Update on the review of Validation

For discussion

This paper provides an update on progress made by the Validation Committee's working group on the review of Validation since October 2019. The paper summarises progress in addressing each of the topics within the scope of the review and identifies strengths and weaknesses of the current Validation model. The paper includes a synoptic table summarising feedback from former and current Validation Committee members, Independent Validators and implementing countries, as well as a review of Validations of civil society engagement in the EITI in 2016-2019. Preliminary results of a stakeholder consultation on the future of Validation will be presented to the Board at the Oslo meeting. From February to June 2020 the Validation review working group will focus on analysing the results of the consultation and developing options for a revised Validation model based on them.

EITI International Secretariat
Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

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Update on the review of Validation

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Supporting documentation (available via https://eiti.org/internal/validation-committee#review-of-validation)

Validation review working group Terms of Reference [English | French]

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to establish procedures for Validation (Article 13(1)(ix-x)). The EITI Standard (section 5) sets out the Validation procedure.

Financial implications of any actions

This paper has no financial implications.

Document history

Discussed by the Validation review working group	7 and 17 January 2020
Submitted to the Validation Committee	15 January 2020
Discussed by the Validation Committee	22 January 2020
Approval by the Validation Committee	24 January 2020
Submitted to the EITI Board (BC 285)	30 January 2020

EITI International Secretariat   2
Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

1 Summary of progress

The Validation review working group held its first meeting in Addis Ababa on 17 October. Since then, it has convened fortnightly teleconferences. The composition of the working group, meeting agendas and agreed actions are available on the internal Committee webpage.[1]

The working group mandated the International Secretariat to launch a consultation to seek stakeholder views on the future of Validation.[2] The consultation was launched on 9 December. It was shared with key stakeholders and distributed through the Secretariat's communications channels. The initial deadline for submitting responses was 14 January, by which eight responses were received. The deadline was extended until 31 January to allow for further responses. All responses will be made available on the consultation webpage. A preliminary analysis of the results will be presented at the Oslo Board meeting on 13-14 February.

Feedback from current and previous Validation Committee members, an implementing country survey and independent Validators in 2016-2018 has been systematically analysed (*see '3.2 Synoptic table of feedback from stakehodlers'*). Based on the feedback, some strengths and weaknesses of the current model were identified. These are outlined in a table below (*see '3.1 Strengths and weaknesses of the current Validation model*).

The working group has started to discuss the Validation of Requirement 1.3 on civil society engagement in the EITI. This paper includes a review of Validations of Requirement 1.3 in 2016-2019 (see *'3.3 Review of Validation of Requirement 1.3 in 2016-2019'*). The working group is considering options for assessing Requirement 1.3 as part of the broader review of Validation.

The working group has discussed the assessment frameworks of other organisations, such as Financial Action Task Force and Open Government Partnership. The group is discussing opportunities for using emerging technologies in Validation and will provide an update on the outcome of this discussion in the coming months.

2 Background

In June 2019, the Board agreed to undertake a review of the EITI's Validation model.[3] In October 2019, the Board launched the review and established a working group to support the Validation Committee. The working group's terms of reference (ToR) were agreed by the Board in November 2019.[4] According to the ToR, the working group's mandate is to:

- Consider the strengths and weaknesses of the EITI's current Validation model.

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[1] https://eiti.org/document/validation-review-working-group.
[2] https://eiti.org/document/consultation-future-of-validation.
[3] Board decision 2019-48/BM-43: https://eiti.org/board-decision/2019-48.
[4] Board decision 2019-63/BC-281: https://eiti.org/board-decision/2019-63.

- Review feedback from stakeholders on the current Validation model and seek further input, including from other Committees of the EITI Board.
- Identify different options for revising the EITI Validation model.
- Present the status of its work to the Validation Committee, for the Validation Committee to present to the Board.

The previous review of the EITI's Validation model took place in 2015-2016, following the transition to the 2013 and 2016 EITI Standards. The review resulted in a model where Validation is led by the International Secretariat and quality assured by an Independent Validator. The overall outcome of Validation and the assessment of individual requirements was changed from a binary assessment of 'candidate'/'compliant' to follow a scale from 'no progress' to 'satisfactory progress'.

To date, 59 Validations have been completed following the current model.[5] The ongoing review assesses whether the current model is fit for purpose following the adoption of the 2019 EITI Standard and stakeholders' experience of Validations in 2016-2019.

3 Review of progress to date

This section presents the strengths and weaknesses of the current Validation model as identified by the working group, a summary of feedback from stakeholders, a review of Validations of Requirement 1.3 on civil society engagement and the working group's discussion on using new technologies in Validation.

3.1 Strengths and weaknesses of the current Validation model

Based on feedback from former and current Validation Committee members, implementing countries and independent Validators, the Validation review working group has identified some strengths and weaknesses of the current Validation model, which are summarised in the table below.

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[5] For all Validation decisions, see: https://eiti.org/validation-decisions-schedule.

Table 1. Review of strengths and weaknesses identified.

Issue within the scope of the Validation review[6]	Background	Strengths (+) and weaknesses (-) identified in the current Validation model
Ensuring that Validation encourages continued progress, reflects each country's priorities and enhances the impact of EITI implementation, while upholding the integrity of the EITI Standard.	Data from 2016-2019 Validations shows that countries have progressed in implementing the EITI Standard. However, stakeholders have expressed views that Validation should better reflect the diversity of implementing countries' circumstances and the impact of EITI implementation to date. The need to maintain consistent, objective treatment across countries has also been raised. As a growing number of countries achieves overall 'satisfactory progress', encouraging further progress is an emerging challenge.	+ Validation has encouraged progress in implementing the EITI Standard. Second Validations demonstrate that corrective actions have largely been implemented.[7] Countries often make additional efforts to address requirements ahead of Validation and during the Validation process. + Validation upholds the credibility of the EITI Standard. The expectations and assessments are uniform across countries. + Validation and recommendations arising from it help countries take stock of progress and plan activities. + The assessments of disclosure requirements (Requirements 2-6) are usually not controversial and agreement is easily reached on Board level. - Validation does not fully reflect whether EITI implementation has addressed stakeholders' priorities. This may undermine the relevance of the EITI

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[6] Validation review working group ToR: https://eiti.org/files/documents/tor_for_the_validation_review_working_group.docx.

