

Validation of Afghanistan

Report on initial data collection and stakeholder consultation

Abbreviations

| | |
|---------|--|
| ACBR | Afghanistan Central Business Registry |
| ACCI | Afghanistan Chamber of Commerce and Industries |
| AEITI | Afghanistan Extractive Industries Transparency Initiative |
| AFMIS | Afghanistan Financial Management Information System |
| AGE | Afghan Gas Enterprise |
| ASI | Adam Smith International |
| ASM | Artisanal and small-scale mining |
| ASYCUDA | Automated System for Customs Data |
| BO | Beneficial ownership |
| CAO | Central Audit Office |
| CSO | Civil Society Organization |
| DFID | Department for International Development |
| EGPS | Extractives Global Programmatic Support |
| EIA | Environmental and Social Impact Assessment |
| EITI | Extractives Industry Transparency Initiative |
| EPA | Environmental Protection Agency |
| GDP | Gross Domestic Product |
| GFS | Government Finance Statistics |
| GIZ | Deutsche Gesellschaft für Internationale Zusammenarbeit |
| GOIRA | Government of the Islamic Republic of Afghanistan |
| IA | Independent Administrator |
| IMF | International Monetary Fund |
| ISA | International Standards on Auditing |
| LTO | Large Taxpayers Office |
| MCC | Metallurgical Corporation of China |
| MCI | Ministry of Commerce and Industry |
| MDTF | Multi-Donor Trust Fund |
| MOE | Ministry of the Economy |
| MOF | Ministry of Finance |
| MOMP | Ministry of Mines and Petroleum |
| MSG | Multi Stakeholder Group |
| NCE | Northern Coal Enterprise |
| NGO | Non-Governmental Organisation |
| PEP | Politically Exposed Person |
| PSC | Production Sharing Contract |
| SAO | Supreme Audit Office |
| SDNRP | Sustainable Development of Natural Resources Project |
| SIGTAS | Standard Integrated Government Tax Administration System |
| SMAF | Self-reliance through Mutual Accountability Framework |
| SOE | State Owned Enterprise |
| TAPI | Turkmenistan-Afghanistan-Pakistan-India gas transport pipeline project |
| TFBSO | Task Force for Business and Stability Operations |
| TIN | Tax Identification Number |
| ToR | Terms of Reference |
| USAID | U.S. Agency for International Development |
| USD | United States Dollar |
| VAT | Value Added Tax |

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Executive Summary

The Government of Afghanistan committed to implement the EITI in March 2009 and was accepted as an EITI Candidate on 9 February 2010. On 25 October 2016, the Board agreed that Afghanistan's Validation under the 2016 EITI Standard would commence on 1 July 2017.¹ On 19 September 2017, the Board delayed the commencement of Afghanistan's Validation to 1 November 2017.² This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures³ and applied the Validation Guide⁴ in assessing Afghanistan's progress with the EITI Standard. While the assessment has not yet been quality assured or reviewed by the MSG, the Secretariat's preliminary assessment is that most of the provisions in the EITI Standard have not been fully addressed in Afghanistan. The recommendations and suggested corrective actions relate to licensing, export data, distribution of revenues, economic contribution and state participation, including quasi-fiscal expenditures.

The overall security situation in Afghanistan remains challenging, with large areas outside government control (see Annex E). The EITI Board agreed to postpone the commencement of Afghanistan's Validation from 1 July to 1 November 2017 on security grounds. Despite a significant deterioration during the week of in-country consultations (20-25 January 2018), the International Secretariat took all possible measures to ensure as broad a set of stakeholder consultations as possible. While the collaboration and flexibility of Afghan stakeholders at all levels was testimony to their broader commitment, the security challenges encountered during Validation reflect the broader difficulties related to EITI implementation in Afghanistan.

Overall conclusions

Afghanistan presents a unique case of EITI implementation. Much of the country remains outside government control, and there is extensive illegal mining of gemstones and gold. Meanwhile the EITI concerns primarily the formal economy, which is dominated by coal, talc, small amounts of crude oil and construction materials. This translates into roughly USD 40m a year in government revenues from the mining, oil and gas sector. By comparison, the Taliban is believed to collect up to an estimated USD 200m from illegal mineral taxation annually.⁵

From a low starting point, the EITI has had some impact. The multi-stakeholder group has enabled discussions on the management of mining licenses, the quality of production data and the traceability of extractives revenues. EITI reports have served as regular "diagnostics tools" to assess progress on reforms, and EITI recommendations were an important factor in the government's November 2017 decision to publish the most comprehensive list of licenses to date. For civil society, the EITI has provided a key channel to follow up on the government's commitment to contract disclosure, resulting in the

¹ EITI (October 2016), 'EITI Board decision: The Board agreed on the schedule for outstanding Validations', accessed [here](#) in January 2018.

² EITI (September 2017), 'EITI Board decision: The Board agreed to postpone Afghanistan's Validation for four months until 1 November 2017', accessed [here](#) in January 2018.

³ <https://beta.eiti.org/document/validation-procedures>

⁴ <https://beta.eiti.org/document/validation-guide>

⁵ Matthew Dupee (March 2017), 'The Taliban Stones Commission and the Insurgent Windfall from Illegal Mining', accessed [here](#) in June 2018.

publication of over a thousand small-scale mining contracts in 2017. All stakeholders have made frequent reference to EITI requirements to push for reforms.

Yet in many ways the EITI remains shy of its potential, even bearing the challenging Afghan context in mind. Limited coordination between government ministries has hindered effective follow-up on EITI recommendations. While stakeholders have used the EITI to encourage progress on cadastral management and revenue traceability, public financial management issues have not been part of the discussion. The lack of attention to the two state-owned extractives companies, which together account for three-quarters of the government's extractives revenues, is a key weakness.

Implementation of the EITI Standard provides a key instrument to drive improvements in natural resource governance in Afghanistan. The successful establishment of an automated non-tax payment system as planned and linking it to the Ministry of Finance's revenue collection systems would provide some level of assurance over government revenues. Implementation of the government's plans to assign individual tax ID numbers per mining license and disaggregate extractives-specific revenue classifications should strengthen the government's own oversight of the sector. Using annual EITI reporting as a diagnostic of state-owned enterprises' financial relations with the government would support the government's corporatisation plans for the two companies. Amidst sometimes erratic institution-building, developing government and company systems that systematically disclose information required under the EITI Standard will in many cases be the most efficient way to address key EITI reporting requirements. Such progress requires proactive – and operational – engagement from all constituencies.

Recommendations

While the following report includes recommendations for specific improvements the MSG may wish to consider implementing, the following is a list of strategic recommendations that could help Afghanistan make even greater use of the EITI as an instrument to support reforms.

1. In accordance with Requirement 1.1, Afghanistan should ensure that a senior individual that has the confidence of all stakeholders, authority to coordinate action and mobilise resources provides consistent government leadership of the EITI. Afghanistan should also ensure that engagement is consistent across government departments. In accordance with requirement 8.3.c.i, the government constituency is requested to develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment within three months of the Board's decision. To strengthen implementation, Afghanistan is encouraged to ensure that government representatives on the MSG attend meetings regularly. Institutional disagreements over leadership of the EITI process should be addressed to ensure that the government is able to improve implementation at the operational level and use the EITI as a platform for reform. Given the importance of the Mutual Accountability Framework in the Afghan context, the government and development partners are encouraged to identify targets that will help Afghanistan address challenges to the sector through the EITI rather than continuing to focus on compliance.
2. In accordance with Requirement 1.4, Afghanistan should ensure that any deviations from the MSG's ToR are adequately and publicly codified. The MSG should ensure that its lack of per diem

practice is publicly clarified. In order to facilitate compliance with the ToR, the MSG may wish to consider simpler and less prescriptive ToR while ensuring that all the elements in Requirement 1.4 are covered. To ensure that the invitation to participate in the group is open and transparent, that the nomination process is independent and free from any suggestion of coercion, and that civil society MSG members are operationally, and in policy terms, independent of government and companies. Bearing in mind the desirability of pluralistic and diverse representation, CSOs and industry may wish to consider ways of encouraging women to participate in the EITI process. To help planning, encourage participation of all stakeholders and ensure that papers are submitted in time, the MSG may wish to agree dates of quarterly meetings that are aligned with the EITI's reporting timeframes. To help members engage more actively, MSG members should consider working and publishing in local languages rather than English. The MSG should also ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption.

3. In accordance with Requirement 1.5, the MSG should ensure that its work plans are fully costed, updated regularly, consistently published online and are aligned with the reporting and Validation deadlines established by the EITI Board. Work plans should also be fully costed. In order to ensure that objectives are met, Afghanistan is encouraged to ensure that the AEITI procurement plan agreed with the World Bank and other sources of funding reflects the objectives of the MSG as explained by the AEITI annual work plan.
4. In accordance with Requirement 2.2, Afghanistan should ensure that the number of licenses awarded and transferred in the year(s) under review in both mining and oil and gas be publicly accessible, alongside a description of the actual allocation and transfer process (including the roles of relevant government entities) and any non-trivial deviations from statutory procedures in practice. Afghanistan should clarify the technical and financial criteria (and their weightings) used for assessing license allocations and transfers. Afghanistan may also wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.
5. In accordance with Requirement 2.3, Afghanistan should maintain a publicly available register or cadastre system with timely and comprehensive information on all mining, oil and gas licenses including license-holder name, dates of application, award and expiry, commodity(ies) covered and coordinates. The MSG should work with the MOMP to ensure all license information listed in Requirement 2.3.b is available for all extractives licenses active in the period under review.
6. In accordance with Requirement 2.6, Afghanistan should provide an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party financing. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies. AEITI may wish to align reporting with the government's corporatisation strategy for the two extractives SOEs with a view to providing annual diagnostics to support reforms. As a first step and in the absence of publicly available information on the SOEs, AEITI may also wish to pursue the publication of existing studies of SOEs that have been conducted for the MOF and MOMP but that are not currently available to the public.
7. In accordance with Requirement 3.2, Afghanistan should ensure that production volumes and values for all extractive commodities produced are publicly accessible. Where comprehensive disclosure of production figures for all minerals produced is not technically-feasible (e.g. for

security reasons), Afghanistan should ensure that the reasons for non-disclosure are clearly explained and that publicly-available estimates are comprehensively disclosed and assessed. Afghanistan may wish to use EITI reporting to explain challenges in the production of official production statistics and track the implementation of key reforms in the MOMP's mine inspection and oversight.

8. In accordance with Requirement 3.3, Afghanistan should ensure that export volumes and values for all extractive commodities exported are publicly accessible. In the absence of reliable official data, Afghanistan should at a minimum ensure that estimates are comprehensively disclosed and compared. Afghanistan may wish to use EITI reporting as a diagnostic tool to identify discrepancies in export data from different sources and support the government's efforts to curb smuggling.
9. In accordance with Requirement 4.1, Afghanistan should ensure that all companies selected in the scope of reporting comprehensively report all material payment flows and that decisions on the materiality of revenue flows are based on government unilateral disclosure of total extractives revenues, including those not statutorily-mandated but nevertheless collected. Afghanistan should also ensure that full unilateral government disclosure of material revenues from non-material companies is presented disaggregated by revenue flow rather than by company.
10. In accordance with Requirement 4.4, Afghanistan should ensure that its assessment of the materiality of any revenues from the transportation of oil, gas and minerals be publicly documented and that any such material revenues be disclosed disaggregated to levels commensurate with the reporting of other payments and revenue streams.
11. In accordance with Requirement 4.5, Afghanistan should undertake a comprehensive assessment of transactions between extractives SOEs and government entities to ensure that the reporting process comprehensively addresses the role of SOEs, including transfers between SOEs and other government agencies.
12. In accordance with Requirement 4.9, Afghanistan should ensure that the ToR for the IA is in line with the standard ToR approved by the EITI Board and that agreement on any deviations from the standard ToR be properly documented. Afghanistan should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. Afghanistan should ensure that the quality assurances agreed for EITI reporting be clearly documented, that compliance with agreed procedures by reporting entities be clearly assessed and that the IA provide a clear assessment of the comprehensiveness and reliability of EITI reporting. The MSG should also ensure that summary data tables for all EITI Reports are prepared in a timely manner in line with requirements of the Board-approved IA's ToR.
13. In accordance with Requirement 5.1, Afghanistan should ensure that the allocation of extractives revenues not recorded in the national budget are explained, with links provided to relevant financial reports as applicable. Afghanistan may wish to explore the extent to which it could use extractives-specific GFS classifications from its EITI summary data tables (together with its per-license tax ID numbers) as a means of disaggregating extractives revenues in MOF systems.
14. In accordance with Requirement 6.1, Afghanistan should ensure that a clear definition of any mandatory social expenditures is publicly provided and assess the materiality of such expenditures in the period under review. The MSG may wish to consider the extent to which disclosure of Community Development Agreements (or review of key terms) would be necessary to provide a comprehensive assessment of the existence of mandatory social expenditures.








Afghanistan should ensure that public disclosure of mandatory social expenditures be disaggregated by type of payment (distinguishing cash and in-kind) and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures.

15. In accordance with Requirement 6.2, Afghanistan should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.
16. In accordance with Requirement 6.3, Afghanistan should disclose comprehensive information about the extractive industries' contribution to the economy in relative and absolute terms, including to GDP, government revenues, exports and employment.
17. In accordance with requirement 7.1, Afghanistan should ensure that EITI reports are comprehensible, actively promoted, publicly accessible and contribute to public debate. Taking into account the security situation, the MSG should continue to seek to carry out outreach events to spread awareness of and facilitate dialogue about the EITI Report across the country whenever possible. The MSG may wish to consider linking the AEITI communications strategy more closely to the work plan and tailoring key messages to sector priorities rather than to EITI implementation more broadly. The MSG is also encouraged to ensure that the open data policy is posted online and that EITI reports are available in open data format.
18. In accordance with Requirement 7.3, Afghanistan should take steps to act upon lessons learnt with a view to strengthen the impact of EITI implementation on natural resource governance. In particular the MSG should consider improving its procedures to process recommendations. Taking into consideration the importance of the MAS and the IMF's ECF review frameworks in an Afghan context, the MSG is encouraged to encourage the development of "smart deliverables" that issue from EITI recommendations and serve to prioritise these.
19. In accordance with Requirement 7.4, Afghanistan should ensure that all stakeholders are able to participate in the production of the annual progress report and review the impact of EITI implementation. Stakeholders beyond the MSG should be able to provide feedback on the EITI process and have their views reflected in the annual progress report. The MSG should ensure that an assessment of progress with achieving the objectives set out in its work plan is carried out, including the impact and outcomes of the stated objectives. The MSG may wish to use the APR template provided by the International Secretariat to ensure that the different tools to review progress are harmonised. The MSG is encouraged to ensure that the APR, the MSG's action plan and any other management tools are used to feed into the annual work plans.

Figure 1– initial assessment card

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

Legend to the assessment card

| | |
|---|--|
|  | The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled. |
|  | The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled. |
|  | The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled. |
|  | The country has made satisfactory progress in meeting the requirement. |
|  | The country has gone beyond the requirement. |
|  | This requirement is only encouraged or recommended and should not be taken into account in assessing compliance. |
|  | The MSG has demonstrated that this requirement is not applicable in the country. |

Introduction

Brief recap of the sign-up phase

Afghanistan announced its commitment to join the EITI in March 2009 in a letter to the EITI Board. Then Minister of Finance Dr. Omar Zakhilwal was simultaneously nominated to lead the process. An informal meeting of stakeholders was held on 11 November 2009 with strong media presence, at which time stakeholders were formally invited to join the process. Terms of reference for the MSG were adopted at the first meeting of the MSG on 4 June 2011 and an initial work plan was approved two days later through no-objection. A National Coordinator was appointed in July 2009. A candidature application was submitted on 22 November and approved by the EITI Board on 9 February 2010. A memorandum of understanding (MOU) was signed on 31 January 2011 between the Ministry of Finance (MOF) and the Ministry of Mines and Petroleum (MOMP) to formalise their cooperation in the process, while a further MOU was signed on October 2012 with representatives of the extractive industry to facilitate disclosures.

Objectives for implementation and overall progress in implementing the workplan

The introduction to the MSG's TOR defines the objectives and purpose of the EITI in Afghanistan and confirms the MSG's responsibility for setting objectives for EITI implementation: to help promote the efficient and effective management of revenues received from the extractive resources of the country, and to enable the management and use of revenues in accordance with the EITI Principles so that transparency, inclusiveness and openness in the management of extractive resources become an engine for sustainable growth and national development.

AEITI work plans began aligning to national priorities in 2016. Objectives in previous work plans focused on compliance with the EITI's requirements. Subsequent work plans include brief explanation of the rationale behind the broader objectives and identify governance-related challenges that the MSG wishes to address. The 2018 work plan includes the following objectives for implementation: increase public awareness of the sector's current and potential contribution in order to enable a more informed, evidence-based public debate; highlight ongoing efforts and opportunities to improve revenue collection and sector management in order to build trust in the management of the sector and improve fiscal sustainability; ensure that the legal framework that governs the extractive sector is checked for compliance with global EITI standards; and ensure that there is an up-to-date license and contract registry that is comprehensive and publicly available in an easy-to-understand format.

Although objectives have somewhat changed over time reflecting changes in national priorities, there is limited evidence that the work plan is regularly consulted or actively used as a tool to manage the MSG's activities. Recommendations of EITI Reports are not routinely translated into future work plans, however the MSG keeps a separate action plan (annex G) that is not integrated into the work plan. Although work plans include clear timeframes for completion of each activity, timelines are seldom followed and activities are not fully costed in the work plan. The International Secretariat estimates that approximately half of the 43 specific activities outlined in the 2017 work plan were completed. Most of the completed activities (12) refer directly to the publication of the EITI Report, suggesting that most of the non-

reporting activities have not been implemented.

History of EITI Reporting

Afghanistan has published five EITI Reports covering the fiscal years 2008-2015 and is currently preparing its sixth report covering fiscal year 2016. The MSG has regularly published reports with a two-year time-lag, partly due to delays and partly due to a change in the fiscal calendar that came into force in fiscal year 2012. There is a marked difference in the quality and detail of reporting in the last two EITI Reports (corresponding to fiscal years 2012-2013 and 2014-2015 respectively), with previous reports focusing almost exclusively on reconciliation of revenues. AEITI has also used the last two reports to publish in its annexes original research carried out for Afghan ministries that would otherwise not have been made available to the public.

Summary of engagement by government, civil society and industry

With the exception of the industry constituency, which has remained relatively stable over time, successive Validation reports and Secretariat Reviews have highlighted the fluid nature of stakeholders' membership in the MSG. Afghanistan's first Validation report from 2013 showed that constituency representation from civil society and industry was organically instituted: the organisations and companies that answered the government's open invitation to an informal meeting eventually solidified into the first constituency representatives, and these were only institutionalised post-hoc following internal negotiations within the constituencies. The subsequent Secretariat Review of 2014 showed that there was often confusion between the roles of MSG members, alternates and observers, with little distinction being made between them in MSG meetings. More recently, decisions on what parliamentarians to include in the MSG and what additional government agencies to bring on board appear to have been made by the MSG itself inviting individuals to observe MSG meetings and then having their membership formally institutionalised by the government constituency. In some ways this has at times led to a process that has prized inclusiveness and negotiation within constituencies over formal selection procedures. In recent refreshment exercises, the absence of open and representative elections has led to some groups from civil society being left out of the EITI process. Frequent turnover in the government constituency, with MSG members being represented by proxies, has been a constant challenge throughout.

A particular challenge in the case of Afghanistan is the concentration of decision-making power outside of the line ministries. An important number of stakeholders, including in the government, emphasised the need for effective leadership of the EITI process in order to become a platform for reform and requested strong recommendations that would empower the Ministry of Mines and Petroleum to regain its role in the management of the sector.

Key features of the extractive industry

While extractive industries accounted for only 0.7% of government revenues and 1.1% of merchandise

exports in Afghanistan in 2015⁶, there is significant untapped potential for growth in the mining sector in particular.⁷ The country holds significant reserves of iron ore, copper, gold, marble, rare-earth minerals, various construction materials and gemstones, with the value of reserves estimates ranging from USD 1tn according to the USGS to USD 3tn according to Afghanistan's Ministry of Mines and Petroleum (MOMP).⁸ The government estimates that Afghanistan holds deposits of some 2.2bn metric tons of iron ore, 1.3bn metric tons of marble, roughly 30m metric tons of copper, 1.4m metric tons of rare earths minerals and 2,700kg of gold.⁹ A total of 1,400 mineral deposits have been identified nationwide.¹⁰ Minerals are clustered in three main areas. The first belt, running from south-western Herat to north-eastern Badakhshan, contains deposits of iron-ore, gold, copper, barite, coal and gemstones. The second belt, through the southern Helmand, Kandahar, Zabol and Ghazni provinces, contains reserves of copper, gold, molybdenum, zinc, lead, and chromite. Finally, the area around Kabul contains reserves of copper, including the world-class Aynak copper deposit.¹¹

Afghanistan has long history of artisanal and small-scale mining (ASM), particularly of gemstones and semi-precious stones like lapis lazuli.¹² A GiZ study on ASM published in 2016 estimated that some 50,000 miners were directly involved in ASM and 200k-450k workers were involved in upstream and downstream ASM-related activities, roughly 3%-6% of Afghanistan's labour force.¹³ With a majority of such ASM in areas outside the central government's control, credible independent analysts have estimated that informal mining provides some USD 200m-USD 300m in annual revenues to the Taliban.¹⁴ The government projects that the mining sector could account for 45%-50% of GDP by 2024,¹⁵ generating some USD 2bn in government revenues per annum.¹⁶ At present, however, the sector is far smaller, generating only around USD 32.5m in government revenues and USD 135m in economic activity in 2015.¹⁷ Authorities estimate that roughly USD 300m in government revenues are lost annually due to illicit mining.¹⁸ The government has received extensive support from development partners in extractive industry reforms, although ongoing security concerns have hampered progress.¹⁹

⁶ World Bank Open Data website, accessed [here](#) in January 2018.

⁷ Geophysical and hyperspectral surveys have been conducted on roughly 75% of Afghanistan's territory, following work by the Soviet Geological Mission in the 1970s and 1980s and, since 2001, by the US Geological Survey (USGS) and the British Geological Survey. Ministry of Mines and Petroleum (2012), '10 Reasons To Invest In Afghanistan's Mining Sector', accessed [here](#) in January 2018.

⁸ Erica Downs (2012), 'China buys into Afghanistan', in SAIS Review vol. XXXII no.2 (Summer-Fall 2012), John Hopkins University Press, accessed [here](#) in January 2018. And United States Institute of Peace (January 2015), 'Afghanistan's Emerging Mining Oligarchy', accessed [here](#) in January 2018.

⁹ Ministry of Mines and Petroleum (2012), '10 Reasons To Invest In Afghanistan's Mining Sector', accessed [here](#) in January 2018.

¹⁰ Heinrich Böll Stiftung Afghanistan (2016), 'Mining in Afghanistan', accessed [here](#) in January 2018.

¹¹ Ministry of Mines and Petroleum (2012), '10 Reasons To Invest In Afghanistan's Mining Sector', accessed [here](#) in January 2018.

¹² Global Witness (June 2016), 'Afghanistan's famous lapis mines funding the Taliban and armed groups, new investigation shows', accessed [here](#) in January 2018.

¹³ GiZ (December 2016), 'Artisanal and Small-scale mining in Afghanistan: background and context', in Afghanistan EITI (December 2016), '1391 and 1392 (2012-2013) EITI Inception report and Fourth reconciliation report - appendices', accessed [here](#) in January 2018, p.230.

¹⁴ United States Institute of Peace (July 2017), 'Illegal Mining in Afghanistan: A Driver of Conflict', accessed [here](#) in January 2018. And Norwegian Institute of International Affairs (December 2017), 'Afghanistan: A Political Economy Analysis', accessed [here](#) in January 2018.

¹⁵ Heinrich Böll Stiftung Afghanistan (2016), op.cit..

¹⁶ Special Inspector General for Afghanistan Reconstruction (April 2015), 'Afghanistan's Mineral, Oil, and Gas Industries: Unless U.S. Agencies Act Soon to Sustain Investments Made, \$488 Million in Funding is at Risk', accessed [here](#) in January 2018. And Global Witness (May 2016), 'War in the Treasury of the People', accessed [here](#) in January 2018.

¹⁷ Afghanistan EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015)', accessed [here](#) in December 2017, p.36.

¹⁸ Afghanistan EITI (December 2016), 'AEITI 2016 annual activity report', accessed [here](#) in January 2018, p.10.

¹⁹ SIGAR (January 2016), op.cit., p.1.

Supported by the World Bank, the government initially prioritised larger industrial-mining projects over formalising artisanal and small-scale mining. In 2007, a consortium of China Metallurgical Corp. (MCC) and Jiangxi Copper Corp. (JCCL) agreed to the largest single foreign investment in Afghanistan's history, valued at USD 2.9bn, to develop the world's second-largest copper deposit at Aynak in Logar Province, 35km southeast of Kabul.²⁰ Aynak holds an estimated 450m metric tons of copper ore worth over USD 50bn.²¹ In 2012, the government also licensed the Hajigak iron-ore deposit, one of Asia's largest undeveloped iron-ore reserves 130km west of Kabul with an estimated 1.8bn metric tons of recoverable iron-ore.²² The project was awarded to a consortium of Indian companies led by the Steel Authority of India and Canada-based Kilo Goldmines.²³ The estimated USD 10.8bn project includes plans for a 900km railway connection from the Hajigak region to the Iranian port of Chabahar.²⁴ At the time, the government expected the two projects of Aynak and Hajigak to generate some 90,000 direct and indirect jobs and roughly USD 500m in annual fiscal revenues by 2020.²⁵ Neither project is currently operational. President Ghani's government discontinued the policy of prioritising large-scale projects and there was a *de facto* licensing freeze in the period 2015-2017.

Afghanistan holds reserves estimated at 3.4bn barrels of crude oil, 440bn cubic meters of natural gas and 562m barrels of natural gas²⁶ spread over 29 fields (in the Afghan-Tajik, Amu Darya and Tirpul basins).²⁷ While oil and gas deposits were first identified in 1959, only a small share have been developed to date. In 2011, China National Petroleum Corp. (CNPC) and its local partner Watan Oil & Gas secured rights to three oil and gas blocks in the provinces of Sar-e Pul and Faryab²⁸, including to the Amu Darya oil basin that started producing in June 2012.²⁹ The consortium produced 372k barrels of oil from the Amu-Darya oilfield in 2014 and 268k barrels in 2015³⁰, far short of the government's target of 40k barrels per day due to budgeting disputes between the companies.³¹ Two refineries were established by private investors in 2013 in northern Hairatan to handle Amu-Darya crude.³² While the Afghan Gas Enterprise produces natural gas from four gas fields in the country's north, the quantities produced remain limited³³ and supplied to a domestic fertiliser company and power plant.³⁴

Explanation of the Validation process

Validation is an essential feature of the EITI implementation process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with

²⁰ The Diplomat (January 2017), 'The Story Behind China's Long-Stalled Mine in Afghanistan', accessed [here](#) in January 2018.

²¹ United States Institute for Peace (September 2017), 'Reviving Commercial Development of Afghanistan's Aynak Copper Resource', accessed [here](#) in January 2018, p.2. and Erica Downs (2012), op.cit.

²² Ministry of Mines and Petroleum (2014), 'Minerals in Afghanistan', accessed [here](#) in January 2018.

²³ Samuel Hall (January 2013), 'Natural Resources: What Strategy for Afghanistan?', accessed [here](#) in January 2018, pp.4-5.

²⁴ World Trade Organisation (2017), 'Chabahr port - a New transit gateway for Afghanistan', accessed [here](#) in January 2018.

²⁵ Heinrich Böll Stiftung Afghanistan (2016), op.cit.

²⁶ Samuel Hall (January 2013), op.cit., p.4.

²⁷ Heinrich Böll Stiftung Afghanistan (2016), op.cit.

²⁸ Erica Downs (2012), op.cit..

²⁹ SIGAR (January 2016), op.cit., p.1.

³⁰ EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015)', accessed [here](#) in December 2017, pp.38-39.

³¹ US Geological Survey (August 2017), '2014 Minerals Yearbook, Afghanistan', accessed [here](#) in January 2018, p.6.

³² Ibid.

³³ a combined 576,000 cu m of gas a day.

³⁴ EITI (29 April 2017), 2014-15 EITI Report, op.cit., p.52.

the provisions of the EITI Standard. It also addresses the impact of the EITI, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI.

The Validation process is outlined in chapter 4 of the EITI Standard³⁵. It has four phases:

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

The [Validation Guide](#) provides detailed guidance on assessing EITI Requirements, and more detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator.

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

In accordance with the Validation procedures, the International Secretariat’s work on the initial data collection and stakeholder consultation was conducted in three phases:

1. Desk Review

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

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

In accordance with the Validation procedures, the Secretariat has not taken into account actions undertaken after the commencement of Validation.

2. Country visit

A country visit took place on 19-24 January 2018. All meetings took place in Kabul. Despite important

³⁵ See also <https://eiti.org/validation>.

security constraints, the secretariat spoke with and/or met with the multi-stakeholder group and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group. In addition to meeting with the MSG as a group, the Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders were able to freely express their views and that requests for confidentiality were respected. The list of stakeholders consulted is outlined in Annex D.

3. Reporting on progress against requirements

This report provides the International Secretariat initial assessment of progress against requirements in accordance with the Validation Guide. It does not include an overall assessment of compliance.

The International Secretariat's team comprised: Pablo Valverde, Alex Gordy, Eddie Rich and Sam Bartlett. Pablo Valverde and Alex Gordy conducted stakeholder consultation and prepared the draft initial assessment. Eddie Rich and Sam Bartlett provided quality assurance.

Part I – MSG Oversight

1. Oversight of the EITI process

1.1 Overview

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

1.2 Assessment

Government engagement in the EITI process (#1.1)

Documentation of progress

Public statement: The Government of the Islamic Republic of Afghanistan (GOIRA) first committed to implement the EITI on 16 March 2009, when former Minister of Finance Dr. Omar Zakhilwal wrote to the Chair of the EITI Board, the World Bank and the IMF confirming the Government’s decision to join the EITI.³⁶ The GOIRA reiterated its commitment at all the major donor conferences on Afghanistan including Tokyo (2012),³⁷ London (2014)³⁸ and Brussels (2016), where the EITI has consistently been part of the “Self-reliance through mutual accountability framework” agreed-to between the donors and the GOIRA.³⁹ There have also been regular high-level public statements including personal commitments delivered by President Ashraf Ghani to the EITI Chair and the EITI Head and Deputy Head,⁴⁰ inclusion in policy documents prepared by the Ministry of Mines and Petroleum⁴¹ and most recently in a letter to the Chair of the EITI International Board (see next section, “Senior lead”).

Senior lead: In a letter dated 28 February 2017, President Ghani informed the EITI Board of the appointment of the (at the time un-appointed) Acting Minister of Mines and Petroleum to lead on implementation. Nargis Nehan was subsequently appointed Acting Minister of Mines and Petroleum on 1 April 2017. The MSG ToR state that “the Executive Chair [of the MSG] is the designated EITI Champion (Minister of Finance) and Co-Chair is the minister of Mines and Petroleum”, reflecting the situation when Dr. Zakhilwal was the designated “EITI Champion” until his replacement as Minister of Finance on 1 February 2015 (see Requirement 1.4). AEITI did not have a formally appointed government lead in the

³⁶ Hart Group (2013), Final report on Validation of the implementation of the EITI Afghanistan -

https://eiti.org/sites/default/files/documents/2013_afghanistan_validation_report.pdf, accessed on 12 April 2018, p. 21.

³⁷ Ministry of Finance (July 2013), ‘Senior officials Meeting Joint Report’, http://mof.gov.af/Content/files/TMAF_SOM_Report_Final_English.pdf.

³⁸ Permanent Mission of Afghanistan to the UN in New York (January 2010), accessed on ‘Afghan Leadership, Regional Cooperation, International Partnership’ <http://afghanistan-un.org/2010/01/afghan-leadership-regional-cooperation-international-partnership/> in April 2018.

³⁹ Afghanistan EITI (October 2016), ‘Self-reliance through mutual accountability framework’, accessed on

<http://aeiti.af/Content/Media/Documents/Agreed-Smaf-Smart-Deliverables-Final-v211120165242941553325325.pdf> in April 2018.

⁴⁰ See <https://eiti.org/news/afghan-president-sets-out-his-mining-agenda>, <https://eiti.org/news/president-ghani-puts-mining-reform-at-heart-of-governments-anticorruption-efforts> and <https://eiti.org/news/second-wind-for-afghanistans-mining-sector>.

⁴¹ Transparency is one of the pillars of the roadmap that is currently being drafted by the Ministry of Mines and Petroleum, where “compliance with the EITI Standards” plays a prominent role.

period between 1 February 2015 and 1 April 2017.

Active engagement: The MSG's ToR reserve six seats for representatives of government institutions and agencies, of which one should be a member of parliament. This does not include the AEITI Chair and co-Chair, which according to the ToR should be the Minister of Finance and Minister of Mines and Petroleum respectively. According to the ToR, government representatives "shall be high-ranking officials and from the relevant Directorate, Directorate Generals and, if need be, the relevant Deputy Ministers". According to the list of MSG members on the AEITI website, the current composition of the government constituency (not counting the Chair or Co-Chair) includes one parliamentarian (with no alternate), two representatives from the MOMP (with respective alternates), two from the MOF (with respective alternates) and one from the Ministry of Industry and Commerce (with no alternate).⁴² This list differs from the list of government representatives in the 2017 Annual progress report (see *Requirement 1.4*).⁴³ Analysis of MSG meeting attendance (see Annex B) shows that government attendance at meetings varies. Whereas the MOMP Director of Policy and the MOTCI representative have participated regularly, only 1 more of the 15 government representatives mentioned in the minutes of meetings held in 2017 are also on the list of MSG members on AEITI's website, suggesting that most government MSG members send proxies to represent them. Meeting minutes show that government representatives nevertheless participate actively in meetings of the MSG and of the technical working group, while the 2017 annual progress report indicates that government representatives also participate in dissemination and outreach activities.⁴⁴ Democracy International's 2017 AEITI Institutional Assessment noted that, in connection with EITI reporting, "some government officials were described [by stakeholders consulted] as 'resistant', 'uninterested', 'hostile' and 'uncooperative'." (p.16). Notwithstanding this purported reticence to engage on reporting, the 2014-2015 EITI Report (p.17) confirms full government reporting (see *Requirement 4.1*). Democracy International's assessment also noted that the government was required to contribute to the AEITI national budget but had not made any contributions in the period 2016-2018 (p.17). The Mineral Law of 2014 includes provisions requiring license-holders to participate in EITI reporting (see *Requirement 1.2*). Implementation of the EITI regularly forms part of government policy documents, including MOMP white papers and government commitments through the mutual accountability framework (MAC), which often include specific EITI recommendations (see *Requirement 7.3*).⁴⁵

Stakeholder views

Senior government officials expressed strong support for EITI implementation and went to exceptional lengths to speak with the International Secretariat during the stakeholder consultations despite the difficult security situation. Stakeholders from all constituencies noted that the inclusion of an EITI-specific clause in the 2014 Mineral Law reflects the government's commitment to the EITI. Development partners noted that the regular inclusion of EITI-specific conditionalities as part of the Mutual Accountability Framework helped keep pressure on the government. One development partner noted that the nomination of the Minister of Mines and Petroleum to lead on EITI implementation in 2017 was a direct result of one such conditionality. Several CSOs considered that delays in EITI reporting were a reflection of

⁴² Afghanistan EITI, Government Sector, website accessed on <http://www.aeiti.af/en/page/govt-sector> in December 2017.

⁴³ According to the 2017 Annual Progress Report (APR), there are seven government representatives on the MSG as full members and five alternates, not counting the Chair or co-Chair.

⁴⁴ AEITI (2017), Annual Progress Reports, website accessed on <http://aeiti.af/en/documents/category/annual-progress-reports> in December 2017

⁴⁵ See for example [Afghanistan's Road to Self-Reliance progress reports](#) and the MOMP's Roadmap for Reform of the Extractive Industries in Afghanistan, scheduled for publication in March 2018 (a final draft is available with the International Secretariat).

inadequate government EITI engagement at the operational level (*see Requirement 4.8*). A CSO representative who used to sit on the MSG said that there was a lack of coordination between government bodies represented in the MSG. Senior government representatives agreed that there were institutional challenges concerning which ministry should lead on EITI implementation, which at times hampered intra-government operational coordination. The MSG's May 2017 self-assessment noted that there had been important improvements in government engagement at the operational level from MOMP and MOF but noted that the absence of a senior lead for almost two years had meant that there had been no real leadership of the process for a sustained period of time. Stakeholders confirmed that the absence of an EITI Champion between Dr. Zakhilwal's time as Minister of Finance and Minister Nehan's appointment in 2017 had meant that MSG meetings had at times been chaired by Deputy Ministers at the MOF and MOMP, depending on who was available at the time.

Stakeholders from all constituencies noted that a key challenge to meaningful government leadership of the EITI process was that the MOMP was regularly circumvented by the Senior Economic Council (SEC) and presidential advisors. With counted exceptions, they also said that the MOMP was purposely maintained as weak because the sector generates revenues for the government with limited oversight, which some CSO representatives argued could be exploited for political purposes. Senior government officials expressed frustration about the effect that this was having on the ministry's ability to use the EITI as a platform for reforms and to manage the sector more broadly. A former civil society MSG member said that there was little awareness among higher echelons of the government about the EITI's work and that some government representatives were suspicious of its work. A government official confirmed that there had been initial suspicions as the EITI was seen as an attempt by foreigners to get information on the sector, but that this perception had changed over time. Development partners noted that the SEC's January 2018 Mining Roadmap did not include any references to transparency or to the EITI, whereas the MOMP's Roadmap for Reform of the Extractive Industries in Afghanistan, which was being finalised at the beginning of Validation, included this as one of its four core pillars. Government officials explained that the MOMP's roadmap would serve as the framework through which the SEC's roadmap would be implemented, and consequently the focus on transparency and on the EITI would be maintained. Secretariat staff confirmed that the GOIA would begin to contribute to funding implementation in 2018.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made meaningful progress in meeting this requirement. The International Secretariat assessment is that the government was not been fully, actively engaged in the EITI process between 2015 and 2017, and notes concerns from various stakeholders that the more recent engagement might not be sustained in the long-term. However, Afghanistan nominated the Minister of Mines and Petroleum to lead the EITI process in 2017 after a two-year gap and has made regular statements of support over time. The government participates in MSG meetings, although frequent changes in representatives are a problem. The commitment reflected in the months leading to Validation coupled with strong commitment expressed at the highest levels are signs that the government has renewed its commitment to the EITI. The extent to which the government sustains this commitment to use the EITI as an instrument to drive reforms will be key to the prospects of EITI implementation.

In accordance with Requirement 1.1, Afghanistan should ensure that a senior individual that has the confidence of all stakeholders, authority to coordinate action and mobilise resources provides consistent

government leadership of the EITI. Afghanistan should also ensure that engagement is consistent across government departments. In accordance with requirement 8.3.c.i, the government constituency is requested to develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment within three months of the Board’s decision. To strengthen implementation, Afghanistan is encouraged to ensure that government representatives on the MSG attend meetings regularly. Institutional disagreements over leadership of the EITI process should be addressed to ensure that the government is able to improve implementation at the operational level and use the EITI as a platform for reform. Given the importance of the Mutual Accountability Framework in the Afghan context, the government and development partners are encouraged to identify targets that will help Afghanistan address challenges to the sector through the EITI rather than continuing to focus on compliance.

Industry engagement in the EITI process (#1.2)

Documentation of progress

Active engagement: There is ample evidence that industry engages actively in the EITI process and in the MSG. The MSG’s ToR establish that six seats in the MSG should be allocated to the “extractive sector”. The ToR also include fifteen “responsibilities” that industry representatives are expected to carry out in order to help the MSG achieve its strategic objectives.⁴⁶ Analysis of MSG meeting attendance and minutes (see Annex B) shows that industry participation is among the most consistent. Minutes also show that industry representatives serve actively on the MSG’s technical working group. The industry constituency last refreshed its representatives on the MSG on 8 February 2017 (see Requirement 1.4) and includes representatives from private companies and from the Afghanistan Chamber of Commerce and Industries, but not from SOEs. There is no evidence of coordination within the industry representatives on the MSG and their broader constituency. Of the 28 material companies in the 2014-15 EITI report, eight did not report (see Requirement 4.1). There is evidence that low capacity hampers industry participation in reporting.⁴⁷ The MSG’s ToR require that companies represented on the MSG publish public statements of support for the EITI in English and local languages. Statements were published by companies in 2014 but there is no record that new statements were published after industry selected its new representatives in February 2017.⁴⁸ All available public statements include at a minimum the company’s commitment to AEITI disclosure requirements and an affirmation of the importance of the process for the development of the sector in Afghanistan.

Enabling environment: The MSG’s ToR include an expectation of government representatives on the MSG to “conduct [an] assessment of obstacles in the regulatory framework relevant to the implementation of

⁴⁶ These include but are not limited to disclosing information upon request by the IA and with the data assurance process agreed by the MSG, raising awareness of AEITI information to stakeholders in their constituency, participating actively in the MSG and its working groups, following through on recommendations from implementation and informing the MSG of progress, and implementing internationally accounting standards in their operations. AEITI ToR, (p.5).

⁴⁷ Democracy International’s 2017 AEITI Institutional Review noted that companies struggle with significant challenges in record-keeping, accounting, auditing and reporting, which significantly constraints their ability to participate in the EITI process (p.12).

⁴⁸ Public statements of support were published on newspapers and are on file at the AEITI national secretariat including MCC-JCL Aynak Minerals Company Ltd (on 23 October 2014), CNPCIW (on 25 October 2014), Meesaq Sharq Company (undated), Hewad Waal Constructions Company and the Korea-Afghanistan Company (undated).

the EITI, and propose or enact legal/regulatory amendments to bring about more transparency”. Government MSG representatives are furthermore encouraged to “introduce/amend legislation and/or regulations making it mandatory that companies accept AEITI standards and reporting criteria.” Article 100 of the 2014 Minerals Law introduces mandatory EITI reporting requirements for all license-holders, contractors and relevant government agencies.⁴⁹ Before the inclusion of this article in the law, an MoU was signed in October 2012 between the MOF and industry representatives to facilitate disclosures.⁵⁰ There do not appear to be confidentiality provisions in the tax code that limit the publication of information.

Stakeholder views

Industry representatives expressed strong support for the EITI but lamented that lack of government leadership meant that it was not reaching its potential as a tool for reform. Industry representatives on the MSG said that they had sent numerous proposals to the MOMP to support the formalisation of the sector but that they did not expect these to lead to change because the MOMP did not wield any real authority.

Stakeholders from all constituencies expressed satisfaction with companies’ engagement with the process, although some civil society representatives expressed regret that weak incentives to participate meant that some companies did not take reporting seriously and only filled in templates in a pro forma manner. This was also reflected in the MSG’s May 2017 self-assessment, which expressed satisfaction with industry representation but noted that most companies did not participate in the MSG selection process or actively sought to avoid engagement with the EITI due to the misperception that participating companies may receive additional scrutiny from government. Stakeholders from all constituencies concurred that there were no legal or administrative obstacles to company participation.

Initial assessment

The International Secretariat’s initial assessment is that Afghanistan has made satisfactory progress in meeting this requirement. Company representatives are fully, actively and effectively engaged in the EITI process. There is an enabling environment for company participation and the fundamental rights of company representatives substantially engaged in the EITI are respected. There are no obstacles to company participation in the EITI process.

To strengthen implementation, the industry constituency is encouraged to carry out additional outreach activities to its members to avoid misperceptions that may hamper their participation in the EITI.

⁴⁹ The aforementioned AEITI Institutional review noted that articles 31, 93 and 110 of the Mining Regulations and article 54 of the 2014 Hydrocarbons Regulations mean that “companies may be penalised if they do not comply with AEITI, but no such action has ever been taken” (p.12).

⁵⁰ The memorandum is not available, see Hart Resources (2013), p.26.

