



Adam Smith
INTERNATIONAL

in association with



RESOURCE
CONSULTING SERVICES

Tanzania Extractive Industries
Transparency Initiative

Validation Report
Final

May 2011

CONTENTS

A. INTRODUCTION.....	1
1. Background	1
2. The importance of EITI in Tanzania.....	1
3. Calendar of events for the TEITI.....	1
B. APPROACH AND METHODOLOGY	3
1. Desk study of key documents	3
2. Consultation with 23 key stakeholders in Dar es Salaam	3
3. Presentation of Initial Findings to the MSG.....	3
4. Indicator Judgements.....	4
5. A note on terminology	4
C. PROGRESS AGAINST THE WORK PLAN.....	5
D. PROGRESS AGAINST VALIDATION INDICATORS.....	7
1. Has the government issued an unequivocal public statement of its intention to implement EITI?	7
2. Has the government committed to work with civil society and companies on EITI implementation?	7
3. Has the government appointed a senior individual to lead on EITI implementation?..	8
4. Has a fully costed workplan 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)?	9
5. Has the government established a multi-stakeholder group to oversee EITI implementation?	10
6. Is civil society engaged in the process?	13
7. Are companies engaged in the process?	13
8. Did the government remove any obstacles to EITI implementation?	15
9. Have reporting templates been agreed?	17
10. Is the multi stakeholder committee content with the organisation appointed to reconcile figures?	18
11. Has the government ensured all companies will report?	19
12. Has the government ensured that company reports are based on audited accounts to international standards?	20

13. Has the government ensured that government reports are based on audited accounts to international standards?.....	21
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?	23
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?	24
16. Was the multi stakeholder group content that the organisation contracted to reconcile the company and government figures did so satisfactorily?	25
17. Did the EITI report identify discrepancies and make recommendations for actions to be taken?	26
How have oil, gas and mining companies supported EITI implementation?	27
18. Was the EITI report made publicly available in a way that was: publicly accessible, comprehensive, and comprehensible?	28
What steps have been taken to act on lessons learnt, address discrepancies and ensure EITI implementation is sustainable?.....	30
E. COMPANY IMPLEMENTATION	31
F. OVERALL ASSESSMENT	33
1. Sign up.....	33
2. Preparation.....	33
3. Disclosure	33
4. Dissemination.....	33
G. RECOMMENDATIONS FOR FUTURE IMPLEMENTATION	34
H. STRATEGIC OPPORTUNITIES	35
ANNEX A: VALIDATION GRID	37
ANNEX B: STAKEHOLDERS CONSULTED	39
ANNEX C: THE MULTI-STAKEHOLDER GROUP	41
ANNEX D: TRANSPARENCY PROVISIONS IN THE MINING ACT 2010	43
ANNEX E: COMPANY FORMS	45

ACRONYMS

ADB	African Development Bank
ASI	Adam Smith International
CAG	Controller and Auditor General (head of the National Audit Office)
CSO	Civil Society Organisations
DFID	Department for International Development
DOLASED	Disabled Organisation for Legal Affairs and Social Economic Development
ForDIA	The Concern for Development Initiatives in Africa
GDP	Gross Domestic Product
GoT	Government of Tanzania
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
IOC	International Oil Companies
ITV	Independent Television (Tanzania)
MDTF	Multi-Donor Trust Fund
MEM	Ministry of Energy and Minerals
MFEA	Ministry of Finance and Economic Affairs
MSG	Multi-Stakeholder Group
NAO	National Audit Office
NBAA	The National Board of Accountants and Auditors
NSSF	National Social Security Fund
PSA	Production Sharing Agreement
PWYP	Publish What You Pay
RWI	Revenue Watch Institute
SSM	Small Scale Mines
TCME	Tanzania Chamber of Minerals and Energy
TEITI	Tanzania Extractive Industries Transparency Initiative
TOR	Terms of Reference
TPDC	Tanzania Petroleum Development Corporation
TRA	Tanzania Revenue Authority
TzS	Tanzanian Shillings

The TEITI validation team comprised consultants from Adam Smith International (ASI) and Resource Consulting Services: Jeremy Weate, Harrison Mitchell, Wilson Mutagwaba and George Aligawesa .

A. INTRODUCTION

1. BACKGROUND

Tanzania's economy currently depends heavily on agriculture, which accounts for more than 60% of GDP. Cash crops such as coffee, tea, cotton, cashews and sisal account for 85% of export earnings. The extractive sector comprises 3.4% of GDP (2009 figure). Tanzania is the continent's 3rd largest gold producer, with 50 tonnes of gold produced in 2008. There has been US\$2.5bn of foreign direct investment in the past decade in the sector. Since 1994, more than 50 multinational companies and 250 local companies have acquired mineral rights. The extractive sector employs 1% of wage earners, including between 400-600,000 small-scale miners. 13,000 are directly employed in the formalised aspect of the sector. In terms of proven reserves, Tanzania has:

- Gold: 2,222 tonnes
- Diamonds: 50.9 million carats
- Tanzanite: 12.6 tons
- Copper: 13.65 million tonnes

Meanwhile, the country has 3.3TCF probable gas reserves and uranium reserves are currently being explored. Tanzania therefore has a significant extractives sector, which, given the right conditions and investment, is set for growth.

A new Mining Act became law in 2010, with the aim of making Tanzania more investor-friendly. The Act guarantees investors' security of tenure, repatriation of capital and profits, and transparency in the issuance and administration of mineral rights on the basis of first come first served.

2. THE IMPORTANCE OF EITI IN TANZANIA

Tanzania is currently (2010 figures) 116th on Transparency International's Corruption Perception Index (falling from a 3.0 rating in 2009 to 2.7 in 2010). Many civil society stakeholders have historically viewed the extractive sector with distrust, whereas multinational companies operating in the country have been at pains to point out their contributions to the country in terms of payments to government. Meanwhile, the Government of Tanzania has been an enthusiastic supporter of EITI, with for instance the President attending the 5th EITI summit in Paris in March, along with only two other Presidents. EITI is therefore the perfect opportunity for all three sets of stakeholders to engage in a programme of activities to take the sector forwards.

3. CALENDAR OF EVENTS FOR THE TEITI

- 2007: EITI was presented to the Tanzania Chamber of Minerals and Energy (TCME) and the TCME then wrote to the World Bank indicating its support for EITI
- May 2008: First workshop on EITI, organised by Policy Forum
- 17th November 2008: Minister of MEM submits application letter to the EITI Chair

- 18th November 2008: The GoT issues a public statement of its decision to join the EITI
- 4th December 2008: First multi-stakeholder workshop
- 26th-27th January 2009: GoT organised EITI stakeholders workshop in Dar
- 16th February 2009: Tanzania accepted as an EITI Candidate Country
- 17th November 2009: Inauguration of TEITI MSG (second multi-stakeholder workshop)
- 21st January 2010: Workshop on EITI organised by RWI for civil society, the media and MPs
- 10th March 2010: MOU signed between the Government of Tanzania and the MSG
- 14th December 2010: Public awareness workshop
- 10th-12th January 2011: Public awareness workshops in Tarime, Geita, Kahama
- 11th February 2011: TEITI MSG launched the first EITI report in Dar es Salaam

B. APPROACH AND METHODOLOGY

Our approach to the TEITI Validation exercise comprised four components:

- Desk study of key documents (the Work Plan, minutes to MSG meetings and other reports)
- Consultation with over 20 key stakeholders in Dar es Salaam
- Presentation of the initial findings to the MSG. In response to this presentation, the Validator received a detailed 15 page response from the MSG
- Writing of draft report, incorporating the initial feedback
- Presentation of the draft findings to the MSG
- Receiving formal and verbal feedback, and incorporating where appropriate

1. DESK STUDY OF KEY DOCUMENTS

We analysed the following:

- Laws and regulations
- The first TEITI reconciliation audit (2008)
- TEITI minutes, press releases and other communications
- Stakeholder reports and documents

The TEITI Secretariat had helpfully provided a pack of all relevant evidence, categorised by indicators. This was effectively the deliverable of a mock-validation, and very helpful.

2. CONSULTATION WITH 23 KEY STAKEHOLDERS IN DAR ES SALAAM

The Validator arrived in country on February 10th. During the course of the following 7 working days (up to the 21st February), we met with:

- Government officials
- Company representatives
- Civil Society representatives
- Donor partners

Note that the full list of consulted stakeholders is in *Annex B*.

3. PRESENTATION OF INITIAL FINDINGS TO THE MSG

Towards the end of our field mission we presented our initial findings to the MSG. This was an opportunity to hear the TEITI MSG discuss their perspective on validation and to respond to our findings. The MSG was receptive, enthusiastic and cooperative during this meeting. The Validator was sent a detailed (14 page) response to our initial findings, which have been incorporated in this report. The Validator returned to Tanzania on 22nd March to receive final feedback from the MSG. The MSG sent a further 10 pages of feedback on the 25th March. This

final report incorporates both the verbal and written feedback. Any remaining disagreements between the Validator and the MSG are captured in footnotes in what follows.

4. INDICATOR JUDGEMENTS

For each of the 18 validation indicators, we have followed the guidelines in the EITI Rules closely. Each indicator is therefore judged to be either 'met' or 'not been met'. The overall result for TEITI is then given in *Section F* below.

5. A NOTE ON TERMINOLOGY

The first report on the extractive sector in TEITI reconciled payments made by companies with receipts lodged with the government. The report was therefore not a full audit and for this reason, it is referred to at different times in this report as either the "Reconciliation Report" or as simply the "Report" or the "TEITI Report". These terms should be regarded as interchangeable. In *Section D* below, although there were three members of our team, for formal purposes, we refer to ourselves as "the Validator".