[7] Blog post 'Crunching the numbers on EITI Validation': https://eiti.org/blog/crunching-numbers-on-eiti-validation.

Issue within the scope of the Validation review[6]	Background	Strengths (+) and weaknesses (-) identified in the current Validation model
		process and the MSG's ownership of it. - The impact of EITI implementation or the broader context of extractives governance are not reflected in the outcome of Validation. This makes incentivising impactful implementation challenging. - It is difficult to incentivise countries that achieve overall 'satisfactory progress' to make further progress.
Considering who undertakes Validation and how it is resourced, with a view to ensuring financial sustainability, the timely execution of Validations and sufficient resources for implementation support.	Options that Validation Committee members have raised include regional and peer reviews, fully outsourcing Validation to a third party, increased focus on pre-Validation self-assessments and less frequent Validations.	+ The International Secretariat has been able to produce high quality assessments at a reasonable cost. The Secretariat's knowledge of the countries and their EITI processes are leveraged in Validation. Disagreements between the Secretariat and the Independent Validator are rare. + Most Validations are concluded within a reasonable timeframe. + Stakeholder consultations and comment periods provide the opportunity for a broad range of stakeholders to express views. + Assessments undergo scrutiny by several parties, including the Secretariat, the Independent Validator, the MSG and the Board. The outcome or the findings are rarely disputed by the implementing country. - Validation is resource-intensive for implementing countries, the International Secretariat and the Board. Especially in complex cases, this had led to longer timeframes for completing Validations than intended.

Issue within the scope of the Validation review[6]	Background	Strengths (+) and weaknesses (-) identified in the current Validation model
		Validation also requires considerable financial resources from the International Secretariat (budget for 2020 USD 1m). - International Secretariat's role in both providing implementation support and leading Validation has raised questions about conflict of interest. The Independent Validator's resources are limited and do not allow e.g. country visits. The Oslo-led model has also raised questions about sustainability and regional ownership. - Countries' level of preparation for Validation varies, which affects the resources required for data gathering.
Considering the structure and timing of Validation, including the assessment of individual requirements, the overall assessment of progress and consequences of Validation.	Options that Validation Committee members have raised include introducing a level of progress between 'meaningful' and 'satisfactory' progress and allowing the multi-stakeholder group more flexibility to determine whether gaps are material. Thematic or regional Validations could also be considered.	+ The Board has flexibility in determining the timing of subsequent Validations to reflect the complexity of challenges in cases where the overall assessment in below 'satisfactory progress' (3-18 months). + The procedure for subsequent Validations allows focusing on efforts to address the gaps and weaknesses identified in the previous Validation. + Countries are incentivised to address corrective actions within a reasonable timeframe. Validation deadlines have tended to accelerate implementation, particularly in terms of data disclosures. + Individual requirements are assessed using a consistent methodology across countries. This allows for comparison of assessments across countries.

Issue within the scope of the Validation review[6]	Background	Strengths (+) and weaknesses (-) identified in the current Validation model
		- Validation does not recognise that countries have different starting points. Some countries require more time than others to address all EITI Requirements. Suspending or delisting countries due to lack of progress may not incentivise progress. - The current Validation model is not designed to correspond to the evolution of the EITI Standard, including requirements related to beneficial ownership, contract transparency and project-level disclosures or the transition from standalone EITI reporting to systematic disclosures. - Overall assessments of 'meaningful progress' include countries that were very close to 'satisfactory progress' and those bordering with 'inadequate progress'. Both typically undergo a subsequent Validation in 12-18 months.
Reviewing the Validation of the civil society protocol.	The Validation Committee has discussed the interpretation of the protocol and whether the current methodology for assessing civil society engagement is adequate for safeguarding civic space in the EITI and encouraging progress. The review could reconsider whether the same Validation framework is suitable for assessing both disclosure provisions and requirements on stakeholder	+ EITI implementation has created protected spaces for civil society actors to participate in extractive sector governance in constrained environments. Validation provides leverage to enforce this. + Progress across countries has been assessed consistently and resulted in clear, addressable corrective actions, where progress was found to be below 'satisfactory'. + Expectations towards countries are uniform and predictable. Few countries have withdrawn from the EITI because of requirements for civic space. - Validation has limited effect in encouraging countries to protect civic space in extractives governance beyond the EITI process. The assessment of civil

EITI International Secretariat
Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

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Issue within the scope of the Validation review[6]	Background	Strengths (+) and weaknesses (-) identified in the current Validation model
	engagement.	society engagement in the EITI does not always correspond with the broader environment for civic engagement or the direction of progress. - The assessment of civil society engagement in the EITI is a source of controversy at the Board level and delays decision-making. Stakeholders have differing understandings of how the EITI's civil society protocol should be interpreted. Some stakeholders lack trust in the methodology for assessing the issue. - Stakeholder engagement is a more nuanced area than disclosures and is therefore more challenging to assess using the current framework and levels of progress.

3.2 Synoptic table of feedback from stakeholders

EITI VALIDATION REVIEW WORKING GROUP: SYNOPTIC TABLE				
Issue	**Commentary**	**Section of EITI Standard**	**Status & Timeline** *(in progress)*	**Constituency Views/Comments** *(in progress)*
1. Impact on EITI Implementation				
Role of Secretariat	**The person writing (or leading on) the initial validation report and gathering the data are the secretariat members who are also providing implementation support. 1.** Is this acceptable? **2.** Can further resources be directed to Validation or should the cost be reduced? **B (P.1)**	Chapter 5: Overview of Validation and Validation procedure		
Public Debate & Communication Products	**Country Validations could have the same formatting / 'look&feel' as the 2019 Progress Report:** Products could also include previous Validation outcomes and upcoming milestones in order to stimulate public debate. **B (P.4)**			
Post-validation	**1.** How could Validation better encourage countries that achieve overall 'satisfactory progress' to continue making progress? **2.**Would measurement against common indicators support this? **G**	Chapter 4: EITI Board oversight, Articles 4 and 6		
2. Validation Resourcing				
Timing of Validation	**1)** How can validation be timed effectively so that feedback is put into practice and complex cases won't cause severe delays? **A (P. 10)**	Chapter 4: EITI Board oversight, Article 6		