Civil society engagement in the EITI process (#1.3)

Documentation of progress

Encouraging the development of a propitious environment for civil society to develop is an explicit goal of the GOIA.⁵¹ CSOs engage actively in all sectors, including the extractive industries. Since the fall of the Taliban government, development partners have considered the development of civil society as the way to ensure long-term stability and democratic rule,⁵² leading to a proliferation of roadmaps⁵³ and programmes to help the sector develop, including within the extractive industries.⁵⁴ As should be expected following decades of Taliban-imposed ostracization, important challenges remain, the most significant of which being the insecurity prevailing throughout much of the country (see annex E). Other important systemic challenges include widespread illiteracy,⁵⁵ an institutionalised conservative tradition that sometimes paints political activism as promotion of moral corruption⁵⁶ and generalised low capacity, especially outside of the capital Kabul.

Expression: Other than the generalised situation of insecurity, there is little evidence to suggest constraints on an enabling legal framework for civil society organisations and companies to participate in EITI. As could be expected, the security situation limits stakeholders' ability to speak freely and there is some degree of self-censorship, also on EITI-related issues. This would seem to be due to fear of retaliation from individuals and reflects the government's lack of control over much of the country rather than government policy.

Freedom of the press and of expression are enshrined in Article 34 of the constitution, and the Mass Media Law prohibits censorship although the council of religious scholars (the Ulema Council) maintains "considerable influence over media affairs".⁵⁷ Defamation is criminalised in chapter 12 of the Afghanistan Penal Code, which prescribes jail sentences and fines for defamation.⁵⁸ Afghanistan passed an Access to Information Law (AIL) which came into effect in December 2014 that applies to governmental institutions and non-governmental entities such as CSO and political parties.⁵⁹ According to the US Department of

⁵¹ Office of the President (October 2014), 'President Ghani: State-Building Is Impossible Without Civil Society' accessed on <https://president.gov.af/en/news/president-ghani-state-building-is-impossible-without-civil-society/> in April 2018.

⁵² See for example <http://foreignpolicy.com/2012/08/16/can-civil-society-save-afghanistan/> or http://www.afghanistan.no/English/Our_Work/Civil_society/Civil_society_contributes_to_development/index.html.

⁵³ Afghanistan has one of the highest illiteracy rates in the world, currently estimated at 69% for men and women above 15 years of age. For women in two provinces the illiteracy rate is estimated at 98.4%. See https://eeas.europa.eu/delegations/afghanistan/24791/eu-country-road-map-engagement-civil-society-afghanistan-2015-2017_en.

⁵⁴ United States Institute of Peace (2011), 'The Role of Civil Society in Monitoring Afghanistan's Extractive Industries' accessed on <https://www.usip.org/publications/2011/11/role-civil-society-monitoring-afghanistans-extractive-industries> in April 2018.

⁵⁵ UNESCO (no date), 'Enhancement of literacy in Afghanistan', accessed on <http://www.unesco.org/new/en/kabul/education/enhancement-of-literacy-in-afghanistan-ela-program/> in January 2018 (page is down 21.04.18).

⁵⁶ Zafar Shayan (April 2017) 'Challenges facing civil society in Afghanistan', accessed on <http://politicalcritique.org/world/2017/civil-society-afghanistan/> in April 2018.

⁵⁷ US Department of State (2017), 'Country reports on human rights practices for 2017', accessed on <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> in April 2018.

⁵⁸ Defamation is defined as "the attribution of a certain incidence to someone else by one of the "public"... such that if it were true, the accused would have been punished or degraded in the eyes of the people". See https://www.unodc.org/res/cld/document/penal-code-amended_html/PENAL_CODE_with_Amendments.pdf.

⁵⁹ For an early review and explanation of the AIL by a CSO, see <https://iwaweb.org/wp-content/uploads/2016/05/ATI-report-English-for-screen.pdf>.

State's 2016 Human Rights Review, the law "had not yet been fully implemented".

Freedom House international ranks Afghanistan as "partly free" in 2017, noting an improvement from 2016 "due to legal changes including the creation of a mechanism to adjudicate complaints about the media without resorting to prosecution and decrees to improve protections for journalists and access to information". Freedom House also notes "long-term growth in the diversity of private media in Afghanistan, though the deteriorating security environment further restricted journalists' ability to operate safely throughout the country".⁶⁰ The US State Department's Human Rights Country Report in 2015 noted that "while the law provides for freedom of speech, which was widely exercised, there were reports that authorities at times used pressure, regulations, and threats to silence critics. Freedom of speech was also considerably more constrained at the provincial level, where local power brokers, such as former mujahedin-era military leaders, exerted significant influence and authority to intimidate or threaten their critics, both private citizens and journalists."⁶¹

The deteriorating security situation poses particular restrictions on freedom of expression. At least thirteen journalists were killed in 2016, ten of them by a resurgent Taliban.⁶² During the first half of 2017 the Afghan Journalists Safety Committee (AJSC) noted the highest record of incidents of murder, assault, intimidation, abuse and other physical attacks in a six-month period.⁶³ According to the AJSC, government affiliated individuals or the security forces were responsible for almost half of these after journalists revealed illegal activities carried out by them. Terrorist groups account for all deaths and bodily harm to journalists registered during the period, while members of parliament, warlords and other individuals are blamed for cases of threats and intimidation against journalists.

Notwithstanding the generalised situation of insecurity, the last decade and a half have witnessed an explosion of media outlets including more than 170 radio stations, more than thirty tv channels broadcasting from Kabul alone and hundreds of newspapers around the country.⁶⁴ The government created the Mass Media Commission in January 2016 "to support freedom of speech and the rights of journalists",⁶⁵ and a number of decrees were passed in 2016 aimed at bolstering protection for media freedoms including the investigation of unsolved cases of violence against journalists, however according to Freedom house implementation continues to be inadequate.⁶⁶ According to a 2015 survey covering 335 news reporters in 25 provinces conducted by Nai, an Afghan organisation which works to empower independent media and promote freedom of expression in the country, government censorship focuses

⁶⁰ Freedom House (2017) 'Afghanistan profile', accessed on <https://freedomhouse.org/report/freedom-press/2017/afghanistan> in April 2018.

⁶¹ US Department of State (2015), 'Country reports on Human rights practices for 2015 – Afghanistan' accessed on <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252957> in April 2018.

⁶² Shalizi, Hamid and Smith, Josh (2017), 'Afghan journalists face more threats as violence spreads', accessed on <https://www.reuters.com/article/us-afghanistan-journalists/afghan-journalists-face-more-threats-as-violence-spreads-idUSKBN153117> in April 2018.

⁶³ The AJSC registered 10 cases of killings, 12 cases of injury, 19 cases of beatings, 18 cases of humiliation and mistreatment, 5 cases of detention, 6 cases of intimidation, and 3 cases of humiliating expulsions of journalists from their stations in the period January-June 2017. <http://ajsc.af/six-month-report-ian-june-2017-afghanistan-a-dangerous-country-for-journalists-and-media/>.

⁶⁴ See <http://www.bbc.com/news/world-south-asia-12013942> for hyperlinks to the most important ones.

⁶⁵ Ministry of Information and Culture (2016), 'Mass media commission established to support freedom of expression', accessed on <http://moic.gov.af/en/news/57147> in December 2017.

⁶⁶ Freedom House (January 2017), 'Afghanistan - status change', accessed on <https://www.justice.gov/eoir/page/file/1023176/download> in January 2018.

on issues concerning the military, politicians and the judicial system with 40% of respondents saying that they exerted significant levels of self-censorship on issues concerning crimes, suicide attacks, the military and narcotics trafficking specifically.⁶⁷

Operation: Afghanistan has a hybrid legal system, based on both civil and Shariah law. Frequent legal changes since 2002 have had important consequences for CSOs, and a number of legislative initiatives are pending which should also affect the sector's operation.⁶⁸ Afghanistan's laws distinguish between non-governmental organisations – governed by the 2005 Law on Non-Governmental Organizations (NGO Law)⁶⁹ – and associations, which are currently regulated by the 2013 Law on Associations (Association Law) and the 2014 Regulations on Procedure of Establishment and Registration of Associations. Domestic NGOs are defined as “a domestic non-governmental organisation which is established to pursue specific objectives” (article 5(2) of the NGO Law). Associations are defined as “communities, unions, councils, assemblies and organizations which are voluntarily established by a group of real or legal persons as non-profit, non-political entities (article 2(1) of the Association Law). Non-governmental organisations are registered at the Ministry of Economy, which lists 1,912 Afghan NGOs and 179 international NGOs on its website.⁷⁰ Associations are registered at the Ministry of Justice (MOJ), which lists 2,052 associations on its website.⁷¹ According to the International Center for not-for-profit law (ICNL), there are no legal barriers to international contact or access to resources.⁷² Domestic NGOs have to undergo a two-tiered registration process through the Ministry of Economy Technical Commission and the High Evaluation Commission, while foreign NGOs have to register through the Ministry of Foreign Affairs and the Ministry of Finance. Foreign citizens are prohibited from serving as founders of associations. NGOs are required to submit “committed project documents” to the Ministry of Finance for approval prior to starting work and both NGOs and Associations have restrictions against participation in political activities. The ICNL concludes that the Law on NGOs “generally creates an enabling framework for the formation of NGOs”. The Mass Media Commission is responsible for registering all media outlets in Afghanistan but according to the US Department registration procedures are on hold due to the absence of registration regulations.⁷³

There is no evidence of legal, regulatory or administrative obstacles affecting the ability of civil society representatives to participate in the EITI process. International development partners regularly work through civil society organisations and organisations such as IWA or ENMRN are regularly funded through grants from international partners, also for their EITI-related work.⁷⁴ All organisations that form part of

⁶⁷ Afghanistan Times (2015), ‘Media censorship increased in Afghanistan: Nai’, accessed on <http://afghanistantimes.af/media-censorship-increased-in-afghanistan-nai/> in April 2018.

⁶⁸ These include proposed changes to the NGO law, a draft law on foundations, amendments to the tax code affecting tax-exempt organisations, and draft regulations on volunteerism being prepared by the Ministry of Labor.

⁶⁹ Available online: <http://ngo.gov.af/415/ngos-law>.

⁷⁰ http://ngo.gov.af/ngo_list/english/list_int.php. Registration information, including procedures are available on the Ministry of Economy's Directorate of NGOs' website, <http://ngo.gov.af/english#>.

⁷¹ http://moj.gov.af/Content/files/jamiats_3053.pdf. The [International Center for Not-for-Profit Law](http://www.icnl.org) states that as of 28 December 2017 there were 2,700 associations registered in the Ministry of Justice website.

⁷² International Center for non-for-profit Law (2018), ‘Civic Freedom Monitor: Afghanistan’, accessed on <http://www.icnl.org/research/monitor/afghanistan.html> in April 2018.

⁷³ Op cit.

⁷⁴ For example, MSG member organization IWA has received funding in the past from NRGi (<http://archive.resourcegovernance.org/news/integrity-watch-afghanistan-launch-citizen-driven-monitoring-database>), USAID (<https://www.usaid.gov/sites/default/files/documents/1871/IWA%20306-F-12-00003.pdf>) and the Norwegian Embassy in Kabul (<https://brage.bibsys.no/xmlui/bitstream/handle/11250/2475150/Review%20of%20Norwegian%20development%20assistance%20to%20Afghani>

the CSO constituency and are engaged in EITI appear duly registered, without any evidence of challenges in registration.

Association: There is no evidence to suggest that there are restrictions or limitations on CSO in terms of their ability to associate, communicate and cooperate with other national or international CSO organisations. Integrity Watch Afghanistan (IWA) regularly publishes reports and policy briefs in direct cooperation with Global Witness (GW).⁷⁵ There are numerous other organisations that work directly with international organisations specifically in the mining sector, including The Liaison Office (LTO)⁷⁶ the Civil Society Natural Resources Monitoring Network (CSNRMN), as well as international organisations working directly in the sector such as the Heinrich Boll Stiftung.⁷⁷ Civil society organisations regularly work in partnership with other local organisations, often through umbrella organisations such as the Environment and Natural Resources Monitoring Network (NRMN), the Afghanistan Anti-Corruption Network (AACN) or the Agency Coordinating Body for Afghan Relief and Development (ACBAR).⁷⁸ On 2 November 2017 the GOIA banned WhatsApp and Telegram on the grounds that the two apps are often used by terrorist organisations to evade government surveillance, but widespread backlash from civil rights groups led to the ban being overturned four days later.⁷⁹

Engagement: Civil society is actively involved in the design, implementation, monitoring and evaluation of the EITI through its participation in MSG meetings, dissemination events and campaign efforts. CSOs publish reports on the government's progress on implementation including shadow Validation reports,⁸⁰ comments to EITI reports⁸¹ and public input to EITI Validation.⁸² Civil society participates in dissemination events and there is substantial evidence of CSOs using EITI reports in their advocacy efforts for the sector through news articles and public events.⁸³

Access to public decision-making: Civil society has the ability to ensure that the EITI process contributes to public debate and to influence public decision making. There are numerous examples of CSOs participating in high-level policy discussions on the development of the sector.⁸⁴ CSOs regularly publish

[stan%202011%E2%80%932014?sequence=1](#).

⁷⁵ See for example <https://www.globalwitness.org/en/press-releases/integrity-watch-afghanistan-and-global-witness-parliaments-rejection-acting-minister-mines-prolongs-theft-afghanistans-natural-resources/>, <https://iwaweb.org/mining-watch-afghanistan-weak-management-and-leadership-of-the-extractive-industry-leadership-in-afghanistan-causes-corruption-in-the-sector/> and <https://iwaweb.org/wp-content/uploads/2015/09/Policy-Brief-Extractives-for-sustainable-development-in-Afghanistan.pdf>.

⁷⁶ The Liaison Office, (no date) 'Home', accessed on <http://www.tloafghanistan.org/> in April 2018.

⁷⁷ Heinrich Boll Stiftung (no date), 'Home', accessed on <http://www.af.boell.org/>. Site is down per 21.04.18.

⁷⁸ ACBAR is an umbrella organization for 142 national and international organisations operating in Afghanistan. Some of its members, including the Human Rights Research and Advocacy Consortium (HRRAC) have participated actively in the EITI process in the past.

⁷⁹ Ni, Daisy (2017), 'Threats to freedom of expression in Afghanistan', accessed on <https://5clpp.com/2017/11/08/threats-to-freedom-of-expression-in-afghanistan/> in April 2017: The Claremont Journal of Law and Public Policy.

⁸⁰ Aziz, Roya and Noorani, Javed (2012), 'Shadow Validation: Analysis of Afghanistan EITI Reconciliation Reports and civil society participation', accessed on http://www.eisourcebook.org/cms/March_2013/Afghanistan%20EITI%20Shadow%20Validation%20Report.pdf in April 2018.

⁸¹ CSO coalition (April 2017), 'CSO Comments on the 5th AEITI Report', accessed on [http://aeiti.af/Content/Media/Documents/Letter-MWA-GW-re-5th-AEITI\(1\)7520171515520553325325.pdf](http://aeiti.af/Content/Media/Documents/Letter-MWA-GW-re-5th-AEITI(1)7520171515520553325325.pdf) in December 2017.

⁸² Global Witness (2017), 'Afghan civil society note to the EITI International Secretariat ahead of AEITI Validation', accessed on <https://www.globalwitness.org/en-gb/campaigns/afghanistan/civil-society-note-eiti-international-secretariat-ahead-aeiti-validation/> in April 2018.

⁸³ See for example <https://www.paihwok.com/en/2017/05/04/govt-unable-safeguard-mining-revenue-warns-mwa> and <https://iwaweb.org/afghan-government-unable-to-provide-basic-management-of-mining-revenues-says-civil-society/>.

⁸⁴ For example, IWA, ENMRN and Global Witness regularly participate in annual anti-corruption meetings arranged by the European Commission

briefing notes and provide input ahead of international conferences⁸⁵ and legislative reforms,⁸⁶ and CSOs partake in roundtable discussions with sector ministers.⁸⁷ CSOs, including an AEITI MSG member, form part of the influential Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC), which was conducting a Vulnerability to Corruption Assessment of the MOMP during the Validation fact-finding mission.

Stakeholder views

Assisted by representatives from IWA, the International Secretariat broadly distributed a questionnaire in local languages to civil society on and off the MSG,⁸⁸ encouraging stakeholders to provide their views on the enabling environment for civil society and in particular on their ability to speak freely on transparency and natural resource governance issues, to be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, to communicate and cooperate with each other, and to express their opinions about the EITI without restraint, coercion or reprisal. The International Secretariat did not receive any responses. The 2017 MSG self-assessment confirms that MSG members do not experience any restrictions in relation to the EITI process but notes that there are some practical constraints due to the security situation in the country.

Stakeholders from all constituencies said that security was a real and constant challenge for everyone working in the extractive sector, not just civil society. A member of the secretariat said that since he had begun working at the EITI he considered it unsafe to travel to his village because he was working on formalising the sector. When asked about specific threats to civil society operating in the sector, a ministry of mines employee responded: “we are all civil society when we leave the office; all of us who work with extractives, we are all targets”. An industry representative shared details of an attack carried out against his company’s offices by armed men due to disagreements with a local strong-man. Stakeholders from all constituencies said that they exerted an important amount of self-censorship particularly in regards to politically exposed persons (PEPs) and their ownership of licenses but pointed out that this was not limited to civil society. Civil society representatives said that notwithstanding the security situation they continued to travel to the regions whenever possible. Due to the security situation during the fact-finding mission, one meeting was held with civil society and industry representatives together, with follow-up meetings held with individuals from either constituency who wanted to express their views independently. It was expressly stated during the joint meeting that both constituencies saw each other as having similar goals in opposition to the government, and it was clear from the meeting that participants were comfortable expressing criticism – also of each other – in each other’s company.

Stakeholders from all constituencies and development partners confirmed that civil society representatives were able to engage in public debate related to the EITI process and express opinions about the EITI process without restraint, coercion or reprisal other than the general security situation that affected everyone in Afghanistan. A CSO representative who did not sit in the MSG said that there was “understandable self-censorship” in regards to naming and shaming politically exposed persons (PEPs)

and hosted by the President of Afghanistan focusing specifically on the extractive sector.

⁸⁵ See for example https://www.globalwitness.org/documents/18344/Policy_Brief_-_SMAF_and_the_extractive_industries_in_Afghanistan_February_2016.pdf.

⁸⁶ See for example <https://iwaweb.org/wp-content/uploads/2017/03/Amendment-to-mining-law.pdf>.

⁸⁷ See for example <http://mom.gov.af/en/news/9438> and <https://twitter.com/MompAfg/status/960872205914640384>.

⁸⁸ Stakeholders were encouraged to respond in whatever language they felt most comfortable.

and explained that this was due to fear of reprisals from individuals acting in their personal capacity, but also argued that there was a vibrant social media where these concerns were regularly voiced. Stakeholders from all constituencies confirmed that they were able to speak freely on transparency and natural resource governance but that there were some areas such as the role of PEPs and warlords in the extractive industries that were considered dangerous to discuss in detail. One civil society representative said that he was in possession of a list of parliamentarians who directly or indirectly own licenses in contradiction to the 2014 Minerals Law but that he did not feel safe disclosing it in public for fear of reprisals from the individuals in question. This was echoed by a government official working on beneficial ownership disclosure. Stakeholders from all constituencies nevertheless shared examples of some PEPs whose ultimate beneficial ownership of licenses had been formally established by government investigations into the license awards, and one CSO representative said that he had been able to discuss specific concerns of this nature with the President directly. Stakeholders did not express concerns over any constraints on the enabling environment for civil society participation, although some representatives from industry and civil society said that they were sometimes side-lined by the MOMP in MSG discussions. Another MSG member from civil society said that they had never been “shut down” or been given the impression that any issue was off the table for discussion, but that the MSG’s dysfunctionality meant that they were unable to address the real issues in the sector (*see Requirement 1.4*). The May 2017 MSG self-assessment explicitly states that there are no government-imposed obstacles to civil society’s participation in the EITI process, but that the security situation was a pervasive problem.

Initial assessment

The International Secretariat’s initial assessment is that Afghanistan has made satisfactory progress in meeting this requirement. The security situation is a regular and pervasive problem to advocacy in the extractive sector that has led to an important degree of self-censorship generally, although this is a systemic challenge for all stakeholders that reflects the government’s lack of control over large parts of the country. Within these general constraints, civil society is actively effectively engaged in the EITI process and there are no indications of government actions that result in narrowing or restricting public debate in relation to implementation of the EITI. There are numerous examples of stakeholders’ ability to speak freely on transparency and natural resource governance issues. Stakeholders are able to engage actively in the design, implementation, monitoring and evaluation of the EITI process, and there are examples of how it contributes to public debate. Stakeholders are able to communicate and cooperate with each other and are able to operate freely and express opinions about the EITI without restraint, coercion or reprisal other than the generalised insecurity that permeates the country and the sector specifically.

To strengthen implementation, Afghanistan is encouraged to continue finding innovative ways to ensure that civil society’s engagement in the EITI remains proactive, despite the security situation. This could include continuing to make progress on beneficial ownership disclosure through Requirement 2.5 to raise awareness about the ownership of licenses by politically exposed persons and to ensure that issues of PEP ownership of legal and illegal mines are discussed without fear of reprisals. Afghanistan is also encouraged to continue to ensure that there is an enabling environment for civil society participation and ensure that existing laws protecting stakeholders’ activities in the sector are enforced.

MSG governance and functioning (#1.4)

Documentation of progress

The AEITI MSG approved its ToR at its first meeting of the MSG on 4 June 2011 and subsequently amended them in February 2014 to address shortcomings found during Afghanistan's first Validation. The MSG discussed further updates to its TORs at its 14 September 2015 meeting before approving them at its 24 May 2016 meeting. The ToR are available on the AEITI website.⁸⁹

MSG composition and membership: The MSG's ToR allocate six MSG seats to each constituency, not including the Chair and Vice-Chair that are the Ministers of Finance and of Mines and Petroleum respectively. The ToR establish minimum requirements for MSG members and confirm constituencies' independence from government, but leave it to the constituencies to determine their nominations process. The ToR require an open and participative nominations process, based "on a transparent and open selection process, conducted amongst the constituencies, bearing in mind the desirability of pluralistic and diverse representation". Provision 4 in the ToR makes membership in the MSG dependent on election by the wider constituency (rather than selection). The ToR confirm the constituencies' responsibility for the nominations process and the AEITI secretariat's role as an observer. The ToR establish three-year terms and allow members to nominate an alternate to attend MSG members in their absence.⁹⁰ Responsibilities of MSG members are clarified in substantial detail by constituency.⁹¹ MSG composition is listed by constituency on the AEITI website⁹², although Democracy International's July 2017 AEITI review highlighted deviations in practice from the MSG's composition in the ToR (p.14).

Civil society representation: A working group of seven individuals representing six CSOs was formed in preparation for Afghanistan's EITI application, functioning as a provisional MSG.⁹³ All but one became MSG members once the MSG was constituted in November 2009. The process by which the six were selected is not clear. In August 2013 the MSG decided that the constituency should be represented by six individuals, including two from academia and the media. The constituency refreshed its members in July 2014, with nine representatives selected, three of them as alternates, for a three-year period. Members of the MSG were nominated from two organisations, the Natural Resources Monitoring Network (it's successor, ENRMN, is still on the MSG), a network of organisations known as the Civil Society Coalition, and one representative from academia.⁹⁴ The constituency again refreshed its MSG representatives at its 7 February 2017 meeting facilitated by the national secretariat and hosted by Integrity Watch Afghanistan.⁹⁵ According to meeting minutes, IWA and the ENRMN network were each asked to elect three representatives to the MSG on behalf of the organisations that they represented, with no alternates. The elections within each group took place through simple majority voting and the results of

⁸⁹ AEITI (2015), 'Terms of Reference for the Multi-Stakeholder Group', accessed on <http://aeiti.af/Content/Media/Documents/1394948558120420157478410553325325.pdf> in April 2018.

⁹⁰ Ibid, p. 6.

⁹¹ Ibid, pp. 2-5.

⁹² For [government](#), including contact information, [civil society](#) and [industry](#).

⁹³ See Afghanistan's first Validation report, op cit., p.23.

⁹⁴ EITI International Secretariat (March 2015), op.cit.

⁹⁵ See <http://aeiti.af/en/news/csos-election-to-introduce-members-to-aeiti-msg>.

the election, along with a brief summary of the process followed, are available online.⁹⁶ There is no documentary evidence that civil society outside of either group (IWA and ENRMN) participated in the nomination or election process.

Industry representation: As with CSOs, the industry sector was initially represented by seven individuals who were invited by the government to form part of an initial working group that was eventually formalised into the first MSG. Six of the individuals represented two companies and one represented the Afghan Chamber of Commerce and industries (ACCI). As with CSOs, the MSG reduced the number to six at its first meeting, although the process for selecting the MSG members remains unclear. The constituency refreshed its members in September 2014 for a three-year period.⁹⁷ The constituency again refreshed its MSG representatives at its 8 February 2017 meeting facilitated by the national secretariat and hosted by ACCI.⁹⁸ Meeting minutes show that, of the 30 companies invited, representatives from six private companies, two SOEs and two from ACCI participated in the election of industry MSG members. Eight of the entities represented expressed an interest in representing their constituency and the minutes show that the election process was carried out through simple majority to select six representatives with no alternates. A statement in annex to the meeting minutes confirm the unanimous support for industry MSG representatives selected for 2017-2020.

Government representation: The first MSG included representatives from the MOF, the MOMP, the MFA, the MCI, the MOE and the EPA. It was chaired by the Minister of Finance and the Minister of Mines and Petroleum.⁹⁹ According to the AEITI website at the start of Validation,¹⁰⁰ government is represented in the MSG by six members, including a representative from Parliament, and four alternates. MSG members include two Director Generals from the MOF (Revenue and Customs), two from the MOMP (Cadastre and Admin/Finance), one from the Ministry of Trade and Commerce as well as the Chair of the Parliamentary Committee on natural resources. There are two alternates from the MOF and two from the MOMP. Although the process for selecting government representatives is not clear, it is understood that they were selected by the heads of their respective agency.

Terms of reference: The MSG's current ToR are available (in English only) on the AEITI website.¹⁰¹ The ToR confirm the responsibility of the MSG to oversee implementation and "ensure that the findings contribute to public debate". The ToR also confirm the MSG's ability to govern itself, approve annual work plans, appoint the IA and its ToR, publish information required by the EITI Standard and approve annual progress reports as well as engage on Validation (p.1).

Internal governance and procedures: The ToR establish the MSG's obligation to create working groups to discuss issues of importance to the MSG.¹⁰² It is explicitly stated that said working groups do not have

⁹⁶ Ibid.

⁹⁷ EITI (2014).

⁹⁸ See <http://aeiti.af/en/news/33>.

⁹⁹ EITI (2014).

¹⁰⁰ AEITI (2017), Op.cit.

¹⁰¹ AEITI(2015), Op.cit.

¹⁰² The TORs recommend that three such groups be established: Validation and Reconciliation Reports Follow-up; Communications, and a General

delegated decision-making authority. The ToR set a minimum meeting frequency of once a quarter, while constituencies are expected to meet monthly. While meeting minutes show that the MSG has consistently met at least quarterly, there is no evidence of constituency meetings. The ToR require meeting documents to be submitted at least ten days before each MSG meetings and minutes to be made available on the AEITI website within 72 hours of meetings being held. The ToR confirm the MSG's obligation to submit annual activity reports and develop work plans and agree EITI Reports.¹⁰³

Decision-making: The ToR establish the principle of inclusive decision-making¹⁰⁴, with each constituency treated as a partner. In the absence of consensus, resolutions are to be “adopted by a qualified majority and include support from all the constituencies”. Decision-making through voting requires the approval of the Chair and the Co-Chair (p.7). There is no evidence from meeting minutes of deviations from these principles in practice.

Record-keeping: The ToR state that “full minutes” should be shared with MSG members and made available on the AEITI website within 72 hours of a meeting being held. Minutes are designated “full minutes” when they include information on attendance, summarised statements and action points. At the beginning of Validation, the AEITI website included minutes from MSG meetings for the period 2009-2017.¹⁰⁵

Capacity of the MSG: The ToR establish that MSG members “must have the required capacity to carry out MSG duties” and “should have relevant background experiences”.¹⁰⁶ Civil society and industry procedures for selecting MSG members include a requirement that candidates have adequate capacity to represent their constituency's interests, without further explanation. The AEITI 2017 procurement plan includes funds for capacity-building both of the MSG, national secretariat and MOMP staff (*see Requirement 1.5*). Democracy International's 2017 review concluded that “MSG effectiveness is hindered by unqualified and disengaged members, insufficient government participation, informal and unstructured working groups, and language constraints”.¹⁰⁷

Per diems: Although not explicitly stated in the MSG's ToR or on AEITI's website, there are no provisions for per diems to be paid or evidence that any such payments are made in practice.

Attendance: The ToR defines quorum as “when at least 10 members (50% - with a minimum of three members from each constituency) are present” (p.6). There is no indication that any of the meetings held in 2017 were officially quorate. The ToR state that missing two consecutive MSG meeting “without prior notification and legitimate reasons” will lead the MSG to “review their membership so that it can make decision about their membership. The decision will be announced in the next MSG meetings, that might be replacement by another member from the same group” (p.2). Attendance is often noted in MSG

Issues Working Group.

¹⁰³ Ibid. p. 7.

¹⁰⁴ Consensual decision-making is explicitly established as “a core element in the multi-stakeholder process” and there is a recommendation that the MSG “make every effort to take decisions by consensus”.

¹⁰⁵ 2009 (2 meetings), 2010 (1 meeting), 2011 (5 meetings), 2012 (6 meetings), 2013 (5 meetings), 2014 (8 meetings), 2015 (4 meetings), 2016 (2 meetings) and 2017 (6 meetings).

¹⁰⁶ AEITI (2015), pp.1 and 2.

¹⁰⁷ Democracy International (2017), ‘2017 AEITI Institutional Review’, unpublished, p.6.

minutes, although not consistently. Although an analysis of attendance in MSG meetings on the basis of available minutes suggests that although meetings always include at least one representatives from each of the constituencies, there are frequent absences (see Annex B). There is no record of any review of MSG representative's membership following repeated consecutive absences. Analysis of MSG meeting attendance suggests that some observers such as the World Bank consistently participate in MSG meetings. Democracy International's 2017 AEITI Institutional Assessment noted concerns that the participation of observers should "be moderated to allow fuller participation from less assertive MSG members" and recommended that the role of observers be formally defined "to non-speaking roles unless formally invited by the MSG to address the MSG" (p.14).

National secretariat: The ToR establish the MSG's obligation to ensure that an AEITI secretariat "is adequately funded and staffed" (p.2). Provision 3 establishes the secretariat's obligation through the National Coordinator to "monitor implementation of the EITI work plan and report its findings to the MSG members". Provision 5.i establishes the secretariat's right to participate in meetings but not to vote on any decision. The AEITI 2017 procurement plan confirms that secretariat staff are employed by the Ministry of Finance with funding provided by the World Bank. MSG meeting minutes from July-December 2017 show that the selection of a new National Coordinator has been regularly discussed by the MSG.

Stakeholder views

MSG composition and membership: Stakeholders from CSO not represented on the MSG expressed frustration that the constituency's selection process had not been opened to organisations outside of IWA or ENRMN. An MSG member from ENRMN confirmed this was a fault of the process that should be addressed. Email exchanges in 2016 show that the process of selecting CSO representation was fraught with disagreements between IWA and ENRMN, and a former secretariat staff explained that the process ended up being a power-sharing compromise between the two. One CSO not on the MSG considered it unfortunate that this compromise resulted in the two groups aligning their opinions and not representing the constituency. Stakeholders from industry regretted that more companies had not participated in the process for selecting representatives but considered that their being given the opportunity to participate was important in itself. Secretariat staff said that even though SOEs were not represented on the MSG given that they had not been elected by their constituency, the MSG planned to invite them as observers. Stakeholders did not express any views on the fact that neither CSOs nor industry currently had any women representatives on the MSG. The MSG's May 2017 self-assessment confirmed the MSG members' belief that all representatives were appointed independently by each constituency, that the constituencies were adequately represented and that CSOs and industry had carried out broad and inclusive nominations procedures.

Terms of reference and internal procedures: MSG members did not express any views on whether the ToR were being followed. The 2017 MSG self-assessment stated that the process followed for agreeing the ToR was unclear and that the MSG would review them shortly. It also confirmed that the ToR's provisions on notifications of meetings and submission of MSG papers were not being followed in practice. Representatives from CSO and industry said that although draft work plans, EITI Reports and annual progress reports were shared with them for approval, they were unable to meaningfully engage because of tight internal reporting deadlines. One CSO representative noted that there had been substantial disagreements and comments from civil society to the publication of the 2013-14 AEITI Report, which MSG members had been given ten hours to approve. He said that the report had been approved only

after it was agreed that the constituency's comments to the report would be independently posted on the AEITI website.¹⁰⁸ Stakeholders confirmed that decisions were generally made by consensus and that there had not been any instances of voting, although stakeholders from civil society said that they sometimes felt overruled in MSG decisions when deadlines took priority over discussions. When asked whether they felt ownership over the AEITI report, civil society representatives said that they had been actively engaged in the reporting process but that they did not feel that the IA had reflected their engagement or comments in the final product. Several industry and CSO MSG members said that they were not able to propose agenda items for MSG meetings. A civil society MSG representative summarised the situation by saying that although CSO MSG members were fully informed, they did not always feel so. One secretariat staff acknowledged concerns about MSG involvement in EITI implementation and highlighted plans to engage the MSG more closely in the development of agendas and committee papers in future. Stakeholders confirmed that the MSG did not have a per-diem policy or practice.

Attendance: Stakeholders from all constituencies noted that government MSG members were often represented by proxies at MSG meetings. Some MSG members said that the short notice of meetings made it difficult to participate regularly. Stakeholders did not offer any views on the ToR's provisions for changing MSG members who did not attend meetings.

Record keeping: MSG members did not express views on record-keeping, other than expressing confusion about why MSG documents and records were kept in English when some of the MSG members only understood local languages. The 2017 MSG self-assessment expressed satisfaction with the way records were kept and made available online.

National Secretariat: All stakeholders confirmed that the lack of institutional clarity over who the national secretariat should report to was a challenge, as secretariat staff were MOF employees while the MOMP was the lead ministry on implementation. A senior government representative explained that this was indicative of a broader problem in the sector, where jurisdictional frictions between the MOF and the MOMP had caused challenges, which were sometimes exacerbated by the secretariat "playing off" one minister against the other. All stakeholders confirmed that the resignation of the National Coordinator in July 2017 had thrown the MSG into turmoil as the MOF, the MOMP and the MSG disagreed on who should lead the process of hiring a new coordinator. MSG members from all constituencies confirmed that the national secretariat regularly sent meeting minutes to MSG members. However, they noted that meetings were often called with little advance notice and that papers were often submitted at the last minute. Government representatives and secretariat staff complained that MSG members did not read meeting minutes or papers ahead of MSG meetings.

MSG and secretariat capacity: The 2017 MSG self-assessment stated that civil society and industry had good capacity but that frequent changes of government participants led to capacity challenges in that constituency. MSG members expressed appreciation at GIZ's efforts to develop the MSG's capacity. Secretariat staff expressed concern over its own technical capacity constraints. One government employee lamented that the World Bank was using the EITI programme to hire senior advisors for the MOF and MOMP who were not involved with EITI implementation and considered that this posed a

¹⁰⁸ CSO coalition (2017), Op.cit.

reputational risk to the EITI in Afghanistan and limited funding available for hiring specialists for the national secretariat.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made inadequate progress towards meeting this requirement. The MSG has Terms of Reference that address the minimum requirements in the Standard, and these have been reviewed on a number of occasions. The MSG does not follow its ToRs in practice, however, and this appears to have had an impact on its ability to exert adequate oversight over the reporting process as stakeholders have not had sufficient time to review draft reports before publication. Although each stakeholder group has the right to appoint its own representatives and constituencies have developed procedures to nominate their members, there are concerns that the selection process followed by civil society is not representative or open to CSOs that are not affiliated with IWA or ENMRN. Although constituencies are adequately represented, frequent turnover in the government constituency is generally recognised as a challenge. Work plans, EITI Reports and annual progress reports are approved by the MSG, but there are concerns that short deadlines do not allow for meaningful engagement.

In accordance with Requirement 1.4, Afghanistan should ensure that any deviations from the MSG's ToR are adequately and publicly codified. The MSG should ensure that its lack of per diem practice is publicly clarified. In order to facilitate compliance with the ToR, the MSG may wish to consider simpler and less prescriptive ToR while ensuring that all the elements in Requirement 1.4 are covered. To ensure that the invitation to participate in the group is open and transparent, that the nomination process is independent and free from any suggestion of coercion, and that civil society MSG members are operationally, and in policy terms, independent of government and companies. Bearing in mind the desirability of pluralistic and diverse representation, CSOs and industry may wish to consider ways of encouraging women to participate in the EITI process. To help planning, encourage participation of all stakeholders and ensure that papers are submitted in time, the MSG may wish to agree dates of quarterly meetings that are aligned with the EITI's reporting timeframes. To help members engage more actively, MSG members should consider working and publishing in local languages rather than English. The MSG should also ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption.

Workplan (#1.5)

Documentation of progress

AEITI work plans began aligning to national priorities in 2016 after a thorough revision of the work plan process was facilitated in a workshop facilitated by GIZ, the World Bank and the EITI International Secretariat in June 2015. The MSG purportedly updated its work plan for 2017 on 5 November 2016, but the work plan shows that it was a repetition of the last work plan with an update on progress to date. The work plan was again updated in September 2017, this time with changes to the objectives and tasks. The MSG approved the 2018 work plan at its meeting of 14 September 2017. The 2018 work plan included tasks to be completed by end of 2017 and is therefore the work plan that has been reviewed under this requirement.

Publicly accessible workplan: AEITI regularly publishes its work plans on the AEITI website, although the

latest work plan, agreed by the MSG in October 2017, does not appear to be available online. An article on the AEITI website informs the public about the MSG's discussions of the work plan (referred to as "the AEITI Secretariat's work plan") and briefly summarises its content in two points: the publication of the next Afghanistan EITI Report by October 2018 and outreach missions by the national secretariat to 10 provinces.¹⁰⁹ An outline of the work plan was submitted to MSG members by the national secretariat on 11 October 2017 and a one-day workshop was held on 18 October to discuss its content. There is no evidence that the work plan or its draft were shared or disseminated beyond the MSG mailing list.

Objective for implementation: AEITI's objectives for implementation have remained relatively constant since the 2016 work plan was developed. Whereas objectives in previous work plans focused on compliance with the EITI's requirements, this was the first time that MSG members were asked to reflect on their constituencies' objectives for implementation before agreeing on a work plan for implementation.¹¹⁰ Subsequent work plans include brief explanation of the rationale behind the broader objectives and identify governance-related challenges that the MSG wishes to address. Whereas the 2017 work plan only updated the timeframes for tasks and sub-objectives, the 2018 work plan replaces two objectives (improving MSG performance and improving the investment environment). The 2018 work plan includes the following objectives for implementation: increase public awareness of the sector's current and potential contribution in order to enable a more informed, evidence-based public debate; highlight ongoing efforts and opportunities to improve revenue collection and sector management in order to build trust in the management of the sector and improve fiscal sustainability; ensure that the legal framework that governs the extractive sector is checked for compliance with global EITI standards; and ensure that there is an up-to-date license and contract registry that is comprehensive and publicly available in an easy-to-understand format.

Measurable and time-bound activities: AEITI's work plans since 2015 include sub-objectives and specific tasks for each objective, with clear timelines and outputs. With some exceptions concerning the publication of summary reports and follow-up of recommendations with government entities, which are scheduled for completion in the beginning of 2019, most activities listed are due for completion by end-2018. According to an institutional assessment carried out on AEITI by Democracy International in July 2017, there were concerns by stakeholders that AEITI work plans were not regularly followed to guide the MSG's efforts.¹¹¹

Activities aimed at addressing any capacity constraints: The 2018 work plan includes activities aimed at capacity building of local stakeholders, defined as "government regional offices, communities and industry" but does not clarify what constraints should be addressed beyond "EITI implementation". The work plan also includes specific activities on addressing challenges identified with implementing beneficial

¹⁰⁹ AEITI (2017), 'Secretariat's work plan discussed by MSG members', accessed on <http://aeiti.af/en/news/secretariats-work-plan-discussed-by-msg-members> in April 2018.

¹¹⁰ The 2016 work plan addressed four broad objectives: Increase public awareness of the sector's current and potential contribution in order to enable a more informed, evidence-based public debate; highlight ongoing efforts and opportunities to improve revenue collection and sector management in order to build trust in the management of the sector and improve fiscal sustainability; improve the predictability and security of investments with an aim to increase wealth generation of the sector and contribute to Afghanistan's development; and improve MSG participation and ownership of EITI process in order to achieve the other goals in the workplan.

¹¹¹ Democracy International (2017), Op.cit. p.15.

ownership transparency and support to developing government systems.

Activities related to the scope of EITI reporting: The 2018 work plan includes activities related to the scope of EITI reporting, especially in terms of addressing revenue management and expenditure (work plan objectives 2 and 4) and contracts (objective 4). The work plan includes activities aimed at improving technical aspects of EITI reporting and addressing challenges in government database systems to support data gathering, as well as beneficial ownership disclosure.¹¹² Transportation payments, discretionary social expenditures and ad-hoc subnational transfers are not addressed by the work plan, although with the exception of discretionary social expenditures this is probably because they are not considered applicable by the MSG.

Legal or regulatory obstacles: Objective 3 in the 2018 work plan specifically addresses the regulatory framework and includes a specific task aimed at creating a joint commission “between the Legal Department of the MOMP, the MSG and selected CSOs to develop recommendations to address gaps [identified through EITI reporting] through amendments of draft laws or regulations”. The work plan also identifies the lack of implementation of laws as a challenge and includes several tasks under objective 4 to ensure that information that is already legally required is collected, comprehensively disclosed and publicly-available in an accessible format.

Recommendations from Validation and EITI reporting: The 2018 work plan indirectly outlines plans to follow up on recommendations of past EITI Reports under objectives 3 (development of a joint commission to follow up recommendations that have legal implications) and objective 4 (improving license and contract registries at the MOMP and the MOF). Although not part of the work plan (see next section), the AEITI procurement plan includes a budget line of USD 20,000 to hire a consultancy firm to resolve discrepancies of the last two Afghanistan EITI Reports.

Costings and funding: Although the work plan includes a column to specify the budget, none of the activities in the 2018 work plan are costed. This is also the case in previous work plans. Some of the activities identify the prospective sources of funding and technical assistance (WB, GIZ, RDF, GOIA and other unspecified “donors”). An AEITI procurement plan exists for the period 1 April 2017-31 March 2018 but is not available to the public. Although the procurement plan includes some of the same posts as the 2018 work plan, such as for capacity building, printing and communication and the hiring of an Independent Administrator among others, the relation between the procurement plan or the work plan is not explained. According to the procurement plan, AEITI’s budget is 100% funded by the World Bank and amounts to USD 1,497,765 for the period in question. Of this amount, 67% is earmarked for advisors, officers and other specialist staff to the MOF and the MOMP.¹¹³ Roughly USD 500,000 (one third) of the

¹¹² Objective 2 notes that the EITI can be used as a diagnostic tool to identify gaps and weaknesses in the government’s management of the sector. It also includes specific activities to assess and improve accounting standards in the extractive sector, the disclosure and dissemination of non-tax revenues from the sector and improve available information on all extractive companies operating in the country irrespective of their materiality. Objectives 3 and 4 include tasks geared at providing information on licenses, rules, regulations and policies, including supporting documents such as bidding documents and environmental impact assessments which are supposed to be made public by the government but are not currently available to the public. Objective 3 includes specific tasks concerning beneficial ownership transparency.