C. PROGRESS AGAINST THE WORK PLAN

This section of the report presents a summary of the main items listed in the TEITI work plan. Next to each of the items listed is the Validator’s summary assessment of the progress made against the item. This is followed by a brief overall assessment of the progress made against the TEITI work plan as required by the EITI Validation Guide. The judgement has been made based on four categories (adapted from the EITI Rules guidelines):

1. **Limited/no progress**
2. **Meaningful progress**
3. **Close to completed**
4. **Completed**

Work plan activity	Validator’s judgement
Institutionalisation (legal review/establishment, training workshop for MSG, study tour, M&E framework)	Meaningful progress
Capacity building (visits to mines, gas companies, civil society training)	Close to completed
MSG meetings	Completed
Consultancy services (TEITI website, communication strategy, scoping/revenue mapping studies, reconciliation, validation)	Close to completed
Public awareness (workshops with Parliament, mining company community relations officers, TV/newspapers, TEITI newsletter, fliers/posters)	Meaningful progress
Operations costs	Completed
Secretariat remuneration	Completed

The TEITI Work Plan is a well-constructed document, with activities categorised into “components” and with columns for activity, action required, timeline, responsibility, output, expected outcome, cost and funding source. It facilitates a speedy evaluation of progress. A number of activities have taken place as planned, such as the public awareness workshops that took place in late 2010 and early 2011. The Work Plan does also record delays however. For instance, quarterly newsletters were to begin April 2010. To date, as far as the Validator is aware, TEITI has yet to produce a newsletter. Meanwhile, a legal expert for the “establishment of TEITI-MSG legal status” was due to have finished by July 2010. Again, as far as the Validator is aware, as of March 2011, the legal expert has yet to be contracted. There are two more critical delays – a) the reconciliation exercise was due to begin in August 2010. The reconciler’s contract was not in fact signed until late December 2010. Again, Validation was due to take place between October and December 2010, but did not in fact take place until early 2011. Both of these delays in procurement can be explained by the fact that TEITI has no legal basis, and relies on the Ministry of Energy and Minerals (MEM) procurement mechanisms.

A detailed evaluation of the TEITI Work Plan is found in *Section D (4)* below.

D. PROGRESS AGAINST VALIDATION INDICATORS

This section presents a narrative of the Validator’s assessment of progress against the Validation Grid Indicators. For each indicator, we present:

- Our interpretation of the criteria (where required)
- Progress against the indicator
- Stakeholder views
- Our overall judgement.

A summary Validation Grid is provided in *Annex A*.

SIGN-UP

1. HAS THE GOVERNMENT ISSUED AN UNEQUIVOCAL PUBLIC STATEMENT OF ITS INTENTION TO IMPLEMENT EITI?

1.1. Evidence

Tanzania made a public statement on 18th November 2008: “Tanzania is pleased to announce its commitment to implement to Extractive Industries Transparency Initiative – EITI.” It is not clear to the Validator where and by whom this statement was made.

His Excellency President Jakaya Kikwete of Tanzania also addressed the EITI conference in Paris, 3rd March 2011, and reiterated Tanzania’s commitment to the EITI. His Excellency stated that “mining is the fastest growing sector in Tanzania” and also said that “I would like to affirm Tanzania’s commitment to EITI principals and values.”

1.2. Stakeholder views

Not applicable.

1.3. Validator’s judgement

The indicator has been met.

2. HAS THE GOVERNMENT COMMITTED TO WORK WITH CIVIL SOCIETY AND COMPANIES ON EITI IMPLEMENTATION?

2.1. Evidence

A Terms of Reference for the MSG was discussed during the 21-22nd Jan, 2010 MSG meeting. However, it is not clear from the minutes whether this TOR was adopted. There is no evidence

of a TOR or MOU agreed during sign-up phase (i.e. before February 2009 when Tanzania was accepted as a candidate country). An MOU was agreed to be drafted at 4th MSG meeting, 23-26 Feb, 2010 (see points 15 and 26). The MOU was subsequently drafted and then signed March 10th, 2010. The MOU establishes TEITI and the MSG according to EITI principles and criteria and sets out objectives and the composition of the MSG.

2.2. Stakeholder views

All stakeholders agree that the Government of Tanzania (GoT) is committed to the Multi-Stakeholder framework for EITI implementation.

2.3. Validator's judgement

The indicator has been met.

However, the Validator notes that government commitment in the form of a TOR/MOU did not in fact take place during the sign-up phase as it should have done according to the EITI rules.

3. HAS THE GOVERNMENT APPOINTED A SENIOR INDIVIDUAL TO LEAD ON EITI IMPLEMENTATION?

3.1. Evidence

In 2009, as Tanzania signed up to the EITI process, the Minister of Minerals and Energy was appointed the EITI Champion of the process.

On 15th December 2009, a letter from the Chief Secretary to the President appointed retired Judge Hon. Mark Bomani as the independent Chair of EITI in Tanzania. According to the MSG, Judge Bomani was appointed in order to provide independent oversight over the deliberations of the process. The MEM remains represented on the MSG through the participation of the Commissioner of Mines.

President Kikwete also publicly acknowledged the chairmanship of Hon. Bomani at the EITI meeting in Paris, in March 2011.

3.2. Stakeholder views

Stakeholders noted that they were satisfied with the independent chairmanship of Judge Bomani.

3.3. Validator's judgement

The indicator has been met.

4. HAS A FULLY COSTED WORKPLAN 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)?

4.1. Evidence

According to the sign-up dossier, a Work Plan was developed at the stakeholder workshop on 27th January 2009. The Validator was not given access to this document. The MSG has subsequently drawn up a two year Work Plan covering 2010-2012. The Work Plan has seven components or areas or activity:

- Institutional Arrangement
- Capacity Building
- MSG Meetings
- Consultancy Services
- Public Awareness
- Operations Costs
- Secretariat Remuneration

Was the Work Plan agreed with stakeholders?

The Work Plan was discussed at the 3rd MSG meeting, 21st - 22nd January, 2010. The current Work Plan was then finalised on the 27th January, 2010. The Chair was given the mandate to complete the Work Plan on this date even if there was not a quorum.

Has the Work Plan been made widely available?

During the first visit of the Validator, the Work Plan was not available online. It was subsequently published (on the 14th March, 2010) on MEM's website.¹ This does not however constitute 'wide availability'. It is not clear to the Validator why there was a delay in publishing the Work Plan online. The Work Plan was not made available to the public through other means.

Does the Work Plan contain measurable targets?

Yes. The Work Plan includes columns for timelines, outputs and expected outcomes.

Does the Work Plan include an assessment of capacity constraints?

The Work Plan includes training activities as well as study tours. As noted in Section C above, various aspects of the Work Plan have been subject to delays in procurement. These delays can be explained by the fact that TEITI has no legal basis, and relies on the Ministry of Energy and Minerals (MEM) procurement mechanisms. The TEITI work plan is adequately funded via support from the GoT and international donor partners.

Does the Work Plan contain a timetable for validation?

The Work Plan lists Validation under the Consultancy Services component. The indicative timeline is October – December 2010.

Does the Work Plan elaborate on how government will pay for validation?

¹ http://www.mem.go.tz/news_events/view_news_item.php?id=57&intVariationID=1&szTitle=Current

The Work Plan indicates that Validation will be paid for via public finances.

Although the MOU stipulates annual disaggregated reporting, the current Work Plan only makes reference to one reconciliation report. The Validator was however sent (on the 8th May, 2011) a TOR for a scoping study and second reconciliation exercise. It is not clear how this will be funded.

For an assessment of progress against the Work Plan, see section C above.

4.2. Stakeholder views

Stakeholders in the MSG are satisfied with the quality of the Work Plan. It is agreed that delays to critical activities can be explained by a combination of factors: TEITI's lack of a legal basis, reliance on MEM procurement processes as well as delays in the MDTF funding becoming available.²

4.3. Validator's judgement

The indicator has been met.

However, TEITI could do much more to ensure the Work Plan is more widely available (including translation into Swahili). At present, it functions effectively as an internal (rather than a public) document. Publication online satisfies the criterion that the Work Plan is publicly available, but does not mean that the Work Plan has been widely disseminated.

It is also not clear why the Work Plan includes operational elements (MSG Meetings, Operations Costs and Secretariat Remuneration). To be an effective monitoring and evaluation tool, the Work Plan should have a "status" column which can be regularly updated. In the absence of a status column, it is not obvious from the Work Plan alone what the status of a specific activity is, and in the case of delays, why these have occurred.

PREPARATION

5. HAS THE GOVERNMENT ESTABLISHED A MULTI-STAKEHOLDER GROUP TO OVERSEE EITI IMPLEMENTATION?

5.1. Evidence

The first multi stakeholder workshop for TEITI was held 4th December, 2008. At this workshop the Deputy Minister of Minerals, Adam A. K. Malima stated the intention of the government to establish EITI in Tanzania. Soon afterwards, the EITI Champion was appointed (see Indicator 3 above).

After a period of convalescence, the 2nd MSG meeting was held on 17th November 2009, where a number of decisions were unveiled including the appointment of the independent Chair Bomani. The MSG agreed during the meeting that "the interim secretariat should undertake

² In the MSG feedback on 25th March, the MSG pointed out that TEITI will always be bound by procurement rules (whether from the World Bank, or the GoT).

the task of preparing the TOR for the MSG that embodied elements of legal status and objective of the EITI program in Tanzania.”

Subsequently on 10 March 2010, a MOU between the Tanzanian government, civil society and extractive industry companies was signed. This MOU established the working TOR for the TEITI MSG and commits the government to the principals of EITI as agreed by the MSG.

In addition the MOU establishes that membership of the MSG should be split equally between 5-5-5 between the three stakeholder parties.

5.2. Stakeholder views

Stakeholders inside the MSG process were generally satisfied about the composition and function of the MSG, in addition, stakeholders felt that they were able to talk freely and frankly within the group. However, several concerns were expressed:

- Stakeholders noted that attendance, particularly of government representatives was often poor, and that on some occasions, significant effort was required to achieve a quorum.
- Private sector MSG members noted that more effort needed to be made to include oil and gas companies, small and medium size businesses, artisanal miners and exploration companies (MSG members also expressed this view in the MSG meeting 24th May 2010).
- Representatives from all stakeholder groups suggests that the initial selection structure of the MSG needed to be changed. While the selection process was designed to be inclusive, the inclusion of certain groups, such as disabled stakeholders, were deemed less relevant for the process by some members of the MSG.
- Stakeholders expressed frustration at the lack of progress made with TEITI – and suggested that further capacitating the secretariat was essential to progress the process. In addition, stakeholders noted that communication between the secretariat and the MSG was poor and resulted in problems for the functioning of the MSG, such as the scheduling of meetings

The minutes of the 9th MSG meeting on the 4th November 2010, state that a note was circulated to the MSG a ‘conspiracy to undermine the visibility of CSOs, it states: “A message with serious allegations circulated to EITI Internal Secretariat and PWYP-T claiming TEITI-Secretariat is executing a conspiracy to undermine visibility of CSO constituency during the EITI Board meeting held 19-20 October, 2010 in Dar Es Salaam.” The MSG asked Mr Kaiza to withdraw the message as it ‘was not true’.

