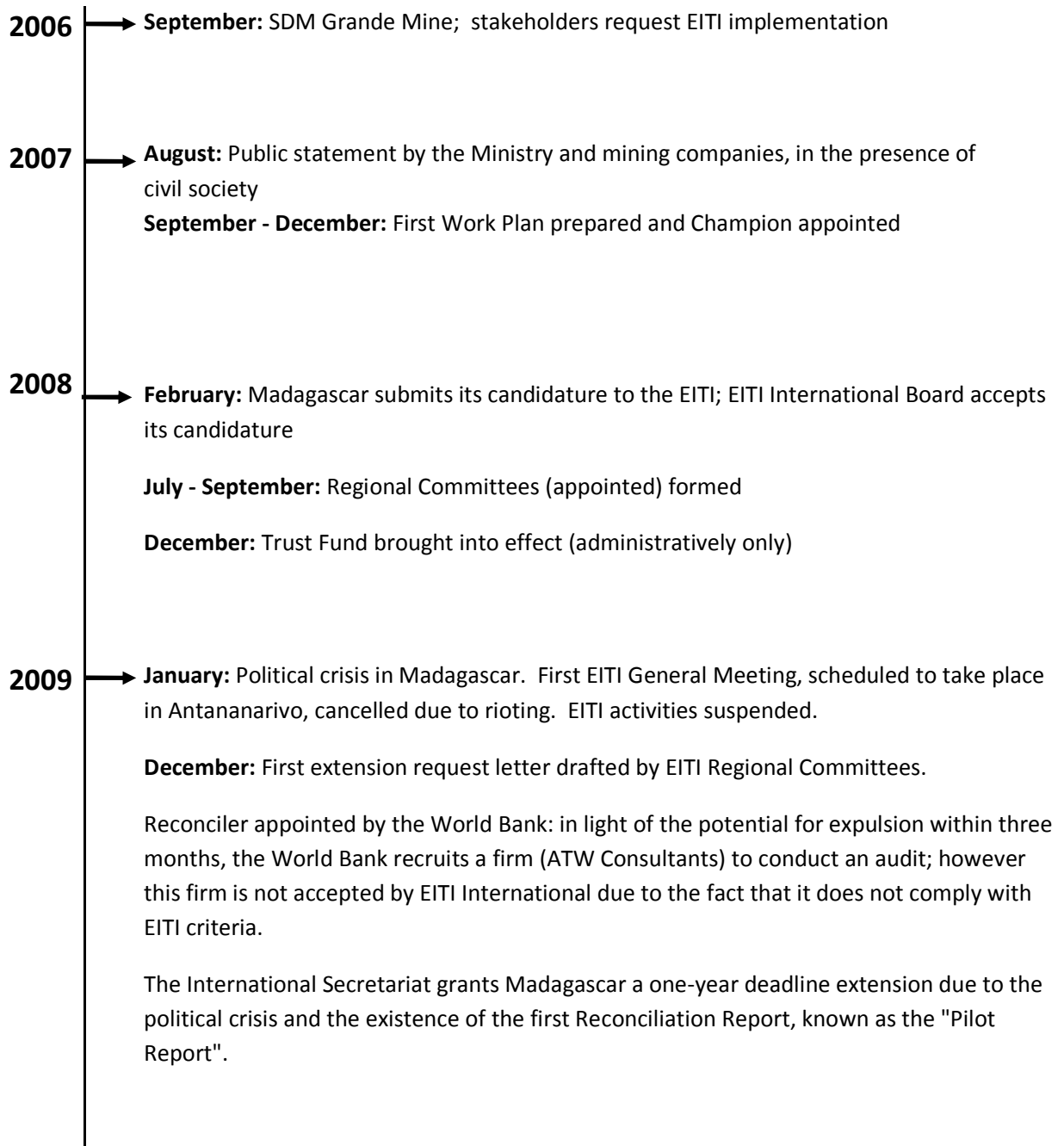
Madagascar: Facts and figures

Population:	21,281,844
Official languages:	Malagasy, French
Literacy rate:	70%
Government:	High Transitional Authority (HAT) -- Non-constitutional transitional government, not recognised by the international community
Mining resources:	Oil, precious and semi-precious stones, uranium, niobium, ilmenite, nickel, bauxite, cobalt, gold