¹¹³ Most of this amount (USD 937,998 or 63% of the total budget) is earmarked for advisors to the Ministers of Finance and of Mines and

budget in the procurement plan can be linked to specific tasks outlined in the 2018 AEITI work plan.¹¹⁴

Stakeholder views

A senior government representative said that the AEITI work plan should ideally be used to guide the government's reform strategy for the sector but lamented that this was not possible because decisions on the development of the sector were often made outside of the line ministry. Several industry and CSO MSG members confirmed that they had been able to influence the content of the work plan, including objectives that they considered aligned with national priorities for the sector, although they expressed some doubts about whether work plans were actually followed. The MSG's May 2017 self-assessment confirmed the MSG's belief that the work plan contained objectives that reflected national priorities, contained measurable and time-bound activities, included actions to address capacity constraints identified by the MSG and was aligned with EITI reporting deadlines. According to the self-assessment, the 2017 work plan was also translated to Dari but this version was not available online. The self-assessment identified the absence of updated information on costs and funding sources as a key challenge that needed to be addressed along with closer follow-up on the work plan's activities and timeframes. Secretariat staff explained that the work plan was developed with the MSG independently of the secretariat's procurement plan, which was agreed with the World Bank through a separate process. When asked whether the two were aligned, secretariat staff explained that they were only aligned insofar as the secretariat conveyed their operational needs – and in particular staffing needs – to the MOF/MOMP and the World Bank on the basis of the MSG's work plan, but that the final procurement plan was beyond the control of the MSG or secretariat. Current and former staff expressed concern that most of the procurement plan only nominally concerned EITI implementation and lamented the impact on the secretariat's capacities. A former National Coordinator explained that the good scores received by AEITI in the MOF's annual performance reports had led to AEITI to be used as the preferred channel to fund support to other areas under the World Bank's sector grants (Sustainable Development of Natural Resources Project (SDNRP) I and II and, since 2017, Extractive Governance Programmatic Support (EGPS)). Secretariat staff and development partners confirmed that additional support, for example from GIZ, was not consistently reflected in the MSG's work plan.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made meaningful progress towards meeting this requirement. Except for the 2017 work plan, which was primarily an update of the 2016 work plan, the MSG updates its work plans annually, including its objectives. Work plans are endorsed by the MSG and there is some, albeit limited, consultation with key stakeholders. Work plans include measurable and time-bound activities to achieve the agreed objectives. Although they are usually published on the national EITI website, the 2018 work plan had not been published on the website at the time of review and is currently only available on the EITI International website. Work plans include a timetable for implementation that is aligned with the reporting and Validation deadlines established by the EITI Board that takes into account administrative requirements such as procurement processes and funding. However, the lack of consistent costings and identification of funding sources for all activities in

Petroleum.

¹¹⁴ This includes costs of AEITI staff, office materials and operational expenses, office staff such as security, drivers and cleaners, procurement costs for consultants and the independent administrator, capacity building for AEITI and MOMP staff, domain activation fee for the AEITI website and an MSG study tour to an EITI-compliant country in the region.

the work plans is a concern. It is also a concern that work plans are not reflected in the AEITI procurement plan, meaning that there is no coherence between AEITI's budget and the MSG's objectives.

In accordance with Requirement 1.5, the MSG should ensure that its work plans are fully costed, updated regularly, consistently published online and are aligned with the reporting and Validation deadlines established by the EITI Board. Work plans should also be fully costed. In order to ensure that objectives are met, Afghanistan is encouraged to ensure that the AEITI procurement plan agreed with the World Bank and other sources of funding reflects the objectives of the MSG as explained by the AEITI annual work plan.

Table 1 – Summary initial assessment table: MSG oversight

| EITI provisions | Summary of main findings | International Secretariat's initial assessment of progress with the EITI provisions |
|---|--|---|
| Government oversight of the EITI process (#1.1) | There is evidence that the government has not been fully, actively engaged in the EITI process between 2015 and 2017, despite concerns from various stakeholders that the more recent engagement might not be sustained in the medium term. However, Afghanistan nominated the Minister of Mines and Petroleum to lead the EITI process in 2017 after a two-year gap and has made regular statements of support over time. There is government participation in MSG meetings, however frequent changes in representatives are a problem. The commitment reflected in the months leading to Validation coupled with strong commitment expressed at the highest levels are signs that the government has renewed its commitment to the EITI. | Meaningful progress |
| Company engagement (#1.2) | Company representatives are fully, actively and effectively engaged in the EITI process. There is an enabling environment for company participation and the fundamental rights of company representatives substantially engaged in the EITI are respected. There are no obstacles to company participation in the EITI process. | Satisfactory progress |

| | | |
|---------------------------------------|---|-----------------------|
| Civil society engagement (#1.3) | <p>The security situation is a regular and pervasive problem to advocacy in the extractive sector that has led to an important degree of self-censorship generally, although this is a systemic challenge for all stakeholders that reflects the government's lack of control over large parts of the country. Within these general constraints, civil society is actively effectively engaged in the EITI process and there are no indications of government actions that result in narrowing or restricting public debate in relation to implementation of the EITI. There are numerous examples of stakeholders' ability to speak freely on transparency and natural resource governance issues. Stakeholders are able to engage actively in the design, implementation, monitoring and evaluation of the EITI process, and there are examples of how it contributes to public debate. Stakeholders are able to communicate and cooperate with each other and are able to operate freely and express opinions about the EITI without restraint, coercion or reprisal other than the generalised insecurity that permeates the country and the sector specifically.</p> | Satisfactory progress |
| MSG governance and functioning (#1.4) | <p>The MSG has ToR that address the minimum requirements in the Standard, and these have been reviewed on a number of occasions. The MSG does not follow its ToR in practice, however, and this appears to have had an impact on its ability to exert adequate oversight over the reporting process as stakeholders have not had sufficient time to review draft reports before publication. Although each stakeholder group has the right to appoint its own representatives and constituencies have developed procedures to nominate their members, there are concerns that the selection process followed by civil society is not representative or open to CSOs that are not affiliated with IWA or ENMRN.</p> | Inadequate progress |

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| | | |
|--|---|---------------------|
| | <p>Although constituencies are adequately represented, frequent turnover in the government constituency is generally recognised as a challenge. Work plans, EITI Reports and annual progress reports are approved by the MSG, but there are concerns that short deadlines do not allow for meaningful engagement. The MSG does not practice a per diem policy, although this is not explicitly stated publicly.</p> | |
| Work plan (#1.5) | <p>Aside for the 2017 work plan, which was primarily an update of the 2016 work plan, the MSG updates its work plans annually, including its objectives. Work plans are endorsed by the MSG and there is some, albeit limited, consultation with key stakeholders. Work plans include measurable and time-bound activities to achieve the agreed objectives. Although they are usually published on the national EITI website, the 2018 work plan had not been published on the website at the time of review and is currently only available on the EITI International website. Work plans include a timetable for implementation that is aligned with the reporting and Validation deadlines established by the EITI Board that takes into account administrative requirements such as procurement processes and funding. However, the lack of consistent costings and identification of funding sources for all activities in the work plans is a concern. It is also a concern that work plans are not reflected in the AEITI procurement plan, meaning that there is no coherence between AEITI's budget and the MSG's objectives.</p> | Meaningful progress |
| <p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In accordance with Requirement 1.1, Afghanistan should ensure that a senior individual that has the confidence of all stakeholders, authority to coordinate action and mobilise resources provides consistent government leadership of the EITI. Afghanistan should also ensure that engagement is consistent across government departments. In accordance with requirement | | |

8.3.c.i, the government constituency is requested to develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment within three months of the Board's decision. To strengthen implementation, Afghanistan is encouraged to ensure that government representatives on the MSG attend meetings regularly. Institutional disagreements over leadership of the EITI process should be addressed to ensure that the government is able to improve implementation at the operational level and use the EITI as a platform for reform. Given the importance of the Mutual Accountability Framework in the Afghan context, the government and development partners are encouraged to identify targets that will help Afghanistan address challenges to the sector through the EITI rather than continuing to focus on compliance.

2. To strengthen implementation, the industry constituency is encouraged to carry out additional outreach activities to its members to avoid misperceptions that may hamper their participation in the EITI.
3. To strengthen implementation, Afghanistan is encouraged to continue finding innovative ways to ensure that civil society's engagement in the EITI is proactive, despite the security situation. This could include continuing to make progress on beneficial ownership disclosure through Requirement 2.5 to raise awareness about the ownership of licenses by politically exposed persons and to ensure that issues of politically-exposed ownership of legal and illegal mines are discussed without fear of reprisals. Afghanistan is also encouraged to continue to ensure that there is an enabling environment for civil society participation and ensure that existing laws protecting stakeholders' activities in the sector are enforced.
4. In accordance with Requirement 1.4, Afghanistan should ensure that any deviations from the MSG's ToR are adequately and publicly codified. The MSG should ensure that its lack of per diem practice is publicly clarified. In order to facilitate compliance with the ToR, the MSG may wish to consider simpler and less prescriptive ToR while ensuring that all the elements in Requirement 1.4 are covered. to ensure that the invitation to participate in the group is open and transparent, that the nomination process is independent and free from any suggestion of coercion, and that civil society MSG members are operationally, and in policy terms, independent of government and companies. Bearing in mind the desirability of pluralistic and diverse representation, CSOs and industry may wish to consider ways of encouraging women to participate in the EITI process. To help planning, encourage participation of all stakeholders and ensure that papers are submitted in time, the MSG may wish to agree dates of quarterly meetings that are aligned with the EITI's reporting timeframes. To help members engage more actively, MSG members should consider working and publishing in local languages rather than English. The MSG should also ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption.
5. In accordance with Requirement 1.5, the MSG should ensure that its work plans are fully costed, updated regularly, consistently published online and are aligned with the reporting and Validation deadlines established by the EITI Board. Work plans should also be fully costed. In order to ensure that objectives are met, Afghanistan is encouraged to ensure that the AEITI procurement plan agreed with the World Bank and other sources of funding reflects the objectives of the MSG as explained by the AEITI annual work plan.

Part II – EITI Disclosures

2. Award of contracts and licenses

2.1 Overview

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

2.2 Assessment

Legal framework (#2.1)

Documentation of progress

Legal framework: The 2014-15 EITI Report provides an overview of the key terms of the main laws governing the extractive industries, including the 2005 Minerals Law effective up to August 2014, the 2014 Minerals Law effective thereafter, the 2009 Oil and Gas Law and other key texts (pp.21-30¹¹⁵).

Government agencies' roles: The report briefly describes the roles of the key agencies involved in licensing in the mining, oil and gas sectors (pp.22,26-28), but does not refer to the role of the Presidency or the highly influential High Economic Council (HEC) in the sectors.

Fiscal regime: For *mining*, the report provides an overview of fiscal terms (pp.23-24) as well as the specific royalty rates applicable to each of the 302 mining contracts in the English-language list of licenses provided in Appendix 9.3 (a/pp.78-86). It raises concerns over the lack of correlation between reported production values and royalty paid by mining companies (pp.20,40). A unique royalty collection farm-out arrangement is also described, whereby a private company, Shair Pawan, collected royalties on construction materials transported on two roads in Bagram district (Parwan Province), despite the company's one-year contract having expired in May 2014 (p.20). A copy of Shair Pawan's contract with MOMP (a/p.208) and royalty rates (p.20) are provided. For *oil and gas*, the report provides an overview of fiscal terms (pp.30-31) and confirms the lack of in-kind revenues in 2014-15 despite statutory provisions (pp.43-44).

Degree of fiscal devolution: The report clarifies that no direct subnational payments specific to the extractives sector were identified by stakeholders (p.44). It describes statutory provisions for subnational transfers of "overall mining revenue" under the 2014 Minerals Law but explains that the law had not yet

¹¹⁵ All references to (p.) in the initial assessment are to EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015)', accessed [here](#) in December 2017. Page number references to the 2014-15 EITI Report refer to page numbers of the printed version (not PDF). All references to (a/pp.) in the initial assessment are to EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015) - Appendices', accessed [here](#) in December 2017. Page number references to the annexes to the 2014-15 EITI Report refer to page numbers of the PDF, given inconsistencies in page numbering in the printed document.

been implemented in the 2013-2015 period (pp.44-45).

Reforms: The report briefly describes recent reforms including the 2014 Minerals Law (pp.21-30), but does not make reference to ongoing or planned reforms.

Stakeholder views

Legal framework: While most stakeholders did not express any particular views about the 2014-15 EITI Report's coverage of extractives-related laws, several CSOs considered that the summary of relevant laws was cursory and insufficiently specific. The CSOs called for EITI reporting to more clearly highlight the frequent legal changes for both mining and hydrocarbons, which were considered to have undermined legal certainty and created instability in the sector, thereby deterring serious investment. One CSO alleged that the 2014 Minerals Law had subsequently been revised (one month later) through the official gazette to reduce constraints on license transfers, but deplored that these changes had not been broadly publicised. It was not possible for the International Secretariat to verify the existence of revisions to the 2014 Minerals Law through publicly-available sources. Several development partners and CSOs highlighted significant deviations from mining laws and regulations in practice. This was also highlighted in the US 2014 fiscal transparency report.¹¹⁶ A senior government official explained that the 2014 Minerals Law was not retroactively applied to previously-granted contracts, which were only converted to the new legal framework upon renewal.

Government agencies: Several stakeholders from all constituencies and development partners highlighted the key role played by the Presidency and the HEC in overseeing the mining, oil and gas sectors, most notably in license allocations. A senior government representative confirmed that although the role played both the Presidency and the HEC had increased in recent years to the detriment of the MOMP, this was not codified in the legal framework.

Fiscal framework: Stakeholders from all constituencies confirmed that royalty rates differed by contract, albeit within broad guidelines for different minerals.¹¹⁷ A senior government official explained that the MOMP intended to review all effective royalty rates to ensure consistency across different contracts. A development partner noted that such a review of royalty rates would enable different government entities to monitor mining operations more effectively given the current lack of awareness of the spectrum of royalty rates in different provinces and contracts. Development partners and industry stakeholders explained that royalties were based on production plans agreed in advance annually, regardless of whether actual production was below planned levels. Given that tax liabilities were calculated on actual production, this could cause discrepancies between tax and non-tax revenues for the same period. Several stakeholders from all constituencies also highlighted that provisions in the 2014 Minerals Law for the ring-fencing of all tax and non-tax liabilities on a per-license basis had not yet been implemented, although several government representatives highlighted plans to implement tax ID numbers (TIN) on a per-license basis in 2018. Government representatives confirmed that it was not unusual for companies who were unable to renew their licenses to continue producing and paying non-tax revenues, with the understanding from the MOMP that if operations were anyway going to continue

¹¹⁶ US Department of State (2014), 'US 2014 Fiscal Transparency Report', accessed [here](#) in January 2018.

¹¹⁷ This is confirmed in independent research such as: United States Institute of Peace (June 2017), 'Industrial-Scale Looting of Afghanistan's Mineral Resources', accessed [here](#) in January 2018, p.2.

illegally it was nevertheless better to keep receiving some revenues from production than no revenues at all.

Reforms: Reports from several development partners, including the US Special Inspector General for Afghanistan Reconstruction (SIGAR), and CSOs have highlighted areas for improvement in the 2014 Minerals Law.¹¹⁸ CSO representatives and development partners said that a new revision to the law was again planned for the spring of 2018. Several CSOs called for annual EITI reporting to provide more analysis of the various sector reforms and their implementation in practice. A senior government official considered that the EITI work plan should provide a roadmap for reforms in the sector (*see Requirement 1.5*).

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made satisfactory progress in meeting this requirement, although the lack of information on the role of the Presidency and the HEC is a problem given their increasing importance in the management of the sector and lack of clarity on the division of roles between them and the MOMP. The 2014-15 EITI Report includes an overview of relevant laws, government entities, fiscal terms in the mining, oil and gas sector, the degree of fiscal devolution and brief commentary on current reforms.

To strengthen implementation, Afghanistan is encouraged to ensure that comprehensive review of reforms in the mining, oil and gas sectors are publicly documented and that the role of all government agencies and their division of responsibilities is clearly explained. Afghanistan may wish to use annual EITI reporting to analyse the implementation of recent regulatory reforms as a regular diagnostic on which further reforms can be based.

License allocations (#2.2)

Documentation of progress

Awards/transfers: In *mining*, the 2014-15 EITI Report provides a list of 30 mining licenses awarded in 2014-15, including licenses for exploration (20), production (9) and exploration and production (1), in appendix 9.3 (a/pp.76-77), albeit without any additional information (e.g. license name and location) aside from the license-holder names. The report also provides two different lists of active licenses from MOMP (in English and Dari respectively) and highlights gaps in license information provided by the MOMP cadastre (p.31). While the English MOMP database of mining licenses in Appendices 9.3-9.4 do not list any licenses awarded after 2013 (a/pp.78-86), the Dari MOMP database of mining licenses in Appendix 9.5 lists 76 mining licenses with "enforcement dates" of 2013 and 2014 (a/pp.87-98). The "enforcement date" is listed as "not mentioned" for three licenses in the English and Dari databases respectively. In *oil and gas*, the report does not clearly state whether any oil and gas contracts were awarded in 2014-15,

¹¹⁸ See for instance: Special Inspector General for Afghanistan Reconstruction (SIGAR) (January 2016), 'Afghanistan's Oil, Gas, and Minerals Industries: \$488 Million in U.S. Efforts Show Limited Progress Overall, and Challenges Prevent Further Investment and Growth', accessed [here](#) in December 2017, p.ii. Global Witness (August 2014), 'Gaps in new Afghan Mining Law pose a threat to stability', accessed [here](#) in January 2018.

although the list of hydrocarbons contracts in the report (p.32) and on the MOMP website indicates that all three hydrocarbons contracts were concluded in 2011-13.¹¹⁹ It is unclear from the report whether any mining, oil and gas licenses were transferred in 2014-15.

Award/transfer process: In *mining*, there are five types of licenses in Afghanistan, two of which are awarded through first-come-first-served application¹²⁰ and three through competitive tender¹²¹ according to the 2014 Minerals Law (Article 19). However, the MOMP may also award Exploration and Exploitation licenses in a single bidding process upon approval from the Council of Ministers (known as a Minerals Development Contract, which allows the holder to acquire up to five Exploitation Licences in the area of an Exploration Licence).¹²² The 2014-15 EITI Report describes the MOMP's general process for awarding mining licenses, which is through direct application for reconnaissance and small-scale mining licenses and through competitive tender for exploration and production (pp.24-25). The process for the MOMP concluding Minerals Development Contracts (subject to Cabinet approval) is also described in general terms (p.26). However, the report also highlights confusion and inconsistencies in mining cadastral management given the fact that mining licenses are statutorily issued at both the central MOMP office in Kabul or through provincial offices of MOMP (pp.16-17). In *oil and gas*, the report describes two types of hydrocarbons contracts¹²³ and explains the general process for MOMP's awarding of hydrocarbons contracts through competitive tender¹²⁴ (p.28), even if no oil and gas licenses were awarded in the period under review. However, the report does not describe the process for transferring licenses in the mining, oil and gas sectors aside from noting that mining license transfers are contingent on the written approval of the MOMP and the Cabinet, with the new license-holder required to have the same capabilities as the original license-holder (p.26).

Technical and financial criteria: In *mining*, the report does not describe technical and financial criteria, either for reconnaissance licenses awarded through direct application or for the three license types awarded through competitive tender, aside from noting that the bid criteria are set out in unspecified "regulations" (p.25). While Article 16 of the 2014 Minerals Law refers to general technical and financial capacities for companies seeking a license or contract, it does not define the specific criteria assessed during the application process or explain where these may be found.¹²⁵ In *oil and gas*, despite the lack of oil and gas license awards in 2014-15, the report only refers to bidding terms set by MOMP and highlights that tenders for which two bids are tied (i.e. assessed as presenting the same qualifications) are awarded to the bidder with an Afghan partner (p.28). However, it does not provide an overview of past bid criteria nor reference to where past bidding terms are publicly-accessible.

License awardee information: In *mining*, the 2014-15 EITI Report provides a list of 30 companies that received mining licenses in 2014-15 in appendix 9.3 (a/pp.76-77), although the lack of license names or numbers makes it impossible to identify the specific licenses held by each of these 30 companies.

¹¹⁹ Ibid.

¹²⁰ Reconnaissance licenses and Artisanal Mining Licenses are awarded through direct application.

¹²¹ Exploration licenses, Exploitation licenses and Small-scale licenses are awarded through competitive tender.

¹²² 2014 Minerals Law of Afghanistan, accessed [here](#) in January 2018, pp.17-18.

¹²³ Sheberghan Gas Fields Rehabilitation Project and Sheberghan Gas Fields Rehabilitation Project.

¹²⁴ with tied bids resolved through preference for the bidder with an Afghan partner.

¹²⁵ 2014 Minerals Law of Afghanistan, op.cit., p.15.

Non-trivial deviations: The report does not refer to any non-trivial deviations from statutory procedures in the allocation of the 30 mining licenses granted in 2014-15.

Comprehensiveness: The report does not provide information on the process for awarding mining licenses to companies covered by the EITI Report awarded prior to 2014-15. However, it provides general reference to the award of oil and gas contracts for the Amu Darya block in 2011 and for the Sanduqli and Mazar-i-Sharif blocks in 2013 and refers to a report describing the process for tendering the Amu Darya block in 2011 available on the MOMP website (p.30), although no specific link is provided. The report also refers to an open tender for the Sheberghan Gas Fields Rehabilitation Project on the “tender” page of the MOMP website, accessed on 21 March 2017 (p.30).

Bidding process: The report describes the statutory process for competitive tendering of exploration, production and small-scale mining licenses (pp.24-25,30), as well as for hydrocarbons contracts (p.28) (see above). While the report indicates that 30 mining licenses were awarded through competitive bidding in 2014-15 (a/pp.76-77), it does not describe the bid criteria for the 30 mining licenses granted in 2014-15 and does not provide a list of unsuccessful bidders. For oil and gas, while the report describes the general process for awarding hydrocarbons contracts through competitive bidding (p.28), albeit without guidance on public access to bid criteria or unsuccessful bidders, it appears that no hydrocarbons contract was awarded in 2014-15, based on the MOMP website’s list of hydrocarbons contracts.¹²⁶

Commentary on efficiency: While the report provides brief descriptions of the general process for awarding licenses in the mining and hydrocarbons sectors, it does not include any comments on the efficiency of the oil and gas license allocation process. In mining however, the report highlights significant inefficiencies in the license management system, noting MOMP’s manual record-keeping, overlapping jurisdictions for license allocations between national and subnational agencies, inconsistencies between different MOMP records on the same licenses, the lack of robust systems at the level of provincial government offices and the lack of cadastral information on mining companies for whom other government departments reported activity (pp.16-17).

Stakeholder views

There was considerable debate, and uncertainty, between different stakeholders, including within the MOMP, over the specific number of mining license awards and transfers in 2014-15. While there was consensus amongst most stakeholders consulted (including government representatives) that there were significant deviations from the statutory license allocation procedures in practice, there were different views about the actual practice of license awards. There was consensus amongst all consulted that there were no oil and gas license awards in the 2014-15 period.

Licensing freeze: While all stakeholders consulted confirmed that there had been a suspension of mining licensing activity in the 2015-17 period, there was disagreement over whether this reflected a formal government policy. A senior government official explained that the HEC had decided on a review of four gold and copper mining licenses pending final signature in 2015. Considering that their tender may have deviated from statutory licensing procedures, the HEC decided to require all licensing activity to be

¹²⁶ MOMP website, Hydrocarbons contracts, op.cit.

thereafter undertaken by the National Procurement Agency (NPA). However, given the lack of codified procedures for the NPA to undertake mining license allocations, this decision had effectively interrupted new licensing activity in the 2015-17 period and implied that new license allocations would proceed on a case-by-case basis, upon approval by the HEC. The senior official noted that the government's new Mining Plan published in January 2018 confirmed the HEC's responsibility for awarding licenses. Development partners confirmed that the freeze had been agreed through an HEC decision in 2015, but that it was not codified in an official decree or government regulation. A development partner had seen a 2015 letter from the Minister of Mines and Petroleum to all MOMP Provincial Offices halting new license allocations until further notice. Several stakeholders from all constituencies noted that the government had recently resumed licensing activity, highlighting the award of a salt-mining contract in January 2018.¹²⁷ Several CSOs, development partners and government officials expressed concerns about the process followed due to the lack of information surrounding this recent award. There was also consensus that although the suspension of new licensing was enacted in 2015 there had been mining license awards in the 2014-15 period.

Awards/transfers: While all stakeholders confirmed the absence of new oil and gas license allocations or transfers since 2013, there was no consensus amongst those consulted over the number of mining licenses awarded and transferred in 2014-15. There was disagreement over whether any mining licenses had been transferred in the period. While the IA confirmed that it had secured the list of license allocations (provided in the 2014-15 EITI Report) from the MOMP's Cadastre Department, secretariat staff considered that the information provided in the appendix was not an accurate list of licenses awarded in that period. Members of the MSG consulted recalled discussing general licensing procedures, but not the specific number of licenses awarded and transferred in the years under review. None of the stakeholders consulted could produce a list of licenses awarded in 2014-15 or explain how they would go about doing so in practice. While several government representatives considered that there had been no transfer of licenses, but rather mergers and acquisitions of license-holding companies, several CSOs considered that mining licenses were transferred in practice, albeit providing only examples of license transfers prior to 2014-15.

Award process: All stakeholders consulted confirmed that all mining licenses other than reconnaissance, artisanal, and construction material licenses are generally awarded through competitive tender, although several CSOs and development partners raised concerns over the level of transparency in the bidding process (*see non-trivial deviations*). Stakeholders from all constituencies highlighted that MOMP Provincial Offices were entitled to award mining licenses for construction materials, but that they had awarded all types of licenses in the past, contributing to the lack of clarity over the number of active mining contracts and licenses. Government officials explained that since 2014 the MOMP Provincial Offices were statutorily required to seek the MOMP's approval (through the Provincial Department) before awarding licenses but that there was no assurance that this was the case in practice.

Stakeholders from all constituencies confirmed that mining licenses awarded in 2014-15 would have been

¹²⁷ Tolo News (January 2018), 'Ghoryan Salt Mine Contract Signed', accessed [here](#) in January 2018.

allocated through competitive bidding. Senior government officials confirmed that specific technical and financial criteria for license tenders were included in the bid documents. While the specific criteria differed according to the types of licenses tendered, officials confirmed that the broad criteria were consistent across all licenses and that the publication of all bid criteria and list of unsuccessful bidders would not pose any problem. Several civil society, industry and development partner representatives – and policy briefs from CSOs like Global Witness¹²⁸ – raised concerns over the perceived opacity of bidding procedures and criticised the fact that bid document (including criteria) and lists of unsuccessful bidders were not publicly-accessible except for a few large projects like Aynak. Several representatives from industry and the donor community also questioned the suitability of awarding mining licenses through competitive tender rather than direct application or first-come-first-served, perceived to be international best practice.¹²⁹

A November 2015 report by Adam Smith International (ASI) for MOMP considered that the level of bureaucracy and long waiting times for obtaining licenses was a major driver of illegal mining and called for simplification of the procedures at both central and provincial levels, including regular publication of information on the tender process throughout.¹³⁰ Stakeholders from all constituencies considered that the suspension in new licensing had also extended the timeframe for renewing active licenses and thereby contributed to the growth in illegal mining, given that license-holders tended to continue operating on lapsed licenses pending their renewal. The January 2016 SIGAR audit report quoted a “senior official in the Afghan government” stating that many mines operated illegally due to the inefficient and often corrupt registration process.¹³¹ The government’s 2018 Mining Plan calls for revisions to the 2010 Mining Regulations, in light of reforms in the 2014 Minerals Law, to migrate to allocating all production licenses through competitive tender, with a standing board established by the Presidency to evaluate all bids and final approval by the HEC and Cabinet. A senior government official explained that a December 2017 Presidential Decree had merged the Afghanistan Investment Support Agency (AISA) and the Afghanistan Central Business Registry (ACBR), centralising the front-end of all licensing activity through the ACBR, with back-end bid evaluation functions undertaken by the line ministry. The official explained that the ACBR was now re-engineering the licensing process to seek to reduce superfluous paperwork.

Transfer process: While there was no consensus on whether any mining licenses had been transferred in 2014-15, all stakeholders confirmed that transfers were allowed upon written approval from MOMP and contingent on the new license-holder having the same capacities as the former. One CSO alleged that the 2014 Minerals Law had been revised within a month of enactment in August 2014 to provide for license transfers (*see Requirement 2.1*). Several CSOs raised concern that, while initial license allocations were decided by an Inter-Ministerial Committee, transfers were approved by the MOMP alone, creating a potentially excessive concentration of decision-making power over license transfers in the MOMP. Government officials noted that information on license transfers was not publicly accessible, but that MOMP tracked license movements internally.

Non-trivial deviations: All stakeholders consulted aside from those from the MOMP Cadastre Department considered that there were non-trivial deviations from the statutory license allocation procedures in

¹²⁸ Global Witness (September 2015), op.cit., p.2.

¹²⁹ Special Inspector General for Afghanistan Reconstruction (SIGAR) (January 2016), op.cit, p.ii.

¹³⁰ Samuel Hall (November 2015), op.cit., p.52.

¹³¹ Special Inspector General for Afghanistan Reconstruction (SIGAR) (January 2016), op.cit, p.ii.

practice, although there was no consensus on the nature of deviations. The IA noted that it had inquired about any non-trivial deviations from statutory licensing procedures in preparing the 2014-15 EITI Report by asking the acting Minister of Mines and Petroleum, whom they considered to be competent to assess any non-trivial deviations. The IA confirmed that it had reported the MOMP's views that there were no non-trivial deviations in licenses awarded in 2014-15, although it had not checked the procedures followed in practice. While some government representatives considered that the existence of bid evaluation committees ensured that there were no deviations from licensing procedures in practice, other senior government officials and development partners explained that there were concerns over deviations from statutory procedures in the past tendering of dozens of licenses, including four gold and copper licenses that had proved particularly controversial.

An organisational assessment of AEITI prepared by Democracy International in May 2017 highlighted the confusion caused by dual licensing regimes at the national and provincial levels. It quoted a 2016 compliance audit report by the Supreme Audit Office (SAO), which found that certain contracts awarded at the provincial level were not compliant with the legal framework and had not been awarded in a transparent manner.¹³² Despite the 2014 Minerals Law ban on awarding mining licenses to staff of the Ministries of Defence and the Interior, the report noted that many mines were still controlled by political elites, warlords, military personnel, and the police.¹³³ The November 2015 ASI report related stakeholder concerns over the lack of sound technical assessments of bids for mining licenses.¹³⁴ These concerns were also reflected in a January 2015 report by the US Institute for Peace (USIP), which highlighted irregularities and lack of transparency in the tender process as well as the award of licenses "through political influence in exchange for cash, election favours, or various other kinds of support."¹³⁵ The report also noted that tender documents for the five mining licenses examined in the study had been drafted in order to provide a competitive advantage to the successful bidder, noting evidence of influence peddling.¹³⁶ A June 2017 USIP report noted the existence of abuses "at all stages" of the licensing process, from the issuance of tenders to the review of bids and awarding of contracts.¹³⁷

In addition to noting the concerns above, several CSOs highlighted the legal requirement for all applicants for mining production licenses to undertake environmental and social impact assessments (ESIA). They considered that very few companies complied with this requirement, aside from the handful of larger mining, oil and gas projects that had been more transparently allocated. Government officials, development partners and CSOs explained that the planned MCAS cadastre project would ensure that all bid documents were posted online and would facilitate the identification of any non-trivial deviations from licensing procedures in future, although the project appeared stalled at the time of Validation (*see Requirement 2.3*).

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made inadequate progress

¹³² Islamic Republic of Afghanistan, SAO, 1393 Compliance Audit Report for MOMP, 2016. Cited in Democracy International (May 2017), 'Afghanistan Extractive Industry Transparency Initiative Organizational Assessment', unpublished, provided by the AEITI Secretariat, p.16.

¹³³ Special Inspector General for Afghanistan Reconstruction (SIGAR) (January 2016), *op.cit.*, p.ii.

¹³⁴ Samuel Hall (November 2015), *op.cit.*, p.52.

¹³⁵ United States Institute of Peace (January 2015), *op.cit.*.

¹³⁶ *Ibid.*

¹³⁷ United States Institute of Peace (June 2017), *op.cit.*, p.3.

towards meeting this requirement. The 2014-15 EITI Report lists 30 mining licenses awarded in the period under review, but does not clarify the procedures followed for their award in practice. It is unclear whether any mining licenses were transferred in this period. The report provides general descriptions of the process for awarding mining licenses and hydrocarbons contracts through competitive bidding, but not of the process for transfer licenses. The report only refers to the existence of bid criteria for license awards and does not describe technical and financial criteria nor provide guidance on accessing bid criteria or a list of unsuccessful bidders for the 30 mining licenses awarded in 2014-15. While the report does not clearly state whether any hydrocarbons contracts were awarded or transferred in 2014-15, there is no indication of any award or transfer of oil and gas licenses in the period under review.

In accordance with Requirement 2.2, Afghanistan should ensure that the number of licenses awarded and transferred in the year(s) under review in both mining and oil and gas be publicly accessible, alongside a description of the actual allocation and transfer process (including the roles of relevant government entities) and any non-trivial deviations from statutory procedures in practice. Afghanistan should clarify the technical and financial criteria (and their weightings) used for assessing license allocations and transfers. Afghanistan may also wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.

License registers (#2.3)

Documentation of progress

Licenses held by material companies: The 2014-15 EITI Report explains that the IA received two lists of *mining* licenses for 2014-15 from MOMP (one in English, one in Dari) and highlights the existence of discrepancies in the general number of licenses between the two lists (p.32). The report provides the English and Dari license registers in Appendices 9.3-9.4 and 9.5, listing 302 licenses in the English version and 438 licenses in the Dari register (a/pp.78-98). For *oil and gas*, the report provides links to the full text of three oil and gas contracts (on the MOMP website) (p.32), but does not clarify whether there were any further oil and gas licenses active in 2014-15.

License-holder names: In *mining*, despite inconsistencies between the two license databases, the report provides the license-holder names for all 302 mining licenses in the English MOMP database (a/pp.78-86) and the 438 mining licenses in the Dari MOMP database (a/pp.87-98). For *oil and gas*, the report provides links to three PSCs on the MOMP website, from which the names of parties to the contracts are available (p.32).

License coordinates: The report does not provide guidance on accessing coordinates of any of the *mining* licenses in either MOMP database provided in Appendices 9.3-9.5, aside from the general name of the license location in the English database (a/pp.78-98). For *oil and gas* however, the report provides links to three PSCs on the MOMP website, which include coordinates of the three blocks (p.32).

Dates: In *mining*, the English MOMP database of 302 licenses in Appendices 9.3-9.4 provides dates of “enforcement” (understood to mean dates of award) and expiry, but no dates of application (a/pp.78-86). The Dari MOMP database of 438 licenses in Appendix 9.5 provides date of award, but no dates of application or expiry (a/pp.87-98). In *oil and gas*, the three PSCs to which links are provided in the EITI

Report (p.32) include the dates of award and period of validity, but do not provide the dates of application for the three oil and gas licenses. However, the MOMP website provides an overview of the tender process for the Amu Darya PSC, where the date of application is accessible.¹³⁸

Commodity: Both the English and Dari license registers in Appendices 9.3-9.5 provide the commodity(ies) covered by each mining license (a/pp.78-98). The report provides links to the three oil and gas PSCs, which confirm that the licenses cover both oil and natural gas (p.32).

Licenses held by non-material companies: The report provides information on licenses held by non-material companies and individuals, despite significant inconsistencies in the two mining license databases provided.

Public cadastre/register: For *mining*, the report provides a description of the MOMP's cadastral management, raising concerns over government record-keeping and quality assurance. It explains that mining license records are kept manually by the MOMP headquarters and provincial offices, and notes that the cadastre is incomplete and outdated (pp.16-17). The report also notes inconsistencies in license information provided from different government sources (including MOMP and MOF) and concludes that cadastral management systems "did not appear to be robust" (pp.16-17,47). For *oil and gas*, the report explains that the MOMP's hydrocarbons register is accessible to the public upon request free of charge (with printed copies of data available at a fee) (p.30).

Stakeholder views

Oil and gas licenses: All stakeholders consulted confirmed that there have only been three oil and gas license awards to date. An industry representative stated that the status of the two Afghan-Tajik Basin licenses (Sanduqli and Mazar-i-Sharif blocks) was unclear as the respective operators had left the country in 2016. While stakeholders explained that the MOMP does not maintain a cadastre system for its oil and gas licenses, the full-text of contracts is accessible on its website. Oil and gas field and geophysical data (but not licenses) are accessible through a USGS-operated ArcGIS web portal.¹³⁹

Mining cadastre: There was consensus amongst stakeholders consulted that Afghanistan does not yet have a functioning mining cadastre despite several attempts over the past decade. Democracy International's May 2017 organisational assessment highlighted provisions of the 2014 Minerals Law requiring the establishment of a computer-based Mining Rights Management System. It attributed delays to a lack of leadership and capacity within MOMP, with frequent turnover in staff assigned to implement the system. Representatives from civil society and the donor community expressed alarm over the succession of unsuccessful attempts at developing a cadastral system. In 2013-14, donors (through the World Bank's Sustainable Development of Natural Resources Project – SDNRP) supported the MOMP's development of a modern cadastre using GAF AG's EMC+ system.¹⁴⁰ While the beta-version of the

¹³⁸ MOMP (December 2011), 'Amu Darya oil tender process and transparency review final report', accessed [here](#) in January 2018.

¹³⁹ USGS, Afghanistan Oil and Natural Gas Viewer, accessed [here](#) in January 2018.

¹⁴⁰ GAF AG EMC+ (2008), 'Establishment of cadaster, inspectorate, audit and licensing functions in the Ministry of Mines', accessed [here](#) in

cadastre portal was soft-launched and is publicly-accessible¹⁴¹, the project was cancelled before the license digitisation process was complete and the cadastre is not in use. DfID's 2014-17 Extractive Sector Support Programme (ESSP) initially supported the development of a mining cadastre based on the Revenue Development Foundation (RDF)'s MCAS system. The aim was to develop a parallel non-tax revenue payment system (NTRS), which would together be integrated into an extractives transparency portal. Following the end of DfID funding in September 2017, the project was continued by GiZ. While a beta version of the cadastral portal was developed¹⁴², only 30 licenses had been digitised as of January 2018. Senior government officials confirmed that the project had been cancelled by the MOMP in January 2018 following concerns that the consultant was unresponsive to MOMP requests and accusations that the project was donor-driven with insufficient buy-in from the ministry. As a result, the MOMP intended to contract an Afghan company to develop the cadastre. A senior government official highlighted the MOMP's commitment to e-government and the priority placed on developing a robust cadastre system.

License information: The IA confirmed that the two lists of mining licenses included in the 2014-15 EITI Report were drawn from the MOMP website in early 2017. While stakeholders from all constituencies highlighted the lack of a unified license register in the past, most stakeholders consulted considered that the list of 1,000 licenses published on the MOMP website in November 2017 was comprehensive of all legal licenses at that time. A former government official who had worked with compiling the list confirmed that there were no mechanisms in place to maintain it updated, so subsequent revisions would require a new round of enquiries with the Provincial Governments. While the contracts provide dates of award and expiry, commodity(ies) covered and name of license-holder, the dates of application and bid criteria are not publicly accessible for the published contracts. Most licenses contain coordinates, although several small-scale contracts do not. However, a development partner noted that small-scale mining contracts at least included a location name or single coordinate, which was sufficient to map the location.

Comprehensiveness: Most stakeholders consulted highlighted the existence of significant illegal mining, particularly in zones not controlled by government forces. Several stakeholders from all constituencies also considered that the suspension of new licensing in the 2015-17 period had also contributed to the growth of illegal mining, given that license-holders tended to continue operating their mines while they awaited the renewal of their license(s) (see *Requirement 2.1*). The IA highlighted significant discrepancies between different lists from various government entities of companies holding mining licenses, including between lists of companies paying royalties and lists of those paying tax. A government official explained that some companies held contracts with the MOMP but simply did not pay royalty because they controlled their own armed groups. While the MOMP liaised with the security services on such issues, there had not been a tangible reduction in illegal mining according to the official. The NGO Integrity Watch Afghanistan estimated that some 1,400 illegal mines operated nationwide (including 710 in the Kabul area alone) in 2016.¹⁴³ While some development partners expressed uncertainty over whether the

January 2018. And MOMP (January 2011), 'Support of SDNRP to the Development of Cadaster, Inspectorate and Audit Functions (GAF) Jan.-11', accessed [here](#) in January 2018.

¹⁴¹ Mining Cadaster Online Maps of the Ministry of Mines and Petroleum of the Islamic Republic of Afghanistan, accessed [here](#) in January 2018.

¹⁴² MOMP Transparency Portal, accessed [here](#) in January 2018.

¹⁴³ Integrity Watch Afghanistan (November 2016), 'Fighting corruption in Afghanistan: solving the institutional puzzle', accessed [here](#) in January 2018, p.6.

list of over 1,000 contracts published on the MOMP website in November 2017 was comprehensive, most other stakeholders consulted considered that this was the full set of licenses.

Active/inactive licenses: While there was consensus that a majority of the 1,000 contracts available on the MOMP website were inactive, there were differing views about the definition of an “inactive contract” and on the precise number of active contracts. While certain stakeholders considered that contracts marked “inactive” on the MOMP website represented lapsed contracts pending renewal, a senior government official explained that inactive contracts were those suspended due to non-compliance with certain license terms such as payment of license fees or adherence to health and safety rules. Officials drew the distinction between “inactive”, “lapsed” and “terminated”. A development partner highlighted the challenges in MOMP’s oversight of contracts given that all but 32 mining contracts had been awarded by MOMP Provincial Offices, with many mines located in areas outside the government’s control. In written comments to the International Secretariat in December 2017, a CSO questioned why 20 companies such as the Hashmi Group retained their licenses from MOMP when they did not make payments to government despite evidence of active mining operations. While a senior government official noted that one of the MOMP’s priorities was to review and triage the list of contracts, there was uncertainty about how often the list of contracts on the MOMP website was updated (and thus whether the contracts marked “inactive” had subsequently become “active”). There were also differing views about the number of active contracts, with some government officials citing 180 and others citing 213 active contracts. A government official noted that the MOF’s Large Taxpayer Office (LTO) had audited 16 allegedly inactive mining companies in 2017 and had found that five of these were in fact active. Members of the MSG stated that the MSG had not discussed the categorisation of “active” mining licenses and agreed that it would be helpful if the list on the MOMP website provided an explanation of the terms.

Lack of licenses for SOEs: Several stakeholders from all constituencies confirmed that SOEs like North Coal Enterprise and Afghan Gas Enterprise did not hold licenses for their areas of operation, which is confirmed in third-party literature.¹⁴⁴ Donor-funded assessments of the two SOEs have highlighted that the lack of licenses for SOEs means that they are not responsible to the MOMP’s Cadastre and Inspectorate Departments. Government officials noted that the government intended on introducing licenses for SOEs as part of the corporatisation effort (*see Requirement 2.6*).

Initial assessment

The International Secretariat’s initial assessment is that Afghanistan has made inadequate progress towards meeting this requirement. The 2014-15 EITI Report highlights inconsistencies between two mining license registers sourced from the MOMP, but only provides a fraction of the information mandated by Requirement 2.3.b. While the MOMP published over 1,000 contracts on its website in November 2017, which include most information listed under Requirement 2.3.b aside from dates of application, the lack of clear categorisation of active licenses is a concern given the significant uncertainty over the comprehensiveness of license information collected by MOMP. The report provides links to the three oil and gas PSCs awarded to date accessible on the MOMP website, which include all information

¹⁴⁴ Ministry of Mines (December 2011), ‘National Coal policy’, accessed [here](#) in January 2018, p.5.

mandated under Requirement 2.3.b aside from dates of application.

In accordance with Requirement 2.3, Afghanistan should maintain a publicly available register or cadastre system with timely and comprehensive information on all mining, oil and gas licenses including license-holder name, dates of application, award and expiry, commodity(ies) covered and coordinates. The MSG should work with the MOMP to ensure all license information listed in Requirement 2.3.b is available for all extractives licenses active in the period under review.

Contract disclosures (#2.4)

Documentation of progress

Government policy: The 2014-15 EITI Report clarifies the government's commitment, made at the 5-6 October 2016 Brussels Conference on Afghanistan, to publish all mining contracts "by first half of 2018" (p.33). It also refers to legal provisions requiring the publication of Minerals Development Contracts on the MOMP website within ten days of signature, although the report does not specifically state that these legal provisions relate to the 2014 Minerals Law (p.26). However, the report does not clarify the government's policy on contract disclosure in the oil and gas sector, aside from a general reference to "prevailing laws prohibiting disclosures of state records (public registered documents)" (p.30).