Subsequent communication from the TEITI Secretariat on 7th May 2011 stated: “The MSG confirms that there was no conspiracy to undermine CSOs. The issue, which resulted from a misunderstanding of the format of the EITI Board Meeting in Dar es Salaam in October 2010, was resolved.”

Stakeholders outside of the MSG process suggested that representation within the group was not broad enough, and that better effort should be made to ensure that company and civil society representatives in particular came from a broader range of organisations with interest in Transparency. In particularly civil society members outside of the MSG expressed concern

that the members of their group had been picked because they were friendly towards the government.³

5.3. Validator's judgement

The indicator has been met.

The MOU signed between the government and the MSG clearly sets out the TOR for the MSG and its founding principles.

Discussions with stakeholders both inside and outside the process suggest that the composition of the MSG should be reviewed. In particular, there is a need to include other civil society and industry representatives. The Validator also notes that the minutes make clear that some members have poor attendance records – which we believe is a reflection of their interest and contribution to the process. This resulted in a lack of a quorum at the proposed meeting of 22nd June 2010, which led to a rescheduling a week later.

We note that there is a serious allegation by a CSO represented reflected in the minutes of 4th November 2010 that the EITI Secretariat was undermining the visibility of CSOs. CSO members did not bring this to the attention of the Validator in discussions (we received the minutes themselves after the country visit).

The Validator recommends that the MSG review the MOU for relevance in line with the goals of the Work Plan and recommendations made in this report and that of the Reconciler. The MSG should in particular review the composition of the MSG to include a broader selection of civil society and industry representatives.

The Validator received an update from the TEITI Secretariat that stated that there was “no conspiracy to undermine CSOs”. Given that we received no further information from CSOs either while in country or after the visits, we believe it to be correct.

The Validator also believes that civil society is independent in TEITI. However, we are also seeing a general phenomenon in the EITI process whereby civil society groups become ‘captured’ by the process and thus lose some of the independent edge when reporting on the initiative. This might be seen by some as being ‘friendly’ toward the government. In the case of Tanzania, we are unable to judge whether groups are ‘friendly towards the government’ or not, which, incidentally may have little impact on their effectiveness as organisations. However, we believe it is in the interest of a healthy TEITI to ensure that civil society membership remain from diverse backgrounds.

³ In the feedback provided on the 25th March, the MSG pointed out that the CSO's were not selected by Government but were self selected by civil society at the CSO EITI workshop in January 2009. The MSG also stated that MSG meetings are also open for participation of other representatives from the three stakeholder's groups and include the right for all to contribute to the discussion.

6. IS CIVIL SOCIETY ENGAGED IN THE PROCESS?

6.1. Evidence

The TEITI MSG has five CSO members from five sub-sectors of civil society: faith-based organisations, labour-unions, the disabled, the media, as well as the Publish What You Pay coalition). ForDIA - The Concern for Development Initiatives in Africa, runs the PWYP coalition in Tanzania⁴. The first engagement with civil society took place in May 2008, nine months before TEITI was accepted by the International Secretariat as a Candidate Country. The workshop was organised by the NGO Policy Forum. Civil society groups also participated in the EITI launch workshop in December 2008. During that meeting the CSO's asked for a separate meeting for CSO's to allow for broader engagement in the CSO community, and for all relevant documents to be translated into Swahili. In January 2009, the GoT organised a two-day civil society workshop on EITI in Dar es Salaam. The PWYP Coordinator, Bubelwa Kaiza (also an MSG member) wrote a report on the workshop which was made available to the Validator. Civil Society representatives were free to select who would be on the MSG during this workshop. Another workshop on EITI was organised by Revenue Watch International in January 2010, with the theme, "Understanding EITI for CSOs, media and MPs in Jan 2010."

TEITI has organised four public awareness workshops, the first on the 14th Dec 2010, and the others in Tarime, Geita and Kahama (between 10th -12th January 2011). Civil society has good attendance at MSG meetings. ForDIA/PWYP organised a workshop on the first TEITI Report, on Monday 14th February, which the Validator attended.

6.2. Stakeholder views

Stakeholders agree that there is both operational and policy independence of civil society from both the government and the private sector.

6.3. Validator's judgement

The indicator has been met.

7. ARE COMPANIES ENGAGED IN THE PROCESS?

7.1. Evidence

The EITI Validation guide states that "EITI implementation requires that companies are actively engaged in implementation and that all companies report under EITI."

The minutes of the 5th MSG meeting on 24th May 2010 reflect that the MSG agreed to limit the scope of their initial reconciliation report and ask nine large-scale mining companies and three gas companies operating in Tanzania to report their payments to the government for the period 1st July 2008 – 30th June 2009. According to the TEITI Secretariat, the companies that were chosen under the criteria that they were the sole producers in Tanzania. Presumably,

⁴ <http://fordia.org/>

these are major companies, rather than junior or SME companies, of which there are significantly more than 9.⁵

The TCME has been actively involved in TEITI since inception. Three members of the TCME sit on the MSG. The Chair of the TCME, Amb. Ami Mpungwe publicly noted that the “mining companies in the country have solid commitment on the EITI.” (Daily News, December 14, 2010). Company representatives also joined the TEITI MSG in public meetings with host communities in Tarime, Geita and Kahama in January 2011.

All companies submitted reports to the Secretariat, who subsequently forwarded these reports to the reconciler. However, one company, El Hillal Minerals Limited, took a long time to submit their records, subsequently submitted the wrong records and did not respond to follow up on behalf of the reconciler.

The payments made by gas companies, in particular the Tanzania Petroleum Development Corporation (TPDC), were the source of significant discrepancies in the Reconciliation Report (just under 5 billion Tanzanian Shillings). The reconciler subsequently stated that TPDC was reluctant to clarify discrepancies that it brought to the company’s attention. At time of writing, this remains an unresolved issue.

As evidenced by the minutes, company representatives are present in all meetings of the MSG and vocal in their support for EITI, including publishing information about EITI via communications from the TCME.

In 7.1.2 of the Reconciliation Report, the reconciler notes that “knowledge of the templates and the flows which should be included was generally sparse among the staff required to complete them and provide explanations subsequently.” The reconciler goes on to note, in 7.1.4, that “reporting entities nominated senior individuals as contact points for the exercise. Whilst these individuals could provide impetus and direction, they had insufficient availability and detailed knowledge to assist with the day to day reconciliation exercise.” The reconciler goes on to recommend, in 7.1.5, “that training is provided to staff in government and companies to raise awareness of the EITI implementation in Tanzania and the objectives and requirements of the initiative.”

7.2. Stakeholder views

Company stakeholders themselves suggested that more effort should be made to include a more diverse range of stakeholders. However, representatives on the MSG were satisfied with their attendance and participation.

Company stakeholders regularly come under criticism in Tanzania for a perceived lack of contribution towards the country’s economy. For this reason, company stakeholders see TEITI as a means of obtaining a public license to operate and are willing to see the process further extended and publicised.

CSO members noted with surprise the active participation of companies in the process. Concern was expressed that the operations and reporting state owned mining and oil and gas companies remained opaque as they both received payments on behalf of the government and made payments to the government, with no reconciliation process between.

⁵ <http://www.chamberofmines-tz.com/index.php?pageval=6>

7.3. Validator's judgement

The indicator has been met.

It is our judgement that failure by the mining company El Hillaal to complete its obligations should not be assigned solely to company stakeholders in the mining sector and should not constitute a failure of this indicator. Rather, it is apparent that a lack of communication and explanation on the TEITI templates, along with the extremely short period of time (three weeks) given to the reconciler to conduct their report and follow up with discrepancies, resulted in an incorrect submission by this company. We weigh this against the 10 other correct submissions and efforts made by companies in the mineral sector.

Because of the strong participation of the majority of company stakeholders, the Validator recommends the indicator has been met. In addition, poor understanding of the templates by those asked to complete them is clearly a fault of the TEITI MSG and secretariat and should not reflect the admirable participation of the majority of companies. Companies could do more to ensure that their staff members are able to properly complete the reconciliation process and the Validator recommends that in advance of the next reconciliation exercise, the recommendations of the first reconciliation report are taken seriously, and more time and effort is spent by TEITI in ensuring that companies both understand the requirements of the templates, and assign a member of staff who has the knowledge and resources with which to complete them.

It is the opinion of the Validator that there has been insufficient training of companies to effectively engage in the EITI process and this should be undertaken by the TEITI secretariat in cooperation with the TCME. This is currently planned by the MSG.

The TEITI Secretariat has reported to the Validator that the Reconciler “confirmed that he has received sufficient cooperation from TPDC, although the data was submitted rather late”. The company Artumus has not responded to requests to clarify. We recommend this is addressed by the MSG.

Finally, companies can do more to publically and fully support the EITI process. While EITI is endorsed and advertised by the TCME, individual companies are yet to publically endorse the process. This should be a request of the MSG in the next year of work.

8. DID THE GOVERNMENT REMOVE ANY OBSTACLES TO EITI IMPLEMENTATION?

8.1. Evidence

By the time of the 3rd MSG meeting, the opportunity to embed EITI within the proposed new Mining Act had been recognised. The fourth ‘matters arising’ on page 6 of the minutes to the meeting states, “MSG agreed that the TEITI-MSG role and functions should be provided in the New Mining Act, 2010, which is under the making.” The resolution to this matter is stated thus: “Initial consultations with legal staff to include EITI clause in the new Mining Act, 2010 has started.”

The eventuality was that the 2010 Mining Act **did not include any EITI-specific clauses**, as the MSG had hoped. The 2010 Mining Act (see Annex D) refers to reporting requirements in three places – sections 25, 84 and 100. Most pertinent is section 25, “Prohibition Against the disclosure of information”. This is essentially a secrecy clause. Sub-section 2(c) functions as a partial waiver: “(c) for the purpose of any investigation or inquiry conducted under this Act; to

any person being a consultant to the Government or public officer who is authorised to receive such information.” Again, sub-section 3 of section 100 entitles “any public officer” to demand access to company accounts. By this stage, only a public officer has the right to request information from companies, rather than an appointed consultant. Section 100 therefore stands in partial contradiction to section 25.