Validators - Partnering	**1)** Does the Committee wish to maintain the clause agreed in May 2016 banning the repeat selection of the same company as Validator? **2)** Hiring a local/.regional validator to avoid bias? 3)Finding validators with expertise in disclosure and governance + engagement, and splitting validation into 2 parts. **D (P.3) F - October 29, 2019**	Chapter 5: Overview of Validation and Validation procedure		
Validators - Scope	**1)** Updates should be provided to Validators (i.e.suspension and de-suspension of countries) to enable better resource planning, for detailed follow-up or spot checking on specific requirements. **2)** Should Validators be required to undertake missions to the countries being Validated? Country visits remain contingent on on the issues raised in the desk review by the validator. *Note: there is a provision to for independent validators to visit the country under validation, but it is costly.* **B (P.1), D (P.3)**			
Validators-Post-validation feedback	**Assess the performance of the Secretariat and validator, for submission directly to the Validation Committee. 1)** Mechanism to do so? **A (P.4)**			
Training / knowledge transfer	**Process of submitting information and documents to stakeholders:** Board decisions are discretionary, and beyond the review powers of the independent validator and at-times the MSG's. **1) Should** stakeholders have better access to historical decisions and validation data for contextual purposes; if yes, **2)** how?. **A (P.3) B (P.1)**			
3. Validation Structure				
MSG functioning	**1)** Should Validation give more weight to the priorities of MSGs, even if this means assessing requirements inconsistently across countries? **2)** Should self-assessment by implementing countries have a bigger role in Validation? **G**	Chapter 5: Overview of		

Conflict of Interest	**The Secretariat provides support to the country/region also participates in the validation process. 1)** Does this create a conflict of interest, and if yes- how should be prevented? **2)** Should Validation move from being an Oslo-led exercise towards a mix, outsourced, or peer reviews? **A (P.4) F**	Validation and Validation procedure		
Implementation status: ratings	**1) Create a new 'SP*' progress rating for countries to receive a 'conditional' overall SP* rating,** where the majority of the Assessment card and MSG oversight category (1.1-1.3 + 4.8) are SP, yet a minority of requirements is not? **A (P.5)**	Chapter 4: EITI Board oversight, Article 6		
Validation Guide	**2.4b refers to requiring the government's policy on the disclosure of contracts and licences to be included in legal provisions.** There is a wide variance of interpretations available – countries which publish contracts but have no discernible policy; countries where there are explicit legal constraints on contract disclosure being counted as a "policy" etc. Are legal provisions (either positively or negative) on the disclosure of contracts sufficient for a satisfactory finding on contract transparency? **B (P.1)**	Requirement 2.4, Validation Guide		
Validation Guide	**1. Better guidance in the Validation Guide in terms of what "going beyond" the satisfactory requirement entails,** specified for each requirement. **2. Reference to assessing "systematic disclosures" has crept into some of the more recent initial assessments.** There should be a specific update of the validation guide on this. **3. The guidance for validators on company engagement in relation to requirement 1.2** could be improved. Although evaluating the governing environment is reasonably clear, it was not always so easy to evaluate industry engagement. Specifically, guidance on situations where there are one or two very highly engaged companies but a wide pool of completely disengaged companies would be helpful. **4. Guidance on the relative importance of government ensuring a lack of barriers to industry involvement** and actual cmmitment on behalf of industry. **B (P.2)**	Chapter 4: EITI Board oversight, Article 4, Validation Guide and Requirement 1.2		
Training / knowledge transfer	**Other validation assessment models:** would it be worth investigating and possibly reach-out to similar organizations (i.e. OGP; OECD Global Forum; Freedomhouse; etc.) to examine evaluation models and best practices? **F**	Chapter 5: Overview of Validation		

Streamlining reports	**Language used during second and third validations: 1)** '*Meaningful Progress with considerable improvements'* can be found in validation reports (e.g., Second Validation of Nigeria) Yet, this descriptor is not mentioned explicitly on the Assessment card, and the reader has to utilize the 'Direction of Progress' column to make assumptions. Should this be improved? **2)** When a country is temporarily suspended, yet has made Meaningful Progress (?), should the language be changed to better describe the situation? **3)** Should a 'Progress at a Glance' section be created, either on the cover page or before the scorecard? A simplified overview could be produced which would give an indication of how the country is progressing according to each category and overall rating. **A (P. 8-9)**	Chapter 5: Overview of Validation, Validation Guide		
MSG participation	Encourage usage of online collaboration platforms, as they provide timely and measurable exchanghe of input. **D (P.3)**	Chapter 5: Overview of Validation, Validation procedure		

4. Civil Society Protocol

Civic Space Definition	**Civic space in the civil society protocol** – 1) **Improvements to** evaluating and assessing engagement and progress made? **2)** Should the EITI Board should consider broadening the definition of civic space to go beyond those participating in the EITI process? **B (P.3)**	Chapter 6: Protocol: participation of civil society, Validation Guide		
MSG participation	**Requirement 1.4biii** no specific guidance – which may inadvertently favour highly capacitated INGOs and national-level NGOs over community-based organisations. **B (P.1)**			

LEGEND	
SOURCE DOCUMENT =	**A** = Validation Committee Paper 04-1-A Feedback from members of the previous Validation Committee **B** = Final report on 2018 Validations **C** = Board Paper 45-5-B - Review of Validation **D** = VC Paper 12-1-A Draft minutes of VC the 16 October meetings **E** = VC Paper 12-1-B Draft minutes of VC the 17 October meeting **F** = Validation Review Working Group Discussion
STATUS =	**For Decision =** _____ **Addressed in Validation Guide =** _____

References:

A = https://eiti.org/sites/default/files/documents/vc_paper_04-1-a_feedback_from_members_of_the_previous_validation_committee.docx