Practice and accessibility: The report states that one mining contract, covering the Aynak copper project, and three oil and gas PSCs, covering the Amu Daya, Sanduqli and Mazar-i-Sharif blocks, are accessible on the MOMP website and provides relevant links (pp.30,32). The report states that information on Dari-language small mine contracts is available on the MOMP website, although it highlights that there are three different lists of contracts (listing 302, 867 and 491 contracts respectively), and a fourth list of (488) small-scale contracts actually published and whose full-text is publicly accessible (p.32), without providing further explanation for these discrepancies. The Resource Contracts portal lists two coal concessions¹⁴⁵ and one gold concession¹⁴⁶, alongside the same three PSCs and the various contracts related to the Aynak copper project cited in the 2014-15 EITI Report.¹⁴⁷

Stakeholder views

Government policy: Stakeholders from all constituencies confirmed that the government's policy was to publish all extractives contracts and several CSOs praised the government for implementing this commitment in 2017. The May 2017 AEITI organisational assessment noted that the 2016 Brussels Conference commitment was made to "operationalise" the commitment to mining contract transparency by amending the 2014 Minerals Law with provisions requiring the systematic publication of mining contracts.¹⁴⁸ In 2015, Global Witness called for amendments to the Minerals Law stipulating that extractives contracts only became valid once they were made public.¹⁴⁹

¹⁴⁵ The Majd Industrial Pishgaman Company 2011 Coal Concession and the Khoshak Brothers Company, Aria Popal Company 2012 Dar-e-Souf Coal Concession.

¹⁴⁶ The Afghan Krystal Natural Resources Company 2011 Gold Concession.

¹⁴⁷ Resource Contracts, Afghanistan contracts, accessed [here](#) in December 2017.

¹⁴⁸ Democracy International (May 2017), op.cit, p.5.

¹⁴⁹ Global Witness (September 2015), op.cit., p.1.

Practice and accessibility: Despite uncertainty from some development partners over whether the more than 1,000 contracts published on the MOMP website in 2017 represented the full list of agreements, all other stakeholders consulted considered that the published contracts were comprehensive. Several CSOs expressed satisfaction at the government's implementation of its contract disclosure policy. The May 2017 AEITI organisational assessment quoted a SAO 2016 compliance audit report that found that MOF departments including the Revenue Department did not systematically have access to extractives contracts from MOMP, despite requirements for MOMP to make all contracts available to the MOF.¹⁵⁰ Several government officials highlighted the MOMP's plans to review and standardise royalty rates, which differ per contract, and to develop a model mining contract.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made satisfactory progress towards meeting this requirement. The 2014-15 EITI Report clarifies the government's policy for contract disclosure in the mining sector and documents actual disclosure practice and accessibility of contracts in the mining, oil and gas sectors. While the report does not clarify the government's policy on contract disclosure in the oil and gas sector, it can be inferred that the government's pro-disclosure policy covers both mining and oil and gas contracts. In the Secretariat's view, Afghanistan has also gone beyond the minimum requirements by making contracts public as encouraged by the EITI Standard.

To strengthen implementation, Afghanistan is encouraged to undertake a review of published mining contracts to clearly categorise contracts and ensure that the published contracts on the MOMP website are regularly updated.

Beneficial ownership disclosure (#2.5)

Documentation of progress

Government policy: The 2014-15 EITI Report describes the government's commitment made at international conferences in Tokyo and London in 2016 to disclose beneficial owners of mining, oil and gas companies through a public register (p.34). The report describes Afghanistan's 2017-2021 National Peace and Development Framework, which commits to introduce new (unspecified) requirements for disclosure of beneficial ownership, and the Self-Reliance Through Mutual Accountability Framework (SMART) 2017-18 deliverables agreed at the Brussels Conference on Afghanistan in October 2016, which seek to "operationalise" the government's commitment to EITI, including identifying beneficial owners involved in mining contracts (pp.33-34).

The report also describes provisions of the 2009 Mining and Hydrocarbons Law (Article 100) and the Mining Regulations of 2010 banning "certain" politically-exposed persons from holding mineral rights, albeit highlighting (unspecified) inconsistencies with the definition of politically-exposed persons (PEPs) in (unspecified) "other laws" (pp.22,34). The report is not clear about whether the same provisions apply in

¹⁵⁰ Islamic Republic of Afghanistan, SAO, 1393 Compliance Audit Report for MOMP, 2016. Cited in Democracy International (May 2017), 'Afghanistan Extractive Industry Transparency Initiative Organizational Assessment', unpublished, provided by the AEITI Secretariat, pp.16,17.

the 2014 Minerals Law.

Reforms: The 2014-15 EITI Report states that the MSG approved the three-year beneficial ownership roadmap in February 2017 and describes the MSG's activities in preparing the roadmap (pp.33-34). The report highlights the roadmap's aim to collect and publish a first set of beneficial ownership information by January 2018, prior to finalising the assurance procedures for beneficial ownership reporting by January 2019 (p.34). The roadmap, accessible on the AEITI website¹⁵¹, is structured in nine points covering aspects recommended in the International Secretariat's guidance (covering institutional framework, data collection and dissemination). The majority of activities in the roadmap were planned for 2017, with data collection expected to start no later than January 2018, although evidence indicates delays in implementation.

The 2014-15 EITI Report explains that CSOs have been in discussion with the MOMP in 2016-17 to define the terms "beneficial ownership" and "politically-exposed persons" either through amendments to the Minerals Law or through standalone beneficial ownership legislation. It also describes ongoing work by AEITI together with the Ministry of Commerce and Industries' Afghanistan Central Business Registry (ACBR) and the MOMP to assess options for collecting and publishing beneficial ownership information (p.34).

Practice: There is no evidence in the 2014-15 EITI Report, its annexes or reporting templates of any MSG attempt to report the beneficial ownership of material companies. The report notes the target of January 2018 for publishing the first set of beneficial ownership information.

Legal owners of material companies: The 2014-15 EITI Report does not disclose the identity of legal owners of material companies. However, there is evidence in the reporting templates provided in annex that material companies were requested to report details of their legal ownership (a/pp.136,143). While it is possible to access details of companies operating in Afghanistan through the ACBR website¹⁵², shareholder information does not appear available for all material companies.¹⁵³

Stakeholder views

Policy: Stakeholders from all constituencies confirmed the government's commitment to beneficial ownership disclosure for all companies in Afghanistan. The May 2017 AEITI assessment noted the government's commitment at the 2016 Brussels Conference on Afghanistan to "operationalise" its commitment to beneficial ownership disclosure by requiring the identification of beneficial owners of parties to mining contracts.¹⁵⁴

PEPs: Several stakeholders from all constituencies highlighted the (often hidden) ownership of mining

¹⁵¹ Afghanistan EITI (2017), 'Beneficial ownership roadmap', accessed [here](#) in January 2018.

¹⁵² Afghanistan Central Business Registry, Company verification platform, accessed [here](#) in December 2017.

¹⁵³ See for instance information on China Metallurgical Corp. (MCC), accessed [here](#) in December 2017. While MCC is listed as a limited liability company, the ACBR only provides contact details for its President and no legal shareholder information.

¹⁵⁴ Democracy International (May 2017), op.cit., p.5.

licenses by PEPs, particularly parliamentarians. A minority of industry and government officials consulted considered that PEPs systematically divested from their mining assets upon being appointed to public office. Despite provisions in the 2005 and 2014 Mineral Laws prohibiting politicians and senior government officials from holding mining assets, several independent studies have revealed connections between PEPs and key mining contracts.¹⁵⁵ Several stakeholders noted that parliamentarians applied political pressure on government officials to protect their mining interests, and stakeholders from all constituencies took it for granted that PEPs circumvent the law's prohibition by transferring legal ownership of companies to proxies under their control. While a government official explained that the MOMP did not currently require disclosure of beneficial ownership in license applications, applicants were required to complete an eligibility form that asked whether the applicant was linked to a PEP. While the government published asset declarations by top-ranking officials in 2015 for the first time¹⁵⁶, several CSOs noted that the reporting was not comprehensive with only a handful of officials disclosing their assets. A development partner noted that provisions of the IMF's extended credit facility required asset disclosures by government officials, with the first round of disclosures under the programme expected in April 2018. Global Witness has publicly called for the government to set a clear definition for PEPs.¹⁵⁷

Practice: Members of the MSG confirmed that AEITI had yet to begin collecting data on extractives companies' beneficial ownership. However, a government official explained that the ACBR had already started piloting beneficial ownership reporting for new company registrations, pending legal reform to make such disclosures compulsory. The official noted however that the experience thus far was that company management tended to report legal shareholders as beneficial owners and that there was little or no understanding – also within the ACBR – on how a beneficial ownership registry could be expected to function in an Afghan context. Members of the MSG noted their intention to include the first set of beneficial ownership reporting in the next EITI Report.

Legal owners: A September 2015 policy brief by Integrity Watch Afghanistan and Global Witness noted that, while the then Afghanistan Investment Support Agency (AISA) was responsible for publishing details of companies' shareholders, it did not do so in practice.¹⁵⁸ The AISA has since merged with the ACBR, and stakeholders from all constituencies highlighted that the ACBR web portal now provided information on the shareholding of all registered companies although certain CSOs noted gaps in the legal ownership information for some companies. The May 2017 AEITI assessment explained that all companies operating in Afghanistan are required to register with the ACBR, with extractives companies first requiring a referral letter from MOMP in order to register.¹⁵⁹ However, the assessment noted that lists of extractives companies maintained by MOMP and the ACBR are inconsistent.¹⁶⁰

¹⁵⁵ United States Institute of Peace (January 2015), op.cit.. And United States Institute of Peace (June 2017), op.cit..

¹⁵⁶ IMF (July 2016), 'IMF Loan for Afghanistan to Support Growth, Catalyze Donor Aid', accessed [here](#) in January 2018.

¹⁵⁷ Global Witness (September 2015), op.cit., p.2.

¹⁵⁸ Integrity Watch Afghanistan and Global Witness (September 2015), 'Extractives for sustainable development in Afghanistan Policy Brief', accessed [here](#) in December 2017, p.2.

¹⁵⁹ Islamic Republic of Afghanistan, Corporations and Limited Liability Companies Law of Afghanistan, article 2. Cited in Democracy International (May 2017), 'Afghanistan Extractive Industry Transparency Initiative Organizational Assessment', unpublished, provided by the AEITI Secretariat, p.19.

¹⁶⁰ AEITI (June 2014), Annual Progress Report (1392/2013-14). Cited in Democracy International (May 2017), op.cit., p.19.

Reforms: The NGO Global Witness has called for amendments to the Minerals Law to require any company applying for or holding extractives licenses to publish details of their beneficial owners and for clear penalties for hidden ownership.¹⁶¹ While stakeholders from civil society and government noted some delays in implementation of the AEITI beneficial ownership roadmap, stakeholders from all constituencies highlighted that the issue was a priority for the Presidency. Several government representatives noted that the government's concept note on beneficial ownership had been approved in January 2018 but this was not public at the time of the mission. Stakeholders confirmed that ACBR had been designated as the lead agency for developing the public beneficial ownership register.

Initial assessment

Implementing countries are not yet required to address beneficial ownership and progress with this requirement does not yet have any implications for a country's EITI status. Nonetheless, Afghanistan has made some progress in agreeing a three-year beneficial ownership roadmap, even if beneficial ownership reporting has yet to begin. While the ACBR provides information on legal owners of some extractives companies, there are gaps in information on shareholding of some material companies.

In order to strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that AEITI considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. Afghanistan may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory.

State participation (#2.6)

Documentation of progress

Materiality: The 2014-15 EITI Report lists two SOEs in the extractive industries, North Coal Enterprise (NCE) and Afghan Gas Enterprise (AGE), which were included in the scope of reconciliation (pp.20,52). The report confirms that the government had no other ownership interest in the extractive industries in the years under review (p.52). Reconciled data in the report shows that the two SOEs accounted for roughly 75% of extractives revenues in 2014-15 (p.49). While the 2012 EITI Report included a third SOE, the state-owned Kode Barq fertilizer company, in the scope of reporting, the 2012-13 EITI Report explained that the SOE had not been considered an extractives SOE for EITI reporting purposes given its operations as a processor of extractives materials rather than an extractives company.¹⁶²

Financial relationship with government: The report does not comprehensively describe the statutory rules governing the financial relations¹⁶³ between the two SOEs and the government, nor any deviations in the

¹⁶¹ Global Witness (September 2015), op.cit., p.2.

¹⁶² Afghanistan EITI (February 2016), 'Afghanistan Fourth EITI Report 1391 and 1392 (2012 and 2013) - Appendices', accessed [here](#) in December 2017, p.47.

¹⁶³ E.g. rules on retained earnings, reinvestment and third-party funding.

years under review. The report describes the NCE as a public enterprise of MOMP¹⁶⁴ established by charter, overseen by a seven-member Supreme Council¹⁶⁵ and managed by an Operations Board (p.52). It also provides a cursory description of the AGE, a public enterprise of MOMP¹⁶⁶ that operates four gas fields, a small pipeline network and represents Afghanistan in the international consortium¹⁶⁷ to develop the TAPI pipeline (p.52). The report highlights challenges in obtaining information from both SOEs as well as the MOF and MOMP departments responsible for SOEs (p.68). It highlights the two SOEs' lack of accounting capacity, with records maintained manually, which hindered their ability to provide basic financial data (pp.19-20). The report provides Central Statistics Organisation of Afghanistan (CSOA) figures on the two SOEs' revenues and profits for 2014-15 (p.52) and a reconciliation of the two SOEs' payments of five taxes¹⁶⁸ and dividends (categorised as "Other Receipts Profit") to MOF (p.69). The lack of information on SOEs has been the focus of sporadic discussions on the MSG, most notably at its 24 May 2016 meeting when then acting Minister of Mines and Petroleum Ghazaal Habibyar-Safi announced plans for an assessment of SOEs following the findings of the 2012-13 EITI Report.¹⁶⁹

Government ownership: Although the EITI Report does not explicitly state that the government owns 100% of NCE and AGE, nor describe the terms associated with state equity in the two SOEs (p.68), a GiZ study on accounting, auditing and reporting web-based software in Afghanistan's mineral sector, provided in annex to the report, states that SOEs are 100%-owned by the government (a/p.229). It is unclear whether either of these SOEs has any subsidiaries or joint-ventures, but the report confirms that the government had no other ownership interest in the extractive industries in the years under review (p.52). The report does not refer to any changes in ownership in 2014-15.

Loans and guarantees: The report does not refer to any loans or loan guarantees extended by the government or either SOE to companies operating in the mining, oil and gas sectors. While the report confirms that the MSG included "loan repayments" and "interest on loans" in the scope of reporting by SOEs (p.43), there is no evidence of SOEs' reporting of such items.

Stakeholder views

Materiality: There was consensus amongst stakeholders consulted that only two SOEs were material in line with the definition of SOEs in Requirement 2.6.b. Several stakeholders noted that the state-owned Jabal-Saraj Cement (JSC) had resumed operations in 2016¹⁷⁰ after two decades of inactivity and was not operating in the years under review. A senior government official noted that the three most profitable SOEs (out of 30) were under the MOMP's purview. While some MSG members noted the MSG's occasional discussions of SOEs, there was consensus amongst stakeholders consulted that the MSG had never comprehensively discussed the EITI Standard's full set of disclosure requirements for SOEs. While

¹⁶⁴ According to the Central Statistics Organisation of Afghanistan (CSOA).

¹⁶⁵ Chaired by the Minister of Mines and Petroleum with a deputy director from the MOF.

¹⁶⁶ According to the CSOA.

¹⁶⁷ Alongside Turkmenistan, Pakistan and India.

¹⁶⁸ Income Tax; Business Receipt Tax; Withholding on Salary; Withholding Tax on Rent; Withholding Tax on Contract; Withholding Tax-Other Items; and "Other".

¹⁶⁹ Afghanistan EITI (May 2016), 'Minutes of the MSG meeting, 24 May 2016', accessed [here](#) in December 2017.

¹⁷⁰ Reuters (May 2016), 'Hopes and fears for jobs as Afghan cement factory reopens', accessed [here](#) in January 2018.

there was consensus that the two SOEs were the largest contributors to government extractives revenues, several representatives from government and the donor community explained that the public typically trusted SOEs and that there was little political momentum to reform or otherwise scrutinise too closely companies that were generating revenues. Several MSG members highlighted the MSG's decision in 2017 to invite SOE representatives to attend AEITI meetings as observers.

Financial relations: Stakeholders from all constituencies confirmed that the financial relations between NCE, AGE and the government were governed by the SOE Law (Articles 11 to 28¹⁷¹), which set clear rules for retained earnings, reinvestment and third-party (debt) financing. The law allows SOEs to retain 5% of their revenues as “development funds”, 2% as petty cash for the company reserve fund, 3% for social expenditures and 15% for staff bonuses, with the remaining 75% of revenues to be transferred to the Treasury. The law also bars SOEs from third-party investment without written permission from the MOF. Several government officials and independent reports¹⁷² have noted that the lack of licenses for SOEs exempts them from non-tax (royalty and license fee) liabilities to government.

While there was consensus on the statutory rules governing SOEs' financial relations with the government, stakeholders from all constituencies highlighted the opacity of the two SOEs' financial management in practice. Several government officials noted that the MOF's Revenue Department did not receive profit and loss statements from SOEs, hindering their ability to undertake tax liability assessments of the SOEs. In addition, SOEs normally made lump sum payments for all payments to government combined (commonly called “SOE Tax” by NCE according to a 2011 study on NCE¹⁷³), hindering the MOF's ability to track revenues. One government official considered that the MOF's SOE Department should be able to disclose financial data on the two SOEs, given that SOEs were required to submit balance sheets, annual production and expenditure plans to the MOF's SOE Department every year, but other government officials said that the balance sheets were in effect one-page statements with no disaggregated information. The IA highlighted the SOEs' weak accounting systems and location in dangerous areas as key challenges for EITI data collection. One CSO expressed concern at the apparent lack of correlation between NCE's reported production and its payments to government. While none of the stakeholders consulted knew whether NCE and AGE had financial statements for 2014-15, a senior government official considered that their financial statements were prepared (albeit not published) for 2016-17. Several development partners noted the weak institutional cooperation between MOF and MOMP on the issue of SOEs, but confirmed that the MOF (not MOMP) had primary responsibility for overseeing SOEs (which was confirmed in the May 2017 AEITI organisational assessment¹⁷⁴). Meanwhile, the May 2017 AEITI assessment noted that the SAO currently conducts compliance audits of SOEs but does not have the capacity to undertake financial audits, while the MOMP's internal audit, responsible for auditing extractives SOEs, was described as “very weak”.¹⁷⁵ The IA noted that the MOF had highlighted three years of tax payment arrears from the two SOEs during preparations of the 2014-15 EITI Report.

¹⁷¹ Afghanistan's State-Owned Enterprises Law, accessed [here](#) in January 2018.

¹⁷² See Ministry of Mines and Petroleum (April 2011), ‘Financial Assessment of the Northern Coal Enterprise’, unpublished, provided by stakeholders in January 2018. Ministry of Mines and Petroleum (June 2016), ‘Reform and restructuring of Northern Coal Enterprise’, unpublished, provided by stakeholders in January 2018.

¹⁷³ Ministry of Mines and Petroleum (April 2011), op.cit., p.17.

¹⁷⁴ Democracy International (May 2017), op.cit., p.17.

¹⁷⁵ Democracy International (May 2017), op.cit., p.20.

One CSO raised concern over the fact that the Chief Executive of NCE was always a political appointee.

Stakeholders from all constituencies confirmed that NCE relied on independent miners for much of its coal production. While several government officials noted that this practice was not codified by law, they explained that a 2006 Presidential Decree on the corporatisation of NCE provided for NCE to shift the burden of production to independent miners. While the five-year Decree expired in 2010, it has reportedly been extended annually since then¹⁷⁶, although the independent miners operate without formal contractual relationship with NCE according to a 2016 World Bank-funded assessment of NCE for the MOMP.¹⁷⁷ Meanwhile reports published in 2016 by USAID and SIGAR highlighted the AGE's low profitability, particularly given payment arrears from its main clients (including the Northern Fertilizer Power Plant), with the enterprise using the majority of its USD4m-USD5m in annual revenues to cover salaries and transfers to the Treasury in 2012.¹⁷⁸ Several stakeholders from government, civil society and the donor community highlighted plans to corporatize the two SOEs, with a SOE roadmap announced in January 2018. The World Bank, under SDNRP-2, has provided technical assistance to restructuring and reforming NCE, proposing that reforms allow NCE to retain earnings but to remit funds to the Treasury via a royalty fee on coal production and a dividend on profits.¹⁷⁹

Ownership: Senior government officials confirmed that NCE and AGE were both wholly-owned by the government and that neither had any subsidiaries. The SOE Law bars SOEs from having investments in third-party companies, although they are allowed to form joint-ventures upon written authorisation from the Ministry of Finance (Articles 16 and 17).¹⁸⁰

Loans and guarantees: There was consensus amongst stakeholders consulted that the government did not have the capacity to provide loans or guarantees to extractives companies and that, with around 70% of the budget funded directly by donors, Afghanistan relied on concessional funding for its government functions. There is however evidence of outstanding loans from NCE to various government entities and SOEs in fertilizer and cement production, with a 2011 assessment of NCE, funded by DfID and conducted by ASI, highlighting some USD 4.3m in outstanding loans, at times to entities that no longer existed.¹⁸¹ The list of outstanding loans from NCE, often in the form of coal supplies categorised as loans on NCE's books (see Annex F). The IA noted that it had not received any information on loans or guarantees despite including lines in the reporting templates. Development partners did not have visibility on loans involving SOEs.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made inadequate progress in meeting this requirement. The 2014-15 EITI Report lists two SOEs in the extractive industries, but does not describe the level of state ownership, terms associated with state equity nor any changes in state

¹⁷⁶ Ministry of Mines and Petroleum (April 2011), op.cit., p.19. And Ministry of Mines and Petroleum (June 2016), op.cit., p.34.

¹⁷⁷ Ministry of Mines and Petroleum (June 2016), op.cit., pp.34-35.

¹⁷⁸ Sheberghan Gas Generation Activity (March 2015), 'Gas Feasibility Study Update', as cited in SIGAR (January 2016), op.cit., p.11. And USAID (November 2016), 'Afghan Gas Enterprise: assessment report', accessed [here](#) in January 2018, p.11.

¹⁷⁹ UNICOM/World Bank (September 2015), 'NCE Restructure and reform project status update presentation', accessed [here](#) in January 2018, p.16.

¹⁸⁰ Afghanistan's State-Owned Enterprises Law, accessed [here](#) in January 2018.

¹⁸¹ Ministry of Mines and Petroleum (April 2011), op.cit., p.12.

ownership in the years under review. The report does not describe statutory financial relations between the two SOEs and the state, nor any deviations in practice beyond a description of SOEs' weak accounting systems. While there is evidence that the MSG requested details of loan repayments and interest on loans from the two SOEs, the report does not categorically state whether any loans or loan guarantees from the state or SOEs to extractives companies existed in the years under review.

In accordance with Requirement 2.6, Afghanistan should provide an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party financing. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies. AEITI may wish to align reporting with the government's corporatisation strategy for the two extractives SOEs with a view to providing annual diagnostics to support reforms. As a first step and in the absence of publicly available information on the SOEs, AEITI may also wish to pursue the publication of existing studies of SOEs that have been conducted for the MOF and MOMP but that are not currently available to the public.

Table 2- Summary initial assessment table: Award of contracts and licenses

| EITI provisions | Summary of main findings | International Secretariat's initial assessment of progress with the EITI provisions |
|----------------------------|---|---|
| Legal framework (#2.1) | The 2014-15 EITI Report includes an overview of relevant laws, government entities except for the Presidency and the High Economic Council, fiscal terms in the mining, oil and gas sector, the degree of fiscal devolution and brief commentary on current reforms. | Satisfactory progress |
| License allocations (#2.2) | The 2014-15 EITI Report lists 30 (unidentified) mining licenses awarded in the period under review, but does not clarify the procedures followed for their award in practice. It is unclear whether any mining licenses were transferred in this period. The report provides general descriptions of the process for awarding mining licenses and hydrocarbons contracts through competitive bidding, but not of the process for transfer licenses. The report only refers to the existence of bid criteria for license awards, it does not describe technical and financial criteria nor provide guidance on accessing bid criteria and a list of unsuccessful bidders for the 30 mining licenses awarded in 2014-15. While the report does not clearly state whether any hydrocarbons contracts were awarded or | Inadequate progress |

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| | | |
|--|--|--------------------------------|
| | transferred in 2014-15, there is no indication of any award or transfer of oil and gas licenses in the period under review. | |
| License registers (#2.3) | The 2014-15 EITI Report highlights inconsistencies between two mining license registers sourced from the MOMP, but only provides a fraction of the information mandated by Requirement 2.3.b. While the MOMP published over 1000 contracts on its website in November 2017, which include most information listed under Requirement 2.3.b aside from dates of application, the lack of clear categorisation of active licenses is a concern given the significant uncertainty over the comprehensiveness of license information collected by MOMP. The report provides links to the three oil and gas PSCs awarded to date and accessible on the MOMP website, which include all information mandated under Requirement 2.3.b aside from dates of application. | Inadequate progress |
| Contract disclosures (#2.4) | The 2014-15 EITI Report clarifies the government's policy for contract disclosure in the mining sector and documents actual disclosure practice and accessibility of contracts in the mining, oil and gas sectors. While the report does not clarify the government's policy on contract disclosure in the oil and gas sector, it can be inferred that the government's pro-disclosure policy covers both mining and oil and gas contracts given the publication of all oil and gas contracts. In the Secretariat's view, Afghanistan has also gone beyond the minimum requirements by making contracts public as encouraged by the EITI Standard. | Satisfactory progress (beyond) |
| Beneficial ownership disclosure (#2.5) | Afghanistan has made some progress in agreeing a three-year beneficial ownership roadmap, even if beneficial ownership reporting has yet to begin. While the ACBR provides information on legal owners of some extractives companies, there are gaps in information on shareholding of all material companies. | |
| State-participation (#2.6) | The 2014-15 EITI Report lists two SOEs in the extractive industries, but does not describe the level of state ownership, terms associated with state equity nor any changes in state ownership in the years under review. The report does not | Inadequate progress |

| | | |
|---|--|--|
| | <p>describe statutory financial relations between the two SOEs and the state, nor any deviations in practice beyond a description of SOEs' weak accounting systems. While there is evidence that the MSG requested details of loan repayments and interest on loans from the two SOEs, the report does not categorically state whether any loans or loan guarantees from the state or SOEs to extractives companies existed in the years under review.</p> | |
| <p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. To strengthen implementation, Afghanistan is encouraged to ensure that comprehensive review of reforms in the mining, oil and gas sectors are publicly documented and that the role of all government agencies and their division of responsibilities is clearly explained. Afghanistan may wish to use annual EITI reporting to analyse the implementation of recent regulatory reforms as a regular diagnostic on which further reforms can be based. 2. In accordance with Requirement 2.2, Afghanistan should ensure that the number of licenses awarded and transferred in the year(s) under review in both mining and oil and gas be publicly accessible, alongside a description of the actual allocation and transfer process (including the roles of relevant government entities) and any non-trivial deviations from statutory procedures in practice. Afghanistan should clarify the technical and financial criteria (and their weightings) used for assessing license allocations and transfers. Afghanistan may also wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations. 3. In accordance with Requirement 2.3, Afghanistan should maintain a publicly available register or cadastre system with timely and comprehensive information on all mining, oil and gas licenses including license-holder name, dates of application, award and expiry, commodity(ies) covered and coordinates. The MSG should work with the MOMP to ensure all license information listed in Requirement 2.3.b is available for all extractives licenses active in the period under review. 4. To strengthen implementation, Afghanistan is encouraged to undertake a review of published mining contracts to clearly categorise contracts and ensure that the published contracts on the MOMP website are regularly updated. 5. In order to strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that AEITI considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. Afghanistan may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory. 6. In accordance with Requirement 2.6, Afghanistan should provide an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party financing. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies. | | |

AEITI may wish to align reporting with the government's corporatisation strategy for the two extractives SOEs with a view to providing annual diagnostics to support reforms. As a first step and in the absence of publicly available information on the SOEs, AEITI may also wish to pursue the publication of existing studies of SOEs that have been conducted for the MOF and MOMP but that are not currently available to the public.

3. Monitoring and production

3.1 Overview

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

3.2 Assessment

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

Documentation of progress

The 2014-15 EITI Report provides an overview of the mining, oil and gas sectors including significant exploration activities for oil and gas (pp.7-9). Although exploration activities for mining are not explicitly included, a description of the USAID-supported 2014-2017 Mining Investment and Development for Afghanistan Sustainability (MIDAS) project is provided, which includes an overview of a granite drilling programme and geological studies (p.37). The report also refers to the US Geological Survey's descriptions of artisanal mining of aluminium, barite, gold, lapis-lazuli, sand, gravel and talc (p.7), and to a GiZ report on extractives information systems that covers revenues from artisanal and small-scale mining (ASM) (p.78), which is provided in Appendix 9.4 (a/pp.217-241).

Stakeholder views

Stakeholders did not express any particular views on the comprehensiveness of the coverage of extractive industries and exploration activities in the AEITI Reports, other than to highlight the challenge posed by extensive, uncontrolled mineral production. The May 2017 AEITI organisational review highlighted the MOMP's lack of information on ASM and described the MSG's intent to incorporate revenues from ASM in the scope of EITI reporting.¹⁸²

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made satisfactory progress towards meeting this requirement. The 2014-15 EITI Report provides an overview of the extractive industries, including significant exploration and informal activities.

To strengthen implementation, Afghanistan may wish to expand its coverage of the mining sector by

¹⁸² Democracy International (May 2017), op.cit., p.16.

including more specific updates on estimated deposits, ongoing and stalled projects.

Production data (#3.2)

Documentation of progress

The 2014-15 EITI Report states that there is no industrial-scale mining and only a “comparative small” formal mining sector in Afghanistan (p.7). The report also notes that there is oil production from the Amu Darya PSC since 2013 (p.8) and gas production from four fields operated by the Afghan Gas Enterprise (p.52). The report explicitly states that ASM was excluded from the scope of reporting (p.16).

Production volumes: The report presents the results of reconciliation between reporting companies and MOMP of 2014 and 2015 production volumes for nine mineral commodities produced, with significant unexplained discrepancies (pp.38-39). The report also includes a comparison of reported production figures and royalties paid (p.40). It is notable that most companies did not report any talc production. The report is transparent about the incomplete nature of reported production volumes, noting the lack of robust systems to monitor production (p.20). It also provides the USGS figures for annual production volumes for 11 mineral commodities in the 2009-13 period, although not for 2014 or 2015 (p.8). The production volumes reported by material companies in the 2014-15 EITI Report are significantly higher than USGS figures for 2009-13.

Production values: The report does not provide any information on production values for any of the mineral commodities produced, nor any average or reference commodity prices for 2014 or 2015.

Location: The report provides an overview of the general production location for oil (p.8) and gas (pp.9,52). While the report does not explicitly describe the location of mining production, the English MOMP mining license register provided in Appendices 9.3-9.4 provides the general location of each license (a/pp.78-86).

Stakeholder views

Stakeholders from all constituencies considered that production data in the AEITI Reports was not comprehensive. In its pre-Validation self-assessment in 2017, the MSG considered that it had made “insufficient” progress towards addressing Requirement 3.2. Several CSOs noted that production reported by material companies represented only a fraction of total production given the significance of illegal mining. In written comments to the International Secretariat in December 2017, the CSO ENRMN raised significant concerns over under-reporting and inaccuracies of production figures in the 2014-15 EITI Report. More specifically, it estimated that the Kushak Brothers Company produced over 1m tons of coal a year, despite the 45,118 tons reported for 2015 in the EITI Report. Several CSOs reported other specific instances of alleged under-reporting of actual production by material companies in the 2014-15 EITI Report. However, several industry representatives raised concerns over the calculation of royalties on the basis of planned production, regardless of actual output (*see Requirement 2.1*). The IA confirmed that reported production in the EITI Report was incomplete and did not reconcile with data from other sources. The Central Statistics Organisation (CSO) website provides production figures (sourced from

MOMP) for seven minerals produced in 2014-15¹⁸³, although production volumes provided are significantly lower than those published in the EITI Report.

The May 2017 AEITI organisational assessment highlighted inconsistencies between MOMP production and royalty figures, as well as the lack of officially-reported gemstone production figures despite press reports of extensive production.¹⁸⁴ Several stakeholders from different constituencies described the practice of “laundering” illegal minerals by selling them to legitimate license-holders, who then sold the minerals on open markets. Several CSOs express doubt over whether such production was reported through EITI. They also noted that the significant amounts of coal mined by independent miners on behalf of NCE (see *Requirement 2.6*) were not reported in the AEITI Reports.

Several stakeholders considered that CSO estimates of mineral production were closer to being accurate than official figures, given their work in counting trucks and estimating informal activity. The USIP has used these techniques in estimating informal production and export of coal, talc and nephrite.¹⁸⁵ Representatives from all constituencies highlighted weaknesses in the MOMP’s Inspectorate Department, which hindered its ability to gather reliable statistics. One development partner described GiZ’s support to the MOMP’s Inspectorate Department to increase its technical and human resource capacity, reduce the scope for corruption in the inspection process itself and bolster the MOMP’s internal controls. A senior government official noted the creation of a Mining Inspectorate Audit Committee within MOMP in 2017, which provided weekly reports to the Minister. Another development partner noted plans to develop excel databases to track production, which would be shared between MOMP and MOF, to improve production data reporting.

Initial assessment

The International Secretariat’s initial assessment is that Afghanistan has made inadequate progress towards meeting this requirement. The 2014-15 EITI Report provides the results of reconciliation of production volumes for minerals (including oil and gas) reported by companies and government in the years under review, albeit with significant unexplained discrepancies. There are significant concerns from all constituencies consulted over the reliability of official production statistics. The report does not provide values for any of the production volumes reported, although it does indirectly provide some information on the location of production.

In accordance with Requirement 3.2, Afghanistan should ensure that production volumes and values for all extractive commodities produced are publicly accessible. Where comprehensive disclosure of production figures for all minerals produced is not technically-feasible (e.g. for security reasons), Afghanistan should ensure that the reasons for non-disclosure are clearly explained and that publicly-available estimates are comprehensively disclosed and assessed. The MSG may wish to use EITI reporting to explain challenges in the production of official production statistics and track the implementation of key reforms in the MOMP’s mine inspection and oversight.

¹⁸³ Central Statistics Organisation (2017), ‘Mining and Energy statistics, 1387-1395’, accessed [here](#) in January 2018.

¹⁸⁴ Democracy International (May 2017), *op.cit.*, pp.15-16.

¹⁸⁵ United States Institute of Peace (June 2017), *op.cit.*, pp.7-9.

Export data (#3.3)

Documentation of progress

The 2014-15 EITI Report quotes the MOF Macro Fiscal Performance Directorate's statement that information on extractives exports is not currently available (p.41). The report states that "almost all" of Afghanistan's gas production is supplied to the Northern Fertilizer and Power Plant (p.52), but does not explain whether any crude oil production is exported. While confirming that ASM was excluded from the scope of the 2014-15 EITI Report, the report quotes estimates of lapis lazuli export volumes and values from a June 2016 Global Witness report¹⁸⁶ (p.16).

While the report provides World Bank figures for total (not extractives) exports in 2015 (p.41), it does not refer to other publicly-accessible estimates of extractives exports.

Stakeholder views

Industry representatives and the IA confirmed that all natural gas production was sold domestically. An industry representative explained that CNPCI, the sole crude oil producer, sold all of its production to domestic buyers, which included oil traders. While it was possible that the traders subsequently exported the oil to neighbouring countries, the representative considered that the oil was consumed locally by the several small domestic refineries given that Afghanistan was a net fuel importer.

There was consensus amongst all stakeholders consulted that Afghanistan exported significant quantities of minerals to neighbouring countries. Several MSG members and development partners expressed concern at the lack of official export data in the 2014-15 EITI Report and confirmed that such data existed even if it was considered inaccurate. In its pre-Validation self-assessment in 2017, the MSG considered that it had made no progress towards addressing Requirement 3.3. The MSG's Technical Committee explained that MOF Customs had submitted reporting templates with "zero" for all exports, even though they considered that MOF Customs' ASYCUDA system provided export data searchable by company name. The May 2017 AEITI organisational assessment raised concerns over MOF Customs' slow response to EITI data collection and its inability to provide information on exports.¹⁸⁷ One development partner explained that the ASYCUDA system did not share export data with the MOMP or MOF. Several government officials noted the significant need to share export data with entities such as the MOMP and Ministry of Transport to improve revenue collection. A June 2017 USIP report highlighted weak government supervision of exports and rampant trade mis-invoicing, given the lack of incentives to improve oversight in light of "negligible" export taxes.¹⁸⁸ Development partners noted constraints in the ASYCUDA system, which was only effectively deployed in Kabul. They explained that exporters tended to apply for export permits at one provincial customs office but export at a different location, with the trade usually unrecorded by the ASYCUDA system. An industry MSG member noted that the ACCI collected statistics on exports, given its responsibility for issuing Certificates of Origin in line with the ACCI's MoU with MOF Customs and the Ministry of Commerce and Industries. While the MSG member noted the lack of comprehensiveness of ACCI export data given widespread smuggling, he explained that the MSG had

¹⁸⁶ Global Witness (June 2016), op.cit.. Link provided in the 2014-15 EITI Report (p.16).

¹⁸⁷ Democracy International (May 2017), op.cit., p.18.

¹⁸⁸ United States Institute of Peace (June 2017), op.cit., p.14.

never requested export data from ACCI.

All stakeholders consulted highlighted the challenge posed by significant smuggling of minerals to neighbouring countries. A CSO explained that while mineral smuggling used to focus on the Afghan-Pakistan border, it was now widespread on the borders with other neighbours like Iran, Tajikistan and Uzbekistan. The June 2017 USIP report considered that mineral smuggling was primarily through Pakistan, both through three regular border crossings suitable for large trucks and smaller irregular border points.¹⁸⁹ A development partner noted discrepancies in exports to Iran, which were reported as USD 500m a year by Afghanistan and USD 2bn by Iran. The World Bank's world trade database provides the value of mineral exports as zero in 2014 and USD 6.086m in 2015.¹⁹⁰ Pakistan's Federal Board of Revenue website provides statistics on imports from Afghanistan, which include imports of minerals like coal.¹⁹¹ A May 2017 report by the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) highlighted significant smuggling of gemstones and gold, with an estimated 500kg of gold smuggled through Kabul airport monthly according to gold smugglers interviewed.¹⁹² The May 2017 AEITI assessment highlighted the lack of implementation to date of MoUs with neighbouring countries to cross-check export data.¹⁹³

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made no progress in meeting this requirement. The 2014-15 EITI Report quotes the MOF's statement that extractives export data is not currently available, despite evidence of publicly-accessible (yet inconsistent) third-party sources for mineral export data. While the report provides civil society estimates of informal lapis lazuli export volumes and values, there is no evidence of the MSG tackling the issue of export data in preparing the 2014-15 EITI Report.

In accordance with Requirement 3.3, Afghanistan should ensure that export volumes and values for all extractive commodities exported are publicly accessible. In the absence of reliable official data, Afghanistan should at a minimum ensure that estimates are comprehensively disclosed and compared. Afghanistan may wish to use EITI reporting as a diagnostic tool to identify discrepancies in export data from different sources and support the government's efforts to curb smuggling.

Table 3- Summary initial assessment table: Monitoring and production

| EITI provisions | Summary of main findings | International Secretariat's initial assessment of progress with the EITI provisions |
|-----------------|-------------------------------------|---|
| Overview of the | The 2014-15 EITI Report provides an | Satisfactory progress |

¹⁸⁹ United States Institute of Peace (June 2017), op.cit., p.16.

¹⁹⁰ World Bank, World Integrated Trade Solution, accessed [here](#) in December 2017.

¹⁹¹ Pakistan Federal Board of Revenue, Trade Statistics: Imports from Afghanistan January 2014-December 2015', accessed [here](#) in January 2018.

¹⁹² Independent Joint Anti-Corruption Monitoring and Evaluation Committee (May 2017), 'Progress Monitoring Report, Ministry of Finance Anti-Corruption Plan Review', accessed [here](#) in January 2018, p.14.

¹⁹³ Democracy International (May 2017), op.cit., p.18.

| | | |
|---|--|---------------------|
| extractive sector, including exploration activities (#3.1) | overview of the extractive industries, including significant exploration and informal activities. | |
| Production data (#3.2) | The 2014-15 EITI Report provides the results of reconciliation of production volumes for minerals (including oil and gas) reported by companies and government in the years under review, albeit with significant unexplained discrepancies. There are significant concerns from all constituencies consulted over the reliability of official production statistics. The report does not provide values for any of the production volumes reported, although it does indirectly provide some information on the location of production. | Inadequate progress |
| Export data (#3.3) | The 2014-15 EITI Report quotes the MOF's statement that extractives export data is not currently available, despite evidence of publicly-accessible (yet inconsistent) third-party sources for mineral export data. While the report provides civil society estimates of informal lapis lazuli export volumes and values, there is no evidence of the MSG tackling the issue of export data in preparing the 2014-15 EITI Report. | No progress |
| <p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. To strengthen implementation, Afghanistan may wish to expand its coverage of the mining sector by including more specific updates on estimated deposits, ongoing and stalled projects. 2. In accordance with Requirement 3.2, Afghanistan should ensure that production volumes and values for all extractive commodities produced are publicly accessible. Where comprehensive disclosure of production figures for all minerals produced is not technically-feasible (e.g. for security reasons), Afghanistan should ensure that the reasons for non-disclosure are clearly explained and that publicly-available estimates are comprehensively disclosed and assessed. Afghanistan may wish to use EITI reporting to explain challenges in the production of official production statistics and track the implementation of key reforms in the MOMP's mine inspection and oversight. 3. In accordance with Requirement 3.3, Afghanistan should ensure that export volumes and values for all extractive commodities exported are publicly accessible. In the absence of reliable official data, Afghanistan should at a minimum ensure that estimates are comprehensively disclosed and compared. Afghanistan may wish to use EITI reporting as a diagnostic tool to identify discrepancies in export data from different sources and support the government's efforts to curb smuggling. | | |

4. Revenue collection

4.1 Overview

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

4.2 Assessment

Materiality (#4.1)

Documentation of progress

Materiality threshold for revenue streams: The 2014-15 EITI Report does not set an explicit materiality threshold for selecting material revenue streams, although it refers to the MSG's scoping decisions taken at its 23 January 2017 meeting (p.42). The report states that the MSG decided to include all revenue flows, including those for which the government reported no receipts in either years covered (p.53), which is reflected in the list of material revenue streams provided (pp.42-43) and in line with the approach adopted in previous EITI Reports.¹⁹⁴ The 2014-15 inception report justified the MSG's materiality threshold of zero for selecting revenue flows for reconciliation on the basis of the "uncertainty of comprehensiveness of reporting".¹⁹⁵

Descriptions of material revenue streams: The report lists the 26 material revenue streams¹⁹⁶ included in the scope of reconciliation (pp.42-43), but does not provide descriptions of revenue streams.

Materiality threshold for companies: The report confirms the MSG's approval of the selection of material companies (p.54) and provides the materiality threshold of AFS 6m (roughly USD 86k) in total payments to government in one of the two years covered (2014 and 2015) for selecting material companies (p.48). It confirms that materiality decisions were based on government departments' disclosures of revenues collected (pp.15,48). The report explains that the MSG considered this threshold "reasonable" given that it provided coverage of 94.8% and 96.7% of extractives revenues collected by government in 2014 and 2015 respectively (p.48). However, the report also noted challenges in selecting material companies on the basis of a threshold defined in terms of total payments to government, given the lack of an "embedded process" for government production of information on revenues and production (pp.15-16,46). It highlights that significantly more companies were identified as material for the 2014-15 EITI

¹⁹⁴ EITI International Secretariat (March 2015), 'Secretariat review: Afghanistan', accessed [here](#) in December 2017, p.7.