The Validator was given access to the Parliamentary Hansard of April 23rd, 2010 (pp96-97). At this time, a member of the opposition, Honorable Kabwe Zitto, questioned why a “secrecy clause” was included in the new Mining Act. The Minister of MEM replied thus, “Mr. Chairman, first, as Hon. Zitto is aware, we’ve talked to the committee although such issue is among the things that probably we did not reach a good compromise. But we said, first there will be a separate law for it that will provide a procedure on how to get the information that will be required for EITI process. Secondly, we said, in the current environment we have, for example, if someone wants to review a particular mining contract, or any government document, the procedure is now in place, he or she may access the documents from the library of the Parliament. This information has been provided by the Government in several occasions.”

In the meantime, the TEITI MSG has drawn up a TOR for a legal review. The Validator understands that the contract with a consultant will shortly be signed. The contract has been delayed for the same reason that other TEITI contracts have delayed – reliance on MEM procurement processes.

Prior to the Mining Act becoming law, the GoT signed an MOU with the MSG, on 10th March, 2010. Section 2.2 of the MOU mandates TEITI to ensure “the disclosure and publication, on a disaggregated basis and in keeping with EITI Rules, (i) payments made by the Companies to all agencies and levels of the Government; and (ii) corresponding revenues received by all agencies and levels of the Government from the Companies.”

The Validator was given access to the TOR for the “Preparation of Legal Framework Review for TEITI” – drafted by the TEITI MSG. It is interesting to note that the TOR itself states, “However, under the existing legal framework governing the minerals, oil and gas sectors, the law prohibits disclosure of information on books of accounts and related business data submitted by the companies to the Government. EITI seeks to address issues of confidentiality on payments and revenues generated from the extractive sectors to permit public access information on companies’ payments and corresponding revenue received by the Government.”

8.2. Stakeholder views

Stakeholders agree that the legal review, taken in the context of the existing MOU, constitute a concerted approach to removing obstacles to EITI implementation. There is also widespread confidence that a dedicated EIT Act will become law in the medium term. Civil society stakeholders view the unavailability of mining contracts (only available in the Parliamentary library upon appointment) with suspicion; however, contract transparency currently lies outside the scope of EITI validation.

8.3. Validator's judgement

The indicator has not been met.

The Validator recommends that this indicator can be met only when the legal review of TEITI has been completed.

The Validator recommends that a strong focus is placed upon developing a dedicated EIT law in Tanzania. This would prove to be a lasting legacy of the Kikwete administration, and provide TEITI with a legal basis.

9. HAVE REPORTING TEMPLATES BEEN AGREED?

9.1. Evidence

The validation guidance states:

“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 need, therefore, to define by agreement of the multistakeholder group what these material payments and revenues comprise, and what constitutes ‘material’.”

The MSG drafted, revised and approved reporting templates in June 2010, which were then distributed to extractive sector companies and government agencies (agenda item 6, MSG meeting minutes 29th June 2010). In December 2010 (10th MSG meeting) templates were then updated and reissued and further requests for new payments (import duty) Following comments received from the EITI reconciler, Tanzania Revenue Authority (TRA), Tanzania Chamber of Minerals and Energy (TCME), and TPDC.

Both the Validator and the reconciler have not seen minutes which fully clarify the definition of material payment and criteria which led to the decision of choosing 9 mining companies and 3 gas companies. However, the decision on relevant companies, as well as approval of the templates are in the minutes of the MSG meeting 29th June 2010.

9.2. Stakeholder views

MSG stakeholders were quick to point out to the Validator that the first Reconciliation Report was a work in progress, and deliberately limited the scope of the report and reporting entities. The MSG provided the Validator with this statement:

“The TEITI-MSG decided to use its first report as a learning exercise, with the goal of understanding the fiscal flows in Tanzania’s extractive sector. As such, the TEITI-MSG resolved not to undertake a scoping study on establishing a materiality threshold for its first EITI report.”

However, MSG stakeholders also suggested that the current templates needed further revisions and discussions following the Reconciliation and Validations processes. Company representatives suggested that there were other payments to government, particularly local government, which should be considered material, as well as payments made by other extractive sector related companies such as exploration companies.

CSO representatives both inside and outside the MSG also suggested that the threshold and nature of materiality should be further discussed. Stakeholders pointed out signature bonuses, contract payments and local donations as possible material payments. In addition, they agreed with company representatives that the scope of reporting entities should be broadened outside the current participants. It was also pointed out that only “profit gas” was considered for reconciliation, and not “protected gas”. There is no mention of these two types of gas sale in the TEITI Report.

Finally, the reconciler told the Validator that they believe relevant material payments were left out of the reconciliation process and that a proper scoping study should be undertaken to identify relevant material flows and thresholds. In addition, the reconciler suggested that there are other relevant government agencies who should be required to report.

9.3. Validator's judgement

The indicator has not been met.

TEITI meets the requirements of this indicator, however, the Validator is in agreement with the reconciler that a scoping study should be undertaken to identify material flows and relevant companies/agencies. There was near universal support of this within the MSG and thus should be considered a priority.

In addition, we note once more that TPDC both collects for and pays government means that revenues reported are not disaggregated and were made transparent to the reconciler.

Nevertheless, while we cannot see details of the discussion, the templates and relevant companies were clearly discussed and agreed upon in the MSG.

Given the issues raised by the IS, we cannot to pass TEITI on the requirements of this indicator. A number of issues remain unanswered – in particular:

- There is no clear definition of materiality or what constitutes a material payment. There is an absence of a sufficient stakeholder consultation process to determine materiality
- There has been no process or institutional review to identify which government institutions are relevant reporting bodies under EITI. While local government payments were included in the reporting process, they were not part of the reconciliation
- The reporting process did not sufficiently consult with stakeholders prior to or following the reissue of templates in December 2010
- The reporting process itself was mis-managed with insufficient time for proper reconciliation and follow up. The timing of conducting the process around Christmas holidays when most government departments are on a break is further testament to this
- Response to the Reconciler's report and recommendations has been slow. The Validator recommends that the MSG swiftly identify mistakes and ensure that they are not repeated.

10. IS THE MULTI STAKEHOLDER COMMITTEE CONTENT WITH THE ORGANISATION APPOINTED TO RECONCILE FIGURES?

10.1. Evidence

The MSG discussed and agreed a TOR for a reconciler during the 5th MSG meeting, on the 24th May, 2010. The MSG then agreed on a short-list of companies during the 6th MSG meeting, on the 29th June 2010. At this meeting, the "Least Cost Selection Method" was agreed as the procurement method. The MSG followed up by sending out RFPs to six companies. During the

7th MSG meeting, on the 5th August 2010, four bidders were reviewed. No verdict on this review is recorded in the minute. After the 8th MSG meeting, on the 21st September 2010, the technical evaluation report was circulated. Finally, during the 9th MSG meeting, 4th November 2010, the MSG agreed to select the Hart Group (in association with BDO East Africa), after consideration of the evaluation report.

10.2. Stakeholder views

Stakeholders universally expressed satisfaction with the choice of reconciler.

10.3. Validator's judgement

The indicator has been met.

11. HAS THE GOVERNMENT ENSURED ALL COMPANIES WILL REPORT?

11.1. Evidence

The EITI Validation guidance for this indicator states: “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 all companies do report. This might include the use of voluntary agreements, regulation or legislation.”

The MOU signed between the government (The Minister of Minerals and Energy) and the MSG provides a legal basis for ensuring companies should report. It states in section 2.2:

- a) TEITI shall publish, annually and on a disaggregated basis, a report (“the TEITI Report”) consisting of (1) payments made by the Companies to the Government, and (2) corresponding revenues received by the Government (including local government authorities) from the Companies.
- b) That all EITI activities, processes and requirements are equally applied or extended to all companies operating in Tanzania...

The MSG sent a letter on 6th July 2010 requested that companies complete templates. On 22nd July 2010, the Permanent Secretary of the Ministry of Energy and Minerals sent a letter urging companies to report by the deadline of July 30th 2010.

11.2. Stakeholder views

The MSG stated that although TPDC was late in providing information it later cooperated fully and provide a copy of their Audit Report to the reconciler at the 9th TEITI-MSG meeting.

11.3. Validator's judgement

The indicator has not been met.

The Validator has a number of concerns which we suggest should be further discussed in the MSG:

Company participation

The criteria for choosing companies has been discussed in indicator 9 above, however, it is worth reiterating here, that the Validator believes TEITI must review its criteria for choosing companies to undergo the reconciliation process.

Legal Basis

Although most companies reported and were fully cooperative, El Hillal Minerals Limited submitted incorrect information twice (and did not resubmit the correct information) and TPDC submitted their information very late in the Reconciliation process. This raises concerns over compliance and whether the government conducted sufficient actions to ensure company participation. While the MOU provides a initial quasi-legal framework for the MSG and government to require companies report, there is no provision for consequences should companies fail to comply, or obvious mechanism by which companies should be made to submit information. This may become a serious issue should the MSG seek to extend TEITI to include more stakeholders.

Following our initial consultation, the MSG provided this comment to the Validator: “In addition to the MOU, the government can obtain information on payments under the Mining Act. Clause 25 (2) states that “Nothing in subsection (1) shall operate to prevent the disclosure of information where the disclosure is made- (a) for, or in connection with, the administration of this Act; (b) for the purpose of any legal proceedings; (c) for the purpose of any investigation or inquiry conducted under this Act; (d) to any person being a consultant to the Government or public officer who is authorised to receive such information.””

While it appears that this would provide a basis for follow up by MEM, it would appear that no follow up has to date been undertaken.

12. HAS THE GOVERNMENT ENSURED THAT COMPANY REPORTS ARE BASED ON AUDITED ACCOUNTS TO INTERNATIONAL STANDARDS?

12.1. Evidence

The Companies Act 2002 and the tax laws require the completion and submission of financial statements to relevant authorities such the Registrar of Companies and the TRA for all companies to be within six months after the accounting period. Meanwhile, the National Board of Accounts and Auditors (NBAA) has required that companies submit reports to IFRS standards since 2007. The TEITI Reconciliation Report indicates that all companies that participated in the reconciliation process have had their financial statements audited by external auditors and the source of the reconciliation figures was the audited financial statements. The report did not however indicate whether all the external auditors who audited those companies were registered by the National Board of Accountants and Auditors as the law requires.⁶ The report did not also state whether all the reporting companies had the same accounting period. Since it was not an audit, the TEITI Reconciliation Report did not take into account the adequacy or correctness of payments and revenue. Documents to

⁶ The Validator has received confirmation from TEITI that in fact all the auditors involved are registered with the NBAA.

substantiate this data were not examined. Since it was not an audit, the first TEITI Report did not therefore cover the following:

- i. The adequacy or correctness of amount paid by extractive companies
- ii. The correctness of the amount received by the government
- iii. Transactions that might have been omitted on both sides

The Validator notes that some reporting companies used the accrual basis when completing the data templates rather than using the cash basis as specified by the reconciler.