B = https://eiti.org/document/results-of-validation-survey-of-implementing-countries

D = https://eiti.org/document/validation-committee-meeting-16-october-2019#Documents

F = https://eiti.org/document/results-of-validation-survey-of-implementing-countries

G= International Secretariat input from previous (Jan.7) synoptic table

EITI International Secretariat
Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

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3.3 – Review of Validations of Requirement 1.3 in 2016-2019

Review of Validations of Requirement 1.3 in 2016-2019

For discussion

Summary:

This paper reviews the methodology for assessing progress in meeting Requirement 1.3 to inform Board discussions on the consistent Validation of this requirement. The paper focuses on three types of outcomes: (1) cases where the civil society protocol was found to have been breached, (2) cases where civic space was restricted, but the Validation concluded that the civil society protocol had not been breached, and (3) cases where the assessment of Requirement 1.3 was below 'satisfactory progress' due to civil society organisations (CSOs) not engaging despite having the space to do so. The paper presents the methodology for collecting data on civil society engagement.

Review of Validations of Requirement 1.3 in 2016-2019

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Supporting documentation

EITI Protocol: Participation of civil society: https://eiti.org/document/eiti-protocol-participation-of-civil-society.

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The Articles of Association address the mandate of the EITI Board to, inter alia, "Consider general and specific policy issues affecting the EITI Association" and "adopt more detailed procedures and rules for the management and operation of the EITI Association" (Article 10). The EITI Standard (section 5) sets out the Validation procedure. EITI Protocol: Participation of civil society mandates the Board to assess civil society engagement in the EITI.

Financial implications of any actions

There are no direct financial implications to this paper. However, issues related to Requirement 1.3 are often among the most demanding aspects of Validation. Clarifying or modifying the approach to assessing Requirement 1.3 may have considerable financial implications, if the scope of the assessment changes or the work is outsourced.

EITI International Secretariat   16
Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

1 Introduction

EITI Requirement 1.3 on civil society engagement is complemented by the civil society protocol.[8] The civil society protocol in its current form came into effect in January 2015.[9] The protocol consists of five provisions, which are assessed in Validation and when considering candidature applications: expression, operation, association, engagement and access to public decision-making. Throughout EITI's history, the assessment of Requirement 1.3 has been the most contentious issue in Board considerations on Validation. This has resulted in prolonged timeframes for completing Validations and diverted attention from other findings from Validation. Controversies related to assessing civil society engagement have also affected some stakeholders' confidence in the Validation process.

The protocol defines "civil society representatives" as actors who are "substantively involved in the EITI process, including but not limited to members of the multi-stakeholder group". The protocol also defines activities that are considered to be related to the EITI process and hence within its scope. These include "activities related to preparing for EITI sign-up; multi-stakeholder group (MSG) meetings; CSO constituency side-meetings on EITI, including interactions with MSG representatives; producing EITI Reports; producing materials or conducting analysis on EITI Reports; expressing views related to EITI activities; and expressing views related to natural resource governance." Ambiguity regarding the final aspect – "expressing views related to natural resource governance" – has been a constant source of tension and debate.

Adherence to Requirement 1.3 on civil society engagement and the civil society protocol is a prerequisite for joining the EITI. The EITI Standard also includes special safeguards to ensure that the protocol is respected. The 2016 EITI Standard established that a country would be suspended if progress on any of the requirements related to stakeholder engagement (1.1-1.3) were assessed as below 'satisfactory'. In June 2018, following a review of this policy,[10] the Board agreed to clarify that a country would not be suspended for an assessment of 'meaningful progress' due to deficiencies related to the civil society protocol on Requirement 1.3 in its first Validation.[11] However, "failure to demonstrate progress in addressing the corrective actions in the two subsequent Validation would result in suspension". Article 5 of the 2019 EITI Standard further clarifies the approach.[12]This paper documents the methods used to assess progress in

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[8] EITI Requirement 1.3: https://eiti.org/document/eiti-standard-requirements-2016#r1-3.
[9] https://eiti.org/document/eiti-protocol-participation-of-civil-society.
[10] Board paper 39-4-B.
[11] Board decision 2018-39/BM-40/BP-40-4-A: https://eiti.org/document/board-clarified-application-of-requirement-83ci-civil-society-engagement.
[12] Chapter 4, Article 5 – Safeguards: https://eiti.org/document/standard2019-eiti-board-oversight-of-eiti-

EITI International Secretariat
Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

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meeting Requirement 1.3 to inform Board discussions on the consistent Validation of this requirement and further investigation of these challenges as part of the Validation Review. The paper also presents options for addressing the challenges. The Validation Committee may wish to mandate the Secretariat to consider the benefits and shortcomings of these approaches in further detail.

2 Review of Validations of Requirement 1.3 in 2016-2019

Fifty-eight Validations under the 2016 EITI Standard were concluded between October 2016 and November 2019.[13] In 18 of these Validations, progress in meeting Requirement 1.3 on civil society engagement was assessed as below 'satisfactory'. This section focuses on three types of outcomes: (1) cases where the civil society protocol was found to have been breached, (2) cases where civic space was restricted, but the Validation concluded that the civil society protocol had not been breached, and (3) cases where the assessment of Requirement 1.3 was below 'satisfactory progress' due to CSOs not engaging despite having the space to do so. The purpose is to document the existing methodology for assessing Requirement 1.3 and to inform the Board's discussion on the future of Validation.

The review demonstrates that the outcome of the Validation of Requirement 1.3 does not always correspond to the broader environment for civil society engagement in the country. This presents a challenge for communicating the results of Validation and encouraging progress. However, the EITI often creates a protective space in an otherwise constrained environment. In controversial cases, reaching conclusion on whether the civil society protocol had been breached has required considerable efforts and resources from both the International Secretariat and other stakeholders including the EITI Board. Where the Board has concluded that progress in implementing Requirement 1.3 was below 'satisfactory', analysis focused on civil society engagement in the EITI process has resulted in clear, achievable corrective actions.