¹⁹⁵ Afghanistan EITI (January 2017), 'Afghanistan EITI report for 1393 (2014) and 1394 (2015) Scoping Report', unpublished, provided by the AEITI Secretariat, p.8.

¹⁹⁶ The material revenue streams include those collected: by MOF Revenue Department: Income Tax; Business Receipts Tax; Withholding tax on (a) salaries, (b) rents, (c) contracts and (d) other items; penalties; and others (transferrable share; shares; other; and dividends from SOEs); by MOF Customs Department: Customs duty; Fixed Tax; BRT; Other charges; by MOMP: Royalty; Premium and bonuses; bid fee; penalties and fines; and fee; license fee; permitting fee; bid and other security; lease of government land; land fee building; miscellaneous revenues.

Report than in previous EITI Reports, but notes that government reporting (on which materiality decisions were based in previous years) was incomplete (with missing Tax Identification Numbers for instance) and inconsistent across different government sources (pp.15,47). It also notes the inclusion of MOMP Provincial Directorate receipts for the first time as a factor extending the coverage of the reconciliation exercise on previous years (p.15). The report also explicitly states that ASM was excluded from the scope of reporting, meaning that operators in lapis lazuli mining were not included in reconciliation (p.16).

The report justifies the inclusion of one company, Shair Pawan, in the scope of reporting despite its lack of an extractives license (p.20). It describes a royalty collection farm-out arrangement involving Shair Pawan, whereby the company collects royalties from companies transporting construction materials (stone and gravel) at checkpoints on two roads¹⁹⁷ in Bagram District (p.20). The original contract between Shair Pawan and the MOMP was concluded for one year on 5 May 2013, although the report notes that the company continued paying the annual royalty to government in line with the original contract despite the lapsing of the agreement in May 2014 (p.20). A copy of the one-page 2013 contract between Shair Pawan and the MOMP Parwan Mine Directorate is provided in annex to the report (a/p.208). The report quotes assurances from the MOMP Cadastre Directorate that there are no other such arrangements in force (p.20).

Material companies: The report lists the 28 material companies (including two SOEs) included in the scope of reporting, alongside government reporting of 2014 and 2015 revenues from each company in absolute terms and relative to total extractives revenues (pp.49-50). A comparison of the lists of material companies included in the 2014-15 EITI Report and the 2012-13 EITI Report is also provided (p.51).

Material company reporting: The report names the eight material companies that did not report, including four for which no contact details were found¹⁹⁸ and four companies that did not respond to data requests¹⁹⁹ (pp.16,62-63). The report explains that one of the companies that could not be contacted²⁰⁰ was described by the MOMP Cadastre Department as “closed and the responsible person is not in Afghanistan”, and cites press reports suggesting that disputes between local factions prevented the company from operating on the licensed area (p.16), although it is unclear whether this was the case in 2014-15. The report also describes each of the four material companies’ stated reasons for not reporting²⁰¹ (p.16). The materiality of non-reporting companies’ payments to government in 2014 and 2015 is provided (p.49).

Material government entities: The 2014-15 EITI Report lists the eight national government entities included in the scope of reporting²⁰² and confirms that no sub-national government entity was included in reporting, given the lack of evidence of any extractives revenues collected directly by sub-national

¹⁹⁷ Narrow Road of Safi Mountain Water and Hasan Khail Three shop street- Bagram New Road.

¹⁹⁸ Mohammad Faisal Company, Ayzeen Central Mining Services Company, Mahmand Shamal and Lajawardeen.

¹⁹⁹ Dragon Oil Mazar-i-Sharif, Dragon Oil Sanduqli, Shamsheer Zameer, Turkish Petroleum.

²⁰⁰ Lajawardeen.

²⁰¹ Dragon Oil Mazar-i-Sharif and Dragon Oil Sanduqli explained that they had closed their office in Afghanistan given that their projects had been on hold since 2015, with no data to provide and no staff in-country; Shamsheer Zameer refused to respond to data requests until a legal dispute between the company’s President and Vice President was resolved; Turkish Petroleum explained that they had no data to provide given that the company had suspended operations in Afghanistan since mid-2016, despite having provided data for the 2012-13 EITI Report.

²⁰² MOF Revenue Department (Large Taxpayers Office; Medium Taxpayers Office; and Small Taxpayers Office); MOF Customs Authority; MOF SOE Department; MOMP (Revenue Department; Cadastre Department; and SOE Department).

governments (p.45). The MSG's approval of material government entities is confirmed (p.54).

Government reporting: The report states that all government entities aside from MOF Customs provided full unilateral disclosure of revenues during the inception phase ahead of materiality decisions (pp.17-18,63). It clarifies that MOF Customs subsequently responded to data collection requests, albeit slowly (p.63). While it notes that MOF Revenue and MOF Customs did not complete the subsequent reporting templates for each material company, it explains that the IA was provided access to supporting documentation to investigate discrepancies, which ensured full government reporting (p.17).

Discrepancies: The report refers to the materiality threshold for investigating discrepancies of AFS 1m (roughly USD 14k) (p.48). The net unreconciled discrepancies are provided in aggregate both in absolute terms and relative to total government extractives revenues (pp.10-11,13,57-58,66) and disaggregated by revenue stream and company (pp.67-68, a/pp.18-74). Final unreconciled discrepancies represented 10.8% and 2.5% of government extractives revenues in 2014 and 2015 respectively (pp.10-11,57-58). The report describes the causes for discrepancies in general terms (mainly due to the provision of information by one of the two reporting entities only), without additional detail (pp.11-15).

Full government disclosure: The report provides full unilateral government disclosure of extractives revenues disaggregated by collecting government entity (p.9) and by company (a/pp.209-216), but not disaggregated by revenue stream. The report describes the data collection process for the government's unilateral reporting, raising concerns over the scope for error in government reporting (pp.46-47).

Stakeholder views

Material revenues: The IA and MSG's Technical Committee confirmed that the MSG had agreed on a materiality threshold of zero for selecting material revenue streams and explained that the poor quality of the government's initial reporting, on which materiality decision were based, prompted the MSG's decision to include all revenues in the scope of reconciliation. The March 2015 Secretariat Review of Afghanistan had raised concerns that the rationale for selecting material revenue streams was unclear, despite evidence of MSG endorsement of reporting thresholds.²⁰³ The review found that the inclusion of 21 revenue streams in the scope of reconciliation was not based on an assessment of the materiality of individual revenue streams, but rather on a review of relevant law and regulations regardless of revenue streams' individual significance.²⁰⁴ The MSG's Technical Committee confirmed that this was still the case but defended the decision on the basis of the poor quality of the data.

Material companies: The IA expressed satisfaction at the fact that the number of companies selected for reporting had risen considerably between the 2012-13 EITI Report and the 2014-15 EITI Report, as the MSG gained better insight about the number of companies operating in Afghanistan, a significant challenge in the past. While government and industry representatives consulted considered that the companies making the largest payments to government had been included in the scope of reporting, several CSOs expressed concern that the scoping for the 2014-15 EITI Report had omitted companies holding contracts with the MOMP. While the 2014-15 EITI Report listed 491 companies holding mining

²⁰³ EITI International Secretariat (March 2015), op.cit., p.10.

²⁰⁴ EITI International Secretariat (March 2015), op.cit., p.7.

licenses during the period under review, a CSO highlighted (in written comments to the International Secretariat in December 2017) an unspecified report from “a very credible body” listing 905 contracts and the Minister of Mines and Petroleum citing 1047 contracts. Several CSOs used the example of three emerald mining contracts in Panjshir that had recently been published on the MOMP website but did not appear as part of the scoping for the 2014-15 EITI Report as an example of omissions of potentially material companies. A November 2015 report by Adam Smith International (ASI) for MOMP reported concerns from some interviewees that records from some mining companies that made payments to MOF were not included in EITI Reports.²⁰⁵

Upon discussing the inclusion of companies that did not hold mining licenses (Shair Pawan) in the scope of reporting, there was considerable debate amongst different stakeholders consulted over the MOMP’s practice of farming out royalty collection in certain areas to private companies, a practice several CSOs categorised as “laundering” of illegally-produced minerals. Members of the MSG’s Technical Committee explained that in an effort to collect at least some revenues from illegal mining, the MOMP had established checkpoints to collect royalties from trucks carrying illegally-produced minerals but that this practice had been discontinued in 2009 due to the security situation. Instead, it contracted private companies to operate checkpoints in provinces such as Paktia and Parwan, which then remitted fixed royalties to the MOMP. Members confirmed that the Afghan Emerald Company’s royalty collections discussed in previous AEITI Reports were also in this context. However, they explained that MOMP had discontinued this practice in mid-2015. A government official said that MOMP had internal estimates of significant lost revenue as a consequence of the termination of this process, prompting a review of the policy. There was consensus among all stakeholders consulted that notwithstanding the classification in the contract with Shair Pawan annexed to the AEITI Report, the revenue-collecting companies’ payments to MOMP represented royalties on illegally-produced minerals rather than a form of transportation payment. Members of the MSG consulted expressed satisfaction at the inclusion of Shair Pawan in the scope of the 2014-15 EITI Report, even if many CSOs expressed concern at the royalty collection farm-out practice. Separately, stakeholders from all constituencies said that the MOMP continued to collect revenues from checkpoints around major cities for construction materials but did not have any comments about why these were not identified or included as a revenue stream in the report.

Material government entities: Stakeholders consulted confirmed that all extractives payments were collected by the MOF (for tax) and MOMP (non-tax). While the March 2015 Secretariat Review raised concerns over the inclusion of unspecified municipalities in the scope of reporting in the 2011-12 EITI Report²⁰⁶, the MSG’s Technical Committee confirmed that municipality taxes had been discontinued prior to 2014 (see *Requirement 4.6*). Several government officials and donors noted that the MOF’s Large Taxpayer Office (LTO) had been given responsibility for collecting fiscal payments from all extractives companies in June 2017, in line with conditions of the IMF’s extended credit facility.²⁰⁷ Several representatives from government and the donor community noted that only around 120 mining companies had registered with the LTO to date, implying that a significant number of mining companies had yet to do so. The representatives also highlighted the MOMP’s plans to digitise the non-tax payments system and link it to the MOF’s SYGTAS and ASYCUDA systems to ensure greater traceability of revenue

²⁰⁵ Samuel Hall (November 2015), op.cit., p.52.

²⁰⁶ EITI International Secretariat (March 2015), op.cit., pp.9-10.

²⁰⁷ IMF (December 2017), ‘Islamic Republic of Afghanistan: 2017 Article IV consultation and second review of the extended credit facility arrangement’, accessed [here](#) in January 2018, pp.22,27.

flows (*see Requirement 5.1*).

Reporting omissions: The IA noted that, while material government entities had provided the initial reporting on which materiality decisions were made, there were subsequent gaps in information provided by some departments of MOF and MOMP. Nonetheless the IA expressed satisfaction that the MOMP's Provincial Directorate had been more involved in preparing the 2014-15 EITI Report than in the past. The May 2017 AEITI organisational assessment raised concerns over challenges in ensuring reporting by MOF Customs in the 2014-15 EITI Report, including the low level of reported revenue, delays in responses, inability to provide export data and unresolved discrepancies.²⁰⁸ It noted that EITI Reports were consistently delayed "in large part" due to challenges in obtaining information from reporting entities, with some government officials described as "resistant", "uncooperative" and "uninterested in meeting their requirements".²⁰⁹ It called for more consistent cooperation between the MSG and government reporting entities throughout the year.²¹⁰ In written comments to the International Secretariat in December 2017, a CSO considered that the USD 60k reported as annual revenues by MOF Customs was "scandalous". Stakeholders from all constituencies – including government – highlighted weak coordination between different government entities both between MOF and MOMP and within the ministries on EITI reporting. They highlighted inconsistencies between lists of companies paying royalties and those paying tax as evidence of poor communication between the two ministries. Nonetheless, several members of the MSG's Technical Committee considered that the MOMP had been active in following up with government entities that were slow to submit EITI data. Several government officials noted that, while it was always challenging to collect data for EITI Reports, the process was becoming easier every year. A senior government official highlighted the start of monthly meetings between the MOF Revenue Department and MOMP in 2017 as a means of improving coordination. Several government representatives and the IA noted challenges linked to the absence of tax ID numbers (TIN) for most companies, although officials highlighted the MOF's work with MOMP to roll out TINs for every company and every license-holder (*see Requirement 4.7*).

Several CSOs raised concerns over the lack of reporting by eight material companies. In written comments to the International Secretariat in December 2017, a CSO noted that Shamsheer Zameer was one of the largest talc producers in Nangarhar Province and questioned its professed reasons for non-reporting (pending resolution of a management dispute) as unconvincing. Members of the MSG's Technical Committee noted that the IA and the national secretariat had visited many material companies to help them complete reporting templates. However, the 2017 AEITI assessment also quoted certain stakeholders that considered that better data collection results would have been achieved if the IA had been more "aggressive" in collecting required information by spending more time in-country engaging directly with reporting entities (*see Requirement 4.9*).²¹¹ Several CSOs considered that the MOMP should have done more to pressure non-reporting companies. The 2017 assessment noted that, while all companies were required to participate in EITI reporting under the 2014 Minerals Law, sanctions for non-reporting such as fines and suspensions of licenses had never been implemented in practice.²¹² Members of the MSG also raised concerns over the comprehensiveness of reporting companies' disclosures, noting

²⁰⁸ Democracy International (May 2017), op.cit., p.18.

²⁰⁹ Democracy International (May 2017), op.cit., pp.12-13.

²¹⁰ Democracy International (May 2017), op.cit., p.4.

²¹¹ Democracy International (May 2017), op.cit., p.13.

²¹² Democracy International (May 2017), op.cit., p.21.

that several companies appeared to have simply reported zero for smaller payments in order to expedite the reporting process.

Discrepancies: Several CSOs criticised the significant discrepancies in the 2014-15 reconciliation, considering that it reflected poor record-keeping by government and unreliable reporting by certain companies. A senior government official explained that most discrepancies were usually at the level of MOF revenues and were due to companies acquiring a mining license under one company name and submitting consolidated tax returns as a group, under a different company name. Several CSOs expressed scepticism at this explanation, citing unreconciled discrepancies in non-tax revenues collected by MOMP.

Unilateral government reporting: Members of the MSG's Technical Committee considered that the government had unilaterally disclosed all extractives revenues in the 2014-15 EITI Report, although several CSOs considered that the government's poor record-keeping created uncertainty over whether all government extractives revenues had indeed been disclosed.

Initial assessment

The assessment raises several issues of interpretation of the EITI Standard. On the one hand, the MSG and IA have made a commendable attempt at ensuring that reports are comprehensive given the absence of reliably comprehensive government license and revenue data. The 2014-15 EITI Report includes the MSG's definition of the materiality thresholds for payments and companies to be included in reconciliation based on payments to government, including a justification for the specific thresholds based on a targeted reconciliation coverage. The review of the revenue streams covered in the EITI Report against the applicable laws and regulations gives assurance that no statutory revenue streams have been omitted from the scope of the report. All material government entities appear to have reported all revenues despite challenges in data collection (particularly from MOF Customs) and the government appears to have disclosed all extractives revenues, including from non-material companies, albeit disaggregated by company rather than by revenue stream. The companies that did not report are named and the value of their payments to government is provided relative to government-reported revenues. The share of non-reporting companies appears to be significant in 2014, but not in 2015. On the other hand, inconsistencies in government record-keeping raise questions over the comprehensiveness of government revenues disclosed, and thus the reconciliation coverage. The lack of assessment of the materiality of payments prior to data collection also leaves scope for excluding significant ad hoc payments not described in sector regulations.

The challenges in demonstrating satisfactory progress in meeting Requirement 4.1 in Afghanistan are fundamentally linked to weaknesses in government record-keeping. It would be unreasonable to conclude that the MSG should be expected to resolve these before making materiality decisions. The International Secretariat considers that given these restraints, the MSG and the IA have sought to follow a process that allows for a considerable amount of certainty under the circumstances. At the same time there are additional steps that the MSG could make to ensure that all companies selected report comprehensively, that any non-statutory government extractives revenues are also identified where relevant and that all government entities unilaterally disclose all extractives revenues collected. The International Secretariat's initial assessment is therefore that Afghanistan has made meaningful progress in meeting this requirement.

In accordance with Requirement 4.1, Afghanistan should ensure that all companies selected in the scope of reporting comprehensively report all material payment flows and that decisions on the materiality of revenue flows are based on government unilateral disclosure of total extractives revenues, including those not statutorily-mandated but nevertheless collected. Afghanistan should also ensure that full unilateral government disclosure of material revenues from non-material companies is presented disaggregated by revenue flow rather than by company.

In-kind revenues (#4.2)

Documentation of progress

The 2014-15 EITI Report states that the government did not receive any in-kind revenues in the period under review, despite statutory provisions for such revenues under Article 47 of the Hydrocarbons Law and Article 10 of the Amu Darya PSC, the sole oil-producing block (pp.43-44). The report refers to assurances from the MOMP Petroleum Directorate and Cadastre Directorate that the state received no in-kind oil revenues in 2014-15 (pp.43-44).

Stakeholder views

There was consensus among all stakeholders consulted that the government did not collect any in-kind revenues in 2014-15. While the 2017 AEITI organisational assessment considered that the government had not been asked of the existence of in-kind revenues in preparing the 2014-15 EITI Report²¹³, government officials and the IA confirmed that the issue had been discussed by the MSG during the inception phase. In oil and gas, several industry, government and civil society representatives confirmed that the CNPCI consortium had not yet reached the 40k bpd production target nor achieved profitability, meaning that the government was not yet entitled to Profit Oil, which could either be paid in cash or in-kind.

While there was consensus that the NCE did not collect in-kind coal revenues, several industry and government representatives explained that there were statutory provisions under the Minerals Law for royalty on mineral production to be paid either in cash or in-kind. Yet while industry sources noted that the government had received gold royalties in-kind in 2008-09, the MSG's Technical Committee explained that the government had collected only small quantities of gold (517g in 2008 and 1748g in 2009), which it had sold in 2012. A government official explained that the government had ceased collecting royalties in-kind due to the high cost of selling such small quantities of gold.

Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable to Afghanistan in the years under review. The 2014-15 EITI Report states that the government did not receive any in-kind revenues in the period under review, based on assurances from the MOMP.

²¹³ Democracy International (May 2017), op.cit., p.16.

Barter and infrastructure transactions (#4.3)

Documentation of progress

The 2014-15 EITI Report states that there were no barter arrangements or infrastructure provisions in force in the years under review, based on assurances from the MOMP Petroleum Directorate and Cadastre Directorate (pp.44,69). The 2015 Secretariat Review of Afghanistan also quoted MOMP assurances that there were no barter arrangements or infrastructure provisions in force in 2011-12.²¹⁴

Stakeholder views

While the 2017 AEITI organisational assessment considered that the government had not been asked of the existence of barter arrangements²¹⁵, there was consensus among stakeholders consulted that there were no barter arrangements in force in 2014-15. Several civil society and development partner representatives considered that several large-scale mining project contracts contained infrastructure provisions, given that open-access roads, railroads and power plant had been biddable items during the tender phase for these contracts. In particular, as part of the Mes-Aynak copper project the MCC consortium had pledged to develop a railway from the Torkham border with Pakistan to the Khairatan border with Uzbekistan and a 400MW power plant as build-own-operate-transfer arrangements at the consortium's expense.²¹⁶ As part of the Hajigak iron-ore project, the consortium led by the Steel Authority of India and Kilo Goldmines had pledged to build a 900km railway from the Hajigak region to the Iranian port of Chabahar.²¹⁷ However, there was consensus among all stakeholders consulted and from third-party sources that the two projects were stalled pending renegotiation, that no investment in the associated infrastructure had yet taken place and that the infrastructure components of both projects now appeared unrealistic.²¹⁸

Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable to Afghanistan in the years under review. The 2014-15 EITI Report states that there were no barter arrangements or infrastructure provisions in force in the period under review, based on assurances from the MOMP. While the International Secretariat understands that certain large-scale mining contracts included infrastructure provisions as biddable items, even if these were not actively developed during the period under review.

To strengthen implementation, Afghanistan is encouraged to assess the existence of any barter type arrangements or infrastructure provisions during the scoping for future EITI reporting to ensure that reporting of the implementation of such agreements provides a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Afghanistan, with support from the IA, may wish to gain a full understanding of the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements

²¹⁴ EITI International Secretariat (March 2015), op.cit., pp.7,10.

²¹⁵ Democracy International (May 2017), op.cit., p.16.

²¹⁶ United States Institute for Peace (September 2017), op.cit., p.2.

²¹⁷ World Trade Organisation (2017), 'Chabahr port - a New transit gateway for Afghanistan', accessed [here](#) in January 2018.

²¹⁸ United States Institute for Peace (September 2017), op.cit., p.2.

relative to conventional contracts.

Transport revenues (#4.4)

Documentation of progress

Materiality: The 2014-15 EITI Report describes four types of transportation arrangements, although none of these appears to give rise to transportation revenues in line with Requirement 4.4.

The report notes that the government, through its budget statement, reported AFS 2.388m (roughly USD 34k) in “revenue from oil transit” for 2014, although it explains that this represents revenues collected by the Ministry of Commerce and Industries from the transport of vegetable oil (p.44). In the revenue figures included from the national budget for 2014 and 2015, the report includes a line for “revenue from railway” (p.35), although no additional explanation of this revenue flow is provided. The report also describes “a small network of (gas) pipelines” operated by the AGE in Jowzjan Province, which supplies the Northern Fertilizer and Power Plant (p.52). However, there is no evidence that the operation of the pipeline gives rise to pipeline use-fee revenues to the government, given that the gas pipelines appear integrated into AGE’s operations. Finally, the report describes a royalty collection farm-out arrangement to a company (Shair Pawan) that does not hold an extractives license but collected royalties from companies transporting construction materials (stone and gravel) at checkpoints on two roads²¹⁹ in Bagram District (p.20). A copy of the one-page 2013 contract between Shair Pawan and the MOMP Parwan Mine Directorate is provided in annex to the report (a/p.208). It is clear from the terms of the contract that the fees collected by Shair Pawan and transferred to the government represent royalty-type fees rather than a form of transportation revenues (see *Requirement 4.1*).

Stakeholder views

There was consensus among all stakeholders consulted that AGE fully owned its pipeline network and did not transport third-party natural gas in its pipelines, which was also confirmed in secondary sources.²²⁰ There was also consensus that the arrangement with Shair Pawan did not represent a form of transportation revenues, but rather a royalty collection farm-out arrangement that some CSOs categorised as “mineral laundering” (see *Requirement 4.1*). Stakeholders consulted from all constituencies also confirmed that Afghanistan’s railways were not operational and external sources confirm the lack of government revenues from rail transport in 2014-15.²²¹

Several government and civil society representatives highlighted the (highway) road-use fees collected by the Ministry of Transport (MoT) from all vehicles, which was also highlighted in the 2017 AEITI

²¹⁹ Narrow Road of Safi Mountain Water and Hasan Khail Three shop street- Bagram New Road.

²²⁰ Special Inspector General for Afghanistan Reconstruction (SIGAR) (January 2016), op.cit., p.ii. And Special Inspector General for Afghanistan Reconstruction (October 2015), ‘DoD’s compressed natural gas filling station in Afghanistan: an ill-conceived \$43 million project’, accessed [here](#) in December 2017, pp.6-7. And World Bank (December 2016), ‘Project Information Document/Integrated Safeguards Data Sheet (PID/ISDS)’, accessed [here](#) in January 2018, pp.7-8.

²²¹ See for instance Asian Development Bank (May 2010), ‘Afghanistan: Railway development project’, accessed [here](#) in February 2018; and Joint Force Quarterly (2014), ‘The Afghanistan national railway: a plan of opportunity’, accessed [here](#) in February 2018.

organisational assessment.²²² There was consensus that these road-use fees were not specific to trucks transporting minerals. An official provided the road-use fee rates, which were higher for asphalted roads. The MSG's Technical Committee explained that the MSG had briefly discussed this issue but decided not to include road-use fees levied by the MoT given the Ministry's inability to provide data on revenues collected from trucks carrying minerals specifically. Government officials and the 2017 AEITI assessment highlighted that the AEITI work plan included activities related to establishing an accounting system for MoT-collected transportation revenues from extractives.²²³

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made inadequate progress in meeting this requirement. The Validation Guide states that "Disclosure of material transportation revenues is expected, but not required for compliance with the EITI provisions. Where transportation revenues are material but not disclosed, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers".²²⁴ The MSG appears to have considered the existence of transportation arrangements in the extractive industries in general, although the 2014-15 EITI Report refers to four arrangements that do not give rise to transportation revenues. Yet the International Secretariat finds no evidence of any such discussion by the MSG of road-use fees collected by the Ministry of Transport on all vehicles (not extractives-specific). While these are likely immaterial, the lack of clear assessment of the materiality of such road-use fee revenues is a concern.

In accordance with Requirement 4.4, Afghanistan should ensure that its assessment of the materiality of any revenues from the transportation of oil, gas and minerals be publicly documented and that any such material revenues be disclosed disaggregated to levels commensurate with the reporting of other payments and revenue streams.

Transactions between SOEs and government (#4.5)

Documentation of progress

The 2014-15 EITI Report does not confirm that mining, oil and gas companies do not make payments to either of the two extractives SOEs. There is no evidence of revenues from extractives companies collected by either of the two SOEs in the reconciliation results in annex to the report (a/pp.19,20,47,48).

In terms of SOEs' transactions with government, the report states that the two extractives SOEs (Northern Coal Enterprise and Afghan Gas Enterprise) were included in the scope of reporting given that they accounted for "a large part" of government extractives revenues (pp.20,52). The report states that three companies (the two SOEs and CNPCI) accounted for 63.4% of government extractives revenues in 2014 and 85.8% in 2015 (p.48), while it is clear from the results of reconciliation that the two SOEs accounted for 56% and 77% of extractives revenues in 2014 and 2015 respectively (pp.70-73).

²²² Democracy International (May 2017), op.cit., pp.20-21.

²²³ Democracy International (May 2017), op.cit., pp.20-21.

²²⁴ Validation Guide, op.cit., p.11.

The list of material revenue streams in the scope of reconciliation includes dividends from SOEs, alongside loan repayments, interest on loans, “core and non-core revenue”, “payment of expenditure”, business receipt tax and income tax (pp.42-43). The report provides the USD value of “MOMP Profit from SOEs” for 2014 and 2015, although it is unclear whether this represents the value of dividends or other types of payments (p.36). The report provides the results of reconciliation of SOE payments to government in 2014 and 2015, with significant discrepancies, although it is unclear whether the “Other Receipts Profit” payments to MOF represent SOE dividends to government (p.69, a/pp.19,20,47,48). All other payments reported by the SOEs are common to all extractives companies²²⁵ and it is notable that only Northern Coal Enterprise reported payments of “Other Receipts Profit”, while Afghan Gas Enterprise did not.

The report describes challenges in SOE record-keeping and accounting, which affected their ability to provide basic financial data for EITI reporting purposes, and explains that Afghan Gas Enterprise did not fully or correctly complete the reporting templates (pp.19-20,68-69). The report does not describe any other types of ad hoc transfers between SOEs and the government.

Stakeholder views

There was consensus among all stakeholders consulted that neither AGE nor NCE collected any tax or non-tax revenues from companies operating in the mining, oil and gas sectors. With regards to transactions between the two SOEs and government, there was consensus that neither AGE nor NCE relied on subsidies or budgetary transfers from the government, which was confirmed in independent studies of the two SOEs.²²⁶ Stakeholders also confirmed that neither of the SOEs made any payments to MOMP and only paid tax and dividends (categorised as “other receipts profit”), in lump sum, to MOF. The IA explained that the two SOEs required special visits to ensure adequate EITI reporting and noted MOF concerns over arrears of several years in tax payments from the SOEs. The MSG’s Technical Committee confirmed findings of independent studies²²⁷ that NCE made advance tax payments to the MOF throughout the year, which it then deducted from its final tax settlement at the end of the year. While Committee members confirmed that all such advances were disclosed in NCE’s EITI reporting, several government officials highlighted the challenges in the MOF’s tracking of NCE’s tax liabilities given the lack of information on the SOE’s balance sheet. One senior government official explained that the SOE balance sheets presented to the MOF consisted of one-page summaries with little explanation of underlying data. The NGO IWA has raised public concerns at the significant restatements in NCE’s successive rounds of reporting for the 2014-15 EITI Report, when its reported revenue rose from an initial AFS 4m for 2015 to a final AFS 2bn without explanation.²²⁸ While government officials stated that AGE and NCE had prepared financial statements for 2016-17, they could not provide assurances that financial statements had been prepared for 2014-15. A 2011 study on NCE conducted by ASI for the MOMP highlighted the practice of NCE paying advances to the MOF and MOMP, as well as “cash transfers to local governments in support of miscellaneous requests”²²⁹, although the International Secretariat understands from stakeholder consultations that payments to local governments were not statutorily required.

²²⁵ E.g. Income tax, business receipt tax, withholding on salary, withholding tax on rent and withholding tax on contract.

²²⁶ Ministry of Mines and Petroleum (April 2011), op.cit., pp.11-12. And USAID (November 2016), op.cit., p.11.

²²⁷ Ministry of Mines and Petroleum (June 2016), op.cit., pp.21,100-101.

²²⁸ Integrity Watch Afghanistan (May 2017), ‘Afghan government “unable to provide basic management of mining revenues,” says civil society’, accessed [here](#) in January 2018.

²²⁹ Ministry of Mines and Petroleum (April 2011), op.cit., p.11.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made meaningful progress in meeting this requirement. Stakeholders confirmed that neither of the two extractives SOEs collected any tax or non-tax revenues from mining, oil and gas companies, even if this was not clearly stated in the 2014-15 EITI Report. While the MSG's assessment of the materiality of SOE payments to government is unclear, it is clear that SOE payments to government were considered material and both SOEs were included in the scope of reporting. However, the report does not clearly distinguish payments from SOEs to MOF that are specific to SOEs from those common to all extractives companies and the comprehensiveness of SOE reporting is unclear. Uncertainty over the comprehensiveness of SOEs' reporting of transactions with government are linked to weaknesses in their record-keeping (see *Requirement 4.9*).

In accordance with Requirement 4.5, Afghanistan should undertake a comprehensive assessment of transactions between extractives SOEs and government entities to ensure that the reporting process comprehensively addresses the role of SOEs, including transfers between SOEs and other government agencies.

Subnational direct payments (#4.6)

Documentation of progress

The 2014-15 EITI Report states that subnational governments did not receive any revenues directly from extractives companies in the years under review (pp.44-45). While the report explains that no such direct subnational payments were identified (p.44), the basis for the MSG's assessment of the non-applicability of Requirement 4.4 is not clear from the 2014-15 EITI Report.

Stakeholder views

There was consensus among all stakeholders consulted that there were no statutory subnational payments from extractives companies to local governments in 2014-15, despite the existence of informal payments considered to be "extorted" by various local governments. While the 2017 AEITI organisational assessment quoted recommendations in the 2012-13 and 2014-15 EITI Reports for the MSG to undertake more work on identifying payment flows²³⁰, the 2015 Secretariat Review identified only identified one "very small" payment stream to local governments, 'municipality cleaning payments'.²³¹ Stakeholders confirmed that municipal taxes had been abolished prior to 2014-15. In comments on the 2014-15 EITI Report published in April 2017, CSOs raised concerns over the report's lack of clarity on extractives contracts concluded directly with subnational governments, which implied the existence of direct subnational revenue flows.²³² However, upon discussion, CSOs considered that any small-scale mining contract not yet published on the MOMP website would be considered illegal and confirmed that all published contracts required payments to central government entities (MOF and MOMP) rather than local governments.

²³⁰ Democracy International (May 2017), op.cit., p.20.

²³¹ EITI International Secretariat (March 2015), op.cit., pp.8,10.

²³² CSO coalition (April 2017), 'CSO Comments on the 5th AEITI Report', accessed [here](#) in December 2017, p.1.

Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable to Afghanistan in the period under review (2014-15). The 2014-15 EITI Report confirms the absence of direct subnational payments, which was confirmed by stakeholder consultations despite evidence of extensive informal ad hoc payments that have no statutory basis.

Level of disaggregation (#4.7)

Documentation of progress

The 2014-15 EITI Report confirms that reconciled financial data is presented disaggregated by company, revenue flow and collecting government entity (p.45) and provides the detailed reconciliation results in annex (a/pp.18-74). The reconciled financial data is not presented disaggregated by project.

Stakeholder views

Since 2015, CSOs such as Global Witness and Integrity Watch Afghanistan have called for the disaggregation of EITI payments and production data by project as a means of curbing tax avoidance and illegal mining.²³³ Stakeholders from all constituencies confirmed that the 2014 Minerals Law required the ring-fencing of all liabilities on a per-license basis, meaning that each license-holder was required to pay taxes and non-tax fees separately from their group companies. However, this had yet to be implemented according to government officials. One official noted ongoing work by the MOF and MOMP to implement separate tax ID numbers (TIN) for every license. Several officials highlighted the importance of TIN per licenses to allow the MOF's SIGTAS system to provide a comprehensive list of extractives taxpayers and for a comprehensive picture of extractives revenues to be built. None of the stakeholders consulted expressed any concern over the ring-fencing of tax liabilities per license.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made satisfactory progress in meeting this requirement. Reconciled financial data in the 2014-15 EITI Report is presented disaggregated by company, revenue flow and collecting government entity.

To strengthen implementation, Afghanistan may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of all taxes and fees through implementation of ring-fencing provisions of the 2014 Minerals Law ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.

²³³ Global Witness (September 2015), op.cit., pp.1-2. Integrity Watch Afghanistan and Global Witness (September 2015), op.cit., p.2.

Data timeliness (#4.8)

Documentation of progress

Afghanistan EITI has tended to publish EITI Reports after the end of the second to last complete accounting period, with the exception of two of the five EITI Reports published. The 2014-15 EITI Report was published on 29 April 2017, following the extension to its reporting deadline (to 1 May 2017) granted by the EITI Board at its 36th meeting in Bogotá.²³⁴ The report confirms that the two-year reporting period was set at 21 December 2013 – 20 December 2015 (p.6). The MSG published EITI Reports covering 2008-10 in July 2012, 2011 in October 2012, 2012 in September 2014 (having received an extension from the EITI Board)²³⁵ and 2013 in February 2016.²³⁶

Stakeholder views

Stakeholders from all constituencies expressed frustration at delays in Afghanistan's EITI reporting. The 2017 AEITI organisational assessment considered that AEITI had been "consistently late" in publishing EITI Reports.²³⁷ Several CSOs considered that delays in EITI reporting were avoidable and were a reflection of inadequate government EITI engagement at the operational level. Secretariat staff expressed frustration at delays from both MOMP and the World Bank in procurement of the IA (*see Requirement 4.9*). Several government officials considered that EITI data was too old to be useful in informing policy-making. A senior official also deplored that the public often mistook EITI data for the most recent year's data, which caused confusion in comparing with other MOMP statistics.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made satisfactory progress towards meeting this requirement. While the 2014-15 EITI Report was published after the end of the second to last complete accounting period (in April 2017 for a reporting period starting on 21 December 2013), the EITI Board granted Afghanistan an extension on its reporting deadline to 1 May 2017. Consistent delays in publishing EITI Reports is a concern however.

To strengthen implementation, Afghanistan may wish to work with key revenue collecting agencies and sector regulators to explore means of publishing EITI-required information on their normal websites to embed EITI reporting in government and company systems. Afghanistan may also wish to ensure that the timeframe for procurement of the IA is in line with reporting deadlines.

²³⁴ EITI Board (March 2017), 'The Board decided that Afghanistan is eligible for an extension and the reporting deadline is extended to 1 May 2017', accessed [here](#) in December 2017.

²³⁵ 2012 coincided with the change in the fiscal year to 22 December – 21 December to more closely align with the Gregorian calendar year.

²³⁶ See Afghanistan EITI Reports on the EITI website [here](#) and on the AEITI website [here](#), accessed in December 2017.

²³⁷ Democracy International (May 2017), *op.cit.*, p.7.

Data quality (#4.9)

Documentation of progress

Terms of Reference for the Independent Administrator: The MSG approved the ToR for the 2014-15 EITI Reports' IA in at its 24 May 2016 meeting.²³⁸ The IA's ToR for the 2014-15 EITI Report are provided in its annex (a/pp.2-17). The ToR for the IA were in line with the EITI Board-approved ToR based on the 2013 EITI Standard in force at the time (February-March 2016). However, the MSG removed Annex 1 on the "statement of materiality" from the final agreed version of the ToR (despite leaving references to Annex 1 in the full text of the ToR) and included only Annex 2 describing supporting documentation (listed as Annex 1 in the final agreed ToR). The IA's understanding of the scope was confirmed in an MSG meeting in October 2016, with additional confirmation of the scope of non-revenue information requested by email in February 2017.

Appointment of the Independent Administrator (IA): The procurement of the IA for Afghanistan's EITI Reports is undertaken by the MOMP's procurement department based on Consultants Qualification Selection (CQS) in line with World Bank procurement procedures. Moore Stephens was originally contracted to produce the 2008-10 EITI Report and its contract was renewed for the 2011 and 2012 EITI Reports. A consortium of the Hart Group and Talal Abu-Ghazaleh & Co. Consulting (Jordan) was appointed for the 2012-13 EITI Report on 1 August 2014.²³⁹ A call for expressions of interest for the 2014-15 EITI Report IA was published on 18 January 2016²⁴⁰, although the MSG subsequently agreed with the World Bank to proceed on a single-source repeat procurement of the Hart Group consortium and signed the contract for the 2014-15 EITI Report on 1 July 2016.²⁴¹

Agreement on the reporting templates: The MSG discussed the scoping study including materiality thresholds and reporting templates on 23 January 2017.²⁴² The reporting templates for the 2014-15 EITI Report were broadly consistent with those used for the 2012-13 EITI Report. The reporting templates were provided in English and Dari and are included in annex to the 2014-15 EITI Report (a/pp.135-207).

Review of audit practices: The 2014-15 EITI Report describes the assurance environment in Afghanistan as "weak", with further improvements needed despite (unspecified) steps taken to improve government audit capacity (p.54). It notes the absence of a standard-setting body for audit or accountancy and the lack of qualified staff to implement any standards (p.54). With regards to *government audit practices*, the report provides a brief description of a World Bank-supported project "to rebuild the capacity of SAO staff" in accordance with international standards (p.54), implying that current Afghan audit standards are not in line with international standards. The report describes significant weaknesses in government manual record-keeping and accounting systems, which cause inconsistencies in data reported from different government sources (pp.16-17,20, 46-47,53). Similar challenges are highlighted in the record-keeping, accounting and financial oversight of state-owned enterprises (pp.68-69). The GiZ study on

²³⁸ Afghanistan EITI (May 2016), 'Minutes of the MSG meeting, 24 May 2016', accessed [here](#) in December 2017.

²³⁹ Afghanistan EITI (February 2016), 'Afghanistan Fourth EITI Report 1391 and 1392 (2012 and 2013) - Appendices', accessed [here](#) in December 2017, p.14.

²⁴⁰ Afghanistan EITI (January 2016), 'Request for expressions of interest for Inception Report & Fifth (5th) EITI Reconciliation Report of Afghanistan Extractive Industries Transparency Initiative (AEITI)', accessed [here](#) in January 2018.

²⁴¹ See Afghanistan EITI (May 2016), 'ToR for the IA, 2014-15 EITI Report', p.13. Provided in appendix 1 of the 2014-15 EITI Report (a/p.15).

²⁴² Afghanistan EITI (January 2017), 'Minutes of the MSG meeting, 23 January 2017', accessed [here](#) in December 2017.

accounting, auditing and reporting web-based software in Afghanistan's mineral sector provided in annex to the report notes that SOEs operate on the basis of the government accounting system, submitting basic financial information similar to a trial balance rather than standard financial statements (a/p.229). However, the GiZ study also highlighted substantial weaknesses in SOE accounting and data assurance practices.

With regards to *company audit practices*, the report states that mineral license-holders are required to prepare balance sheets in accordance with International Accounting Standards (IAS) (p.23), but that there are no requirements under Afghan law for extractives companies to produce audited accounts (p.54). However, the report presents contradictory information for oil and gas companies parties to PSCs, stating both that they are required to prepare financial statements in line with IAS (p.29) and that they are not (p.54). The report describes the audit and assurance "capability and practice in the private sector [as] weak and there are serious challenges to the achievement of transparency" (p.54). It notes the lack of accounting capabilities in private companies aside from the two largest (MCC and CNPCI) due to cost, financial management capacities and linguistic constraints (p.54). The report concedes that it is not realistic to expect any but the largest companies to undertake external audits or to use international standards in preparing their financial data (p.17). The GiZ study in annex to the report notes that while some private companies used bespoke or off-the-shelf accounting systems, all but the largest companies had only small finance departments and no internal audit functions (p.17, a/pp.230-232). The GiZ study also found that financial reports produced by companies were "very basic" and did not comply with GAAP or IFRS (a/p.231). The 2014-15 EITI Report states that none of the reporting companies provided copies of their audited accounts (p.55).

Assurance methodology: The report presents the quality assurances requested from reporting companies and government entities (p.55). Reporting entities were required to provide a letter from a senior government or company representative attesting that the reporting templates were complete, accurate and diligently prepared, that all amounts were supported by genuine receipts or documentary evidence, and confirmation of whether the company's 2014-15 financial statements were audited (p.55). "Major reporting companies", defined as oil and gas companies as well as MCC-Aynak, were also required to provide copies of their audited 2014-15 financial statements (p.55). The report confirms that EITI reporting was undertaken on a cash-accounting basis (p.47). The report describes the main lines of the IA's work, including scoping, data collection, assurance methodology and reconciliation (pp.10,53-56) as well as a copy of the IA's ToR (a/pp.2-17).

Confidentiality: The report does not describe any provisions for safeguarding confidential information.

Reconciliation coverage: The report provides the targeted reconciliation coverage (94.8% and 96.7% of total government extractives revenues in 2014 and 2015 respectively) in line with materiality decisions (p.48). It is possible to calculate the final reconciliation coverage given reporting omissions by eight companies drawing on the list of non-reporting companies and information on the materiality of each material company's payments (pp. 16,49,62-63).

Assurance omissions: The report does not clearly state whether all companies and government entities provided the required management certification letter for their reporting templates, but it states that

none of the reporting companies²⁴³ provided copies of their audited financial statements as requested (p.55).

Data reliability assessment: The report includes numerous references to concerns over the reliability of government reporting given the lack of robust government record-keeping and accounting systems (pp.15-16,46-47). It states that “the quality of the record keeping on which the data reported for the EITI reconciliation is based should be borne in mind when examining the results” (p.17). The report also notes limitations in the IA’s work, which was not meant to uncover payments and receipts omitted by both parties and did not extend to audits of reported data (p.10).

Sourcing of information: The non-financial (contextual) information appears consistently sourced throughout the 2014-15 EITI Report, which does not appear to include comments or views from stakeholders other than the IA.

Summary data: There is evidence that the IA prepared summary tables of EITI data for the 2014-15 EITI Report, which were sent to the International Secretariat in December 2017. The tables used outdated templates and a request was made by the International Secretariat to update the information and resubmit it, but at the time of writing summary data tables remain pending. Summary data tables (or their proxies) are publicly accessible for Afghanistan’s EITI Reports covering fiscal years 2009-2013, although these are only available on the Afghanistan page of the global EITI website²⁴⁴, not on the Afghanistan EITI national website.²⁴⁵

Recommendations: The report provides an overview of follow-up on past EITI recommendations (p.74) and a set of ten past recommendations from the 2012-2013 EITI Report that continue to require attention, including recommendations linked to broader reforms²⁴⁶ (e.g. transparency of SOEs; improvements in MOMP’s reporting of production figures) (pp.76-79). A set of five recommendations from the 2014-2015 EITI Report are presented, including several linked to broader reforms (pp.74-76).

Stakeholder views

IA procurement: Secretariat staff explained that the AEITI Secretariat always prepared a draft of the IA’s ToR, which was then circulated to the MSG’s Technical Committee for comment. While all stakeholders consulted expressed satisfaction at the IA’s ToR, none could explain why the MSG had decided to omit Annex 1 (on the scope of work) prior to tendering. The MSG’s Technical Committee confirmed that the Hart Group consortium had been contracted on the basis a single-source procurement for the 2014-15 EITI Report, given the MSG’s satisfaction with the 2012-13 EITI Report and the short time available for the production of the next report. Secretariat staff expressed frustration at the fact that AEITI only ever

²⁴³ Only the largest companies, defined as oil and gas companies and MCC-Aynak, were requested to provide copies of their audited financial statements.