The reconciliation was carried out on a cash basis of accounting. This, therefore, means only amounts actually paid by extractive companies and received by the government in the period of July 2008 to June 2009 were considered. The report also incorporates information received up to 4th February 2011. The report relied upon the information and explanations obtained from the reporting entities and therefore, quality of the data used for reconciliation was the responsibility of the reporting entities.

12.2. Stakeholder views

Stakeholders agree that company reports are based on audited accounts to international standards.

12.3. Validator's judgement

The indicator has been met.

However, the Validator notes three issues which will most likely account for some proportion of the discrepancies in the first TEITI Report:

Cash vs Accrual accounting. By using cash based accounting, payments that were paid by extractive companies at the end of the period but received by the government at the beginning of the following period were excluded from the report. If there were debts which were supposed to be remitted to the government by extractive companies at the end of the period under review, no where will they be reflected.

Financial year ends. There is a perennial issue with mapping audited financial reports with different financial year definitions onto the EITI templates. Better guidance by TEITI and the appointed reconciler is needed here.

Exchange rate guidance. In a similar way, there should be better guidance by TEITI and the appointed reconciler on how to deal with exchange rate conversions.

13. HAS THE GOVERNMENT ENSURED THAT GOVERNMENT REPORTS ARE BASED ON AUDITED ACCOUNTS TO INTERNATIONAL STANDARDS?

13.1. Evidence

The National Board of Accountants and Auditors (NBAA) is a Tanzanian Accountancy professional body established under the Auditors and Accountants (Registration) Act no. 33 of 1972 and amended by Act no. 2 of 1995. The NBAA is an accountancy regulatory professional body operating under the ministry of finance and economic affairs. In 2008 the

NBAA announced the compulsory adoption of International Financial Reporting Standards (IFRS) for both companies and government institutions.

Section 5.2.2. of the Reconciliation Report states:

“MEM, NSSF and TRA have provided copies of their financial statements, whose audit opinions state that they have been audited under International Standards on Auditing.”

On the 22nd July 2010, the Permanent Secretary of the Ministry of Energy and Minerals sent letters to government authorities participating in the reconciliation process reminding them that “The revenues to be reported should be based on final accounts audited to international standards covering the period of from [sic] July 1, 2008 to June 30, 2009.” On pages 70 and 71 of the Reconciliation Report there are letters from MEM and the National Social Security Fund (NSSF) stating that ‘the amounts set out in the reporting templates were extracted from books and records..that formed the basis for preparation of financial statements covering that period.’ Page 72 of the report includes a table that indicates that TRA, MEM, NSSF and TPDC sent audited financial statements to the reconciler which are in conformity with International Standards on Auditing.

13.2. Stakeholder views

In the first set of feedback, the MSG submitted to the Validator: “Audited reports were received from MEM, TRA, TPDC and NSSF. The reconciler confirms that these financial statements were audited in accordance with ISA's and they were audited by the Controller and Auditor General of Tanzania.”

The reconciler stated to the Validator that the first figures provided by government agencies (specifically, TPDC) initially appeared ‘to be a made up figure’. During the second review meeting with the Validator on the 22nd March, the reconciler denied that the words ‘made up’ had been used; rather, the initial figures – again, specifically from TPDC – were ‘erroneous’ and were readjusted upon clarification.

The MSG has requested that the Validator remove this information from the report. However, we have left it in in the interests of understanding.

13.3. Validator's judgement

The indicator has not been met.

Following advice from the EITI International Secretariat Validation Committee, we believe this indicator has not been met. Particularly given that figures initially provided by at least one government agency to the reconciler were, in their opinion, ‘erroneous’, the Validator has little confidence at this stage that the actual figures are based on accounts audited to international standards. It remains to be seen (following the review of the highly significant discrepancies found Reconciliation Report by the Auditor General), to what degree the discrepancies are the result of errors in government reporting processes. The Validator recommends that the MSG reviews the process by which government templates were completed to provide a detailed set of recommendations that can be implemented in the next reconciliation exercise.

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?

14.1. Evidence

All nine mining operations and the three gas companies submitted templates which detailed their material payments to government. El-Hillal made two submissions: the first assumed the wrong reporting period, the second used the wrong format. El-Hillal did not send a final, correctly completed template to the reconciler. Artumas completed a reporting template, but did not respond to the reconciler’s request for further information in light of differences with the government’s corresponding template. As a State-owned company, TPDC functions as both as a government entity (collecting royalty payments from gas companies) as well as a company (paying royalties to government). The reconciler informed the Validator that they received insufficient cooperation from TPDC, and they could not be confident in the figures submitted by them.

14.2. Stakeholder views

Stakeholders agree that bar the two minor exceptions noted above, all private companies disclosed to the reconciler all material gas and mining payments. However, various stakeholders view the state-owned entity, TPDC’s figures with distrust, including the reconciler.

14.3. Validator’s judgement

The indicator has not been met.

The Validator notes that the royalty payments to TPDC on behalf of the three gas companies have not been fully disaggregated. The issue here is that TPDC, as a State-Owned Enterprise, can equally be considered a company and a government entity. In the formal feedback sent to the Validator by the MSG on the 25th March, it is stated, “It should be noted that TPDC was treated as a company in the EITI report and fulfilled what was asked for every company to report.” The Validator disagrees with this and suggests that the TPDC is not considered solely as a company in the report. There is substantial evidence for this. For instance, on page 72, TPDC is listed underneath TRA, MEM and NSSF, and not grouped with the companies. It also appears on the right hand side, along with all other government entities, of the diagram on page 14. Finally and most conclusively, it is also explicitly listed as a Government entity in section 5.3 on page 20. Viewed as a company, TPDC is indeed a special case – it pays royalties to government on behalf of three gas companies. Given that the MOU for the MSG and the TOR for the reconciler require fully disaggregated figures, it is logical that the royalty payment from the TPDC to government is itself disaggregated in terms of the three payments it receives. It is only then that royalty payments into the TPDC from the companies can be compared with the royalty payments the TPDC itself pays. The Validator notes the comment received by the MSG from the feedback on the 25th March,

“As a separate issue, the TEITI MSG, for its own interest, has agreed that it would issue an addendum to the current TEITI report clearly showing TPDC’s income streams from the gas

companies and indicating these streams in TPDC's payments to the government. The addendum will be prepared in the coming days."

The Validator recommends that the completed addendum as well as the completed scoping study (see indicator 9 above) would be sufficient grounds for this indicator to be changed to met.

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?

15.1. Evidence

The reconciler stated to the Validator that they did not receive sufficient cooperation from certain government departments, namely TRA and TPDC, during the reconciliation process and that information was incomplete due to poor record keeping. The reconciler stated to the Validator that as a result of this lack of information they could not be confident in the government figures presented in the report.

15.2. Stakeholder views

In response to our initial findings presentation during the Validation trip, we received the following submission from the MSG:

"The reconciler confirmed that he has received sufficient cooperation from TPDC, although the data was submitted rather late. We do not agree that poor recordkeeping was an issue in undertaking the reconciliation exercise. As the reconciler observes, this is your personal opinion. The letter submitting the report did not reflect any qualification on the report. The reconciler has confirmed that he has full confidence in the report."

15.3. Validator's judgement

This indicator has not been met.

Notwithstanding the statement by the MSG above, the Validator remains unconvinced that this indicator has been met. In addition to concerns over the quality and timely submission of data, both the MSG MOU (2.2a) and the TOR of the reconciler (pg 75 of the report 9.a.ii) state that disaggregated data must be provided to the reconciler.

However, TPDC (a parastatal) was not able to provide disaggregated data to the reconciler. The reconciler also stated that they received information 'at the last minute' from the TRA, and that the agency was 'very uncooperative'.

As with indicator 14, the Validator recommends that fully disaggregated payments to TPDC in the next reconciliation and an investigation into the royalty payments to TPDC for the first TEITI Report should be a condition of compliance for this indicator.

16. WAS THE MULTI STAKEHOLDER GROUP CONTENT THAT THE ORGANISATION CONTRACTED TO RECONCILE THE COMPANY AND GOVERNMENT FIGURES DID SO SATISFACTORILY?

16.1. Evidence

The Validator has been informed by the MSG that the first TEITI Report was discussed and reviewed according to the following sequence of events. On February 3rd 2011, the MSG made comments on the report, which were incorporated by the reconciler. This meeting was adjourned and it was agreed to reconvene on February 8th, 2011. The Validator has not been given minutes to either of these meetings. The MSG then met with the reconciler on February 8th, 2011. At this meeting, the MSG reviewed whether their earlier comments had been incorporated into the final draft report. At this meeting, the MSG endorsed the report and agreed on the official launch date.

In section 1.0 of the report, the reconciler notes “The report is intended for the use of the Tanzania EITI MSG for the purpose of that initiative and is not to be relied upon by other parties.” When queried about this note (which the MSG had requested be removed), the reconciler explained to the MSG that it is a standard technical practice under the British law whose purpose is to limit the responsibility and answerability of the reconciler on the report to the client (in this case, TEITI-MSG). Hence, all queries on the report should be directed to the TEITI-MSG and not to the reconciler.

Meanwhile, as indicated in 15.3 above, both the MSG MOU (2.2a) and the TOR of the reconciler (pg 75 of the report 9.a.ii) state that disaggregated data must be provided to the reconciler. Fully disaggregated data was not provided in the case of the TPDC in the initial report. However, on 18th April, the reconciler provided an addendum to the report which includes disaggregated data on payments from gas companies to the TPDC.

16.2. Stakeholder views

Stakeholders in the MSG felt that overall, the performance of the reconciler was satisfactory. They felt that the reconciler had produced the report in accordance with the TEITI-MSG approved TOR under a tight timeline and delivered the report within the time-frame.

One MSG member expressed concern on the presentation of table 2 (on page 6 of the report) that it only reflects the financial flows acknowledged by the government and does not the financial flows reported from the companies. He felt that the table on page 23 provides a more concise summary of the findings of the first report.

Other MSG members expressed dissatisfaction with the caveat in 1.0 of the report (referred to above) not being expunged, despite the request from the MSG to do so.