- EITI Select Committee
- EITI Regional Committees
- Regions visited by EITI Validators

History of the EITI in Madagascar



2010	<p>→ Period of inactivity due to force majeure. Extension granted by the International Secretariat insufficient. New unconstitutional, non-recognised regime.</p> <p>January: First audit report on financial flows in Madagascar's extractive industries commissioned by the World Bank.</p> <p>March: EITI Pilot Report published.</p> <p>June: Call for expressions of interest to recruit the EITI Reconciler.</p> <p>July: EITI Madagascar's international partners resume contact with the Ministry for Mining and Hydrocarbons.</p> <p>First EITI Madagascar MSG General Meeting takes place.</p> <p>EITI Madagascar National Committee members elected and new Champion appointed.</p> <p>November: Auditor bids assessed for appointment of the EITI Reconciler.</p> <p>Champion participates in the international EITI coordinators' meeting in Brussels.</p> <p>Madagascar Trust Fund managers appointed.</p> <p>Ministry for Mining and Hydrocarbons takes ownership of the EITI process.</p> <p>December: Call for expressions of interest to recruit the EITI Madagascar Executive Secretary.</p>
2011	<p>→ January: Regional Committees resurrected and members elected (Moramanga, Tamatave, Fort Dauphin, Maevatana, Maintirano).</p> <p>Executive Secretariat reconstituted, Select Committee mobilised by the new EITI Champion.</p> <p>Training needs survey conducted, funded by GIZ.</p> <p>February: Communication manager recruited.</p> <p>March: EITI Global Conference in Paris. EITI Madagascar attends, alongside Ambatovy, QMM, Transparency International and the Madagascan Embassy in France.</p>

No objection statement issued by the World Bank for EITI Madagascar's Work Plan.

Bidding process to recruit the Reconciler relaunched.

April: Bid analysis and negotiation process to recruit the Reconciler.

May: Reconciler selected (Ernst & Young). Validator selected (Monkey Forest Consulting).

June: First EITI Reconciliation Report published.

Extension request from the Ministry for Mining and Hydrocarbons granted by EITI International.

July: National Committee self-evaluation for Validation.

Validation mission in Madagascar begins.

IMPORTANT CONSIDERATIONS

This section addresses the background to the EITI process in Madagascar. As explained in the previous section (History), the EITI process in Madagascar has not followed a typical route. Below are some of the reasons why this country represents a special case and why special support is required for the Validation mission.

Political crisis

Madagascar is currently governed by the High Transitional Authority (HAT). This is an unconstitutional, transitional government that came to power on 19th March 2009 with the support of the army. The government of Madagascar is not recognised by the international community and a number of countries have withdrawn their assistance.

Nevertheless, the government is committed to scheduling elections in the coming months and the HAT seems to have made some progress among the international community. The President of Madagascar's transitional government recently attended the United Nations General Assembly in New York, where he delivered a speech for the first time (<http://www.rfi.fr/afrique/20110926-semaine-determinante-sortie-crise-madagascar>).

The transitional nature of the government represents a risk to EITI implementation, as a change of government may lead to the appointment of a new leader, who may decide not to commit fully to the EITI.

NB: The term "government", as used in this Validation Report, refers to the current transitional government (i.e. the HAT).

Complex legislation

As a result of periods of political instability, the laws that govern the extractive industries in Madagascar are complex and dispersed across various different sections of the country's legislation. Mining companies, for example, are governed by the Mining Code of 2005, the Establishing Agreement (a special agreement between the government and Rio Tinto) and the Major mining investment law (LGIM). Oil and gas companies, meanwhile, are governed by a completely different set of laws. As well as this complex legislation, extractive industry companies also pay a variety of different taxes and charges to a range of different government departments, as well as payments in kind (roads, schools, wells, playing fields, etc.), under the terms of several different government-imposed infrastructure and social development projects.

This complexity has a substantial impact on EITI Madagascar, making it difficult to identify all payments, obtain the consent of the various government Ministries that receive these payments, and ensure that civil society is able to monitor and survey this complex financial system.

An extractive industry sector dominated by mining

Although there are several mining and oil companies in Madagascar, only the mining companies have any revenues to report at present. There are currently two mines in production (Kraoma and QMM/Rio Tinto), with a third (Ambatovy) scheduled to begin production imminently. There is also a relatively large, yet informal group of small-scale mining producers. No official census of small-scale producers has ever been conducted in Madagascar.