²⁴⁴ EITI Website Afghanistan country page, accessed [here](#).

²⁴⁵ Afghanistan EITI (AEITI) Website, accessed [here](#).

²⁴⁶ e.g. improving government record-keeping; restructuring of MOF and MOMP; capacity building of SAO; auditing practices for PSC contractors and broader auditing standards; ASM.

received offers from two bidders (Hart Group and Moore Stephens) and over the lengthy timeframe (of over six months) to complete procurement, due to delays from both MOMP and the World Bank. While several MSG members expressed satisfaction that the 2012-13 and 2014-15 EITI Reports were the first time an international firm had teamed up with a local company to undertake the IA work, secretariat staff and several CSOs expressed frustration that the IA was seen to spend insufficient time undertaking data collection on the ground. The 2017 AEITI organisational assessment also related stakeholder concerns over the amount of time spent by the IA in country following up with reporting entities.²⁴⁷

Reporting templates: While most stakeholders consulted expressed satisfaction over the reporting templates for the 2014-15 EITI Report, some CSOs considered the most recent templates to be less disaggregated than in previous reports, albeit without specific examples of data considered lacking. While the 2015 Secretariat Review raised concerns over differences between reporting templates agreed by the MSG and those sent out to reporting entities for the 2011-12 EITI Report²⁴⁸, the MSG's Technical Committee confirmed that the final reporting templates for the 2014-15 EITI Report had been agreed by the MSG. While the 2017 AEITI assessment referred to reporting companies' comments that the reporting templates were "deficient" and not available in Dari²⁴⁹, the MSG's Technical Committee confirmed that templates had been translated into local languages prior to data collection.

Audit practices: In terms of *companies'* audit and assurance practices, there was consensus among stakeholders consulted that there were only mandatory audit requirements for the largest mining companies and oil and gas company parties to PSCs, which were required to hold accounts audited by third-parties in line with IAS. Representatives from industry and civil society – as well as the 2017 AEITI organisational assessment²⁵⁰ - noted significant constraints for all but the largest companies (e.g. MCC and CNPC) in preparing financial statements and keeping accounts, with only a handful of smaller mining companies considered to have internal audit functions. Many stakeholders highlighted the GiZ assessment of 14 companies' audit and assurance systems, published in annex to the 2014-15 EITI Report, which revealed widespread weaknesses in companies' internal accounting. Several CSOs and development partners noted past recommendations of AEITI Reports to require all "major" extractives companies to produce annual accounts audited by an independent chartered accountant. While a government official noted ongoing work on revising the Commercial Laws of Afghanistan, the latest draft of the bill did not include audit requirements for companies.

In terms of *government* audit and assurance practices, there was consensus among stakeholders consulted that the SAO did not undertake audits of extractives revenues. The US Fiscal Transparency Reports have highlighted the need for SAO audits of the budget, including all line ministries.²⁵¹ The 2017 AEITI organisational assessment noted that despite World Bank support for SAO capacity development, its capacity to undertake audits to international standards was several years away.²⁵² While the SAO is

²⁴⁷ Democracy International (May 2017), op.cit., p.13.

²⁴⁸ EITI International Secretariat (March 2015), 'Secretariat review: Afghanistan', op.cit., p.7.

²⁴⁹ Democracy International (May 2017), op.cit., p.13.

²⁵⁰ Democracy International (May 2017), op.cit., p.21.

²⁵¹ US Department of State (2014), 'US 2014 Fiscal Transparency Report', accessed [here](#) in January 2018.

²⁵² Democracy International (May 2017), op.cit., p.20.

responsible for overseeing government ministries and agencies' internal audit departments, the 2017 assessment described ministries' internal controls as "very weak" and raised concerns over SAO's oversight.²⁵³ It also highlighted significant revenues losses identified by the SAO's 2016 performance audit of MOMP.²⁵⁴ While several government officials described the SAO's annual performance audits, they conceded these were not financial audits and were not in line with international standards. Several development partners noted that the reliability of government data was a particular concern and highlighted donor assistance to strengthen audit and assurance procedures.

Secretariat staff and several government officials highlighted the MOF's internal revenue controls and the MOMP's internal performance audits as a form of assurance over revenues collected by the two ministries. Government officials explained that the MOF's SIGTAS software had been fully implemented within the Large Taxpayer Office (LTO), which operated a weekly manual reconciliation of invoices and revenues received by the MOF account at the central bank. While development partners highlighted weaknesses in controls in decentralised ministry offices at the provincial level, government officials and development partners confirmed that all mining companies were required to pay tax to the LTO since June 2017, as a condition of the IMF's 2016 Extended Credit Facility.²⁵⁵ A development partner highlighted the importance of centralising tax payment for all mining companies through the LTO as a means of tracking tax compliance, however government officials and development partners noted that only around 120 mining companies had registered with the LTO to date, implying that many mining companies had yet to transition to the LTO (*see Requirements 4.1 and 5.1*).

With regards to SOEs' audit and assurance practices, stakeholders from all constituencies, including government, confirmed that the SAO did not audit their accounts despite statutory provisions for SAO to do so. The 2017 AEITI organisational assessment highlighted weaknesses in SAO that hindered its ability to carry out anything but ad hoc performance audits of the two SOEs.²⁵⁶ Independent studies of AGE and NCE have highlighted the inconsistent submission of financial statements by the two SOEs to MOF.²⁵⁷

Quality assurances: The IA explained that quality assurance procedures for EITI reporting had been designed on the basis that the general accounting capabilities of reporting entities was limited and that there were generally no audited financial statements on which to base EITI reporting. The MSG's Technical Committee confirmed that quality assurances for EITI reporting consisted of management sign-off and disaggregation of payments and receipts by transaction, supported by copies of receipts. An industry representative confirmed that copies of audited financial statements were only requested from MCC and oil and gas companies. While government and industry stakeholders considered that the requested quality assurances were sufficient to provide some assurance of the reliability of EITI reporting given the Afghan context, several CSOs considered that the assurances requested were too weak to ensure the reliability of reconciled data. Secretariat staff noted the MSG's plans to engage the SAO to

²⁵³ Democracy International (May 2017), op.cit., p.20.

²⁵⁴ Democracy International (May 2017), op.cit., pp.4,17,18-19.

²⁵⁵ IMF, Country Report No. 16/252 The Islamic Republic of Afghanistan Request for a Three-Year Arrangement under the Extended Credit Facility, July 2016, article 22 and article 24. Cited in Democracy International (May 2017), op.cit., p.5.

²⁵⁶ Democracy International (May 2017), op.cit., p.20.

²⁵⁷ Ministry of Mines and Petroleum (June 2016), op.cit., pp.19,20. And USAID (November 2016), op.cit., pp.15-16.

provide certification of government disclosures in future EITI Reports, although the methodology for SAO's certification remained unclear. The 2017 AEITI assessment highlighted the potential role of Treasury's AFMIS platform in providing assurances for the reliability of EITI data if extractives revenues could be disaggregated.²⁵⁸ (see Requirement 5.1)

Assurance omissions: The MSG's Technical Committee explained that all reporting companies and government entities had provided management sign-off and disaggregation of their payments and receipts by transaction. Industry representatives also stated that larger companies such as CNPC had provided copies of their audited financial statements for 2014 but not for 2015 (as they were not finalised at the time), although there was uncertainty over whether all oil and gas companies and MCC had provided copies of their financial statements. The MSG's Technical Committee explained that some companies had simply reported zero for smaller payments to expedite their reporting, casting doubt on the reliability of EITI reporting despite management sign-off on the templates. Stakeholders from all constituencies, including government, highlighted inconsistencies between MOF and MOMP data and explained that the IA had provided assistance to government entities in filling out their reporting templates.

Assessment of reliability: The IA considered that it was difficult to say that the reconciliation in the 2014-15 EITI Report was comprehensive and reliable given weaknesses in government record-keeping. There were differing views on the MSG's Technical Committee over the reliability of reconciled data in the 2014-15 EITI Report. Whereas government and industry representatives consulted considered the financial data to be reliable, many CSOs raised significant concerns over the financial data reported. One CSO emphasised that, while the payments data from larger private companies like CNPC and MCC was likely reliable, there were no assurances about the reliability of financial data from small and mid-sized companies, SOEs or government entities.

Recommendations: Several CSOs, government officials and donors highlighted the relevance of recommendations in EITI Reports, although a number of CSOs and donors criticised the lack of implementation of past EITI recommendations (see Requirement 7.3). The MSG's Technical Committee explained that the MSG had a chance to review draft recommendations as part of its finalisation of the EITI Report, but tended to consider these to be the IA's recommendations rather than those of the MSG.

Initial assessment

As with Requirement 4.1, the assessment of this requirement raises questions of interpretation of the EITI Standard. The International Secretariat is conscious of the efforts made by the MSG and the IA to make decisions on data quality assurance on the basis of the prevailing low institutional capacity and virtually non-existent statutory audit requirements. The ToR for the IA was generally in line with the Board-approved template, albeit omitting the MSG's materiality decisions, and the recruitment of the IA was approved by the MSG. The MSG approved reporting templates for the 2014-15 EITI Report as part of its approval of the scoping study, and the MSG approved the quality assurances required from reporting entities. While the summary data tables for the 2014-15 EITI Report had not been published as of the

²⁵⁸ Islamic Republic of Afghanistan, Public Finance and Expenditure Management Law, article 7. Cited in Democracy International (May 2017), op.cit., p.19.

start of Validation (1 November 2017), there is evidence that the IA prepared summary data tables for the report and that these will be published once finalised. The report also includes a summary of the IA's general review of audit and assurance procedures in 2014-15, with stakeholder consultations confirming the report's assessment of widespread weaknesses in such assurance procedures in practice. The International Secretariat has consequently focused its assessment on the extent to which the procedures set out by the MSG and the IA have been followed. The International Secretariat notes that the report is unclear on the level of compliance with agreed quality assurance procedures, and the IA does not provide any assurances on the comprehensiveness and reliability of the reconciled data presented in the report. As a result, the International Secretariat's initial assessment is that Afghanistan has made meaningful progress towards meeting this requirement.

In accordance with Requirement 4.9, Afghanistan should ensure that the ToR for the IA is in line with the standard ToR approved by the EITI Board and that agreement on any deviations from the standard ToR be properly documented. Afghanistan should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. Afghanistan should ensure that the quality assurances agreed for EITI reporting be clearly documented, that compliance with agreed procedures by reporting entities be clearly assessed and that the IA provide a clear assessment of the comprehensiveness and reliability of EITI reporting. The MSG should also ensure that summary data tables for all EITI Reports are prepared in a timely manner in line with requirements of the Board-approved IA's ToR.

Table 4- Summary initial assessment table: Revenue collection

| EITI provisions | Summary of main findings | International Secretariat's initial assessment of progress with the EITI provisions |
|--------------------------|--|---|
| Comprehensiveness (#4.1) | This requirement raises fundamental issues of interpretation of the EITI Standard in the Afghan context. On the one hand, the MSG and IA have made a commendable attempt at ensuring that reports are comprehensive given the absence of reliably comprehensive government license and revenue data. The 2014-15 EITI Report includes the MSG's definition of the materiality thresholds for payments and companies to be included in reconciliation based on payments to government, including a justification for the specific thresholds based on a targeted reconciliation coverage. The review of the revenue streams covered in the EITI Report against the applicable laws and regulations gives assurance that no statutory revenue streams have been omitted from the scope of the report. The companies that did not report are named and the value of their payments to government is | Meaningful progress |

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| | <p>provided relative to government-reported revenues. The share of non-reporting companies appears to be significant in 2014, but not in 2015. All material government entities appear to have reported all revenues despite challenges in data collection (particularly from MOF Customs) and the government appears to have disclosed all extractives revenues, including from non-material companies, albeit disaggregated by company rather than by revenue stream. On the other hand, inconsistencies in government record-keeping raise questions over the comprehensiveness of government revenues disclosed, and thus the reconciliation coverage. The lack of assessment of the materiality of payments prior to data collection also leaves scope for excluding significant ad hoc payments not described in sector regulations.</p> | |
| In-kind revenues (#4.2) | <p>The 2014-15 EITI Report states that the government did not receive any in-kind revenues in the period under review, based on assurances from the MOMP.</p> | Not applicable |
| Barter and infrastructure transactions (#4.3) | <p>The 2014-15 EITI Report states that there were no barter arrangements or infrastructure provisions in force in the period under review, based on assurances from the MOMP. While the International Secretariat understands that, while certain large-scale mining contracts included infrastructure provisions as biddable items, these were not actively developed during the period under review.</p> | Not applicable |
| Transport revenues (#4.4) | <p>The Validation Guide states that “Disclosure of material transportation revenues is expected, but not required for compliance with the EITI provisions. Where transportation revenues are material but not disclosed, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers”. The MSG appears to have considered the existence of transportation arrangements in the extractive industries in general, although the 2014-15 EITI Report refers to four arrangements that do not give rise to transportation revenues. Yet the International Secretariat finds no evidence of any such discussion by the MSG of road-use fees</p> | Inadequate progress |

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|---|--|-----------------------|
| | collected by the Ministry of Transport on all vehicles (not extractives-specific). While these are likely immaterial, the lack of clear assessment of the materiality of such road-use fee revenues is a concern. | |
| Transactions between SOEs and government (#4.5) | Stakeholders confirmed that neither of the two extractives SOEs collected any tax or non-tax revenues from mining, oil and gas companies, even if this was not clearly stated in the 2014-15 EITI Report. While the MSG's assessment of the materiality of SOE payments to government is unclear, it is clear that SOE payments to government were considered material and both SOEs were included in the scope of reporting. However, the report does not clearly distinguish payments from SOEs to MOF that are specific to SOEs from those common to all extractives companies and the comprehensiveness of SOE reporting is unclear. Uncertainty over the comprehensiveness of SOEs' reporting of transactions with government are linked to weaknesses in their record-keeping. | Meaningful progress |
| Subnational direct payments (#4.6) | The 2014-15 EITI Report confirms the absence of direct subnational payments, which was confirmed by stakeholder consultations despite evidence of informal ad hoc payments that have no statutory basis. | Not applicable |
| Level of disaggregation (#4.7) | Reconciled financial data in the 2014-15 EITI Report is presented disaggregated by company, revenue flow and collecting government entity. | Satisfactory progress |
| Data timeliness (#4.8) | While the 2014-15 EITI Report was published after the end of the second to last complete accounting period (in April 2017 for a reporting period starting on 21 December 2013), the EITI Board granted Afghanistan an extension on its reporting deadline to 1 May 2017. Consistent delays in publishing EITI Reports is a concern however. | Satisfactory progress |
| Data quality (#4.9) | As with Requirement 4.1, this requirement raises fundamental questions of interpretation of the EITI Standard in the Afghan context. The International Secretariat is conscious of the efforts made by the MSG and the IA to make decisions on data quality assurance on the basis of the prevailing low institutional capacity and virtually-inexistent statutory audit requirements. The ToR | Meaningful progress |

| | | |
|---|--|--|
| | <p>for the IA was generally in line with the Board-approved template, albeit omitting the MSG's materiality decisions, and the recruitment of the IA was approved by the MSG. The MSG approved reporting templates for the 2014-15 EITI Report as part of its approval of the scoping study, and the MSG approved the quality assurances required from reporting entities. While the summary data tables for the 2014-15 EITI Report had not been published as of the start of Validation (1 November 2017), there is evidence that the IA prepared summary data tables for the report and that these will be published once finalised. The report also includes a summary of the IA's general review of audit and assurance procedures in 2014-15, with stakeholder consultations confirming the report's assessment of widespread weaknesses in such assurance procedures in practice. The International Secretariat has consequently focused its assessment on the extent to which the procedures set out by the MSG and the IA have been followed. The International Secretariat notes that the report is unclear on the level of compliance with agreed quality assurance procedures, and the IA does not provide any assurances on the comprehensiveness and reliability of the reconciled data presented in the report.</p> | |
| <p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In accordance with Requirement 4.1, Afghanistan should ensure that all companies selected in the scope of reporting comprehensively report all material payment flows and that decisions on the materiality of revenue flows are based on government unilateral disclosure of total extractives revenues, including those not statutorily-mandated but nevertheless collected. Afghanistan should also ensure that full unilateral government disclosure of material revenues from non-material companies is presented disaggregated by revenue flow rather than by company. 2. To strengthen implementation, Afghanistan is encouraged to assess the existence of any barter type arrangements or infrastructure provisions during the scoping for future EITI reporting to ensure that reporting of the implementation of such agreements provides a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Afghanistan, with support from the IA, may wish to gain a full understanding of the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts. 3. In accordance with Requirement 4.4, Afghanistan should ensure that its assessment of the | | |

materiality of any revenues from the transportation of oil, gas and minerals be publicly documented and that any such material revenues be disclosed disaggregated to levels commensurate with the reporting of other payments and revenue streams.

4. In accordance with Requirement 4.5, Afghanistan should undertake a comprehensive assessment of transactions between extractives SOEs and government entities to ensure that the reporting process comprehensively addresses the role of SOEs, including transfers between SOEs and other government agencies.
5. To strengthen implementation, Afghanistan may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of all taxes and fees through implementation of ring-fencing provisions of the 2014 Minerals Law ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.
6. To strengthen implementation, Afghanistan may wish to work with key revenue collecting agencies and sector regulators to explore means of publishing EITI-required information on their normal websites to embed EITI reporting in government and company systems. Afghanistan may also wish to ensure that the timeframe for procurement of the IA is in line with reporting deadlines.
7. In accordance with Requirement 4.9, Afghanistan should ensure that the ToR for the IA is in line with the standard ToR approved by the EITI Board and that agreement on any deviations from the standard ToR be properly documented. Afghanistan should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. Afghanistan should ensure that the quality assurances agreed for EITI reporting be clearly documented, that compliance with agreed procedures by reporting entities be clearly assessed and that the IA provide a clear assessment of the comprehensiveness and reliability of EITI reporting. The MSG should also ensure that summary data tables for all EITI Reports are prepared in a timely manner in line with requirements of the Board-approved IA's ToR.

6. Revenue management and distribution

5.1 Overview

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

5.2 Assessment

Distribution of revenues (#5.1)

Documentation of progress

The 2014-15 EITI Report does not clearly define whether all extractives revenues are recorded in the national budget, but highlights serious concerns about government record-keeping and accounting throughout (pp.16-17,20,68-69). Links to national budget planning documents for 2014 and 2015 on the

MOF's Directorate of Budget website are provided²⁵⁹ (p.35).

The report does not refer to international accounting standards aside from in reference to oil and gas PSC contractors (pp.17,23,29,54).

Stakeholder views

While the MSG's Technical Committee noted that the MSG had discussed the issue of revenue traceability in preparing the 2014-15 EITI Report, there was no consensus among stakeholders consulted over whether all extractives revenues were de facto recorded in the national budget. Several development partners highlighted that Afghanistan operated a single Treasury account, which centralised balances of other accounts each day. While there was consensus among stakeholders consulted that revenues collected by MOF entities were systematically transferred to the single Treasury account, there were different views over the management of non-tax revenues collected by MOMP. Several government officials explained that MOMP collected non-tax revenues both centrally and through its provincial offices in a series of bank accounts at the state bank, which were subsequently transferred to the single Treasury account every day. However, several industry and civil society representatives questioned whether non-tax revenues collected by MOMP were systematically transferred to the Treasury and recorded in the budget.

For several years, civil society organisations and independent reports for MOMP have publicly called for the creation of a single account for all natural resource payments.²⁶⁰ The 2017 AEITI assessment highlighted the efficiency of the Treasury's SIGTAS system for tracking tax, non-tax and customs revenues at the national, provincial and district levels even if it did not disaggregate extractives revenues.²⁶¹ Several government officials noted that the MOF had recently been directed to establish a single extractives account in the Treasury. However, a development partner questioned the idea of creating a standalone account for extractives revenues, separate to the single Treasury account, given the need to centralise all revenues through a single account. Rather, the implementation of TINs for every mining, oil and gas license would allow for the disaggregation of extractives revenues in real time. Officials highlighted that mining companies' tax payments had all been centralised to LTO since June 2017, although only around 120 mining companies had registered as of January 2018. While the MOF's SIGTAS (Treasury), ASYCUDA (Customs) and AFMIS (public finance management) systems were considered to be well-functioning in Kabul, there were differing opinions on their implementation in provincial offices. In 2016 the World Bank praised the Treasury's AFMIS system as a "stable and effective" application available in all 34 provinces.²⁶²

Several government officials highlighted MOMP's ongoing work to digitise non-tax revenue collection through an online payment system, linked to the MCAS cadastre system with a public portal (see *Requirement 2.3*). The aim was to implement provisions of the 2009 Income Tax Law requiring the ring-

²⁵⁹ Directorate of Budget - Ministry of Finance website accessed [here](#) in December 2017.

²⁶⁰ Global Witness (September 2015), op.cit., p.2; Samuel Hall (November 2015), op.cit., p.52; and Democracy International (May 2017), op.cit., p.19.

²⁶¹ Islamic Republic of Afghanistan, Public Finance and Expenditure Management Law, article 7. Cited in Democracy International (May 2017), op.cit., p.19.

²⁶² The World Bank (January 2016), Project Paper on a Proposed Afghanistan Reconstruction Trust Fund Additional Financing in the Amount of US \$41.125 million Equivalent to the Islamic Republic of Afghanistan for a Second Public Financial Management Reform Project, accessed [here](#) in January 2018.

fencing of taxes (and separate TIN) per license. Government officials explained that MOMP had started monthly meetings with MOF in 2017 to seek to align lists of active extractives companies between the two Ministries, which led to a rise in collections in 2017. Other officials noted the MOMP's ambition to integrate its non-tax revenue collection system into the SIGTAS and AFMIS systems.

Government officials and Afghanistan's latest Public Financial Management and Accountability Assessment (PEFA) report confirmed that the government operates a national revenue classification system of eight major codes, 21 minor groups and 192 object codes, requiring a conversion table to generate GFS-consistent data.²⁶³ However, IMF reports on Afghanistan provide updates on the roll-out of monthly reports consistent with the GFS2001 nomenclature.²⁶⁴ The 2017 AEITI assessment calls for the implementation of the Treasury's existing "object codes" in other line ministries and subnational governments.²⁶⁵ A government official noted that the MOF had recently created 110 new extractives-specific revenue classification codes, although there was no explanation for the high number of revenue codes given the lower number of extractives revenues covered in EITI Reports.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made inadequate progress in meeting this requirement. The 2014-15 EITI Report does not clearly define what extractives revenues are recorded in the national budget, but raises serious concerns about government record-keeping and accounting. While the 2014-15 EITI Report includes some information on weaknesses in government record-keeping, there is a general lack of clarity among stakeholders consulted over whether all tax and non-tax extractives revenues are recorded in the national budget.

In accordance with Requirement 5.1, Afghanistan should ensure that future EITI reporting clearly identify any off-budget extractives revenues and that the allocation of extractives revenues not recorded in the national budget are explained, with links provided to relevant financial reports as applicable. Afghanistan may wish to explore the extent to which it could use extractives-specific GFS classifications from its EITI summary data tables (together with its per-license tax ID numbers) as a means of disaggregating extractives revenues in MOF systems.

Sub-national transfers (#5.2)

Documentation of progress

The 2014-15 EITI Report describes statutory provisions under Article 84 of the 2014 Minerals Law for the transfer of 5% "of the overall revenue from a mine or mines, in a special code [budget code] or wealth fund, to the economic, social and environmental development purpose of the province or provinces where the mines are located." The report refers to MOMP Cadastre Directorate's explanation that this

²⁶³ World Bank (August 2013), 'Afghanistan: Public Financial Management and Accountability Assessment', accessed [here](#) in January 2018, p.35.

²⁶⁴ IMF (May 2016), 'Islamic Republic of Afghanistan: Second review of the staff-monitored program – press release and staff report', accessed [here](#) in January 2018, p.15.

²⁶⁵ Democracy International (May 2017), op.cit., p.19,25,27.

provision had not yet been implemented and the MSG's decision that subnational transfers were not applicable in the period under review (pp.44-45).

Stakeholder views

All stakeholders consulted – and the 2017 AEITI assessment²⁶⁶ – confirmed that the statutory 5% subnational transfers had not yet been implemented. Several CSOs criticised the lack of implementation of the statutory requirement, as well as the vague language in the law that did not clearly define rates or affected communities. These concerns were also echoed in the ASI report to the MOMP in November 2015.²⁶⁷ Stakeholders were not aware of any other statutory sub-national transfers.

Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable in Afghanistan in the period under review. The 2014-15 EITI Report describes statutory provisions for subnational transfers of mining revenues and explains the MSG's assessment that the requirement was not applicable given the lack of implementation of the legal provisions to date.

To strengthen implementation, Afghanistan is encouraged to assess the implementation of statutory subnational transfers annually to ensure that information on subnational transfers, once effective, be published, including the specific formula for calculating transfers to individual local governments, the value of budgeted and executed subnational transfers disaggregated by local government.

Additional information on revenue management and expenditures (#5.3)

Documentation of progress

The 2014-15 EITI Report does not refer to any extractives revenues earmarked for specific programmes or regions, aside from statutory earmarks of 5% of mining revenues to economic, social and environmental development projects for the benefit of host provinces describes above (*see Requirement 5.2*). The report describes extensive weaknesses in government record-keeping, accounting and oversight (pp.16-17,54,68-69). No additional information on projected production, commodity prices or revenue forecasts is provided.

Stakeholder views

Stakeholders did not express any particular comment on the 2014-15 EITI Report's coverage of the budget-making and auditing practices. There was consensus that there were no other revenue earmarks aside from the statutory 5% subnational transfers that were not yet enforced. Several civil society and industry representatives considered that additional information on the use of extractives revenues – expenditures – would be of interest.

²⁶⁶ Democracy International (May 2017), op.cit., p.19.

²⁶⁷ Samuel Hall (November 2015), op.cit., p.52.

Initial assessment

It is encouraging that the MSG has made some attempt to including information on the government accounting process in the 2014-15 EITI Report, although the International Secretariat's view is that AEITI has made only modest efforts to include additional information on the budget-making process, projections or expenditure information despite apparent stakeholder interest.

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

| EITI provisions | Summary of main findings | International Secretariat's initial assessment of progress with the EITI provisions |
|---|---|---|
| Distribution of revenues (#5.1) | The 2014-15 EITI Report does not clearly define what extractives revenues are recorded in the national budget, but raises serious concerns about government record-keeping and accounting. There is a general lack of clarity among stakeholders consulted over whether all tax and non-tax extractives revenues are recorded in the national budget. | Inadequate progress |
| Sub-national transfers (#5.2) | The 2014-15 EITI Report describes statutory provisions for subnational transfers of mining revenues and explains the MSG's assessment that the requirement was not applicable given the lack of implementation of the legal provisions to date. | Not applicable |
| Information on revenue management and expenditures (#5.3) | It is encouraging that the MSG has made some attempt to including information on the government accounting process in the 2014-15 EITI Report, although the International Secretariat's view is that AEITI has made only modest efforts to include additional information on the budget-making process, projections or expenditure information despite apparent stakeholder interest. | |
| <p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In accordance with Requirement 5.1, Afghanistan should ensure that the allocation of extractives revenues not recorded in the national budget are explained, with links provided to relevant financial reports as applicable. Afghanistan may wish to explore the extent to which it could use extractives-specific GFS classifications from its EITI summary data tables (together with its per-license tax ID numbers) as a means of disaggregating extractives revenues in MOF systems. 2. To strengthen implementation, Afghanistan is encouraged to assess the implementation of statutory subnational transfers annually to ensure that information on subnational transfers, once effective, be published, including the specific formula for calculating transfers to individual local governments, the value of budgeted and executed subnational transfers disaggregated by | | |

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| local government. |
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Social and economic spending

6.1 Overview

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

6.2 Assessment

Social expenditures (#6.1)

Documentation of progress

The 2014-15 EITI Report describes the MSG's agreement that there were no *mandatory* social expenditures in 2014-15, based on the Petroleum Directorate and Cadastre Directorate's assessment (p.44). While the report notes that Article 87 of (unspecified) "Mining Regulations" (understood to be the 2010 mining regulation) requires license-holders to "*produce a Development Plan establishing appropriate sustainable development and social protection programs and structures, taking into account international best practice*", it does not explain why such expenditures apparently did not take place in 2014-15 (p.44).

The MSG agreed to include *voluntary* social expenditures in the scope of reporting "voluntarily" (p.44), although no social expenditures of any type were reported by any company (p.69). While voluntary social expenditures have consistently been included in reporting templates since the first EITI Reports, the 2015 Secretariat review highlighted that no payments had ever been reported.²⁶⁸

Stakeholder views

There was consensus among stakeholders consulted that there were no mandatory social expenditures or requirements to conclude Community Development Agreements (CDAs) for oil and gas companies. Several stakeholders from all constituencies confirmed that many mining companies were required to undertake mandatory social expenditures, given provisions under Article 92 of the 2014 Minerals Law for all companies to conclude CDAs. While several industry and civil society stakeholders considered that mining companies did not tend to undertake extensive voluntary social expenditures, several industry representatives confirmed that their companies undertook around USD 12k a year of mandatory social expenditures, including in 2014-15. They confirmed that the monetary value of social expenditures was

²⁶⁸ EITI International Secretariat (March 2015), 'Secretariat review: Afghanistan', op.cit., p.8.

set in the mining companies' contracts or associated CDA but that these were not monitored. While several CSOs and development partners raised doubts over the effectiveness of mining companies' social expenditures, considering that the practice of mis-invoicing was widespread, they considered that material mining companies should have reported some mandatory social expenditures in the 2014-15 EITI Report. Some industry representatives in the MSG expressed surprise that the AEITI Report did not include reference to their social payments, even though their submitted reporting templates did not include any such payments. In a January 2015 report, the USIP also highlighted the case of several mining companies (such as Hewad Brothers and AKNR) that did not comply with their mandatory social expenditure requirements.²⁶⁹ The IA and MSG's Technical Committee confirmed that none of the material companies reported any social expenditures in AEITI Reports. The MSG had self-assessed its progress in meeting Requirement 6.1 as "no progress" during its pre-Validation exercise in May 2017.

Initial assessment

The International Secretariat's initial assessment is that this Afghanistan has made inadequate progress towards meeting this requirement. While the 2014-15 EITI Report states that there were no mandatory social expenditures in the period under review, several industry stakeholders confirmed that specific mining companies had undertaken mandatory social expenditures in 2014-15. While voluntary social expenditures were included in templates, no payments were reported and no explanations were provided.

In accordance with Requirement 6.1, Afghanistan should ensure that a clear definition of any mandatory social expenditures is publicly provided and assess the materiality of such expenditures in the period under review. Afghanistan may wish to consider the extent to which disclosure of Community Development Agreements (or review of key terms) would be necessary to provide a comprehensive assessment of the existence of mandatory social expenditures. Afghanistan should ensure that public disclosure of mandatory social expenditures be disaggregated by type of payment (distinguishing cash and in-kind) and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures.

SOE quasi fiscal expenditures (#6.2)

Documentation of progress

The 2014-15 Report does not refer to quasi-fiscal expenditures. There is no evidence in meeting minutes of the MSG's discussion of quasi-fiscal expenditures. The 2014-15 Report provides basic financial information on revenues and profits²⁷⁰ for the two extractives SOEs sourced from the ACSO (p.52), as well as the results of reconciliation of the two SOEs' payments to government²⁷¹ (a/pp.19,47), although this

²⁶⁹ United States Institute of Peace (January 2015), op.cit..

²⁷⁰ AFS 2.3m and AFS 2.1m in revenues in 2014 and 2015, and AFS 2m and AFS 1.8m in profits in the same period reported for Northern Coal Company by ACSO. AFS 0.3m in revenues and AFS 0.1m in profits in both 2014 and 2015 reported for Afghan Gas Enterprise by ACSO (p.52).

²⁷¹ The report reconciles AFS 310.8m in "Other (transferable shares, other)" in 2014 and AFS 1.84bn in "Other receipts" in 2015 from Northern Coal Company to MOF Tax for instance (a/pp.19,47).

information does not include quasi-fiscal expenditures.

Stakeholder views

There were sharply divergent views across different constituencies over whether AGE or NCE undertook any quasi-fiscal expenditures. The MSG's Technical Committee confirmed that the MSG had not assessed the existence of quasi-fiscal expenditures in detail ahead of EITI reporting. While there was consensus across the three constituencies (and independent studies²⁷²) that the two SOEs' budgets were agreed by the MOF at the start of every year, and that SOEs could only retain minimal earnings (*see Requirement 2.6*), there was no consensus over whether the SOEs undertook quasi-fiscal expenditures such as subsidised sales. Development partners did not have visibility on any quasi-fiscal expenditures undertaken by the two SOEs. While Article 22 of the SOE Law requires the government to compensate SOEs for sales of goods and services sold at below their net cost²⁷³, none of the stakeholders consulted had certainty over the structure of subsidies provided by the two SOEs.

There was consensus among stakeholders consulted that AGE sold most of its natural gas to the Northern Fertilizer Power Plant (NFPP) at subsidised prices, with a November 2016 USAID report on AGE reporting sales prices of USD 34 per mcm to NFPP compared to USD 100 per mcm for gas pledged to the Ghazanfar IPP project in Mazar-i-Sharif and USD 150 per mcm for gas pledged to CNG Station Sheberghan.²⁷⁴ There was no clarity from any of the stakeholders consulted over whether such subsidies were covered by the national budget, or absorbed in AGE's operating costs.

There was also consensus that NCE sold coal at a rate set by the Cabinet, at AFS 2100 per ton²⁷⁵, although there were different opinions over whether this represented a fair valuation in line with market prices. While several government officials considered that the fixed rate was in line with market prices and production costs, a 2011 assessment of NCE for MOMP considered that the AFS 600 per ton production costs represented the salary costs for a worker to produce a ton of coal and thus under-estimated the total cost of production.²⁷⁶ The 2011 study also found instances of coal sold at below the Cabinet-mandated rate (to public users and mosques for instance).²⁷⁷

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made no progress towards meeting this requirement. The 2014-15 EITI Report does not refer to quasi-fiscal expenditures and there is insufficient information on SOEs in the report to determine the existence of any such expenditures. The lack of clarity from stakeholders on the existence of quasi-fiscal expenditures and publicly available evidence of subsidies on natural gas sold by AGE warrant additional work from the MSG.

In accordance with Requirement 6.2, Afghanistan should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. Afghanistan should

²⁷² USAID (November 2016), *op.cit.*, pp.3-4.

²⁷³ Afghanistan's State-Owned Enterprises Law, *op.cit.*.

²⁷⁴ USAID (November 2016), *op.cit.*, pp.8-9.

²⁷⁵ Ministry of Mines and Petroleum (April 2011), *op.cit.*, p.18.

²⁷⁶ *Ibid.*

²⁷⁷ *Ibid.*

develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.

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

Documentation of progress

Share of GDP: The 2014-15 EITI Report provides the value of the mining sector's contribution to GDP in 2014 and 2015 in absolute terms and as a share of GDP, sourced from MOF Fiscal Policy Unit (p.36).

Government revenues: While noting that the value of total government revenues from the mining, oil and gas sectors is "not published", the report provides the value of "MOMP Profit from SOEs" in 2014 and 2015 (p.36) and extractives revenues based on EITI reporting (p.9), as well as the value of total budget revenue in both years (p.36).

Exports: The report quotes the MOF Macro Fiscal Performance Directorate in stating that extractives export data is not available. The report provides the value of Afghanistan's total exports in 2015, sourced from the World Bank (p.41). Acknowledging that the 2014-15 EITI Report did not cover ASM, estimates of lapis lazuli export volumes and values from a June 2016 Global Witness report²⁷⁸ were nonetheless provided (p.16).

Employment: The report provides no information on employment in the mining, oil or gas sectors. However, the GiZ study on artisanal and small-scale mining (ASM) in annex to the 2012-13 EITI Report provides estimates of employment in the artisanal mining sector, which included around 50k miners directly employed in ASM and between 200k and 450k employees directly and indirectly involved in upstream and downstream ASM, or between 3% and 6% of the country's labour force.²⁷⁹

Location: The report provides an overview of the general production location for oil (p.8) and gas (pp.9,52). While the report does not explicitly describe the location of mining production, the English MOMP mining license register provided in Appendices 9.3-9.4 provides the general location of each license (a/pp.78-86). The infographics prepared for the AEITI Report corresponding to the fiscal years 2012 and 2013 include a graphical representation of the major extractive resources and the provinces where they are located.²⁸⁰

Stakeholder views

Stakeholders from all constituencies highlighted the lack of official data on total government revenues from the extractives. While government highlighted the government's unilateral reporting of all extractives revenues, several CSOs considered that challenges in government record-keeping meant that the extractives revenue data reported in the 2014-15 EITI Report was not comprehensive. Several CSOs reiterated calls for the establishment of a single account for extractives revenues to ensure transparency

²⁷⁸ Global Witness (June 2016), op.cit.. Link provided in the 2014-15 EITI Report (p.16).

²⁷⁹ Afghanistan EITI (February 2016), 'Afghanistan Fourth EITI Report 1391 and 1392 (2012 and 2013) - Appendices', op.cit., pp.227-246.

²⁸⁰ [http://aeiti.af/Content/Media/Documents/AEITI4thReportinInfographics\(English\)24201722534338553325325.pdf](http://aeiti.af/Content/Media/Documents/AEITI4thReportinInfographics(English)24201722534338553325325.pdf).

in total government extractives revenues (*see Requirement 5.1*). Several stakeholders from all three constituencies considered that the government had some data on mineral exports, despite consensus that official figures vastly under-estimated the value of total exports, including smuggled minerals (*see Requirement 3.3*). None of the stakeholders consulted expressed any views on the availability of extractives employment data, although one government official considered that the Central Statistics Organisation should have some employment data for EITI reporting purposes. Several industry representatives noted that companies were required to regularly report staffing figures to MOMP.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made inadequate progress towards meeting this requirement. Acknowledging constraints in comprehensiveness, the 2014-15 EITI Report provides official estimates of the mining sector's contribution to GDP, government revenues, and limited information on exports (only one mineral), although it provides no estimate of extractives employment nor exports of minerals other than lapis lazuli.

In accordance with Requirement 6.3, Afghanistan should disclose comprehensive information about the extractive industries' contribution to the economy in relative and absolute terms, including to GDP, government revenues, exports and employment.

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

| EITI provisions | Summary of main findings | International Secretariat's initial assessment of progress with the EITI provisions |
|--|--|---|
| Social expenditures (#6.1) | While the 2014-15 EITI Report states that there were no mandatory social expenditures in the period under review, several industry stakeholders confirmed that specific mining companies had undertaken mandatory social expenditures in 2014-15. While voluntary social expenditures were included in templates, no payments were reported. | Inadequate progress |
| SOE quasi fiscal expenditures (#6.2) | The 2014-15 EITI Report does not refer to quasi-fiscal expenditures and there is insufficient information on SOEs in the report to determine the existence of any such expenditures. The lack of clarity from stakeholders on the existence of quasi-fiscal expenditures and publicly available evidence of subsidies on natural gas sold by AGE warrant additional work from the MSG. | No progress |
| Contribution of the extractive sector to the | Acknowledging constraints in comprehensiveness, the 2014-15 EITI Report | Inadequate progress |

| | | |
|---|---|--|
| economy (#6.3) | provides official estimates of the mining sector's contribution to GDP, government revenues, and limited information on exports (only one mineral), although it provides no estimate of extractives employment nor exports of minerals other than lapis lazuli. | |
| <p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In accordance with Requirement 6.1, Afghanistan should ensure that a clear definition of any mandatory social expenditures is publicly provided and assess the materiality of such expenditures in the period under review. The MSG may wish to consider the extent to which disclosure of Community Development Agreements (or review of key terms) would be necessary to provide a comprehensive assessment of the existence of mandatory social expenditures. Afghanistan should ensure that public disclosure of mandatory social expenditures be disaggregated by type of payment (distinguishing cash and in-kind) and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. 2. In accordance with Requirement 6.2, Afghanistan should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams. 3. In accordance with Requirement 6.3, Afghanistan should disclose comprehensive information about the extractive industries' contribution to the economy in relative and absolute terms, including to GDP, government revenues, exports and employment. | | |

Part III – Outcomes and Impact

7. Outcomes and Impact

7.1 Overview

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

7.2 Assessment

Public debate (#7.1)

Documentation of progress

All of Afghanistan's EITI work plans have given priority to communications and outreach activities. Activities in the work plan are geared towards raising awareness of the EITI process and are not linked to specific aims of the work plan.

Comprehensibility: AEITI has produced summary reports for four of the five AEITI reports (all except the third report, corresponding to fiscal year 2011). These are available, only in English, on the AEITI website.²⁸¹ The 2015 AEITI summary report was published in June 2017 and includes among other things general information on the EITI, a summary of the content including information on the largest contributors to government revenue, a cursory overview of the revenues to government and participating companies, summaries on production and brief commentary on the completeness of the data. AEITI has translated the EITI Standard into Pashto and Dari, and general presentations about the EITI are available in both languages on the AEITI website.²⁸² The website also includes a specific section on "AEITI promotional materials", including fact sheets and brochures in Pashto, Dari and English as well as infographics for the 4th AEITI report (corresponding to fiscal years 2012 and 2013) elaborated with support from GIZ. Email correspondence with the EITI show that infographics were also planned for the fifth AEITI Report (corresponding to fiscal years 2014 and 2015), however there is no evidence that these have been produced. Civil society's comments to the 2014-15 EITI Report note that "overall the report needs significant proofreading and editing", noting significant numbers of charts and titles missing identifying data, numbers not aligning between charts and generalised lack of clarity.²⁸³

Promotion: The national secretariat regularly conducts outreach events to the provinces to discuss the findings of AEITI Reports. The AEITI website notes that two such events were carried out in 2017 with

²⁸¹ Afghanistan EITI (no date), 'Summary Reports', accessed on <http://aeiti.af/en/documents/category/summary-reports> in April 2018.

²⁸² Afghanistan EITI (no date), 'AEITI Documents', accessed on <http://aeiti.af/en/documents/category/aeiti-docs?page=1> in April 2018.

²⁸³ CSO coalition (2017), Op.cit., p.3

support from GIZ in Kandahar²⁸⁴ and Herat²⁸⁵ provinces respectively. According to the 2016 APR, workshops were also carried out in 2016 in Northern, Eastern and Southern provinces.²⁸⁶ The purported aim of these outreach activities is to “bring government and civil society to the table to discuss the challenges of the extractive sector in light of the EITI process and promote transparency”. The APR also notes the participation of directors from the MOF and MOMP respectively in at least one of the workshops (Kandahar). With support from GIZ, the MSG conducted an outreach activity towards parliamentarians and other key stakeholders in 2017 focusing primarily on beneficial ownership disclosure.²⁸⁷ The AEITI website includes an average of two summary reports per year of outreach events to industry,²⁸⁸ government officials,²⁸⁹ and a number of events in the provinces²⁹⁰ in the period 2013-2016, however there are no summary reports of any such events in the year 2017. The 2018 AEITI work plan aims to carry out outreach missions to six provinces over the course of the year, with an explicit aim to include at least one MSG member from each constituency in each workshop.

Although there is evidence that AEITI organised report launches for the first three EITI reports,²⁹¹ there is no evidence of any report launches having been organised since September 2014. The AEITI website includes regular updates on the work of the EITI in Afghanistan, including updates on the work of the MSG, engagement with parliamentarians, reposts of blogs from other organisations and updates on outreach activities to the provinces.²⁹² AEITI has also produced six local-language video clips of 30 minutes each explaining the EITI’s role and functions.²⁹³ Although there are a number of examples of press releases and articles building on AEITI Reports and activities,²⁹⁴ including an impressive list of AEITI-related articles and press releases issued by Mining Watch Afghanistan specifically,²⁹⁵ there is no evidence of AEITI press-releases or AEITI-originated news articles in online media for the last 5 years.