16.3. Validator's judgement

The indicator has been met.

However, the Validator notes the peculiarity of insisting on standard technical practice from another country's legal system being imposed on another country, despite repeated requests

from the client to do otherwise. The phrase “this report is not to be relied upon by other parties” to a lay reader invalidates all that follows in the report. Again, as with indicators 14 and 15, the Validator notes that despite the MSG expressing satisfaction with the reconciler, fully disaggregated figures were not provided throughout the report.

Finally, the Validator notes that the reconciliation was effectively completed in a matter of just a few weeks: the contract with the reconciler was only signed in late December 2010, while the report itself is dated 9th February 2011. There was considerable external pressure placed upon TEITI to ensure they met the validation deadline set by the EITI International Secretariat. This may ultimately be one of the most significant factors behind the large discrepancy in the report. The question of who is really driving the TEITI process, the GoT, or the donors who partly fund it, remains moot. The Validator has the impression that the World Bank has played a dominant role in encouraging the implementation of EITI in Tanzania. While this support is highly commendable, it has inadvertently placed undue pressure and unrealistic deadlines on the process, given the institutional weakness of TEITI at present.

17. DID THE EITI REPORT IDENTIFY DISCREPANCIES AND MAKE RECOMMENDATIONS FOR ACTIONS TO BE TAKEN?

17.1. Evidence

The first TEITI Report identified a number of highly significant discrepancies, totalling TzS24 billion in local currency as well as just under US\$18m (TzS26.7 billion) in foreign exchange earnings. The total discrepancy figure is therefore over TzS50 billion, or US\$34m. Page 6 of the Reconciliation Report shows that the total benefit flow to the GoT was just over TzS66 billion – just under US\$45m based on March 2011 exchange rates. **The first TEITI Report therefore indicates a total discrepancy of 76%.** This huge discrepancy suggests that at least one of the following cannot in fact be true: that completed templates for both government and from the companies are based on audited accounts to international standards, and that all material payments from companies and receipts from the government have been fully disclosed. As discussed above, many of the discrepancies could not be further clarified for one of the following reasons:

- Reporting entities submitted incorrect data
- Reporting entities did not clarify discrepancies
- Reporting and payment structures were opaque to the reconciler (TPDC)
- The time given for reconciliation was insufficient

The Reconciliation Report makes a series of recommendations to TEITI on page 38 of the report⁷. Recommendations include:

- Planning and Preparation
 - Better definition of flows
 - Training and instruction of templates

⁷ The report is available from the Ministry of Minerals and Energy website http://www.mem.go.tz/news_events/view_news_item.php?id=56&intVariationID=1&szTitle=Current

- Training of government staff to improve reporting systems
- Expand company contacts to include middle management (who complete the template)
- Raising awareness
- That all reporting be made on a cash basis and in the actual currency paid
- Follow up with discrepancies (allowing time for follow up by the reconciler)
- Include reporting by regional government entities
- Ensure timely provision of information for the reconciliation process
- Issue and return templates via the reconciler (rather than the secretariat as was the case)
- Extending the scope of TEITI following a review
- Timing of reconciliation – should be conducted annually and within 8 months of the end of the period they cover

17.2. Stakeholder Views

Given that the Reconciliation Report was issued one week before the Validator's visit, the MSG and other stakeholder's had little time to digest the findings of the report. Nevertheless, there was considerable media interest in the findings of the report, which was discussed and disseminated in newspapers and on the television.

The MSG recommended in a letter that the discrepancies be investigated by the Controller and Auditor General (CAG) of Tanzania. This was clearly taken seriously by the government and at the EITI meeting in Paris on 3rd March 2011, President Kikwete announced that he was also requesting the Controller and Auditor General to investigate the discrepancies in the report.

17.3. Validator's judgement

The indicator has been met.

Highly significant discrepancies were identified in the Reconciliation Report. Although it is apparent that a number are likely to be explained through errors and mis-reporting, the Validator is encouraged to see that the President of Tanzania agreed with the MSG and assigned the CAG to investigate discrepancies.

No further follow up on this investigation has been provided to the Validator.

HOW HAVE OIL, GAS AND MINING COMPANIES SUPPORTED EITI IMPLEMENTATION?

17.4. Evidence

There is active support by mining companies, as represented by the Chamber of Mines

At time of submission Validator has received company self assessment forms from all but the following companies: Geita, Artumas, Pan African Energy and El Hillal Minerals.

17.5. Stakeholder Views

Civil society members were pleased with the participation of companies, but suggested that more companies should be actively involved in the process.

The Tanzania Chamber of Minerals and Energy (TCME) submitted the following:

“The TCME, which is the representative body of the mining companies in the TEITI-MSG, has been actively involved in TEITI since its launch in 2009. Three members of the Chamber serve in the TEITI-MSG and are very active in supporting the Multi-stakeholder Group’s goal of disclosing payments from the extractive companies in Tanzania. The Chamber has actively participated in EITI workshops (e.g. EITI Launch Workshop, November 2009, Capacity Building Workshop, February 2010, Awareness Workshop, December 2010).

The Chairman of the Chamber of Minerals and Energy and a member of TEITI-MSG Ambassador Ami Mpungwe, gave several media interviews declaring public support for the TEITI. Ambassador Mpungwe publicly noted that the “mining companies in the country have solid commitment on the TEITI.”(Daily News, December 14, 2010),” Africa Barrick Gold, the largest mining company in Tanzania, told the EITI Board in October that it is strongly committed to EITI implementation in Tanzania.

Many of the mining companies in Tanzania are committed to the TEITI process not only at the corporate but also at the community level. The extractive companies disclosed payments to the district councils in which they operate. Along with TEITI-MSG, the representatives of the extractive companies participated in public meetings on EITI with communities living in mining regions (e.g., Tarime, Geita and Kahama in January 2011).

17.6. Validator's Judgement

Companies are involved and many fully support the process. However, more effort needs to be made to include companies that are not international LSM companies and include more oil and gas and exploration companies.

DISSEMINATION

18. WAS THE EITI REPORT MADE PUBLICLY AVAILABLE IN A WAY THAT WAS: PUBLICLY ACCESSIBLE, COMPREHENSIVE, AND COMPREHENSIBLE?

18.1. Evidence

The first TEITI Report was launched in Dar es Salaam on February 10th, 2011. Representatives from a wide variety of media houses were in attendance. Three English-language newspapers covered the report – The Daily News, The Guardian and the Citizen. On February 14th, Publish What You Pay/ForDIA held a workshop on the report to the media and civil society. On March 22nd, three Swahili-language newspapers - Mtanzania, Habarileo and Mwananchi included

advertorials from TEITI which publicised the main findings of the first EITI Report. The full report has been translated into Swahili, as well as a shortened version, although neither have, as of May 13th, 2011, been published). The report is however available in English at the EITI International website, on the Policy Forum website and also on MEM's website. On March 25th, the Chair of the MSG presented the key findings of the report at a MEM-World Bank workshop in Mwanza, with 60 delegates attending from CSOs, companies, local government representatives and community leaders. On March 30th, the report was presented at another World Bank workshop in Dar es Salaam, with attendance by the donor community, civil society and the media.

18.2. Stakeholder views

Stakeholders agree that good progress has been made on disseminating the first report, but that more work needs to be done.

18.3. Validator's judgement

The indicator has not been met.

In the weeks after the launch of the report, TEITI has made good progress in disseminating its key findings. There are signs that a public debate on extractive revenues in Tanzania has begun in earnest.

The Validator recommends that this indicator will be met once:

- a) The full report has been translated into Swahili and made publicly available (online and in print)
- b) A simplified version of the report has been produced and made publicly available (online and in print)

It is also recommended that a dedicated full-time communications officer is appointed to work in the TEITI Secretariat.

WHAT STEPS HAVE BEEN TAKEN TO ACT ON LESSONS LEARNT, ADDRESS DISCREPANCIES AND ENSURE EITI IMPLEMENTATION IS SUSTAINABLE?

Following on from the publication of the first TEITI Report, on the 24th February 2011, the Chair of the TEITI MSG, Hon. Mark Bomani, sent a letter to the Controller and Auditor General (CAG) of the National Audit Office (NAO). The letter served as a covering note for the submission of the first TEITI Report, with the request for the NAO to resolve remaining discrepancies. It remains to be seen what actions the NAO will now take. However, in March 2011, at the EITI Global Conference in Paris, President Kikwete also referred the report to the Auditor General.

Terms of reference for a second TEITI report have been drawn up, which include a scoping study to determine and define materiality in full.

The sustainability of TEITI in the absence of a legal basis is a critical issue. There are three main reasons why a lack of a legal basis for TEITI poses the question of sustainability:

1. TEITI currently cannot procure either goods or services and relies on the MEM's procurement unit to do so. This has often resulted in delays to implementing the Work Plan. Delays in implementing the Work Plan may adversely affect performance in the long-term, leading some to question the value of the initiative.
2. TEITI cannot effectively address any potential non-compliance issue that may crop up. For instance, if a company decides to refuse to respond to information requests from the TEITI secretariat, there is currently no legal redress or mechanism by which non-compliance can be addressed.
3. TEITI cannot receive statutory funding from the GoT.

A side effect of TEITI having no legal basis is that at present, the TEITI Secretariat has no dedicated office space. This has been a bone of contention for an extended period, and was brought up again in the most recent minutes (on the 4th November).

As a result of these issues, TEITI's operations are significantly below what would be required to fulfil the workplan. It is apparent from the minutes that a number of important areas of work such as the legal review, simply did not take place because of procurement and institutional issues.

The Validator recommends that this issue be given the highest priority in 2011.

E. COMPANY IMPLEMENTATION

The Company Self-Assessment forms were given to all 23 companies initially selected for reconciliation. Only the six companies who made it to the final report however are considered below. The Self-Assessment forms asks six questions:

Question 1: Has the company made public statements in support of the EITI process in this country?

Question 2: Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g.laws and MoUs) and, where appropriate, meeting with stakeholders?

Question 3: Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?

Question 4: Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?

Question 5: Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?