EITI Madagascar has conducted a materiality study, which shows that revenues from the three large, active mining companies (Kraoma, QMM and Ambatovy) account for 98% of total payments received by the government from extractive industry companies. It is unclear as to whether this study includes payments from small-scale producers or administration costs paid to the government by permit holders.

The challenge facing EITI Madagascar is to find a way to include, or at least take account of, revenues of the vast number of small-scale producers who do not participate in the conventional economy and who are scattered across the length and breadth of the country. Although these producers account for just 2% of all revenues paid by the extractive industry (according to a recent materiality study conducted by the Ministry for Finance and Budget/Directorate of Large Companies), this nevertheless represents a significant amount.

Limitations of civil society

Due to the political crisis in Madagascar, civil society action has been severely restricted, limiting its ability to act as a counter-balance. At this stage of the EITI implementation process, civil society has sufficient capacities to fulfil its role successfully. However, it does not yet have the necessary resources (financial resources, equipment, education and knowledge) to keep up with changes in the EITI. Civil society is also suffering the consequences of financial cuts from international funding providers (because the Madagascar government is not recognised by the international community). Furthermore, the complexity of extractive industry legislation in Madagascar makes its task even more difficult. It is important to note that the limitations and shortcomings of civil society are a key focal point of the EITI Madagascar Work Plan (see Indicator 4).

Culture

Madagascans are generally seen (and describe themselves) as peaceful people who avoid confrontation. As a result of this culture of pacifism, Madagascans may be unwilling to challenge the status quo or to confront the opposing side in any conflict. While these traits are not universal throughout the Madagascan population, their existence threatens to compromise the quality of any debate on EITI-related issues and calls into question the sincerity of feedback gathered by the Validators during the course of this mission.

Select Committee

As shown in the history of the EITI in Madagascar, the process was only resurrected in July 2010. This means that the current Executive Secretariat was required to start "from scratch" and work towards Validation within a very short period of time. This extremely tight deadline is mentioned on several occasions in the document, and is the reason why certain activities were not conducted in sufficient depth. Monkey Forest would like to congratulate EITI Madagascar for achieving so much in such a short space of time, in spite of the problems posed by the political crisis.

A Select Committee was created at the General Assembly on 8th July 2010. No structure of this type has ever been used before for the purposes of the EITI. With the Select Committee, EITI Madagascar has been able to make substantial progress in critical areas and conduct urgent dialogue with the multi-stakeholder group in the limited time available. One of the risks posed by a structure of this type is the potential for imbalances of power between stakeholders, thereby compromising the role of the National Committee. To date, the Select Committee has obtained the prior approval of the National Committee in all decision-making matters. Indeed, there are regulations governing this requirement in the minutes of the EITI Madagascar Annual General Meeting.

Finally, the Executive Secretariat has taken on the challenge posed by this tight deadline.

Stakeholders consulted

Monkey Forest met with more than 20 stakeholders (groups and individuals) as part of the data collection process during its Validation mission. All stakeholders consulted were assured, by Monkey Forest, that their comments would appear anonymously in the Validation Report. The purpose of this decision was to enable them to express their views openly, without restriction and without feeling the need to tone down any criticism for fear of causing offence. For this reason, the Validators have not assigned comments to specific individuals in the Report. A detailed list of all groups and individuals with which meetings were held appears at the end of this document, however.

VALIDATION METHODOLOGY

Monkey Forest used three key documents to support it in its work and to measure its progress during the Validation mission:

1. EITI Country Work Plan

Monkey Forest conducted a number of investigations and meetings to measure progress in relation to EITI implementation in Madagascar. Monkey Forest also documented and assessed the cultural and linguistic methods used to engage a variety of different levels of Madagascan society, including civil society. The aim of this process was to evaluate how effective these methods are at securing greater, more autonomous participation from the local community.

2. Validation Grid

MFC used the recommended EITI Indicators, as well as its own milestones, to determine and assess the progress and success of the mission, and the recommendations produced as a result.

3. Company self-evaluation forms

Because the number of company self-evaluation forms received was too low to conduct an accurate theme-based analysis, MFC also studied the specific comments and remarks made during meetings and interviews to fine-tune its study and address certain gaps in information.