The most common reason for the Board to conclude an assessment of Requirement 1.3 below 'satisfactory progress' is that civil society was not fully engaged in the EITI, despite having the space to do so. However, agreeing on these assessments tended to be less challenging than agreeing on whether the civil society protocol had been breached.

Category 1: Assessment below 'satisfactory progress' due to breaches of the civil society protocol

In seven cases, the Board has concluded an assessment of Requirement 1.3 below 'satisfactory progress' due to breaches of the civil society protocol. Breaches were most commonly related to freedom of expression. The Validations documented self-censorship by civil society actors substantially engaged in the EITI process and reprisal resulting from expressing critical views on

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implementation#a5.

[13] Validation data: https://eiti.org/document/validation-review-data.

EITI International Secretariat

Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

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EITI-related issues. Nearly as often, Validation found evidence of restrictions to freedom of operation by CSOs substantially engaged in the EITI.

The common denominator is that the repressive environment systematically restricted the ability of actors substantively involved in the EITI process to undertake EITI-related activities or express views related to extractives governance.

Azerbaijan and Niger withdrew from the EITI following suspension. None of the other five countries have undergone a completed second Validation, so it is not possible to track progress on corrective actions related to civil society.

Azerbaijan

Azerbaijan withdrew from the EITI in March 2017 following a suspension related to breaches of the civil society protocol.[14] In October 2016, the Board found that Azerbaijan had made 'meaningful progress' overall with implementing the 2016 EITI Standard with considerable improvements across several requirements compared to the first Validation in 2015 (under the 2013 Standard).[15] The Independent Validator found that Azerbaijan had made 'inadequate progress' on Requirement 1.3. The Board asked Azerbaijan to address three corrective actions related to the environment for civil society's engagement in EITI before the next Board meeting in March 2017. The Board concluded that the corrective actions had not been met, which resulted in suspension.[16]

The Validation found that the broader environment restricted civil society's ability to participate in the EITI. The legal framework created significant barriers for NGO registration and funding, that had hindered the ability of CSOs substantially engaged in EITI to register and access funding. The corrective actions required undertaking legal and regulatory reforms to eliminate the need for (i) civil society to obtain a document every two years confirming their registration; (ii) civil society to register grants with the Ministry of Justice; and (iii) foreign donors to register individual grants with the authorities and obtain an opinion on the purpose of the grant.

Tajikistan

In March 2017, the Board concluded that Tajikistan had made 'inadequate progress' overall in implementing the 2016 EITI Standard, resulting in suspension.[17] The Validation had commenced

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[14] Azerbaijan's notice of withdrawal: https://eiti.org/sites/default/files/documents/2017-03-10-statement-az-leaving-eiti.pdf.

[15] Documentation related to Azerbaijan's 2016 Validation: https://eiti.org/document/validation-azerbaijan-2016-reports.

[16] Azerbaijan: Assessment of progress with corrective actions 1(i-iii): https://eiti.org/document/azerbaijan-assessment-of-progress-with-corrective-actions-1iiii.

[17] Documentation related to Tajikistan's 2016 Validation: https://eiti.org/document/validation-tajikistan-2016-reports.

in July 2016. Progress in implementing Requirement 1.3 was assessed as 'meaningful'.

The Validation found that civil society was actively engaged in the design, implementation, monitoring and evaluation of the EITI process. However, there were some operational restrictions on civil society participation in the EITI. A key concern related to the ability of civil society to freely express opinions about natural resource governance without fear of reprisal. Few cases were identified of journalists or other civil society representatives substantively engaged in the EITI facing pressure due to statements about natural resource governance. However, the Validation concluded that this seemed to be caused by self-censorship practiced among civil society. This assessment was based on stakeholder consultations. The Validation noted that EITI had helped increase freedom of expression on 'no-go topics'.

Niger

In October 2017, the Board concluded that Niger had made 'inadequate progress' overall in implementing the 2016 EITI Standard, resulting in suspension.[18] The Validation had commenced in November 2016. Progress in implementing Requirement 1.3 was assessed as 'inadequate', as were most of the disclosure requirements. Niger withdrew from the EITI following the Board's decision.

The Validation found that civil society representatives and journalists substantially engaged in the EITI process had faced arrests, coercion and reprisal between March and September 2017, while engaging in public debate on topics related to the EITI. These arrests fit a pattern of intimidation, harassment and arbitrary detention targeting civil society actors who petitioned the court to investigate allegations of corruption in the extractive sector. The Validation concluded that Niger should ensure freedom of expression related to the extractive sector and establish robust mechanisms to channel civil society voices not directly represented on the MSG.

The Republic of the Congo

In June 2018, the Board concluded that Republic of Congo had made 'meaningful progress' overall in implementing the 2016 EITI Standard.[19] The Validation had commenced in April 2017. Progress in implementing Requirement 1.3 was assessed as 'meaningful'.

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[18] Documentation related to the Niger's 2016 Validation: https://eiti.org/document/validation-of-niger-2017-reports.
[19] Documentation related to Reoublic of the Congo's 2017 Validation: https://eiti.org/document/republic-of-congo-validation-2017.

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The Validation found that civil society was actively engaged in the EITI process, but that adherence to the civil society protocol, particularly as it relates to freedom of expression, was limited to civil society members on the MSG. This controlled space for civil society was narrowly confined to MSG members and excluded important actors substantially engaged in the EITI process who were routinely exposed to intimidation, reprisal and censorship. The Validation concluded that civil society stakeholders practiced self-censorship on issues directly related to EITI, such as crude oil sales by the national oil company.

Ethiopia

In February 2019, the Board concluded that Ethiopia had made 'meaningful progress' overall in implementing the 2016 EITI Standard.[20] The Validation had commenced in April 2018. Progress in implementing Requirement 1.3 was assessed as 'meaningful'.

The initial assessment and the Validation report assessed progress in implementing Requirement 1.3 as 'inadequate'. This outcome would have resulted in the temporary suspension of Ethiopia. After the commencement of Validation, a new progressive government committed to legislative and administrative changes to improve civic space generally. Following a mandate from the Validation Committee, the International Secretariat reassessed Requirement 1.3 and concluded that the situation had improved. The Board agreed to take into account these new developments and agreed on an assessment of 'meaningful progress' in implementing Requirement 1.3.