Company	Questions					Comments
	1	2	3	4	5	
African Barrick Gold (owns three mines: Bulyanhulu, North Mara, Pangea Minerals).	No	Yes	Yes	Yes	Yes	Through the TCME African Barrick Gold has been actively represented in the MSG.
Williamson Diamonds Ltd	Yes	Yes	Yes	Yes	Yes	No comments
Resolute Ltd.	No	Yes	Yes	Yes	Yes	This wasn't highlighted as necessary and we assumed publicity should be by the MSG our participation was seen as obvious support for the process. Actions speak louder than words.
Tanzanite One	Yes	Yes	Yes	Yes	Yes	No comments
TPDC	Yes	Yes	Yes	Yes	Yes	There is full transparency on TPDC's operations and accounts since they are usually submitted and deliberated upon by two parliamentary committees – the energy & minerals committee and the public accounts committee. TPDC

						annual reports are submitted to parliament each year.
Geita	Yes	Yes	Yes	Yes	Yes	
Artumas						<i>Form not yet submitted to the Validator</i>
Pan African Energy						<i>Form not yet submitted to the Validator</i>
El Hillal Minerals						<i>Form not yet submitted to the Validator</i>

F. OVERALL ASSESSMENT

The following represents the Validator’s summary of the findings in narrative form.

1. SIGN UP

TEITI has appointed a highly respected Chair as its Senior Representative. The Work Plan is good, although could be slightly adapted to be a more effective monitoring and evaluation tool.

2. PREPARATION

Although there is an MOU between the Government and the MSG, TEITI lacks a legal basis (and a sustainable funding model) in the context of less transparency, thanks to the Mining Act 2010. There are therefore still potential obstacles to progress. Meanwhile, TEITI needs a more robust definition of materiality and which companies should be reconciled.

3. DISCLOSURE

The first reconciliation report is insufficient & inadequate for a number of reasons. Although the MSG required disaggregated figures, a number of payments, particularly in the gas sector (to TPDC), were not initially disaggregated. Some companies did not comply fully with the reconciler, meanwhile, the caveat in the Introduction to the report imposes audit standards drawn from UK law on a report which is a) not an audit and b) not based in the UK.

4. DISSEMINATION

The TEITI Report is not yet widely available and hasn’t been published in Swahili. A summary version of the report has yet to be published in Swahili. However, summary advertorials have been placed in both the English and Swahili-language press.

The Validator recognises the rapid achievements of TEITI in challenging circumstances. In not complying on only three indicators, the Validator recommends that TEITI is judged to be “close to compliant.”

G. RECOMMENDATIONS FOR FUTURE IMPLEMENTATION

The following are the Validator's recommended actions, in order for TEITI to become compliant:

Indicator	Status	Comments and required actions
3. Appointment of an EITI champion	Met	The reporting relationship between the MSG and the MEM should be formalised.
4. Work Plan	Met	The Work Plan should be more widely publicised. Online publication alone is insufficient.
5. Establishment of MSG	Met	Review the MOU for relevance and composition: to include a broader selection of civil society and industry representatives.
7. Company engagement	Met	The MSG should ensure companies fully understand the templates in advance of the next reconciliation and assign someone with the time and ability to complete them adequately.
8. Obstacles to implementation	Not met	A review of the legal framework for TEITI should be undertaken.
9. Reporting templates	Not met	Scoping study is carried out to determine which companies should comply and under what definition of materiality
11. Ensuring companies will report	Not met	Company participation should be reviewed and extended for the next reconciliation exercise.
12. Company reporting standards	Met	MSG to provide better guidance on common discrepancy issues (cash vs accrual etc.) in the TOR for the next reconciliation exercise.
13. Govt reporting standards	Not met	MSG reviews the process by which government templates were completed to provide a detailed set of recommendations that can be implemented in the next reconciliation exercise.
14. Disclosure of company receipts	Not met	Fully disaggregated figures for TPDC are generated for the first TEITI Report and for all future reconciliation reports
15. Disclosure of Govt receipts	Not met	Same recommendation as for 14 above.
18. Dissemination	Not met	Translation of the TEITI Report into Swahili and simplified version produced – and both made publicly available. A dedicated communications officer should be appointed.

H. STRATEGIC OPPORTUNITIES

Over and beyond addressing the issues on which the Validator recommends TEITI be currently judged as non-compliant, the Validator would like to make additional recommendations. These recommendations point to strategic opportunities that are not therefore required for compliance, however, the Validator suggests that TEITI may wish to consider these as part of any future strategic planning exercise:

TEITI needs to be granted a legal basis which will guarantee sustainability (in functions, funding and investigative powers) and ensure full independence from the MEM. This legal framework should also clarify roles of the Secretariat, the MSG and the EITI champion. It should also require reconciliation reports to be within six months of the financial year-end and for them to be fully disaggregated.

TEITI should consider reviewing the issue of materiality. The reconciliation process identified a number of material payments currently outside of the process. A review which identifies material payments specific to Tanzania (not based on the Ghana experience) should be undertaken prior to the next reconciliation exercise. As part of that TEITI should consider extending the scope of reconciliation exercises, to include more institutions, companies and sectors. The reconciliation reports themselves can deepen to include:

- Spot-check auditing within the reconciliation process
- Process audit (of inter-government functions and processes)
- Production audit
- Value for money audit (an assessment of industry costs in Tanzania)

Finally, as professionals who have worked extensively on the issue of transparency, we are concerned over the lack of clarity in the oil and gas sector. In particular we note that the oil and gas is under exploration in Tanzania, and yet there is no law specific to the sector. The GoT should consider developing this law as a matter of priority and embedding within in principals of transparency in line with EITI and the Natural Resource Charter.

In particular we note that the nature of payments to and from the TPDC in the gas sector is currently very opaque. The TPDC currently collects payments from gas companies before submitting them to MEM and disaggregated details of these movements were not made transparent in the EITI process. Given that the parastatal mining company STAMICO has similar powers to receive and make payments and recently received two concessions from the government, we recommend that the structure of TPDC and STAMICO be reviewed by the government and made more transparent.

ANNEX A: VALIDATION GRID

Indicator	Validator's Comments	Validator's Judgement
1. Public statement on EITI	A public statement was made in November 2008. The President reiterated Tanzania's commitment to EITI in March 2011.	Met
2. Govt commitment	An MOU between the Government and the TEITI MSG was signed in March 2010.	Met
3. EITI champion	The Minister of the Ministry of Minerals and Energy was appointed the EITI senior representative in December 2009.	Met
4. Work plan	TEITI has a 2-year (2010-2012) Work Plan.	Met
5. Establish MSG	The MOU signed in March 2010 formally establishes the MSG and its functions.	Met
6. Civil Society engagement	The TEITI MSG has five CSO members. Four public awareness workshops have been held.	Met
7. Company engagement	Companies involved in the EITI process are for the most part engaged. However, there are issues with TPDC engagement and one other company that need to be addressed.	Met
8. Obstacles to implementation	The Mining Act 2010 did not go as far as TEITI stakeholders had initially hoped. However, the MOU removes some obstacles to implementation, and a dedicated TEITI law is planned. A review of the legal framework for TEITI should be undertaken.	Not met
9. Reporting templates	Materiality was discussed in various MSG meetings as part of the development of reporting templates. A further scoping study to define materiality and determine which companies should report is now needed.	Not met
10. MSG approval of the reconciler	The MSG went through a clear and transparent procurement process for the appointment of the reconciler.	Met
11. Ensuring companies report	The MOU ensures that designated companies must report on a disaggregated basis. However, without a legal basis, TEITI may face difficulties enforcing non-compliance in future.	Not met

Table 4: Validation Grid		
12. Company reporting standards	Companies must abide by IFRS accounting standards in Tanzania. The TEITI templates were mapped against annual reports for all the companies in the first TEITI Report.	Met
13. Government reporting standards	While there are international standards to the process by which government reports are audited, the government data submitted for the first TEITI Report may not be 100% reliable.	Not met
14. Disclosure of payments	Most companies complied with the requirements of the first reconciliation exercise. Fully disaggregated information from the TPDC has been supplied via an addendum to the first report. A scoping study on materiality needs to be prepared and conducted.	Not met
15. Disclosure of receipts	The quality of the data submitted by government may not have been fully disclosed.	Not met
16. MSG views on reconciliation	The MSG is in agreement that the reconciler did a satisfactory job of the first reconciliation exercise.	Met
17. Identification of discrepancies/ recommendations	The discrepancies identified by the first TEITI Report will now be followed up by the National Audit Office.	Met
18. Dissemination	The first TEITI Report (and a shortened version) have been translated into Swahili, but neither have been published or disseminated.	Not Met

ANNEX B: STAKEHOLDERS CONSULTED

Organisation	Contact	Position	Type
MEM	Prosper Victus	Ag. Commissioner for Energy & Petroleum	Government
TPDC	Mohamed Ngude	Chief of Research and Investments & alternate for Mr. Yona Killagane on the MSG	Government
TRA	Laurent Kadashi	Large Tax Payers Department & alternate for Patrick Kassera on the MSG	Government
MEM	Hon. William Mganga Ngeleja	Minister	Government
TMAA	Paul Masanja	Chief Executive	Government
Resolute (Tanzania) Ltd.	Don B. McLeod	Managing Director	Companies
TanzaniteOne Ltd	Ami Mpungwe	Chairman	Companies
TCME	Eng. Emmanuel Jengo	Executive Secretary	Companies
ForDIA/PWYP	Bubelwa Kaiza	Country Coordinator	Civil Society
RWI	Silas Olang	Senior Regional Associate	Civil Society
ITV	Ryanford Masako		
Norwegian Church Aid	Rev. Godfrey Walalaze	Alternate for Rev. Dr. Munga on the MSG.	Civil Society
Mtanzania	Deodatus Balile	Editor	Civil Society
Twaweza	Joseph Ngwegwe	Ag. Director	Civil Society
Daily News	Mr. Mwakyusa	Journalist	Civil Society
Bomani Chambers	Hon. Judge Bomani	Chair, MSG	Civil Society
Policy Forum	Semkae Kilonzo	Coordinator	Civil Society
Chadema (Opposition political party)	Zitto Kabwe	MP	Independent
BDO	Juvenile Betambira	Local partner to the appointed reconciler	Independent
Norwegian Embassy	Olav Lundstol	Senior Development Advisor	Donor partner
Canadian High Commission	Jared Duhu	Senior Development Advisor	Donor partner
ADB	Prajesh Bhakta	Country Programme Officer	Donor partner
World Bank	Vedasto Rwechengura	Consultant	Donor partner

ANNEX C: THE MULTI-STAKEHOLDER GROUP

Name	Organisation
Hon. Mark Bomani	Chair of MSG
Dr. Dalaly Peter Kafumu	MEM (Govt)
Dr. Yamungu Kayandabila	MFEA (Govt)
Mr. Patrick Kassera	TRA (Govt)
Mr. Yona Killagane	TPDC (Govt)
Mr. Kharist M. Luanda	Local Govt (Govt)
Rev. Dr. Stephen Munga	Faith-based org (CSO)
Arch. Mbaraka H. Igangula	Trade-Union (CSO)
Mr. Gideon Mandes	DOLASED (CSO)
Ms. Sakina Dato	Media (CSO)
Mr. Bubelwa Kaiza	ForDIA/PWYP (CSO)
Mrs. Nyabuke John	Small Scale Mines (Companies)
Mr. George Mwaikela	Small Scale Mines (Companies)
Mr. Don B. McLeod	TCME (Companies)
Amb. Ami Mpungwe	TCME (Companies)
Eng. Emmanuel Jengo	TCME (Companies)

ANNEX D: TRANSPARENCY PROVISIONS IN THE MINING ACT 2010

Section 25: Prohibition Against the disclosure of information

25.-(1) Subject to subsection (2), no information furnished, or information in a report submitted, pursuant to section 100 by the holder of a mineral right shall, for so long as that mineral right or another mineral right granted to the holder has effect over the land to which the information relates, be disclosed, except with the consent of the holder of the mineral right.