4. Interviews with stakeholders

Monkey Forest gathered the data required for the Validation mission through formal and informal interviews with stakeholders in three regions: Antananarivo, Moramanga and Fort Dauphin. These stakeholders came from the three colleges within the multi-stakeholder group: the government, the private sector and civil society. MFC used triangulation methods to analyse the subjective data gathered and assess the responses from more than one point of view. The Validators also held two face-to-face meetings with the National Committee (before and after the in-field activities) to listen to the Committee's suggestions, ideas and concerns and to engage in open dialogue on these issues. The list of stakeholders consulted appears in Appendix 3 at the end of this Report.

The stakeholders consulted were selected in two ways:

- Recommendations from the Executive Secretary: these choices were based partly on the availability and proximity of the individuals and groups concerned during the time that the Validators were present in Madagascar. The Secretary's intention was to achieve the right balance between members of the multi-stakeholder group and to include each of the three mining companies that have signed up to the EITI (Kraoma, Ambatovy and Rio Tinto QMM), taking into account logistical and time constraints facing the Validators and stakeholders.
- Selections made by Monkey Forest: the Validators wanted to ensure that comments and feedback from groups and individuals from outside the EITI Committees were included. They consulted various websites and news stories concerning Madagascar and contacted colleagues with professional experience in the country to identify those stakeholders who were in a position to give opinions and make suggestions about the EITI and transparency in Madagascar. The selection included a mixture of representatives from the private sector and civil society, as well as native Madagascans and expatriates. One of the Monkey Forest consultants responsible for conducting in-field activities, Trevor Kalinowsky, had previously spent two years living in Madagascar and had worked closely with civil society organisations in the area. His own personal network of contacts was therefore extremely useful.

PROGRESS AGAINST THE WORK PLAN

This section of the Report details the key activities as set out in the EITI Country Work Plan, which was drawn up by the National Committee in 2010 and revised in 2011. The Report contains a brief summary of progress to date for each of the activities listed below, followed by a more general assessment of the Work Plan as a whole, as described under Indicator 4. The Work Plan is also included in the appendices to this document.

Work Plan activity	Validator's assessment
Training MSG members (workshops on mining project management and development, mining law, advocacy techniques and the mining taxation system)	Completed
Training journalists (workshops on the mining taxation system and mining law)	Completed
Relaunching the national communication system (website)	Completed
Designing information and outreach tools (road signs, posters, T-shirts, pens, etc.)	Completed
Conducting outreach activities in extractive industry areas (exchange visits and meetings)	Completed
Disseminating tools, reports and other resources (<i>EITI good practice guide</i> , <i>Transparent taxation manual</i> , information concerning quantities and revenues from extractive industry activity, MEM, MFB, revenue distribution breakdown at national, regional and local levels)	Completed
Making use of mass media (producing radio programmes and adverts in Malagasy encouraging the public to read the audit report, etc.)	Completed
Organising meetings between EITI groups (Select Committee, National Committee, General Meeting, EITI International meeting)	Completed
Preparing two audit reports to EITI standards	Completed
Madagascar Validation process (Validation Report)	Initial stages completed
Putting coordination mechanisms in place to ensure that the EITI runs	Completed

smoothly	
<p>Securing the long-term future of the EITI in Madagascar (identifying, listing and recommending funding sources that may be used to secure the long-term future of the process; strengthening the abilities of the tripartite entities to promote the importance of the process)</p> <p>Identifying long-term funding for the EITI: carried forward to the 2012 Work Plan</p>	Initial stages completed
<p>Mobilising stakeholders (involving all transparency and good governance organisations in the process; lobbying the country's parliamentary institutions)</p>	Initial stages completed
<p>Taking an inventory of all initiatives (targeting new extractive industry areas and encouraging them to join the process)</p>	Initial stages completed

As demonstrated in the table above, Monkey Forest is satisfied with EITI Madagascar's progress against the Country Work Plan to date. All stakeholders asked about the Work Plan confirmed that they were also satisfied with the progress achieved to date in terms of activities, deadlines and budgets.

VALIDATION INDICATORS

This section contains a brief description of progress made against each of the Indicators in the Validation Grid, including evidence gathered, comments and assessments by Monkey Forest, as well as a summary of stakeholder opinions.