The Validation found evidence that the space for civil society in Ethiopia had narrowed since 2009, while there had been some encouraging signs of political opening since April 2018. In the period between 2014 and April 2018, there appeared to have been limited freedom of expression, some degree of self-censorship on issues related to natural resource governance issues covered by EITI and greater restrictions and control over civil society operations imposed by the legal framework. As a result, there were very few independent CSOs substantially engaged in EITI implementation. An assessment of developments since April 2018 indicated a positive direction of travel in the environment for civil society freedoms of expression and operation in EITI implementation, including legal reforms related to oversight of CSOs' operations. However, despite easing of constraints on civil society's freedoms of expression and operation in relation to EITI implementation since April 2018, evidence did not suggest that civil society was fully, actively and effectively engaged in all aspects of EITI implementation and that some barriers to CSOs' expression and operations remained.

Chad

In May 2019, the Board concluded that Chad had made 'meaningful progress' overall in implementing the 2016 EITI Standard.[21] The Validation had commenced in September 2018.

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[20] Documentation related to Ethiopia's 2018 Validation: https://eiti.org/document/ethiopia-validation-2018.
[21] Documentation related to Chad's 2018 Validation: https://eiti.org/document/chad-validation-2018.

Progress in implementing Requirement 1.3 was assessed as 'meaningful'.

The Validation documented breaches of freedom of expression and freedom of operation in Chad. Regarding freedom of expression, evidence pointed to at least one case of censorship directly linked to an EITI-related topic. The NGO SWISSAID withdrew a report on the Glencore oil-backed loans following a lawsuit in the name of President Idriss Déby. The study drew on EITI data and included recommendations to improve EITI reporting. Stakeholder comments also outlined potential for self-censorship, including on issues related to the governance of the extractive sector covered by the EITI. The Validation did not find that other areas of the civil society protocol had been breached, despite an overall repressive environment. The Validation noted that civil society had used the EITI to put pressure on the government to release detained activists.

Myanmar

In October 2019, the Board concluded that Myanmar had made 'meaningful progress' overall in implementing the 2016 EITI Standard.[22] The Validation had commenced in July 2018. Progress in implementing Requirement 1.3 was assessed as 'meaningful'.

The initial assessment and the Validation report originally found no evidence of breaches of the civil society protocol and assessed progress in implementing Requirement 1.3 as 'satisfactory'. Following several letters from local civil society and an additional mission by the International Secretariat, such evidence was identified. There was indication that the environment for civil society participation in the EITI had deteriorated since the commencement of Validation. The Board decided to take these new developments into account and agreed on an assessment of 'meaningful progress' in implementing Requirement 1.3.

The Validation found evidence of breaches related to freedom of expression and freedom of association. Local civil society credibly demonstrated that their ability to speak about contentious issues related to EITI implementation, including military ownership of mining companies and discrepancies in EITI reporting related to gems and jade companies, had been limited due to threats and fear of reprisal under specific legislation. Additionally, Validation found evidence that there were constraints to civil society's freedom to associate with other members within their constituency in resource-rich subnational regions where issues in the extractive sector are contentious and dominated by ethnic armed organisations. Administrative barriers had prevented civil society from organising EITI-related workshops and establishing subnational units. Validation also noted that EITI had enabled constructive engagement among constituencies and that the government had engaged in reforms reflecting civil society's priorities.

Category 2: Civic space constrained, but civil society protocol not breached

In a number of cases, the Board has concluded that the country had made 'satisfactory progress'

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[22] Documentation related to Myanmar's 2018 Validation: https://eiti.org/document/myanmar-validation-2018.

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Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

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in implementing Requirement 1.3, despite restrictions in the broader civic space. Kazakhstan, Mauritania and Cameroon were classified by Freedom House as 'not free' at the time of Validation. In Peru and Colombia, anti-mining protests were being violently repressed and activists threatened.

What is common about these cases is that the broader repressive environment or local extractives-related conflicts did not restrict actors substantively engaged in the EITI from undertaking EITI-related activities or expressing views about extractives governance. These cases are intended as illustrative examples and do not suggest that civic space was not restricted in other countries where progress on Requirement 1.3 was assessed as 'satisfactory'.

Kazakhstan

In February 2018, the Board concluded that Kazakhstan had made 'meaningful progress' overall in implementing the 2016 EITI Standard.[23] The Validation had commenced in July 2017. Progress in implementing Requirement 1.3 was assessed as 'satisfactory', despite the assessment noting that the space for civil society was clearly narrowing. The assessment recognised that freedom of expression was limited, there were high levels of self-censorship and the legal framework was increasingly imposing restrictions on civil society. However, there was limited evidence that the broader situation was having an impact on civil society's ability to participate in the EITI. In 2017, Freedom House's Freedom in the World index rated Kazakhstan as 'not free', with a score of 22 (out of 100).[24] Yet evidence reviewed as part of Validation found that civil society was fully, actively and effectively engaged in all aspects of EITI implementation.

Colombia

In June 2018, the Board concluded that Colombia had made 'satisfactory progress' overall in implementing the 2016 EITI Standard.[25] The Validation had commenced in January 2018. The assessment noted that none of the consulted stakeholders had expressed any concerns about infringements of any aspect of the civil society protocol. Stakeholders corroborated that there had been an adequate enabling environment for civil society to be actively engaged in the EITI and to express their views without any repercussions or intimidations.

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[23] Documentation related to Kazakhstan's 2017 Validation: https://eiti.org/document/kazakhstan-validation-2017.
[24] Freedom in the World 2017: https://freedomhouse.org/report/freedom-world/freedom-world-2017.
[25] Documentation related to Colombia's 2018 Validation: https://eiti.org/document/colombia-validation-2018.