(2) Nothing in subsection (1) shall operate to prevent the disclosure of information where the disclosure is made-

(a) for, or in connection with, the administration of this Act;

(b) for the purpose of any legal proceedings;

(c) for the purpose of any investigation or inquiry conducted under this Act; to any person being a consultant to the Government or public officer who is authorised to receive such information; or

(e) for, or in connection with, the preparation by or on behalf of the Government of statistics in respect of prospecting or mining.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction-

(a) in the case of an individual, to a fine not exceeding shillings two million or to imprisonment for a period not exceeding twelve months, or to both;

(b) in the case of a body corporate, to a fine not exceeding twenty million shillings.

Section 84: Holder to keep records and accounts

84. The holder of a broker licence shall keep full and accurate records and accounts of all transactions undertaken by him as a broker and such records and accounts shall-

(a) be kept in such form and shall include details as may be prescribed; and

(b) be submitted to the Zonal Mines Officer on expiry of his licence.

Section 100: Reports, records and information

100.-(1) The holder of a mineral right shall keep records within the Mining areas or at the mineral rights holders' office located in Tanzania for as long as the mineral right subsist, and shall submit reports and furnish such information as required in the Second Schedule.

(2) The holder of a mineral right shall maintain an address in Tanzania to which communications may be sent and shall give notice to the Commissioner of that address and of any changes of such address.

(3) The Commissioner may direct the holder of a mineral right, at a reasonable time and place specified in the direction, to make available to, or to produce for inspection by, himself or the Zonal Mines Officer or any public officer specified in the direction any books, accounts, vouchers, documents or

records of any kind concerning the mineral right, and the holder of the mineral right shall comply with the direction.
(4) Without prejudice to subsection (3), the provisions of Second Schedule shall apply with regard to the obtaining of information relating to minerals obtained, or the value of minerals obtained, in exercise of a mineral right.

ANNEX E: COMPANY FORMS

1.1. African Barrick Gold (three gold mines)

THE VALIDATION GUIDE

EITI COMPANY SELF-ASSESSMENT FORM COUNTRY-LEVEL

COMPANY: **BULYANTULU GOLD MINE** COUNTRY: **TANZANIA**



Mark indicators below with a ✓

- Has the company made public statements in support of the EITI process in this country?
 Yes No
- Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g. laws and MoUs) and, where appropriate, meeting with stakeholders?
 Yes No
- Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?
 Yes No
- Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to International standards?
 Yes No
- Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?
 Yes No

Narrative opinions
 If any indicators above are marked "No", please provide an explanation:

Any other comments:

Through the Tanzania Chamber of Energy and Minerals Bulyantulu Gold Mine Ltd has been actively represented in the MSG.

Vice President - Corporate Affairs
AFRICAN BARRICK GOLD
 P. O. Box 1061
 DAR-ES-SALAAM

THE VALIDATION GUIDE
EITI COMPANY SELF-ASSESSMENT FORM COUNTRY-LEVEL

COMPANY: NORTH MARA GOLD MINE COUNTRY: TANZANIA

Mark indicators below with a ✓

1. Has the company made public statements in support of the EITI process in this country?
 Yes No
2. Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g. laws and MoUs) and, where appropriate, meeting with stakeholders?
 Yes No
3. Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?
 Yes No
4. Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?
 Yes No
5. Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?
 Yes No

Narrative opinions:

If any indicators above are marked "No", please provide an explanation:

Any other comments:

Through the Tanzania Chamber of Energy and Minerals North Mara Gold Mine Ltd has been actively represented in the MSG.


Vice President - Corporate Affairs
AFRICAN BARRICK GOLD
P. O. Box 1084
DAR-ES-SALAAM

THE VALIDATION GUIDE
EITI COMPANY SELF-ASSESSMENT FORM COUNTRY-LEVEL

COMPANY: PANGEA MINERALS LTD COUNTRY: TANZANIA

Mark indicators below with a ✓


1. Has the company made public statements in support of the EITI process in this country?
 Yes No
2. Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g. laws and MoUs) and, where appropriate, meeting with stakeholders?
 Yes No
3. Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?
 Yes No
4. Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?
 Yes No
5. Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?
 Yes No

Narrative opinions

If any indicators above are marked "No", please provide an explanation:

Any other comments:

Through the Tanzania Chamber of Energy and Minerals, Pangea Minerals Limited has been actively represented in the MSG.


Vice President - Corporate Affairs
AFRICAN BARRICK GOLD
P. O. Box 1081
DAR-ES-SALAAM

1.2. Williamson Diamonds Ltd

THE VALIDATION GUIDE
EITI COMPANY SELF-ASSESSMENT FORM COUNTRY-LEVEL

COMPANY: *WILLIAMSON DIAMONDS LTD* COUNTRY: *TANZANIA*

Mark indicators below with a ✓

- 1. Has the company made public statements in support of the EITI process in this country?
 Yes No
- 2. Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g.laws and MoUs) and, where appropriate, meeting with stakeholders?
 Yes No
- 3. Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?
 Yes No
- 4. Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?
 Yes No
- 5. Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?
 Yes No

Narrative opinions

If any indicators above are marked "No", please provide an explanation:

Any other comments:

No comments

*Omari Habibu Mwan'Jed
Financial Manager - WDL*

WILLIAMSON DIAMONDS LTD
P. O. Box 5071
DAR ES SALAM

1.3. Resolute Ltd.

THE VALIDATION GUIDE
EITI COMPANY SELF-ASSESSMENT FORM COUNTRY-LEVEL

COMPANY: RESOLUTE (TANZANIA) LTD.
P.O. Box 78486
DAR-ES-SALAAM COUNTRY: TANZANIA

Mark indicators below with a ✓

1. Has the company made public statements in support of the EITI process in this country?
 Yes No
2. Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g.laws and MoUs) and, where appropriate, meeting with stakeholders?
 Yes No
3. Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?
 Yes No
4. Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?
 Yes No
5. Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?
 Yes No

Narrative opinions

If any indicators above are marked "No", please provide an explanation:

THIS WASN'T HIGHLIGHTED AS NECESSARY AND WE ASSUMED PUBLICITY SHOULD BE BY THE MSG. OUR PARTICIPATION WAS SEEN AS OBVIOUS SUPPORT FOR THE PROCESS.

Any other comments:

ACTIONS SPEAK STRONGER THAN WORDS.

1.4. Tanzanite One

TANZANITE ONE

THE VALIDATION GUIDE
EITI COMPANY SELF-ASSESSMENT FORM COUNTRY-LEVEL

COMPANY: _____ **COUNTRY:** _____

Mark indicators below with a ✓

1. Has the company made public statements in support of the EITI process in this country?
 Yes No
2. Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g.laws and MoUs) and, where appropriate, meeting with stakeholders?
 Yes No
3. Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?
 Yes No
4. Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?
 Yes No
5. Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?
 Yes No

Narrative opinions
If any indicators above are marked "No", please provide an explanation:

Any other comments:

TANZANITE ONE'S CHAIRMAN IS A MEMBER AND ACTIVE PARTICIPANT OF EITI-MSG AND HAS MADE SEVERAL PUBLIC STATEMENTS IN SUPPORT OF EITI AND IMPLEMENTATION OF COUNTRY EITI WORK PLAN INCLUDING PARTICIPATION AND MEETINGS WITH KEY STAKEHOLDERS

Allan Mwanje, TANZANITE ONE (P) LTD

TANZANITE ONE MINING
P.O. BOX 23262
DAR ES SALAAM

1.5. TPDC

THE VALIDATION GUIDE
EITI COMPANY SELF-ASSESSMENT FORM COUNTRY-LEVEL

COMPANY: TANZANIA PETROLEUM DEVELOPMENT CORPORATION COUNTRY: TANZANIA

Mark indicators below with a ✓

1. Has the company made public statements in support of the EITI process in this country?
 Yes No
2. Has the company committed to support and cooperate with implementation of the Country EITI Work Plan (as agreed by the multi-stakeholder group), including abiding by government EITI-related directives (e.g.laws and MoUs) and, where appropriate, meeting with stakeholders?
 Yes No
3. Have all material payments been disclosed to the organisation contracted to reconcile figures and produce the EITI Report as per agreed EITI reporting templates and pursuant to agreed timelines?
 Yes No
4. Was the data that was submitted to the organisation contracted to reconcile figures and produce the EITI Report taken from accounts independently audited to international standards?
 Yes No
5. Has the company responded to queries from the organisation contracted to reconcile figures and produce the EITI Report to assist in the reconciliation of country payments with government receipts in accordance with EITI reporting templates?
 Yes No

Narrative opinions

If any indicators above are marked "No", please provide an explanation:

Any other comments:

THERE IS FULL TRANSPARENCY ON TPDC'S OPERATIONS AND ACCOUNTS SINCE THEY ARE USUALLY SUBMITTED TO AND DELIBERATED UPON BY TWO PARLIAMENTARY COMMITTEES - THE ENERGY & MINERALS COMMITTEE AND THE PUBLIC ACCOUNTS COMMITTEE. TPDC ANNUAL REPORTS ARE SUBMITTED TO PARLIAMENT EACH YEAR.

M. M. M. M. M. Managing Director
Tanzania Petroleum Development Corporation
P.O. Box 2774
DAR-ES-SALAAM