AEITI approved an open data policy in March 2017, modelled on the EITI’s open data policy and that includes objectives, strategies and outputs. The policy includes a clear statement on the access, release and re-use of EITI data. Although communicated to the International Secretariat at the time of its adoption by the MSG, the policy was not available on AEITI’s website at the start of Validation and is

²⁸⁴ Afghanistan EITI (August 2017), ‘Debate on AEITI’s 5th Reconciliation Report in Kandahar Province’, accessed on <http://aeiti.af/en/news/aeiti-5th-reconciliation-report-was-shared-with-government-officials-and-civil-society-members-in-kandahar-province> in April 2018.

²⁸⁵ Afghanistan EITI (October 2017), ‘The details of the 5th report was shared with members of CSOs, private sector and publics in Herat’, accessed on <http://aeiti.af/en/news/the-5th-report-was-shared-with-members-of-csos-private-sectore-and-publics> in April 2018.

²⁸⁶ AEITI (2016) Annual progress report, p.9.

²⁸⁷ German Cooperation with Afghanistan (2017), ‘Towards Full Membership: Afghanistan Extractive Industries Transparency Initiative (AEITI)’, accessed on <http://www.ez-afghanistan.de/en/news/towards-full-membership-afghanistan-extractive-industries-transparency-initiative-aeiti> in April 2018.

²⁸⁸ Afghanistan EITI (February 2014), ‘Brief report on AEITI workshop delivered in preparations for the 3rd Reconciliation Report with Extractive Industries Sector’ <http://aeiti.af/Content/Media/Documents/WorkshopforExtractiveIndustries2014192201724621107553325325.pdf> in April 2018.

²⁸⁹ Afghanistan EITI (2014), ‘AEITI Communications Department’s Workshop for MoMP and MoF Officials’, accessed on <http://aeiti.af/Content/Media/Documents/ReportonMoMPandMoFTraining,August2014192201724528368553325325.pdf> in April 2018.

²⁹⁰ Afghanistan EITI (no date), ‘Provincial and Outreach Reports’, accessed on <http://aeiti.af/en/documents/category/provincial-and-outreach-reports> in April 2018.

²⁹¹ See for example <http://mof.gov.af/en/news/afghanistan-releases-third-eiti-reconciliation-report>.

²⁹² See <http://aeiti.af/en/news>. In total there were 18 news items published on AEITI’s website in 2017.

²⁹³ Afghanistan EITI (no date), ‘Video’, accessed on <http://aeiti.af/en/video> in April 2018.

²⁹⁴ See for example <https://www.paihwok.com/en/2017/05/13/afghanistan-extractive-industries-transparency-initiative-aeiti-pre-assessment-kabul>.

²⁹⁵ Mining Watch Afghanistan (no date), ‘Contribution to AEITI’, accessed on http://miningwatch.af/?page_id=347 in April 2018.

currently only available on the EITI International's website.²⁹⁶ The policy includes provisions to publish "all the reconciled data of the extractive sector of Afghanistan, including all tables and graphs used in EITI Reports... alongside the reports in open formats such as Excel or CSV files". Although appendices to the 2014-2015 AEITI Report are available on the website, information is presented in pdf format (see *Requirement 7.2*).

A 2016 mid-year performance assessment carried out by the MOF's performance management team concluded that AEITI's website "is highly professional and provides up to date information on activities of AEITI including strategies, annual reports, outreach visits and minutes of meetings."²⁹⁷ Website content is also available in Dari and Pashto, although these pages do not seem to be updated regularly. AEITI makes frequent use of Facebook to convey its activities to the public. The AEITI Facebook page²⁹⁸ includes some 50 postings made in 2017, a tenth of which refer to the publication of infographics. The dates on the postings suggest that postings on social media are done in waves, with most of the posts concentrating having taken place in three months of the year.

Contribution to public debate: There is substantial evidence of civil society organisations using EITI reports as part of their advocacy efforts (see *Requirement 1.3*). There is also sporadic evidence of specific EITI recommendations being used by international development partners and consultants to argue for public financial management reforms in the sector.²⁹⁹ AEITI launched a publicly-available communications strategy in 2015, which has been updated at least twice.³⁰⁰ The strategy is implemented by the national secretariat's communications department, consisting of a communications director, a communications officer, a translator and an office assistant, on behalf of the MSG. The communications strategy notes in its latest version of December 2017 that "it is anticipated that a Communications Working Group of the MSG will be established soon", although there is no indication that this had taken place at the start of Validation. The purported aim of the strategy is to "further enhance EITI significance in Afghanistan in order to engage targeted communities through selected channels across the country in the dialogue about AEITI's importance and its implementation in the country".³⁰¹ The strategy also notes the need to engage in dialogue about "natural resources management, educating people about the EITI process, encouraging their participation and listening to their concerns and suggestions".³⁰² Stakeholders are divided into two categories ("internal" and "external audiences"), depending on the frequency of their interactions with AEITI, and key messages are equally divided into these two categories.³⁰³ Stakeholders

²⁹⁶ AEITI (2017), Open data policy, accessed on <https://eiti.org/document/afghanistan-open-data-policy> in April 2018.

²⁹⁷ Ministry of Finance (2016), '2016 mid-year performance tracking report', accessed on <http://aeiti.af/Content/Media/Documents/2016Mid-YearPerformanceTrackingReport7620171147779553325325.pdf> in April 2018, p.186.

²⁹⁸ Facebook (2017), 'AEITI', accessed on <https://www.facebook.com/AEITI/> in April 2018.

²⁹⁹ See for example Samuel Hall (2017), p.7.

³⁰⁰ The strategy was last updated in December 2017 to cover the years 2018 and 2019, available on the AEITI website here: <http://aeiti.af/en/documents/category/aeiti-docs>.

³⁰¹ AEITI (2017), Communications strategy, p.10

³⁰² Ibid. Specifically the strategy's objective is to build trust among citizens and the government, increase awareness among stakeholders and the general public in Afghanistan about the importance of AEITI, enable citizens and their representatives to influence the decision-making process, motivate large and medium companies to get involved in the AEITI process; increase the interest to the AEITI implementation process in civil society and the general public, identify the major stakeholders and their roles in EITI implementation in Afghanistan extractive sector; identify and define the relevant various types of messages for the various stake holders; and identify the suitable communication tools and methods for the messages for the stake holders".

³⁰³ AEITI (2017), Op cit. pp. 14-15.

identified in the strategy include government, parliamentarians, civil society, companies and the media. Key messages are listed in the strategy but these are general and not linked to specific goals of the work plan.³⁰⁴ The strategy includes an assessment of communication channels and notes the establishment of a “key media database” to engage external stakeholders along different platforms, including social media.

Stakeholder views

CSO representatives on the MSG said that they had issued a substantial number of press releases, briefing notes and public statements using EITI data (*see Requirement 1.3*). CSO representatives outside the MSG complained that there was very little information about the work of the MSG in the media and that there had been a significant drop in outreach activities such as conferences, events or engagement with the media following the change in leadership of the national secretariat in 2015. They said that they had offered support to the secretariat to carry out outreach activities in the regions but that these had been cancelled by the secretariat before they could be carried out. The drop in active promotion and contribution to public debate was also reflected in the MSG’s 2017 self-assessment, where MSG members assigned themselves a score of “insufficient progress” in this regard. Although there were limited comments about the accessibility and comprehensibility of data, stakeholders from all constituencies noted that AEITI Reports were actively circulated and translated into local languages. MSG members and secretariat staff were not aware that it was not required for AEITI Reports to be published in English. Upon discussion, they noted that publishing reports in local languages would have a positive effect on the quality of the reports and on their ability to contribute to public debate.

Secretariat staff said that in accordance with the communication policy and the MSG’s work plan communication and outreach were considered a priority for their efforts, however the deteriorating security situation in 2016 and 2017 had made it difficult to carry out all of the planned activities to the regions. A former member of the secretariat highlighted the importance of these regional activities in helping the MSG and the government understand the reality on the ground, including understanding gaps in technical and administrative capabilities within the *mastufiats* (line ministries’ provincial offices). This had led to significant findings and recommendations to the MOMP to address missing non-tax revenues (*see Requirement 1.3*). According to the MSG’s 2017 self-assessment, a total of nine such outreach activities have been carried out since Afghanistan’s second Validation in 2014.

Initial assessment

The International Secretariat’s initial assessment is that Afghanistan has made meaningful progress in meeting this requirement. Afghanistan’s EITI Reports are circulated and translated into local languages, although there are concerns that the pace of communications and outreach has slowed significantly over the last 3 years. The MSG has agreed an open data policy, although it is a concern that this is not publicly available. In spite of the limitations posed by the security situation in the country, outreach events are carried out to the provinces and to key stakeholders such as parliamentarians, although these are not carried out as regularly as envisioned in AEITI work plans. AEITI has developed a communications strategy, however it is not clear how it is being followed in practice.

³⁰⁴ AEITI (2017), Op cit. p.16.

In accordance with requirement 7.1, Afghanistan should ensure that EITI reports are comprehensible, actively promoted, publicly accessible and contribute to public debate. Taking into account the security situation, the MSG should continue to seek to carry out outreach events to spread awareness of and facilitate dialogue about the EITI Report across the country whenever possible. The MSG may wish to consider linking the AEITI communications strategy more closely to the work plan and tailoring key messages to sector priorities rather than to EITI implementation more broadly. The MSG is also encouraged to ensure that the open data policy is posted online and that EITI reports are available in open data format.

Data Accessibility (#7.2)

Documentation of progress

Although AEITI's open data policy establishes a clear presumption of transparency for all MSG information and specifically includes a provision on providing "data in granular, machine-readable formats", AEITI reports are not currently available in machine-readable formats. The open data policy also includes provisions on ensuring that data is interoperable with national and international standards as well as using "unique identifiers to link data across years of reporting or different sources" and automating online disclosures on a regular basis.³⁰⁵ There is no evidence that any of these provisions are currently implemented and the open data policy is not available online (*See Requirement 7.1*). There is no evidence that AEITI has compared the share of each revenue stream to the total amount of revenue that accrues to each respective level of government.

Afghanistan has produced summary reports in English for its first, second, fourth and fifth reports, covering each fiscal year between 2009 and 2015, although no summary was prepared for the third report covering 2011-12. Summary reports are not available in local languages. Although summary reports sometimes provide new information not included in the reports they purportedly summarise, the authorship of the reports is not stated. The reports' branding indicates that they are produced by the national secretariat however, and deviations from the originals are immaterial with only few exceptions.³⁰⁶ Infographics were also developed in English and local languages by a GIZ consultant for the fourth report, albeit almost a year after the report's publication.³⁰⁷ A 30-second video clip was produced in local languages in 2016 explaining the results of the 2012-13 AEITI Report, however its viewership is limited (under 30 views at the beginning of Validation).³⁰⁸ There is extensive correspondence with the International Secretariat documenting capacity-building efforts, usually with support from GIZ, to increase awareness of the process and encourage use of information by others, including parliamentarians,³⁰⁹ civil society (*see Requirement 1.3*), and government officials working on beneficial ownership disclosure.³¹⁰

³⁰⁵ AEITI (2017), Open data policy, op. cit., p. 5.

³⁰⁶ For example, the [summary report corresponding to fiscal years 2012-2013](#) appears to suggest that there are in fact sub-national payments in Afghanistan but that these were simply not covered by the EITI report (p.15).

³⁰⁷ AEITI (2016), '4th Reconciliation Report', accessed on [http://aeiti.af/Content/Media/Documents/AEITI4thReportinInfographics\(English\)24201722534338553325325.pdf](http://aeiti.af/Content/Media/Documents/AEITI4thReportinInfographics(English)24201722534338553325325.pdf) in April 2018.

³⁰⁸ AEITI (January 2016), 'AEITI Reconciliation Report', accessed on <https://www.youtube.com/watch?v=EzRilvAbByQ&feature=youtu.be> in April 2018: Youtube.

³⁰⁹ See for example <http://aeiti.af/en/news/afghan-parliament-members-discussed-transparency-within-mining-sector-with-international-experts-at-workshop>.

³¹⁰ See for example <http://aeiti.af/en/news/53>.

Stakeholder views

Stakeholders consulted expressed limited views on this requirement. An IMF official confirmed that ensuring that EITI Reports are coded so that they are comparable with other publicly available data would be useful. Secretariat staff did not have any comments on how the open data policy was actually being implemented or why it was not published on the AEITI website. MSG members and GiZ staff confirmed that there were plans to produce infographics corresponding to the 2014-15 Report, but that these had not been prioritised and were substantially delayed. Secretariat staff also expressed concerns that the infographics were not accurate reflections of the findings in the report, arguing that they had not had time to review its content before publication. MSG members did not have comments on the summary reports. MSG members from all constituencies and former MSG members from CSO lamented that EITI Reports were not published in local languages before being translated to English. Secretariat staff said that the plan had been to translate summary reports to local languages but had instead prioritised translating the full reports. Stakeholders from all constituencies expressed gratitude to GIZ for their support to capacity-building and confirmed that additional efforts were needed for all constituencies but especially civil society and government officials.

Initial assessment

Requirement 7.2 encourages the MSGs to make EITI reports accessible to public in open data formats, produce brief summary reports, summarise and compare the share of revenue streams to total amount of revenue that accrues to each respective level of government, consider automated online disclosure of extractive revenues and undertake capacity-building efforts. Such efforts are encouraged but not required and are not assessed in determining compliance with the EITI Standard. AEITI's open data policy and practice in regularly publishing summary reports provide a good point of departure to demonstrate additional progress to make information more easily accessible to the public. However, the lack of publication of EITI Reports in machine-readable formats is a concern.

To strengthen implementation, Afghanistan is encouraged to make EITI reports available in machine-readable formats.

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

Documentation of progress

Implementation of the EITI in Afghanistan has produced numerous recommendations through EITI Reports, civil society analysis and findings from the national secretariat's own assessments. Despite the absence of a systematic process for the MSG to prioritise, discard or otherwise process specific recommendations, there is nevertheless some evidence of instances where recommendations have been followed up. The MSG has developed a running list of recommendations from EITI Reports and the MSG's action plan to address these (see annex G). The Action Plan includes 19 specific activities concerning 7 broad recommendations³¹¹ and identifies responsible parties, indicators, anticipated results, a timeline for completion and challenges to completion. Although the timing of the MSG's discussion and approval of

³¹¹ The actions identified concern the following areas: record keeping in MOMP and MOF, data-assurance from government and companies, completeness of data, flows to sub-national government, companies omitted from the MOMP list of reporting companies, non-reporting companies, and reporting of production.

the action plan is not clear from MSG meeting minutes, minutes from the MSG's meeting of 12 March 2017 show that a working group had been established to follow up on the recommendations from past reports. It is not clear from the work plan or the action plan whether there is any relation between the two, and the action plan is not mentioned in AEITI's APRs.

It does not appear that the action plan prioritises recommendations, nor is there evidence in meeting minutes or annual progress reports of recommendations from EITI reports having been considered and discarded by the MSG. The MSG's 2018 work plan includes "implementation of AEITI Reconciliation Reports' Recommendations" as a specific objective, although there is no guidance in the work plan on prioritising recommendations or specific follow-up activities.³¹² Meeting minutes show that the MSG has discussed recommendations from EITI Reports in a general way on a number of occasions, although there is limited evidence that recommendations have been discussed in detail or disaggregated form. The only exception would appear to be the MSG's meeting of 24 May 2016, when stakeholders were asked to review the MSG's action plan on recommendations and provide input on how the recommendations should be addressed. Reference is also made in the minutes of 12 March 2017 to a committee, possibly in the MOMP although this is unspecified, to follow up on the recommendations from EITI Reports. Unpublished civil society comments provided to the IA ahead of the publication of the 2014-2015 Report show that civil society has sought to provide input to the formulation of EITI recommendations, although it is not clear how these are reflected in the final report. Recommendations from EITI Reports are regularly cited in sector studies, including consultancy projects carried out for line ministries.³¹³

The role of the international community in encouraging progress against recommendations from EITI Reports is particularly noteworthy in the Afghan context. Afghanistan's relationship with international development partners is largely guided by the "self-reliance through mutual accountability framework" (MAF) agreed at the Tokyo Conference in 2012 and reviewed regularly through new commitments and renewed partnerships. As part of the MAF, the government provides regular updates against so-called "smart deliverables" that Afghanistan commits to deliver on in coordination with the international community and under a specific timeframe. The government has also agreed structural benchmarks with the IMF which are reviewed and renewed regularly as part of the IMF's Extended Credit Facility (ECF) for Afghanistan. EITI recommendations figure regularly in both of these frameworks and the government regularly publishes updates on progress against them. Among other things, the government has highlighted the publication of mining contracts, the identification of beneficial owners of mining licenses and the development of a mineral fiscal regime by 2018 as some of its commitments and achievements under the MAF and related to the EITI Standard.³¹⁴ Likewise, the IMF's 2017 Article IV consultation shows that under the second review of the ECF for Afghanistan, all four of the structural benchmarks³¹⁵

³¹² The work plan merely states that the MSG should "follow up on AEITI Reconciliation Reports' recommendations" with the MOMP, MOF, supreme audit office and SOEs.

³¹³ See for example <http://samuelhall.org/wp-content/uploads/2017/10/Shaping-Afghanistans-Natural-Resources-Strategy.pdf>.

³¹⁴ Ministry of Foreign Affairs (October 2016), 'self-reliance through mutual accountability framework', accessed on http://mfa.gov.af/Content/Media/Documents/agreed_smaf_smart_deliverables_final26102016113033613553325325.pdf in April 2018, p.2.

³¹⁵ Besides the appointment of a senior individual to lead on implementation (see Requirement 1.1) this included giving the LTO responsibility for all major corporate mining and oil and gas taxpayers, preparing and maintaining a list of all major corporate mining and oil and gas companies by the LTO and MOMP, and the submission of legislative proposals to the Ministry of Justice requiring all major extractive companies to produce annual accounts that would be audited by a certified public or independent chartered accountant.

concerning EITI recommendations had been met.³¹⁶ Despite the importance of the MAF and the IMF's ECF review frameworks as an effective tool to encourage progress against recommendations from EITI Reports, there does not appear to be a process for the MSG to prioritise recommendations or otherwise provide input to either of these frameworks.

Stakeholder views

Whereas all stakeholders agreed that substantial work continued to be required in order to address the causes of discrepancies in EITI reporting, and although there was general agreement on the reasons behind the discrepancies, stakeholders expressed significantly different opinions concerning the steps taken by the MSG and government to address these gaps. With some exceptions, most government representatives consulted noted that important steps had been taken to act upon lessons learned, investigate and address the causes of discrepancies. Government representatives noted the establishment of the Afghanistan Financial Management information System (AFMIS) for revenue collection tracking and reporting, the implementation of SIGTAS, the recent publication of the most up-to-date list of government contracts on the MOMP website, the regular publication of contracts on the MOMP website and the hiring of a consultant to create a data centre for the collection and sharing of information between government agencies involved in mining sector management as concrete steps to address gaps identified through EITI reports. CSO and industry representatives on the MSG expressed frustration that, notwithstanding the government's efforts, a comparison of the findings and recommendations of the 2014-2015 Report against the 2012-2013 Report showed that there had been little progress over the last four years. CSO representatives also expressed concern that the IA had not asked the government to provide additional information to address challenges identified through EITI reporting. A former CSO MSG representative considered that, while data provided in EITI Reports was not always useful, the recommendations were consistently useful for CSOs' advocacy efforts.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made meaningful progress in meeting this requirement. There is evidence that the government and the MSG have taken some steps to act upon lessons learned and investigate and address the causes of discrepancies in EITI reporting, although these efforts have been hampered by lack of coordination between the MSG and relevant government agencies. There does not appear to be a system in place to discuss, prioritise and adequately process recommendations from EITI reports, nor any indication that the findings of working groups set up to address specific recommendations are followed up. As a result, the only recommendations that appear to be consistently followed up are the ones that are selected for inclusion in the different accountability frameworks that the government has committed to, although there is no mechanism for the MSG to provide input to the selection of these recommendations.

In accordance with Requirement 7.3, Afghanistan should take steps to act upon lessons learnt with a view to strengthen the impact of EITI implementation on natural resource governance. In particular the MSG should consider improving its procedures to process recommendations. Taking into consideration the importance of the MAS and the IMF's ECF review frameworks in an Afghan context, the MSG is

³¹⁶ International Monetary Fund (2017), '2017 Article IV consultation and second review under the extended credit facility arrangement, and request for modification of performance criteria—press release; staff report; and statement by the executive director for The Islamic Republic of Afghanistan', accessed on <http://www.imf.org/~media/Files/Publications/CR/2017/cr17377.ashx> in April 2018.

encouraged to encourage the development of “smart deliverables” that issue from EITI recommendations and serve to prioritise these.

Outcomes and impact of implementation (#7.4)

Documentation of progress

Afghanistan regularly reviews the outcomes and impact of EITI implementation on natural resource governance, although not always through its annual progress reports. Afghanistan has published four annual progress reports (APR), covering the 2013-2016 period. Annual progress reports are publicly available on the AEITI website in English, but are not available in local languages.³¹⁷ The report covering 2016 was published in December 2016, well within the timeframe required by Requirement 8.4 (1 July of the following year).³¹⁸ There is little evidence of the MSG using the annual progress report as a means of benchmarking its strategic decisions to its record of achievements, identifying shortcomings and barriers to implementation or providing an assessment of implementation as a basis for formulating future work plans. There is no indication in MSG meeting minutes that APRs are approved by the MSG, although email correspondence with the International Secretariat suggests that the 2016 APR was adopted by the MSG in December 2016 despite the absence of publicly-accessible relevant MSG meeting minutes.

The 2016 APR includes a general assessment of the year’s performance, including an overview of activities.³¹⁹ Whereas these are only summarily presented, the report also goes into further detail in explaining AEITI’s efforts on communication and public outreach. The 2016 APR purportedly includes an assessment of performance against targets and activities set out in the work plan,³²⁰ but the activities listed are only generally linked to the objectives or tasks in the work plan. The report describes the MSG’s activities in 2016 under four areas, including publication of the EITI Report, communications and outreach, data quality and licensing as well as MSG governance. The 2017 work plan annexed to the APR shows that, with the exception of activities relating to the publication of the 2014-15 EITI Report, all the remaining activities were either ongoing or expected to be rolled over onto the next year. The APR also provides a cursory overview of strengths and weaknesses in the EITI process, highlighting in particular challenges linked to the absence of a centralized record-keeping system, weak auditing practices in the extractive industry and limitations on information-sharing and data integration between government agencies (pp.14-15).

Separately from the APR, the MSG has developed a running list of recommendations from EITI Reports and the MSG’s action plan to address these (*see Requirement 7.3*). It is not clear from the work plan or the action plan whether there is any relation between the two, and the action plan is not mentioned in AEITI’s APRs. There are examples of other tools being used by Afghanistan to review the outcomes of implementation and assess how its impact can be improved. These include the USAID-funded Democracy

³¹⁷ AEITI (no date), ‘Annual Progress Reportss’, op.cit.

³¹⁸ Email exchanges with the International Secretariat suggest some confusion with the coverage of the report, however: a first draft of the report was submitted by the national secretariat to the MSG on 29 August 2016 with the title “2015 Annual Progress Report”. In a further message to the International Secretariat it was confirmed that this draft report corresponded to the fiscal year 2015, but the final version published on the website notes that the report corresponds to fiscal year 2016.

³¹⁹ The 2016 APR focuses in particular on efforts linked to the publication of the 2014-15 EITI Report, progress on beneficial ownership disclosure, the development of an open data policy, AEITI’s impact on improving public financial management, supporting civil society debates, preparations to renew MSG membership and “efforts to rope in an AEITI Champion”.

³²⁰ AEITI 2016, Annual Progress Report, pp. 12-14.

International July 2017 AEITI Institutional Assessment on behalf of the MOF, and the MOF's regular assessments through its Performance Management Team (PMT), which inter alia review the extent to which AEITI's work plan is being followed. MSG meeting minutes show that the findings of these reviews are regularly shared with the MSG.

Stakeholder views

Stakeholders did not express views on the annual progress reports, which do not seem to be regularly discussed by the MSG. The 2017 MSG self-assessment confirms that the MSG was aware of the publication of the 2016 APR and MSG members identified shortcomings with regards to the APR's assessment of progress in achieving work plan objectives and of the MSG's efforts to strengthen EITI implementation. It is clear from the MSG's self-assessment and conversations with stakeholders that the MSG's action plan is perceived as the key tool for follow-up on recommendations from EITI reporting. Current and former secretariat members highlighted the consistently positive reviews of the MOF's PMT and noted that the latest such review (in 2017) had ranked AEITI performance as third of 67 departments.

Initial assessment

The International Secretariat's initial assessment is that Afghanistan has made meaningful progress in meeting this requirement, taking into account other documents such as the MSG Action Plan alongside the annual progress report. Afghanistan has undertaken limited efforts to review the outcomes and impact of EITI implementation on natural resource governance and it is a concern that the MSG is not able to provide input to the drafting of annual progress reports. The MSG regularly publishes timely annual progress reports, which include cursory summaries of the EITI's activities for the year, including an evaluation of implementation of the beneficial ownership roadmap. There is no evidence that annual progress reports are used to actively assess progress with achieving the objectives set out in AEITI work plans or to assess progress made in addressing recommendations from reconciliation and Validation. However, there is evidence that the MSG has developed other tools such as the MSG action plan for this purpose. There is little evidence however that the MSG's action plan serves to inform annual work plans, and it is unclear how progress against the MSG's action plan is monitored. There is also no evidence of the MSG assessing the impact of EITI implementation, either through annual progress reports or through other public documents.

In accordance with Requirement 7.4, Afghanistan should ensure that all stakeholders are able to participate in the production of the annual progress report and review the impact of EITI implementation. Stakeholders beyond the MSG should be able to provide feedback on the EITI process and have their views reflected in the annual progress report. The MSG should ensure that an assessment of progress with achieving the objectives set out in its work plan is carried out, including the impact and outcomes of the stated objectives. The MSG may wish to use the APR template provided by the International Secretariat to ensure that the different tools to review progress are harmonised. The MSG may wish to also ensure that the APR, the MSG's action plan and any other management tools are used to feed into the annual work plans.

Table 7 - Summary initial assessment table: Outcomes and impact

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| EITI provisions | Summary of main findings | International Secretariat's recommendation on compliance with the EITI provisions |
|--|---|---|
| Public debate (#7.1) | Afghanistan's EITI Reports are circulated and translated into local languages, although there are concerns that the pace of communications and outreach has slowed significantly over the last 3 years. The MSG has agreed an open data policy, although it is a concern that this is not publicly available. In spite of the limitations posed by the security situation in the country, outreach events are carried out to the provinces and to key stakeholders such as parliamentarians, although these are not carried out as regularly as envisioned in AEITI work plans. AEITI has developed a communications strategy, however it is not clear how it is being followed in practice. | Meaningful progress |
| Data accessibility (#7.2) | AEITI's open data policy and practice in regularly publishing summary reports provide a good point of departure to demonstrate additional progress to make information more easily accessible to the public. | |
| Lessons learned and follow up on recommendations (7.3) | There is evidence that the government and the MSG have taken some steps to act upon lessons learned and investigate and address the causes of discrepancies in EITI reporting, however these efforts are hampered by lack of coordination between the MSG and the government. There does not appear to be a system in place to discuss, prioritise and adequately process recommendations from EITI reports, nor is there any indication that working groups set up to address specific recommendations are followed up. As a result, the only recommendations that appears to be consistently followed up are the ones that make it to the different accountability frameworks that the government has in place with the international community, although there is no evidence that the MSG has any input to such international agreements. | Meaningful progress |
| Outcomes and impact of implementation (#7.4) | The Secretariat's assessment takes account of other EITI documents such as the MSG Action Plan. Afghanistan has undertaken limited efforts to review the outcomes and impact of EITI implementation on natural resource governance, and it is a concern that the MSG is not able to provide input to the | Meaningful progress. |

| | | |
|--|--|--|
| | <p>drafting of annual progress reports. The MSG regularly publishes annual progress reports in a timely manner which include cursory summaries of the EITI's activities for the year, including an evaluation of implementation of the beneficial ownership roadmap. There is no evidence that annual progress reports are used to actively assess progress with achieving the objectives set out in AEITI work plans or to assess progress made in addressing recommendations from reconciliation and Validation, but there is evidence that the MSG has developed other tools, such as the MSG action plan, for this purpose. There is little evidence however that the MSG's action plan serves to inform annual work plans, and it is unclear how progress against the MSG's action plan is monitored. There is also no evidence of the MSG assessing the impact of EITI implementation, either through annual progress reports or through other public documents.</p> | |
| <p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In accordance with requirement 7.1, Afghanistan should ensure that EITI reports are comprehensible, actively promoted, publicly accessible and contribute to public debate. Taking into account the security situation, the MSG should continue to seek to carry out outreach events to spread awareness of and facilitate dialogue about the EITI Report across the country whenever possible. The MSG may wish to consider linking the AEITI communications strategy more closely to the work plan and tailoring key messages to sector priorities rather than to EITI implementation more broadly. The MSG is also encouraged to ensure that the open data policy is posted online and that EITI reports are available in open data format. 2. To strengthen implementation, Afghanistan is encouraged to make EITI reports available in machine-readable formats. 3. In accordance with Requirement 7.3, Afghanistan should take steps to act upon lessons learnt with a view to strengthen the impact of EITI implementation on natural resource governance. In particular the MSG should consider improving its procedures to process recommendations. Taking into consideration the importance of the MAS and the IMF's ECF review frameworks in an Afghan context, the MSG is encouraged to encourage the development of "smart deliverables" that issue from EITI recommendations and serve to prioritise these. 4. In accordance with Requirement 7.4, Afghanistan should ensure that all stakeholders are able to participate in the production of the annual progress report and review the impact of EITI implementation. Stakeholders beyond the MSG should be able to provide feedback on the EITI process and have their views reflected in the annual progress report. The MSG should ensure that an assessment of progress with achieving the objectives set out in its work plan is carried out, including the impact and outcomes of the stated objectives. The MSG may wish to use the APR template provided by the International Secretariat to ensure that the different tools to review progress are harmonised. The MSG is encouraged to ensure that the APR, the MSG's action plan and any other management tools are used to feed into the annual work plans. | | |

Impact analysis

(not to be considered in assessing compliance with the EITI provisions)

Impact

The EITI, like all government reforms, has been implemented against a backdrop of severe unrest and violence in Afghanistan. A key element of the mutual evaluation frameworks agreed with international donors, the EITI started in effect as a conditionality of international assistance for mining-sector reform. In a situation where the government collects roughly USD 40m a year in extractives revenues while the Taliban is believed to collect up to an estimated USD 200m from mineral taxation annually, any improvement in extractives governance has tangible national security implications.

Amidst the volatility of both operating environment and policies, with a switch from focusing on large-scale industrial mining to mid- and small-scale operations as well as a succession of unsuccessful cadastre projects, the EITI has had a tangible impact from the policy level to more practical ways. The UNDP has noted the need to strengthen formal and regular consultative mechanisms between government, civil society and the private sector on issues concerning the development of the extractive industry in Afghanistan, and identified the EITI as an existing tool to achieve this that should be strengthened.³²¹ According to an institutional review of AEITI carried out by Democracy International, AEITI in 2017, AEITI has been used as a forum for discussion of important extractive sector issues and contributed with technical expertise on a variety of topics (p.5).

From a low starting point, the EITI has had some impact. The multi-stakeholder group has enabled discussions on the management of mining licenses, the quality of production data and the traceability of extractives revenues. EITI Reports have served as regular “diagnostics tools” to assess progress on reforms. The AEITI claims to have identified “a high probability” of lost revenues of some USD 2bn a year through EITI reporting.³²² For civil society, the EITI has provided a key channel to follow up on the government’s commitment to contract disclosure, resulting in the publication of over a thousand small-scale mining contracts in 2017. Several civil society representatives consulted highlighted the value of the EITI as the key channel for public demands for greater disclosures about the extractive industries, on previously-closed topics such as state-owned enterprises. All stakeholders have made frequent reference to EITI requirements to push for reforms.

Stakeholders from all constituencies highlight the importance of the baseline of data established through the EITI, considered an important early success on which all other reforms depend. Despite frustration over delays and false starts on important sector reforms from the modernisation and digitisation of the cadastre system to establishing a systematic non-tax revenue collection system, there is a broad recognition from stakeholders of the EITI’s role in recommending reforms. The government has undertaken significant reforms linked to following up on EITI recommendations, from publishing all mining contracts in 2017 to starting work on establishing a modern cadastre and non-tax revenue collection system.

³²¹ <https://info.undp.org/docs/pdc/Documents/AFG/NHDR-Project%20Document%202016.pdf>.

³²² Ministry of Finance (2016), “2016 Mid-Year Performance Tracking Report”, accessed [here](#) in April 2018.

Yet in many ways the EITI remains shy of its potential, even bearing the challenging Afghan context in mind. Democracy International notes specifically the MSG's contributions to beneficial ownership disclosure and internal contract reviews, as well as conducting missions to provincial directorates, and concludes that "a well-functioning AEITI could be a catalyst for reform" in the sector. Poor coordination between government ministries has hindered effective follow-up on EITI recommendations. While stakeholders have used the EITI to encourage progress on cadastral management and revenue traceability, public financial management issues have not been part of the discussion. The glaring lack of attention to the two state-owned extractives companies, which together account for three-quarters of the government's extractives revenues, is a concern. With enhanced technical leadership and capacity, the 2017 AEITI study notes, AEITI could "advocate for and monitor reform, coordinate meetings and technical discussions and work with ministries and directorates to implement accounting and financial guidelines".³²³ The government has sought to improve coordination between the MOF and MOMP, establishing joint coordination committees, but Afghanistan EITI could play a key role in coordinating reforms.

Sustainability

There has historically been significant support from development partners for EITI implementation in Afghanistan. A key condition of successive mutual assistance frameworks agreed between Afghanistan and the international community, the sustainability of the EITI is ensured provided broader international support to Afghanistan is sustained. Several development partners consulted considered the EITI as good "value for money" from the perspective of the development community, given its support for reformers and a channel for the international community to channel support to such reformers on priority areas such as beneficial ownership disclosure. In light of these conditions, there is significant high-level political support for the EITI, although institutional friction between different ministries and agencies poses implementation challenges to the EITI as for all other reforms.

³²³ Democracy International (2017), op.cit., pp. 5-6.

Annexes

Annex A - List of MSG members and contact details

“Membership status at MSG” follows AEITI’s own classification as provided to the International Secretariat.

| | Name | Position | Email | «Membership status at MSG» |
|---------------|-------------------------|---|--|----------------------------|
| Government | Ghazal habibyar | Director of policy, MOMP | Ghazaal.habibyar@gmail.com | Permanent member |
| | Muhammad Noor Noori | Acting Director for Cadaster, MOMP | Mnoor.noori@yahoo.com | Permanent member |
| | Meer Abdul Jameel Rahim | Acting Director for finance and Accountancy, MOMP | mirabduljamilrahim@gmail.com | Permanent Member |
| | Najibullah Ahmad Zai | Large Taxpayer Office, MOF | | Permanent Member |
| | Mehdi Razaee | Employee of Finance and Accountancy Directorate, MOMP | Mahdirezaee86@gmail.com | Cooperating Body |
| | Ghulam Seddiq Momand | Head of Revenue Cadaster, MOMP | Eng.sediq@hotmail.com | Cooperating Body |
| | Muhammad Haris Bromand | Analyst economic, MOMP | Mharis.bromand@gmail.com | Cooperating Body |
| Civil society | Asadullah Zemarai | IWA | a.zemarai@afghanadvocacy.org.af | Permanent Member |
| | Javed Noorani | ENRMN member | javed.noorani@gmail.com | Permanent Member |
| | Mohammad Afzal Shirzad | WADAN | Afzal_shirzad2000@yahoo.com | Permanent Member |
| | Ebrahim Jafari | ENRMN member | afgeology@gmail.com | Permanent |
| | Ahmad Attaee | ENRMN | ataee10000@yahoo.com | Permanent Member |
| | Habburahman Nang | PETWO | habibnang@gmail.com | Permanent Member |

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| | | | | |
|----------------|---------------------|------------------|--|-----------|
| Private sector | Shafiqullah Attai | ACCI | cod@acci.org.af | Permanent |
| | Ashaq Hussain | Core Drillers | Dir.exploration@coredrillers.net | Permanent |
| | Bashir Andesha | Khoshak Brothers | Khoshak.company@gmail.com | Permanent |
| | Mohammed Hussain | MCC/MJAM | | Permanent |
| | Ahmad Ramin Rahi | CNPCI Watan | Ramin.r@cnpccag.com | Permanent |
| | Eng. Sardar Hossain | Mesaq e Sharq | Mehrpoor.af@gmail.com | Permanent |

Annex B – MSG meeting attendance

Due to fluctuations in MSG membership over time, it is not possible to calculate meeting attendance on the basis of MSG membership (*See Requirement 1.4*). MSG meeting attendance is consequently calculated on the basis of available MSG minutes on AEITI's website and does not reflect cases when MSG members did not attend any meeting at all.

| Members | | | | | | | | | | |
|---------------|--------------|---------------|-------------|----------|----------|----------|----------------|----------------------------|------------|-----|
| | First name | Last name | Affiliation | 23.01.17 | 12.03.17 | 16.07.17 | 25.09.17 | 08.10.17 (no partic. List) | Total | % |
| Civil Society | Ekram | Afzali | IWA | | | | yes | | 1 | 20% |
| | Ahmad | Attaee | ENRMN | | yes | yes | yes | | 3 | 60% |
| | Ebrahim | Jafari | ENRMN | | yes | | yes | | 2 | 40% |
| | Abdul | Mateen | IWA | | | yes | | | 1 | 20% |
| | Javed | Noorani | ENRMN | | yes | yes | | | 2 | 40% |
| | Ali | Parsa | ENRMN | | | yes | | | 1 | 20% |
| | Janan Abdul | Rahimzai | PETWO | | | yes | | | 1 | 20% |
| | Naser | Timory | IWA | | | yes | yes | | 2 | 40% |
| | Assadullah | Zemerai | IWA | yes | | | | | 1 | 20% |
| | Habiburahman | Nang | PETWO | | | yes | yes | yes | 3 | 60% |
| | Attaullah | Shinwari | HRRAC | | | | yes | | 1 | 20% |
| | | | | | | | Average | 1.6 | 33% | |
| Government | Qadir | Amiri | MOF | | yes | | | | 1 | 20% |
| | Mohammad | Attai | MOMP | | yes | | | | 1 | 20% |
| | Ghazaal | Habibyar-Safi | MOMP | yes | | yes | yes | | 3 | 60% |
| | A.B. Wahed | Jaihan | MOMP | | | yes | | | 1 | 20% |
| | Nargis | Nehan | MOMP | | | yes | | | 1 | 20% |
| | Anis | Panah | ARD/MOF | yes | | yes | | | 2 | 40% |

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| | | | | | | | | | | |
|-----------------|---------------|----------|-------------------------|-----|-----|-----|----------------|----------------|------------|------------|
| | | Qadir | <i>MOMP</i> | | | | yes | | 1 | 20% |
| | Abdul | Salam | <i>MOMP</i> | | | yes | | | 1 | 20% |
| | Tariq | Sarfaraz | <i>MoTCI</i> | yes | yes | | yes | | 3 | 60% |
| | Ghulam | Sediq | <i>MOMP</i> | yes | yes | | | | 2 | 40% |
| | Naheed | Sohrabi | <i>MOF</i> | | yes | | | | 1 | 20% |
| | Wahidullah | Wahdat | <i>MOF</i> | yes | | | | | 1 | 20% |
| | Zia | Warsej | <i>MOMP</i> | yes | | | | | 1 | 20% |
| | Mohammad | Zamir | <i>MOMP</i> | yes | | | | | 1 | 20% |
| | Saboor | Kamran | <i>ARD</i> | yes | | | | | 1 | 20% |
| | | | | | | | | Average | 1.4 | 28% |
| Industry | Bashir | Andesha | <i>Khoshak Brothers</i> | | | yes | | | 1 | 20% |
| | Shafiquallah | Attai | <i>ACCI</i> | | yes | yes | | | 2 | 40% |
| | | Darwish | <i>ACCI</i> | | | | yes | | 1 | 20% |
| | Sardar | Hussain | <i>Meesaq e Sharq</i> | | yes | | | | 1 | 20% |
| | Asahq | Hussain | <i>Core Drillers</i> | | yes | yes | | | 2 | 40% |
| | Mohammad | Hussain | <i>MCC/MJAM</i> | | | yes | | | 1 | 20% |
| | Ahmad | Rahi | <i>CNPCI/WATAN</i> | yes | yes | yes | yes | yes | 5 | 100% |
| | Ashaq Hussain | Salarzai | <i>Core Drillers</i> | | | | yes | | 1 | 20% |
| | | | | | | | Average | 1.8 | 34% | |

Annex C – Cost of EITI Reports

| AEITI Report | Contract award date | Independent Administrator | Cost (in USD), including amendments |
|--|---|---------------------------|--|
| 2014-2015 Afghanistan EITI Report (5 th Report) | September 2016 | Hart Nurse UK | 239,494 |
| 2012-2013 Afghanistan EITI Report (4 th Report) | December 2014, modified in May 2015 and again in September 2015 | Hart Nurse UK | 257,285. This included: 135,000 (original contract for 2012), an additional 15,786 added in May 2015 and an additional 106,499 for 2013 added in September 2015. |
| 2011-2012 Afghanistan EITI Report (3 rd Report) | | Moore-Stephens Azerbaijan | 63,984 |

Annex D - List of stakeholders consulted

Government

Nargis Nehan, Acting Minister of Mines and Petroleum and AEITI Chair

Ghazaal Habibyar-Safi, Deputy Minister, Ministry of Mines and Petroleum

Ali Reza Jafari, Advisor, Ministry of Mines and Petroleum

Abdul Wahed Jaihon, Finance and Accounting Director, Ministry of Mines and Petroleum

Shaheedullah Sangin, Project Analyst, Office of the Senior Advisor in Banking and Finance, Administrative Office of the President

Imtiaz Sharifi, Deputy Director, Large Taxpayer Office, Ministry of Finance

Saboor Kamran, Provincial Revenue Liaison advisor, Ministry of Finance

Aziz Rahman Habibi, Audit Manager, Large Taxpayer Office, Ministry of Finance

Mir Ahmad Javid, Deputy Minister, Policy and Programs, Ministry of Mines and Petroleum

Bahavana Mahajan, Advisor, Ministry of Mines and Petroleum

Tariq Sarfaraz, Director of Central Business Registry

Farhan Abdul Rahman, AEITI National Coordinator

Industry

Ashaq Hassain, Core Drillers,

Ahmad Ramin Rahi, CNPCI

Shafiq Atayee, ACCI

Sardan Hussain, Messaj-e-Sharq

Bashir Andisha, Khoeshek Brothers

Civil Society

Attaullah Khan, Executive Director, HRRAC

Zinat Jan, HRRAC

Habiburahman Nang, PETWO

Afzal Sherzade, Wadan

Naser Timory, IWA

Javed Noorani, ENRMN

Ibrahim Jafari, ENRMN

Abdul Mateen, IWA

Ahmad Ataee, EMRN

Stephen Carter, Global Witness

Independent administrators

David Quinn, Hart Group

Feroz Rafiq, AHG

Development partners

Ali Aqa Yaqubi, Technical Project Officer, Academic Mining Education in Afghanistan, GIZ

Habibullah Mirkhail, Technical Project Officer, Mining Governance Project, GIZ

Amani Sultani, Mining Governance Project, GIZ

Mariusz Sumlinski, Senior Economist, IMF

Murtaza Muzaffari, IMF

Barbara Egger, Attaché, European Union Delegation

Khalid Hamdard, European Union Delegation

Ajmal Waziri, DFID

Ehsanullah Shamsi, World Bank

Azani Tschabo, Deputy Head of German Development Cooperation, Embassy of the Federal Republic of Afghanistan

Others

Andrea Shaw, Consultant for the Independent Joint Anti-corruption Monitoring and Evaluation Committee

Edris Hashimi, Consultant for the Independent Joint Anti-corruption Monitoring and Evaluation Committee

Aasmund Andersen, Revenue Development Foundation

Mahmood Anwari, former AEITI National Coordinator

Kamal Andewal, former Advisor at the Ministry of Mines and Petroleum

Mauricio Medinaceli, Advisor at Adam Smith International

Hervé Nicolle, Samuel Hall

Annex E – Security situation in Afghanistan

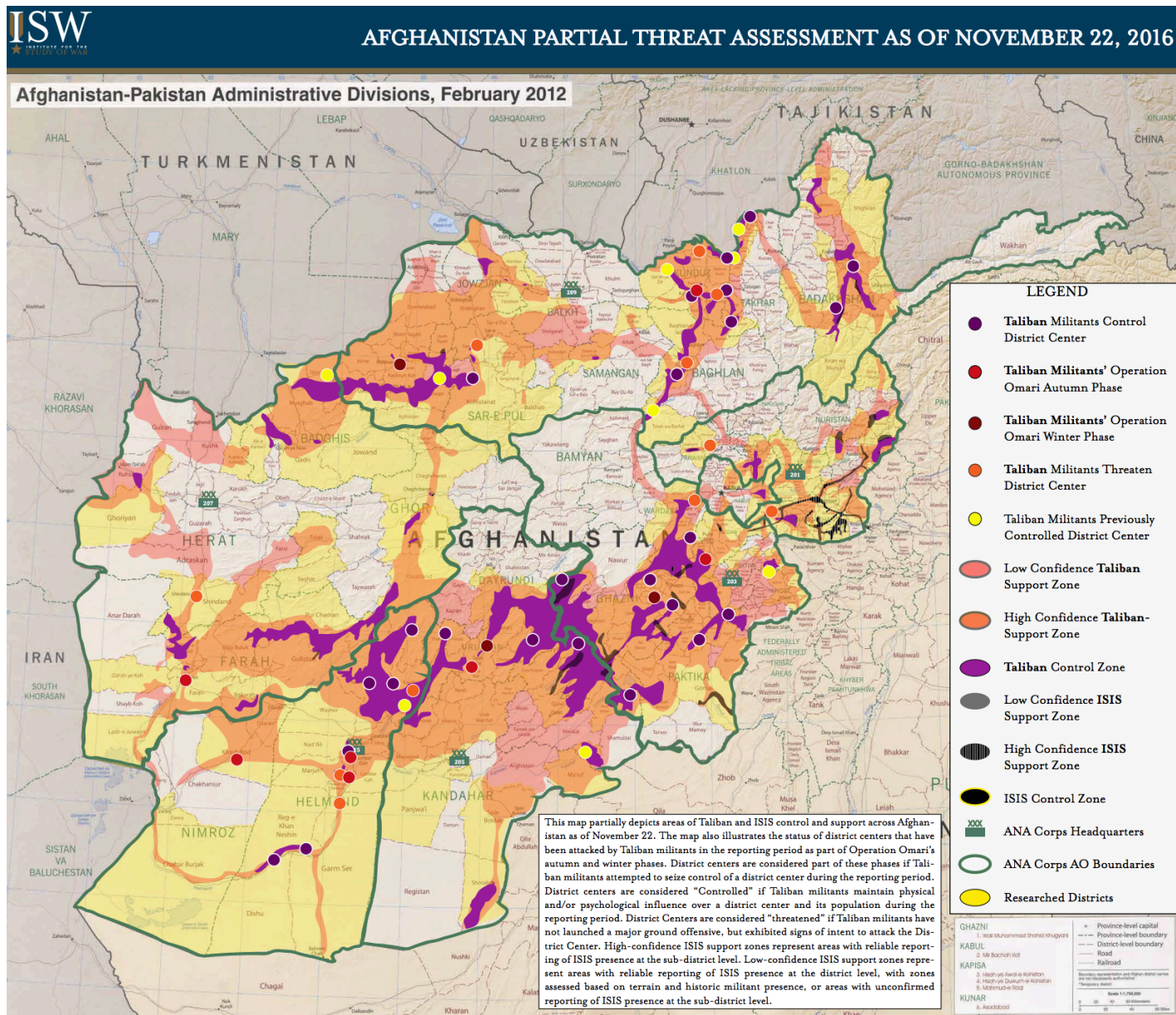


Figure: Afghanistan partial risk assessment, November 2016

Source: Institute for the Study of War, accessed [here](#) in January 2018.