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Address: Rådhusgata 26, 0151 Oslo, Norway • P.O. Box: Postboks 340 Sentrum, 0101 Oslo, Norway

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The assessment noted that the space for civil society in the main cities was vibrant and free of obstacles to participation. However, journalists, local activists, union leaders and other CSOs based in the regions, particularly rural areas, faced a different reality. Civicus raised concerns about threats and murders of environmental and human rights activists opposed to extractive projects in the period assessed in Validation.[26] The civil society representatives consulted during Validation confirmed that this situation had not affected the constituency's engagement in all aspects of EITI implementation. In 2017, Freedom House's Freedom in the World index rated Colombia as 'partly free' with a score of 64 (out of 100).[27]

Mauritania

In March 2017, the Board concluded that Mauritania had made 'meaningful progress' overall in implementing the 2016 EITI Standard.[28] The Validation had commenced in July 2016. Progress in implementing Requirement 1.3 was assessed as 'satisfactory'. The second Validation did not assess Requirement 1.3, as there were no indications of backsliding.[29]

The first Validation highlighted restrictions to civic space, including limitations to freedom of expression and operation. Journalists feared retaliation and the government restricted large gatherings. Despite these challenges in the broader environment, in an EITI context civil society was found to be able to engage in public debate without restraint, coercion or reprisal, and its representatives were able to operate freely. In 2016, Freedom House's Freedom in the World index rated Mauritania as 'not free' with a score of 30 (out of 100).[30]

Peru

Peru's first Validation was concluded in January 2017, resulting in an assessment of 'meaningful progress' overall in implementing the 2016 EITI Standard.[31] The Validation had commenced in July 2016. Progress in meeting Requirement 1.3 was assessed as 'satisfactory'. The second

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[26] E.g. Civicus, "Hostilities towards social activist grow, leading to at least three recent deaths", 8 August 2017: https://monitor.civicus.org/newsfeed/2017/08/08/social-activists-killed-colombia/.
[27] See 2.
[28] Documentation related to Mauritania's 2016 Validation: https://eiti.org/document/mauritania-2016-documentation.
[29] Documentation related to Mauritania's 2018 Validation: https://eiti.org/document/mauritania-validation-2018.
[30] Freedom in the World 2016: https://freedomhouse.org/report/freedom-world/freedom-world-2016.
[31] Documentation related to Peru's 2016 Validation: https://eiti.org/document/peru-validation-2016.

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Validation did not assess Requirement 1.3, as there were no indications of backsliding.[32]

The first Validation noted that the environment for civil society appeared to be vibrant on the national, regional, and local levels. Fundamental rights of civil society actors were respected and there were no major obstacles to their participation in the EITI and, more widely, on transparency and governance issues. However, it is not uncommon for activists to get arrested, injured or killed by security forces in protests against mining projects. Civicus alerts from June 2016 raised concerns about violence against anti-mining activists, legislative measures to limit protests and guarantee impunity to security forces using violence, and the use of criminal defamation statutes against journalists reporting on sensitive issues, such as mining conflicts.[33] However, these broader constraints were not considered to have adversely affected civil society's ability to fully, actively and effectively engage on all aspects of EITI implementation.

Cameroon

In June 2018, the Board concluded that Cameroon had made 'meaningful progress' overall in implementing the 2016 EITI Standard.[34] The Validation had commenced in July 2017. Progress in implementing Requirement 1.3 was assessed as 'meaningful' due to lack of civil society engagement. No breach of the civil society protocol was identified.

The assessment identified conflicts of interest related to per diems and lack of coordination between MSG members and their broader constituency. The lack of coordination was linked to concerns regarding co-optation of CSOs on the MSG. The assessment documents restrictions related to broader civic space, including restrictions to operations and delays in authorising protests. In 2017, Freedom House's Freedom in the World index rated Cameroon as 'not free' with a score of 24 (out of 100). [35] However, the Validation found no evidence of any legal, regulatory or practical barriers to civil society's ability to engage in EITI nor to their ability to freely operate, communicate and cooperate with the broader constituency in relation to extractives or

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[32] Documentation related to Peru's 2018 Validation: https://eiti.org/document/peru-validation-2018.
[33] Civicus alert, Association in Peru, 1 June 2016:
https://monitor.civicus.org/newsfeed/2016/06/01/association-peru/.
Civicus alert, Peaceful assembly in Peru, 1 June 2016:
https://monitor.civicus.org/newsfeed/2016/06/01/peaceful-assembly-peru/.
Civicus alert, Expression in Peru, 1 June 2016:
https://monitor.civicus.org/newsfeed/2016/06/01/expression-peru/.
[34] Documentation related to Cameroon's 2017 Validation: https://eiti.org/document/cameroon-validation-2017.
[35] See 2.

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public finance issues.

The Democratic Republic of Congo

In October 2019, the Board concluded that the Democratic Republic of Congo (DRC) had made 'meaningful progress' overall in implementing the 2016 EITI Standard. [36] The Validation had commenced in October 2018. Progress in implementing Requirement 1.3 was assessed as 'satisfactory'.

The assessment noted general restrictions to civic space, particularly with regard to freedom of expression, operation and association. Evidence and stakeholder views related to these challenges are documented in the initial assessment. The NGO Civicus rates DRC's civic space as 'closed'.[37] Similarly, Freedom House's Freedom in the World 2018 index ranked DRC as 'not free' with a score of 16 (out of 100).[38] The Validation concluded that threats were not linked to the EITI or broader natural resource governance issues, but rather to the electoral process. There was no indication that the ability of CSOs engaged in the EITI to freely express views related to EITI topics, to collaborate with other groups or to raise funds was restricted. Validation found that civil society was actively contributing to the EITI process. Some civil society representatives consulted noted that the EITI protected their space to participate in natural resource governance.

Category 3: Assessment below 'satisfactory progress' due to lack of engagement by CSOs

The most common reason for the Board to have assessed progress in meeting Requirement 1.3 as below 'satisfactory' is limited civil society engagement despite the enabling space. Common challenges include lack of technical and financial capacity and lack of coordination between MSG members and the broader constituency that is linked to internal constituency issues rather than broader challenges in MSG governance. In total 11 cases fall into this category: Albania (2017 and 2019), Cameroon (2017), Honduras (2017), Madagascar (2017), Nigeria (2016), Norway (2016), Sierra Leone (2018), Solomon Islands (2016), Timor-Leste (2016) and the United Kingdom (2019).