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

Assessment criteria

(None)

Progress

The Validator confirms that the government has issued an unequivocal public statement of its intention to implement EITI through official decrees, official communication in the media, and at a special presentation by the General Secretary of the Ministry for Mining and Hydrocarbons at the Salon des Mines (mining trade fair) in Tana in May 2011, attended by mining and oil companies from across Madagascar. The presentation included:

- an overview of the core principles of the EITI and the next stages in EITI implementation in Madagascar
- a formal declaration, by the government, of its commitment to implement the EITI in Madagascar.

It should be noted that Madagascar's current government is a transitional government (High Transitional Authority - HAT), which has been in power since 2009. The initial statement of intention to implement EITI in Madagascar was made by the previous government in 2007.

The HAT's Ministry for Mining and Hydrocarbons then submitted a six-month Validation extension request on 3rd March 2011. This extension request was made public in a number of press articles. The HAT also confirmed the initial commitment and issued an official statement to this effect in the press on 14th September 2011.

Supporting evidence in appendices

1. Government declaration, statements and press releases (2007)
2. Extension request published by the HAT (2011)
3. Press cuttings on the HAT's official statement (2011)

4. Press article on the HAT's extension request (<http://www.lexpressmada.com/administration-madagascar/20036-transparence-dans-les-mines.html>)

Stakeholder comments

All the stakeholders consulted by the Validators confirmed that the government has issued an unequivocal public statement of its intention to implement EITI in Madagascar. There were no additional comments made on this issue.

Validator's assessment

Indicator achieved

Indicator 2: Has the government committed to work with civil society and companies on EITI implementation?

Assessment criteria

(None)

Progress

The Validator confirms that the government has committed to work with civil society and companies on EITI implementation. A statement of this commitment was first made by the then government in 2008. This commitment was subsequently renewed by the High Transitional Authority through the creation of the current EITI Madagascar MSG structure. The current National Committee and Regional Committee structures were created in July 2010, at which point the transitional regime was in power. This commitment was also reiterated in the HAT's public statement issued on 14th September 2011.

This commitment was also made at the EITI General Assembly in Tana in 2010, through the mission report published on the EITI Madagascar website and in the HAT's official statement made in September 2011. The HAT has also demonstrated its intention to work civil society on EITI implementation through the involvement of civil society representatives at all levels of the EITI structure, including the EITI National Committee, Select Committee and Regional Committees.

Supporting evidence in appendices

5. Report from the EITI General Meeting
6. January 2011 mission report
7. List of members of the EITI National Committee, Select Committee and Regional Committees
3. Press cuttings on the HAT's official statement (2011)

Stakeholder comments

All the stakeholders consulted by the Validators confirmed that the government has worked closely with civil society in particular. The government representatives expressed their satisfaction with the visible, ongoing commitment of EITI Madagascar. Local NGOs confirmed that they were satisfied with their representation on the National Committee and Regional Committees and expressed their appreciation for the training and outreach workshops offered by the EITI, particularly in rural areas. They repeatedly stressed the need to build the capacities of civil society in Madagascar, and the fact that the EITI is the only national initiative in a position to support and equip them in the long term.

In terms of the EITI's work with the private sector, the stakeholders consulted by the Validators confirmed that the companies are well-represented on the Committees and in EITI activities in general and that they have not faced any obstacles to participation.

Validator's assessment

Indicator achieved

Indicator 3: Has the government appointed a senior individual to lead on EITI implementation?

Assessment criteria

(None)

Progress

The Validator confirms that the government has appointed a senior individual to lead on EITI implementation. Initially, in 2007, this individual was Andry Ralijaona, General Secretary of the Madagascar Action Plan, who was then succeeded by Joana Randrianarisoa, General Secretary of the Ministry for Mining and Hydrocarbons (the current EITI Madagascar Coordinator and Champion) when the National Committee was re-formed in 2010. The Ministry for Mining and Hydrocarbons has appointed the Director Generals for Mining and Hydrocarbons as Managers of the EITI Trust Fund.

The national Coordinators of the 33 EITI-implementing countries met in Brussels in November 2010 to discuss their experiences in implementing the EITI process in their respective countries. The EITI Madagascar Champion attended this meeting, thereby gaining an insight into EITI issues.

M Bady Balde, Analyst with the EITI International Secretariat, recently visited Madagascar as part of the EITI Madagascar National Committee's self-evaluation exercise. During this visit, the Champion