Annex F – Outstanding loans from North Coal Enterprise (1389/2010)

Northern Coal Enterprise Credit and Debit Review- 1370-1389

Source: MOMP and North Coal Enterprise data, cited in Ministry of Mines and Petroleum (April 2011), 'Financial Assessment of the Northern Coal Enterprise', unpublished, Annex 3 (pp.35-36).

| No. | Entity | Location | Coal value given as credit unless otherwise noted ³²⁴ | Year | If different - Information submitted by NCE |
|-----|---|----------|--|------|---|
| 1 | Traffic Department | Baghlan | 43,185 \$959.67 | 1377 | |
| 2 | Administrative Affairs Directorate | Baghlan | 147,689 \$3281.98 | 1376 | |
| 3 | Legal Rights Directorate | Baghlan | 2,070 \$46.00 | 1376 | |
| 4 | Attorney General Directorate | Baghlan | 1,996 \$44.35 | 1377 | |
| 5 | Municipality | Baghlan | 13,862 \$308.04 | 1376 | |
| 6 | Agriculture Directorate | Baghlan | 9,316 \$207.02 | 1376 | |
| 7 | Mastofiat (Provincial Revenue Department) | Baghlan | 11,266 \$250.35 | 1375 | |
| 8 | Intelligence Directorate | Baghlan | 257,703 \$5726.73 | 1375 | |
| 9 | Public Health Directorate | Baghlan | 38,078 \$846.17 | 1378 | |
| 10 | Returnees & Refugees Directorate | Baghlan | 13,565 \$301.44 | 1378 | |
| 11 | Administration Directorate | Baghlan | 15,000 cash \$333.33 | 1376 | 147,689 |
| 12 | Directorate of Rural Rehabilitation & Development | Baghlan | 4,495 \$99.88 | 1375 | |
| 13 | Education Directorate | Baghlan | 56,373 \$1252.71 | 1374 | |
| 14 | Agriculture Directorate | Baghlan | 10,820 \$240.44 | | Not included |
| 15 | Mechanical School | Baghlan | 5,752 \$127.82 | | Not included |
| 16 | Police Headquarters | Baghlan | 253,503 \$5633.40 | 1372 | |
| 17 | Silo (wheat storage) | Baghlan | 248,665 \$5525.88 | 1370 | 19,882 |

³²⁴ Using present exchange rate: 45 afghanis = \$1.00; most debt was provided in coal

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| No. | Entity | Location | Coal value given as credit unless otherwise noted ³²⁴ | Year | If different - Information submitted by NCE |
|-----|---|-------------|--|----------------------|---|
| 18 | Police Information Department | Baghlan | 30,400 \$675.55 | 1372 | |
| 19 | Road Construction Department | Baghlan | 1,445 \$32.11 | 1371 | |
| 20 | Military Attorney General | Baghlan | 18,500 \$411.11 | 1374 | |
| 21 | Ministry of Transport | Baghlan | 1,372 \$30.48 | 1374 | |
| 22 | Provincial Council | Baghlan | 644 \$14.31 | 1374 | |
| | TOTAL | | 11,656,780 \$259,039.55 | | |
| 23 | Afghan Coal Directorate | | 23707691 | 1386 | |
| 24 | MOM Coal Directorate | Kabul | 800000 | | Not included |
| 25 | Silo | Puli Khumri | 19882 | 1370 | |
| 26 | Fertilizer Company | | 98503289 25000000 | 1387 1388 1389 | 7,3503,289 |
| 28 | Baghlan HQ, No. 738 | Baghlan | 298,489 | | |
| 29 | Baghlan Operations, HQ | Baghlan | 26,271 | | |
| 30 | Baghlan HQ, No. 6 | Baghlan | 915,013 | | |
| 31 | Baghlan HQ No. 733 | Baghlan | 116,886 | | |
| 32 | Provincial Committee | Baghlan | 1961 | | |
| 33 | Ariana Construction, Head Office | | 2419 | | |
| 34 | Machinery & Mgement Co | Baghlan | 13,761 | | |
| 35 | Given to Private Sector | | 143,455 | | |
| 36 | Ghori Cement Directorate | Puli Khumri | 62018025 | | |
| 37 | Entity not operating | | 31,891 | | |
| 38 | Balkh Cotton Press | Balkh | 10,597 | | |
| 39 | Cement Factory | Jebel Seraj | 6,862,389 | | |
| 40 | Jengalak Directorate | Kabul | 12,505 | | |
| 41 | Haj Directorate | Baghlan | 2500 | | |
| 42 | Irrigation Directorate | Baghlan | 55,762 | | |
| 43 | Kabul Province | Kabul | 960 | | |
| 44 | Afghan Geological Survey | Kabul | 7241 | | Not included |
| 45 | Helmund Construction Company | Helmund | 800 | | Not included |
| 46 | Kunduz Spinzar Directorate (now closed) | Kunduz | 6000 | 1370 | NCE Figure - 512 |
| 47 | Kabul Spinzar Directorate (now closed) | Kabul | 520 | | Not included |
| 48 | Mine Extraction Directorate | Kabul | 3721 | | Not included |
| 49 | Afghan Construction Directorate | Kabul | 552 | | Not included |

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| No. | Entity | Location | Coal value given as credit unless otherwise noted ³²⁴ | Year | If different - Information submitted by NCE |
|-----|----------------------------------|----------|---|------|---|
| 50 | Ministry of Public Health | Kabul | 566 | | Not included |
| 51 | Ministry of Education | Kabul | 960 | | Not included |
| 52 | Airplane Company | Kabul | 246 | | Not included |
| 53 | Nothing listed | | 4914 | | |
| | Total First Page/Section | | 1165678 | | |
| | Total Second Page/Section | | 193731383 | | |
| | GRAND TOTAL | | 194,897,061 (\$4,331,045.80) 45 afs = \$1.00 | | |

Annex G – AEITI MSG Action plan for recommendations of the reconciliation reports

| Recommendation | Action Required | Activities | Responsible Party | Indicators | Date | Anticipated Result | Challenges & Risks Management | Budget |
|---------------------------------------|---|--|-------------------|--|--------|--|--|---------------------|
| RECORD KEEPING IN MOMP AND MOF | Government departments and SOEs should devise a suitable process and filing system to manage the manual records, and should provide training to staff on the importance of maintaining the systems. Assistance from professionals in process review should be considered, so that experience and good practice from other countries can be brought to bear. | Improvement in filing system of Government (MOF and MOMP) Departments and SOEs for Annual Record Keeping | MOMP, MOF | number of files collected from provinces and improve centralized filing system | des.19 | Percentage of files from four regions (Nangarhar, Herat, Kandahar, Balkh) are centralized | lack of professionals, resources, structure (TASHKEEL) and funding | MOMP |
| | | Training of Staff on importance filling and contract management | MOMP, MOF | number of staff trained by MOF and MOMP | des.17 | Trained staff of mine inspection directorate, revenue department, contract management department, provincial directorate | completed by MOMP - check with MOF | Done by GIZ and ASI |

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| | | | | | | | | |
|--|---|---|-------------------------|---|--------|---|--|-----------------------|
| | MOF-LTO be given responsibility for all major corporate mining and oil and gas taxpayers, and that the Kabul-based Ministry ensures that it holds details of all relevant records and transactions relating to those companies. | LTO to be held responsible for all major corporate mining, oil and gas tax payers and LTO and Revenue Monitoring Department held all details of relevant records of transaction | MOF, MOMP | Dataset made available for recording the transactions and other details in LTO and MOMP | 2016 | Revenue management system MOMP, SIGTAS -MOF | Completed | MOMP, MOF |
| | MOF-LTO and MOMP / MoCI prepare and maintain a list of all major corporate mining and oil and gas companies, with each Ministry holding a combined list of companies, licenses held and Taxpayer Identification Numbers. | LTO; Revenue Monitoring Department and MOMP/MoCI to maintain a list of corporate mining, oil and gas companies' licenses and TINs | MOF, MOMP - CBR MoCI | List made available in two ministries MOF, MOMP | des.18 | Ongoing | Lack of close coordination between MOF and MOMP/CBR-MoCI | MOMP, MOF,MoC I |
| | There is a need to produce a reliable cadaster, covering licenses issued centrally and regionally, and we note that a project is in process. It is recommended that this project is concluded on a timely basis, and that reliable cadaster records are made publicly available and meeting | Timely completion of Cadaster projects and making reliable cadaster data publically available | MOMP | 1. AMCAS/FMIS projects completed / 2016 2. Cadaster data made available by | des.18 | Ongoing | Duplication of systems | MOMP, WB, RDF |

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| | | | | | | | | |
|---|---|---|------------------|---|--------|-----------|---------------------------------|----------|
| | Requirement 3.9 of the EITI Standard. | | | 2018 | | | | |
| DATA ASSURANCE: GOV. AND COMPANIES | The strengthening of the SAO and Revenue Monitoring and Evaluation Department of MOF and training of its staff is continued, and that the importance of its role within Afghanistan is maintained. | Strengthening of SAO and Revenue Monitoring and Evaluation Department of MOF, continuity of the trainings and maintenance of its role in Afghanistan | SAO, AEITI, MOMP | 1. technical assistance will be provided to SOA and RM&E by 2019 2. trainings to be conducted | des.19 | Ongoing | Lack of capacity and procedures | MOMP, WB |
| | It is recommended that government should include a provision in all PSCs and EPSCs that an annual audit should be conducted within 12 months of the Contractor's year end by an independent chartered accountant or certified public accountant, using international standards on auditing. | Inclusion of a Provision of Annual Audit for all PSCs(Production Sharing Contracts) and EPSCs (Exploration and Production Sharing Contracts)using International Standards | MOMP | 1. Provision of Annual Audit for all PSCs and EPSCs using international Standards drafted by 2011 | 2011 | Completed | | MOMP |

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| | | | | | | | | |
|-----------------------------|--|---|---|---|--------|--|---------------------------------------|--------------|
| | It is further recommended that the government should introduce legislation requiring all major extractive companies (major to be defined by reference to a suitable metric – e.g. annual turnover) to produce annually accounts audited by an independent chartered accountant or certified public accountant, using international standards on auditing; and to assign responsibility to a government body – e.g. the SAO – to receive these accounts and follow up late reporting companies. | Government to introduce legislation requiring all major companies to produce annual account audits using international standards | MOMP | 1. Draft amendments to the mineral law suggest by MOMP 2 To be included in the amendments of the mineral law by MOMP | des.19 | Establishing legal bases for requiring companies to conduct annual audit by independent chartered accountant using international standards | Amendment procedure | MOMP |
| COMPLETENESS OF DATA | It is recommended that in the short term (e.g. for the Fifth AEITI Report), MOF and MOMP should consider bringing in additional professional resource to assist in the preparation of scoping and reporting data for future reports; and that a capacity evaluation and training needs assessment be undertaken, and capacity building measures be implemented so that there is an improvement in staff competence | MOF and MOMP to consider bringing in additional professional resources to support Revenue monitoring and management in order to assist in the preparation of scoping and reporting data for future reports; | MOMP, MOF check with Mr. Panah for confirming improvement in implementation of SIGTAS and confirming with Mr. Sherani for | 1. # of additional resources supplied by MOF- Revenue Department and MOMP | des.18 | MOMP has hired professional staff. Updating financial system MOF - - Check with Panah | Lack of financial and human resources | MOMP, MOF/WB |

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|--|--|---|-----------|--|--------|--|--|---------|
| | in the medium term. | | ToR | | | | | |
| | Undertaking of capacity evaluation and training need assessment within MOMP and Revenue monitoring of the MOFCapacity Building measures to be implemented in order to bring improvement in staff competence in medium term within MOMP and Revenue monitoring of the MOF | | MOF, MOMP | 1. Capacity needs assessment conducted by Donors2. of capacity building measures implemented by Donors | des.18 | Follow up with donors on capacity building activities and assessment | | WB, ASI |
| | Integration and compatibility of MOF MOMP information systems operating in different departments | Feasibility study of the integration of MOF information systems operating in different departments and their compability with systems within MOMP | WB | 1. Feasibility study/ summery of document will be conducted by WB | jun.18 | Summery report will be prepared | close coordination and cooperation of MOF and MOMP | WB |

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|---|--|--|------------------|---------------------------------------|--------|--|-----------------------------|---------|
| | Though the location and informal nature of much artisanal and small scale mining mean that a comprehensive approach to the activity will be difficult and will take time; and social objectives will also be important in any wider approach. Nevertheless, the GIZ IS report states that revenue is being passed to government and that product is being exported and so liable to collection of duties, and MOMP and MOF should have a legitimate interest in obtaining further information. It is recommended that prior to the next EITI report; MOMP and MOF with AEITI should examine the areas where the GIZ IS report identifies revenue to the government with a view to seeking to incorporate them into EITI reporting. | MOMP and Revenue Monitoring and Evaluation with AEITI to examine the areas where the GIZ IS report identifies revenue to the government with a view to seeking to incorporate them into EITI reporting prior to EITI next report | MOMP, MOF, AEITI | 1. # of areas Examined by MSG | jun.18 | ASM revenue management | illegal and informal mining | MOMP |
| FLows TO SUB NATIONAL GOVERNMENT | The report on municipalities gives basic information on revenues collected by sub national government bodies. It is recommended that the MSG should commission further work to examine flows from the extractive sector to sub national government, to seek to quantify them and to determine the | MSG to commission further work to examine flows from the extractive sector to sub national government, to seek to quantify them and to determine the extent to | MSG | 1. Work Commissioned by MSG and AEITI | jun.18 | Identify payments to sub national government | | GIZ, WB |

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| | | | | | | | | |
|--|--|--|---------------|---|-------------|---|-----------------------|-------------|
| | extent to which these are material. | which these are material. | | | | | | |
| | The figures reported by MOMP and companies in respect of 1391 (Mar-Dec 2012) and 1392 (2013) contained a number of differences. Information on production is important both as an indicator of economic activity and also because it forms the basis for the calculation of royalty; inaccurate or unreliable information could lead to government revenue loss. It is recommended that the MSG should investigate these differences and identify any systematic weaknesses. | MSG to investigate differences in figures reported by MOMP and companies in respect of 1391 (Mar-Dec 2012) and 1392 (2013) | MSG and AEITI | 1. resolving discrepancy report | End of 2018 | The resolved discrepancies report will be published | complexity of process | WB |
| COMPANIES OMITTED FROM THE MOMP LIST OF REPORTING COMPANIES | The AEITI MSG should follow up why Ghazanfar Investments Limited was incorrectly omitted from the MOMP list (section 2.4.2.1.2 refers). | MSG to follow up why Ghazanfar Investments Limited was incorrectly omitted from the MOMP list | MSG | 1. # of companies added to the list by XXXX | End of 2018 | The MSG will identify the reason | | AEITI / MSG |

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| | | | | | | | | |
|--------------------------------|---|--|----------------|---------------------------------------|------------|---|---|------|
| NON-REPORTING COMPANIES | Companies which didn't report in the current reconciliation report are listed in section 2.6.2. We recommend that MSG with support from Government should take action to obtain information from these companies and should emphasize the need for future compliance. | AEITI to prepare the list of companies which hasn't reported and will share it with MOMP for further action. | AEITI and MOMP | Reasons of non-reporting is clarified | 30.jun. 18 | Companies' compliance with EITI reporting requirement | complexity of process, existence of non-reporting companies | |
| PRODUCTION REPORTING | We recommend that MOMP should improve transparency in this area by publishing production data regularly on timely basis | MOMP to provide production data on transparency portal | MOMP | Production data is publicly available | 30.jun. 18 | Transparency Improvement | complexity in development of relevant information system | MOMP |

Annex H - List of reference documents

Workplans and Annual activity reports:

- Afghanistan EITI (2017), 'Beneficial ownership roadmap', accessed on <http://aeiti.af/en/documents/category/aeiti-docs> in January 2018.
- Afghanistan EITI (December 2016), 'AEITI 2016 annual activity report', accessed on <http://aeiti.af/Content/Media/Documents/AEITIAnnualProgressReport201619220171551887553325325.pdf> in January 2018.

EITI Reports, Summaries, Validation Report and Secretariat Review:

- Afghanistan EITI Reports on the EITI website on <https://eiti.org/publishers/afghanistan-eiti> and on the AEITI website on <http://aeiti.af/en/documents/category/reconciliation-reports> , accessed in December 2017.
- EITI International Secretariat (March 2015), 'Secretariat review: Afghanistan', accessed on <http://aeiti.af/en/documents/93> in December 2017.
- Afghanistan EITI (January 2016), 'Request for expressions of interest for Inception Report & Fifth (5th) EITI Reconciliation Report of Afghanistan Extractive Industries Transparency Initiative (AEITI)', accessed on <http://aeiti.af/en/tender/request-for-expressions-of-interest> in January 2018.
- Afghanistan EITI (February 2016), 'Afghanistan Fourth EITI Report 1391 and 1392 (2012 and 2013) - Appendices', accessed on https://eiti.org/sites/default/files/documents/2012-2013_afghanistan_eiti_report_appendices.pdf in December 2017.
- Afghanistan EITI (February 2016), 'Afghanistan Fourth EITI Report 1391 and 1392 (2012 and 2013) - Appendices', accessed on https://eiti.org/sites/default/files/documents/2012-2013_afghanistan_eiti_report_appendices.pdf in December 2017.
- Afghanistan EITI (December 2016), '1391 and 1392 (2012-2013) EITI Inception report and Fourth reconciliation report - appendices', accessed on https://eiti.org/sites/default/files/documents/2012-2013_afghanistan_eiti_report_appendices.pdf in January 2018.
- Afghanistan EITI (January 2017), 'Afghanistan EITI report for 1393 (2014) and 1394 (2015) Scoping Report', unpublished, provided by the AEITI Secretariat.
- Afghanistan EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015)', accessed on https://eiti.org/sites/default/files/documents/5threconciliationfinalreport_1393-1394_2105201744057225553325325.pdf in December 2017.

- Afghanistan EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015)', accessed on https://eiti.org/sites/default/files/documents/5threconciliationfinalreport_1393-1394_2105201744057225553325325.pdf in December 2017.
- Afghanistan EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015) - Appendices', accessed on https://eiti.org/sites/default/files/documents/2014-2015_afghanistan_eiti_report_appendices.pdf in December 2017.
- Afghanistan EITI (29 April 2017), 'Afghanistan Fifth EITI Report 1393 and 1394 (2014 and 2015)', accessed on https://eiti.org/sites/default/files/documents/5threconciliationfinalreport_1393-1394_2105201744057225553325325.pdf in December 2017.
- Democracy International (May 2017), 'Afghanistan Extractive Industry Transparency Initiative Organizational Assessment', unpublished, provided by the AEITI Secretariat.

Other documents online:

- AEITI (2015), 'Terms of Reference for the Multi-Stakeholder Group', accessed on <http://aeiti.af/Content/Media/Documents/1394948558120420157478410553325325.pdf> in April 2018.
- Afghanistan EITI (August 2014), 'AEITI Communications Department's Workshop for MoMP and MoF Officials', accessed on http://aeiti.af/Content/Media/Documents/ReportonMoMPandMoFTraining_August2014192201724528368553325325.pdf in April 2018.
- AEITI (2017), 'Open data policy', accessed on <https://eiti.org/document/afghanistan-open-data-policy> in April 2018.
- Aziz, Roya and Noorani, Javed (March 2013), 'Shadow Validation: Analysis of Afghanistan EITI Reconciliation Reports and civil society participation', accessed on http://www.eisourcebook.org/cms/March_2013/Afghanistan%20EITI%20Shadow%20Validation%20Report.pdf in April 2018.
- CSO coalition (April 2017), 'CSO Comments on the 5th AEITI Report', accessed on [http://aeiti.af/Content/Media/Documents/Letter-MWA-GW-re-5th-AEITI\(1\)75201715155205553325325.pdf](http://aeiti.af/Content/Media/Documents/Letter-MWA-GW-re-5th-AEITI(1)75201715155205553325325.pdf) in December 2017.
- EITI (December 2014), 'Afghan President sets out his mining agenda', accessed on <https://eiti.org/news/afghan-president-sets-out-his-mining-agenda> in January 2018.
- EITI (October 2016), 'EITI Board decision: The Board agreed on the schedule for outstanding Validations', accessed on <https://eiti.org/BD/2016-18> in January 2018.

- EITI (September 2017), ‘EITI Board decision: The Board agreed to postpone Afghanistan’s Validation for four months until 1 November 2017’, accessed on <https://eiti.org/board-decisions> in January 2018.
- EITI Board (March 2017), ‘The Board decided that Afghanistan is eligible for an extension and the reporting deadline is extended to 1 May 2017’, accessed on <https://eiti.org/BD/2017-17> in December 2017.
- Global Witness (August 2014), ‘Gaps in new Afghan Mining Law pose a threat to stability’, accessed on <https://www.globalwitness.org/en-gb/archive/gaps-new-afghan-mining-law-pose-threat-stability/> in January 2018.
- Global Witness (June 2016), ‘Afghanistan’s famous lapis mines funding the Taliban and armed groups, new investigation shows’, accessed on <https://www.globalwitness.org/en/press-releases/afghanistans-famous-lapis-mines-funding-taliban-and-armed-groups-new-investigation-shows/> in January 2018.
- Global Witness (May 2016), ‘War in the Treasury of the People’, accessed on <https://www.globalwitness.org/en-gb/campaigns/conflict-minerals/war-treasury-people-afghanistan-lapis-lazuli-and-battle-mineral-wealth/> in January 2018.
- Global Witness (December 2017), ‘Afghan civil society note to the EITI International Secretariat ahead of AEITI Validation’, accessed on <https://www.globalwitness.org/en-gb/campaigns/afghanistan/civil-society-note-eiti-international-secretariat-ahead-aeiti-validation/> in April 2018.
- Integrity Watch Afghanistan (May 2017), ‘Afghan government “unable to provide basic management of mining revenues,” says civil society’, accessed on <https://iwaweb.org/afghan-government-unable-to-provide-basic-management-of-mining-revenues-says-civil-society/> in January 2018.
- Integrity Watch Afghanistan (November 2016), ‘Fighting corruption in Afghanistan: solving the institutional puzzle’, accessed on <https://iwaweb.org/wp-content/uploads/2016/11/Solving-the-Institutional-Puzzle.pdf> in January 2018.
- Integrity Watch Afghanistan and Global Witness (September 2015), ‘Extractives for sustainable development in Afghanistan Policy Brief’, accessed on <https://iwaweb.org/wp-content/uploads/2015/09/Policy-Brief-Extractives-for-sustainable-development-in-Afghanistan.pdf> in December 2017.
- PWYP (October 2012), ‘Opening up Afghanistan’s extractives sector – Afghan Government unveils first tranche of mining and oil contracts’, accessed on <https://www.globalwitness.org/en-gb/archive/opening-afghanistans-extractives-sector-afghan-government-unveils-first-tranche-mining-and/> in December 2017.

Meeting minutes:

- Afghanistan EITI (January 2017), 'Minutes of the MSG meeting, 23 January 2017', accessed on <http://aeiti.af/en/documents/category/minutes-2015-2017> in December 2017.
- Afghanistan EITI (May 2016), 'Minutes of the MSG meeting, 24 May 2016', accessed on <http://aeiti.af/en/documents/category/minutes-2015-2017> in December 2017.
- Afghanistan EITI (May 2016), 'Minutes of the MSG meeting, 24 May 2016', accessed on <http://aeiti.af/en/documents/category/minutes-2015-2017> in December 2017.

Other government documents/reports:

- 2014 Minerals Law of Afghanistan, accessed on <https://s3.amazonaws.com/rgi-documents/5d6be75be025f046421581eb24535dfc512ff039.pdf> in January 2018.
- Afghanistan's State-Owned Enterprises Law, accessed on <http://mom.gov.af/Content/files/State%20Owned%20Enterprise%20Law.pdf> in January 2018.
- Central Statistics Organisation (2017), 'Mining and Energy statistics, 1387-1395', accessed on <http://cso.gov.af/Content/files/%D8%B1%DB%8C%D8%A7%D8%B3%D8%AA%20%D8%A7%D9%82%D8%AA%D8%B5%D8%A7%D8%AF%DB%8C%20%D9%87%D8%A7/mining%20%26%20Energy/%D8%A8%D8%AE%D8%B4%20%D9%85%D8%B9%D8%A7%D8%AF%D9%86%20%D9%88%20%D8%A7%D9%86%D8%B1%DA%98%DB%8C%201387%20%D8%A7%D9%84%DB%8C%201394.xls> in January 2018.
- Directorate of Budget - Ministry of Finance website accessed on <http://www.budgetmof.gov.af/index.php/en/> in December 2017.
- Independent Joint Anti-Corruption Monitoring and Evaluation Committee (May 2017), 'Progress Monitoring Report, Ministry of Finance Anti-Corruption Plan Review', accessed on http://www.mec.af/files/2017_05_09_mof_ac_review_report_english.pdf in January 2018.
- Ministry of Finance (July 2013), 'Senior officials Meeting Joint Report', accessed on http://mof.gov.af/Content/files/TMAF_SOM_Report_Final_English.pdf in April 2018.
- Ministry of Foreign Affairs (October 2016), 'Self-reliance through mutual accountability framework', accessed on http://mfa.gov.af/Content/Media/Documents/agreed_smaf_smart_deliverables_final26102016113033613553325325.pdf in April 2018.
- Ministry of Information and Culture (January 2016), 'Mass media commission established to support freedom of expression', accessed on <http://moic.gov.af/en/news/57147> in December 2017.

- Ministry of Mines (December 2011), 'National Coal policy', accessed on http://mom.gov.af/Content/files/Policies/English/English_Coal_Policy.pdf in January 2018.
- Ministry of Mines and Petroleum (2012), '10 Reasons To Invest In Afghanistan's Mining Sector', accessed on <http://mom.gov.af/Content/files/10%20reasons-10pg-4.pdf> in January 2018.
- Ministry of Mines and Petroleum (2014), 'Minerals in Afghanistan', accessed on <http://mom.gov.af/Content/files/The%20Hajigak%20Iron%20Ore%20Deposit.pdf> in January 2018.
- Ministry of Mines and Petroleum (April 2011), 'Financial Assessment of the Northern Coal Enterprise', unpublished, provided by stakeholders in January 2018.
- Ministry of Mines and Petroleum (June 2016), 'Reform and restructuring of Northern Coal Enterprise', unpublished, provided by stakeholders in January 2018.
- MOMP (December 2011), 'Amu Darya oil tender process and transparency review final report', accessed on http://mom.gov.af/Content/files/Hydrocarbone%20Contracts/MOM_Amu_Darya_Process_and_Transparency_Review.pdf in January 2018.
- MOMP (January 2011), 'Support of SDNRP to the Development of Cadaster, Inspectorate and Audit Functions (GAF) Jan.-11', accessed on <http://mom.gov.af/en/page/7064> in January 2018.
- MOMP website, Hydrocarbons contracts, accessed on <http://mom.gov.af/en/page/momp-contracts/hydrocarbons-contract> in December 2017.
- Office of the President (October 2014), 'President Ghani: State-Building Is Impossible Without Civil Society' accessed on <https://president.gov.af/en/news/president-ghani-state-building-is-impossible-without-civil-society/> in April 2018

External websites:

- AEITI (January 2016), 'AEITI Reconciliation Report', accessed on <https://www.youtube.com/watch?v=EzRilvAbByQ&feature=youtu.be> in April 2018: Youtube.
- Afghanistan EITI (AEITI) Website, accessed on <http://www.aeiti.af/en>.
- EITI Website Afghanistan country page, accessed on <https://eiti.org/afghanistan>.
- Facebook (2017), 'AEITI', accessed on <https://www.facebook.com/AEITI/>.
- Freedom House (2017) 'Afghanistan profile', accessed on <https://freedomhouse.org/report/freedom-press/2017/afghanistan> in April 2018.

- World Bank Open Data website, accessed on <https://data.worldbank.org/> in January 2018.
- World Bank, World Integrated Trade Solution, accessed on <https://wits.worldbank.org/CountryProfile/en/Country/AFG/Year/2015/TradeFlow/Export/Partner/WLD/Product/All-Groups> in December 2017.
- Mining Cadaster Online Maps of the Ministry of Mines and Petroleum of the Islamic Republic of Afghanistan, accessed on <https://sdnmp-mining.gaf.de/all-licenses> in January 2018.
- Mining Watch Afghanistan (no date), 'Contribution to AEITI', accessed on http://miningwatch.af/?page_id=347 in April 2018.
- MOMP Transparency Portal, accessed on <https://afghanistan.revenuedev.org/dashboard> in January 2018.
- Afghanistan Central Business Registry, Company verification platform, accessed on <https://www.acbrip.gov.af/companyverification/> in December 2017.

Secondary literature:

- Afghanistan EITI (February 2014), 'Brief report on AEITI workshop delivered in preparations for the 3rd Reconciliation Report with Extractive Industries Sector' <http://aeiti.af/Content/Media/Documents/WorkshopforExtractiveIndustries2014192201724621107553325325.pdf> in April 2018.
- Afghanistan EITI (August 2017), 'Debate on AEITI's 5th Reconciliation Report in Kandahar Province', accessed on <http://aeiti.af/en/news/aeitis-5th-reconciliation-report-was-shared-with-government-officials-and-civil-society-members-in-kandahar-province> in April 2018.
- Afghanistan EITI (October 2017), 'The details of the 5th report was shared with members of CSOs, private sector and publics in Herat', accessed on <http://aeiti.af/en/news/the-5th-report-was-shared-with-members-of-csos-private-sectore-and-publics> in April 2018.
- Afghanistan Times (2015), 'Media censorship increased in Afghanistan: Nai', accessed on <http://afghanistantimes.af/media-censorship-increased-in-afghanistan-nai/> in April 2018.
- Erica Downs (2012), 'China buys into Afghanistan', in SAIS Review vol. XXXII no.2 (Summer-Fall 2012), John Hopkins University Press, accessed on <https://www.brookings.edu/wp-content/uploads/2016/06/China-Buys-into-Afghanistan-Erica-Downs.pdf> in January 2018.
- Freedom House (2017), 'Afghanistan - status change', accessed on <https://www.justice.gov/eoir/page/file/1023176/download> in January 2018.
- GAF AG EMC+ (2008), 'Establishment of cadaster, inspectorate, audit and licensing functions in

the Ministry of Mines’, accessed on <https://emcplus.gaf.de/countries/7> in January 2018.

- German Cooperation with Afghanistan (2017), ‘Towards Full Membership: Afghanistan Extractive Industries Transparency Initiative (AEITI)’, accessed on <http://www.ez-afghanistan.de/en/news/towards-full-membership-afghanistan-extractive-industries-transparency-initiative-aeiti> in April 2018.
- Hart Group (2013), ‘Final report on Validation of the implementation of the EITI Afghanistan’ https://eiti.org/sites/default/files/documents/2013_afghanistan_validation_report.pdf, accessed in April 2018.
- Heinrich Böll Stiftung Afghanistan (2016), ‘Mining in Afghanistan’, accessed on https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/worldwide/Minig_in_Afghanistan_KorrekturenCL.pdf in January 2018.
- IMF (December 2017), ‘Islamic Republic of Afghanistan: 2017 Article IV consultation and second review of the extended credit facility arrangement’, accessed on <http://www.imf.org/~media/Files/Publications/CR/2017/cr17377.ashx> in January 2018.
- IMF (July 2016), ‘IMF Loan for Afghanistan to Support Growth, Catalyze Donor Aid’, accessed on <https://www.imf.org/en/News/Articles/2016/07/21/15/07/NA072216-IMF-Loan-for-Afghanistan-to-support-Inclusive-Growth> in January 2018.
- IMF (May 2016), ‘Islamic Republic of Afghanistan: Second review of the staff-monitored program – press release and staff report’, accessed on <https://www.imf.org/external/pubs/ft/scr/2016/cr16120.pdf> in January 2018.
- International Center for non-for-profit Law (2017), ‘Civic Freedom Monitor: Afghanistan’, accessed on <http://www.icnl.org/research/monitor/afghanistan.html> in April 2018.
- Ni, Daisy (2017), ‘Threats to freedom of expression in Afghanistan’, accessed on <https://5clpp.com/2017/11/08/threats-to-freedom-of-expression-in-afghanistan/> in April 2018: The Claremont Journal of Law and Public Policy.
- Norwegian Institute of International Affairs (December 2017), ‘Afghanistan: A Political Economy Analysis’, accessed on https://brage.bibsys.no/xmlui/bitstream/handle/11250/2470515/NUPI_rapport_Afghanistan_Strand_Borchgrevink_BergHarpviken.pdf?sequence=2&isAllowed=y in January 2018.
- Pakistan Federal Board of Revenue, Trade Statistics: Imports from Afghanistan January 2014-December 2015’, accessed on http://www.fbr.gov.pk/TradeStatistics/COUNTRYWISE_DTL411.aspx?id=Afghanistan in January 2018.

- Permanent Mission of Afghanistan to the UN in New York (January 2010), 'Afghan Leadership, Regional Cooperation, International Partnership', accessed on <http://afghanistan-un.org/2010/01/afghan-leadership-regional-cooperation-international-partnership/> in April 2018.
- Resource Contracts, Afghanistan contracts, accessed on <http://www.resourcecontracts.org/search?q=afghanistan> in December 2017.
- Reuters (May 2016), 'Hopes and fears for jobs as Afghan cement factory reopens', accessed on <https://www.reuters.com/article/us-afghanistan-cement/hopes-and-fears-for-jobs-as-afghan-cement-factory-reopens-idUSKCN0YLOW6> in January 2018.
- Samuel Hall (January 2013), 'Natural Resources: What Strategy for Afghanistan?', accessed on <http://samuelhall.org/wp-content/uploads/2013/05/Natural-Resources-Strategy-for-Afghanistan.pdf> in January 2018.
- Shalizi, Hamid and Smith, Josh (2017), 'Afghan journalists face more threats as violence spreads', accessed on <https://www.reuters.com/article/us-afghanistan-journalists/afghan-journalists-face-more-threats-as-violence-spreads-idUSKBN1531T7> in April 2018.
- Special Inspector General for Afghanistan Reconstruction (April 2015), 'Afghanistan's Mineral, Oil, and Gas Industries: Unless U.S. Agencies Act Soon to Sustain Investments Made, \$488 Million in Funding is at Risk', accessed on <https://www.sigar.mil/pdf/audits/SIGAR-15-55-AR.pdf> in January 2018.
- Special Inspector General for Afghanistan Reconstruction (October 2015), 'DoD's compressed natural gas filling station in Afghanistan: an ill-conceived \$43 million project', accessed on <https://www.sigar.mil/pdf/special%20projects/SIGAR-16-2-SP.pdf> in December 2017.
- Special Inspector General for Afghanistan Reconstruction (SIGAR) (January 2016), 'Afghanistan's Oil, Gas, and Minerals Industries: \$488 Million in U.S. Efforts Show Limited Progress Overall, and Challenges Prevent Further Investment and Growth', accessed on <https://www.sigar.mil/pdf/audits/SIGAR-16-11-AR.pdf> in December 2017.
- Special Inspector General for Afghanistan Reconstruction (SIGAR) (January 2016), 'Afghanistan's Oil, Gas, and Minerals Industries: \$488 Million in U.S. Efforts Show Limited Progress Overall, and Challenges Prevent Further Investment and Growth', accessed on <https://www.sigar.mil/pdf/audits/SIGAR-16-11-AR.pdf> in December 2017.
- The Diplomat (January 2017), 'The Story Behind China's Long-Stalled Mine in Afghanistan', accessed on <https://thediplomat.com/2017/01/the-story-behind-chinas-long-stalled-mine-in-afghanistan/> in January 2018.
- Tolo News (January 2018), 'Ghoryan Salt Mine Contract Signed', accessed on <https://www.tolonews.com/afghanistan/ghoryan-salt-mine-contract-signed> in January 2018.

- UNESCO (no date), 'Enhancement of literacy in Afghanistan', accessed on <http://www.unesco.org/new/en/kabul/education/enhancement-of-literacy-in-afghanistan-ela-program/> in January 2018 (page is down 21.04.18).
- UNICOM/World Bank (September 2015), 'NCE Restructure and reform project status update presentation', accessed on http://mom.gov.af/Content/files/UNICON_NCE_WB_present_DRAFT_03.pdf in January 2018.
- US Department of State (2015), 'Country reports on human rights practices for 2015 – Afghanistan' accessed on <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252957> in April 2018.
- US Department of State (2017), 'Country reports on human rights practices for 2017', accessed on <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> in April 2018.
- United States Institute of Peace (2011), 'The Role of Civil Society in Monitoring Afghanistan's Extractive Industries' accessed on <https://www.usip.org/publications/2011/11/role-civil-society-monitoring-afghanistans-extractive-industries> in April 2018.
- United States Institute for Peace (September 2017), 'Reviving Commercial Development of Afghanistan's Aynak Copper Resource', accessed on <https://www.usip.org/sites/default/files/PB233-Reviving-Commercial-Development-of-Afghanistan-s-Aynak-Copper-Resource.pdf> in January 2018.
- United States Institute of Peace (January 2015), 'Afghanistan's Emerging Mining Oligarchy', accessed on <https://www.usip.org/sites/default/files/SR358-Afghanistan-s-Emerging-Mining-Oligarchy.pdf> in January 2018.
- United States Institute of Peace (July 2017), 'Illegal Mining in Afghanistan: A Driver of Conflict', accessed on <https://www.usip.org/sites/default/files/2017-07/pb226-illegal-extraction-of-minerals-as-a-driver-of-conflict-in-afghanistan.pdf> in January 2018.
- United States Institute of Peace (June 2017), 'Industrial-Scale Looting of Afghanistan's Mineral Resources', accessed on <https://www.usip.org/sites/default/files/2017-05/sr404-industrial-scale-looting-of-afghanistan-s-mineral-resources.pdf> in January 2018.
- US Department of State (2014), 'US 2014 Fiscal Transparency Report', accessed on <https://www.state.gov/e/eb/afd/oma/235938.htm> in January 2018.
- US Geological Survey (August 2017), '2014 Minerals Yearbook, Afghanistan', accessed on <https://minerals.usgs.gov/minerals/pubs/country/2014/myb3-2014-af.pdf> in January 2018.

- USAID (November 2016), 'Afghan Gas Enterprise: assessment report', accessed on http://pdf.usaid.gov/pdf_docs/PA00MM5C.pdf in January 2018.
- USGS, Afghanistan Oil and Natural Gas Viewer, accessed on <https://afghanistan.cr.usgs.gov/flexviewer/> in January 2018.
- World Bank (August 2013), 'Afghanistan: Public Financial Management and Accountability Assessment', accessed on <https://pefa.org/sites/default/files/assements/comments/AF-Aug13-PFMPR-Public.pdf> in January 2018.
- World Bank (December 2016), 'Project Information Document/Integrated Safeguards Data Sheet (PID/ISDS)', accessed on <http://documents.worldbank.org/curated/en/531871480603485128/pdf/1480603483585-0000A8056-ITM00184-P159402-12-01-2016-1480603482616.pdf> in January 2018.
- World Bank (January 2016), Project Paper on a Proposed Afghanistan Reconstruction Trust Fund Additional Financing in the Amount of US \$41.125 million Equivalent to the Islamic Republic of Afghanistan for a Second Public Financial Management Reform Project, accessed on <http://documents.worldbank.org/curated/en/393331467989442762/PAD1710-PJPR-PUBLIC-Project-Paper-Disclosable-Version-P150632-2016-02-16-12-46.docx> in January 2018.
- World Trade Organisation (2017), 'Chabahr port - a New transit gateway for Afghanistan', accessed on <https://www.oecd.org/aidfortrade/casestories/casestories-2017/CS-61-NTP-MIP-Chabahr-port-New-transit-gateway-for-Afghanistan.pdf> in January 2018.
- World Trade Organisation (2017), 'Chabahr port - a New transit gateway for Afghanistan', accessed on <https://www.oecd.org/aidfortrade/casestories/casestories-2017/CS-61-NTP-MIP-Chabahr-port-New-transit-gateway-for-Afghanistan.pdf> in January 2018.
- Zafar Shayan (April 2017) 'Challenges facing civil society in Afghanistan', accessed on <http://politicalcritique.org/world/2017/civil-society-afghanistan/> in April 2018.