3 Methodology for data collection

The International Secretariat follows the Validation Guide and the Validation procedure in collecting data for the assessment of Requirement 1.3. In summary, data collection consists of the following steps:

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[36] Documentation related to DRC's 2018 Validation: https://eiti.org/document/democratic-republic-of-congo-validation-2018

[37] Civicus monitor, September 2019: https://monitor.civicus.org/country/democratic-republic-congo/.

[38] Freedom in the World 2018: https://freedomhouse.org/report/freedom-world/freedom-world-2018.

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Phone: +47 222 00 800 • E-mail: secretariat@eiti.org • Twitter: @EITIorg • www.eiti.org
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1. **Desk review.** A desk review of publicly available sources such as Civicus Monitor, Freedom House's Freedom in the World rating, ICNL documents and governmental assessments of human rights (e.g. US Department of State's Human Rights Reports) is undertaken to gain an understanding of the broader environment for civic engagement. The country team's knowledge of the country and its EITI process is also leveraged. The Secretariat reviews media sources and publications to assess whether crtitical debate about the extractive sector appears to be ongoing.

2. **Stakeholder consultations.** Stakeholders are consulted to seek their views on civil society engagement in the EITI. All first Validations include a country visit. Most subsequent Validations include in person consultations, if there are concerns related to stakeholder engagement. Following the desk review the Secretariat prepares a list of questions that are distributed to help stakeholders prepare for the consultations. During consultations, confidential discussions are held with civil society actors both on the MSG and outside it. Stakeholders are invited to raise any issues of concern in these meetings, beyond those covered in the Secretariat's questions. Typically, civil society members coordinate these meetings. Due to resource and time constraints, consultations usually take place in the capital city. A typical Validation mission lasts 5 days and includes meetings with different government agencies, companies, the Independent Administrator, media and development partners, as well as civil society actors. In some challenging cases, such as Ethiopia and Tanzania, the Secretariat has reached out to local and international stakeholders ahead of Validation to call for views related to civil society engagement in the EITI. Through the consultations, the Secretariat seeks to establish whether civil society is fully and actively engaged in the EITI process and whether there is any indication of breaches of the civil society protocol.

3. **Assessment.** Based on available evidence from the desk review and stakeholder consultations, the Secretariat proposes an assessment and possible corrective actions and strategic recommendations. The Secretariat's assessment is based on the evidence that it has encountered or that has been presented by stakeholders. The Secretariat does not currently have resources or the mandate to investigate civil society engagement beyond the EITI process. In first Validations, the assessment is reviewed by the Independent Validator. If further evidence is presented after the commencement of Validation, this is reviewed following the Board-agreed procedure for considering stakeholder comments and developments that take place after the commencement of Validation.

3.4 Exploring the use of new technologies in Validation

The working group discussed the potential for using emerging technologies in Validation in its teleconference on 17 January. This section summarises the presentation given by working group member Stephen Douglas.

The professional work environment in standards organisations is evolving rapidly. It is time to take a fresh look at tools for the automation of data gathering, reporting and validation, as well as practical experience with them. A good basic list includes e-governance, big data, blockchain and articial intelligence (AI). The initial conception and architecture of such systems is decisive in

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determining their chances of success or failure; structure and algorithms must reproduce multi-stakeholder consensus accurately and yield outcomes that establish and maintain trust in the system. Rigorous assessment & diagnosis, planning processes and, finally, practical measures must be agreed upon and executed by stages. For example, e-governance tools adopted by states will vary greatly in extent and quality, so big data gathering must be accepted in the EITI context to supplement them.

EITI automated reporting of data generated from any source must be both flexible and contain safeguards. Third party intermediaries which bridge the gap of trust (validators and auditors) are costly and risk averse. The Secretariat has tight constraints on means and may be regarded by some as process driven. That is where private blockchain could provide a bridge of trust and reduce cost: all quantifiable data entries are transparent, chronological, secure and consensual. However, experience of blockchain applications is so far confined to sophisticated financial intermediaries with budgets which match their stakes in eliminating fraud. Finally, AI will soon evolve to a point where decisionmaking on what are conceived today as value judgements (example: facial recognition) can be confided to automated processes. To some extent, the appreciation of the qualitative aspects of an Implementing Country's validation score would be subjected to a "sanity check" using AI.

4 Proposed next steps

From February to June 2020 the Validation review working group will focus on analysing the results of the consultation and developing options for a revised Validation model based on them. The Validation Committee aims to present to the Board for discussion at the June Board meeting costed options that address the scope of the review.

The table below presents the working group's action plan for February-June 2020.

Time	Proposed action	Resources
Step 1	Working group to discuss consultation results and begin to outline options for assessing disclosures and stakeholder engagement in Validation.	Paper drafted by the Secretariat summarising responses to the consultation by topic and constituency. Consultation responses and synoptic table of earlier feedback.
Step 2	Working group to consider options for assessing disclosures (Requirements 2-6), taking into consideration consultation results, previous feedback and financial implications.	Paper drafted by the Secretariat with options for assessing disclosures, estimating financial implications. Consultation responses and synoptic table of earlier feedback. Review of findings from Validations in 2016-2019.
Step 3	Working group to consider options for assessing stakeholder engagement and the outcomes and impact of EITI implementation (Requirements 1 and 7), taking into consideration consultation	Review of Validations of Requirement 1.3. Paper drafted by the Secretariat with options for assessing stakeholder engagement and the outcomes and impact of EITI implementation, estimating financial implications.

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	results, previous feedback and financial implications.	Consultation responses and synoptic table of earlier feedback.
Step 4	Working group to consider options for the timing and consequences of Validation. Working group to finalise options for assessing disclosures, stakeholder engagement and the outcomes and impact of implementation to be presented to the Validation Committee an the Board.	Paper drafted by the Secretariat bringing together the options for assessing disclosures, stakeholder engagement and outcomes and impact, as well as options for the timing and consequences of Validation. Consultation responses and synoptic table of earlier feedback.
Step 5	Working group to present costed options to the Board for discussion	Board paper presenting costed options for a revised Validation model.