

Validation of Papua New Guinea

Report on initial data collection and stakeholder consultation

Abbreviations

ADB	Asian Development Bank
ASM	Artisanal and small-scale mining
BO	Beneficial ownership
CSO	Civil Society Organisation
DOF	Department of Finance
DPE	Department of Petroleum and Energy
EGPS	Extractives Global Programmatic Support
EITI	Extractive Industries Transparency Initiative
GFS	Government Finance Statistics
GDP	Gross Domestic Product
GST	Goods and Services Tax
IA	Independent Administrator
IFRS	International Financial Reporting Standard
IRC	Internal Revenue Commission
ITC	Infrastructure Tax Credit
KCH	Kumul Consolidated Holdings Ltd
KMH	Kumul Mineral Holdings Ltd
KPH	Kumul Petroleum Holdings Ltd
LNG	Liquefied natural gas
MDTF	Multi-Donor Trust Fund
MoU	Memorandum of Understanding
MRDC	Mineral Resources Development Company Limited
MSG	Multi-Stakeholder Group
MRA	Mineral Resources Authority
NEC	National Executive Council
NEFC	National Economic and Fiscal Commission
NGO	Non-government organisation
PEP	Politically exposed person
PNG	Papua New Guinea
PNGSDP	Papua New Guinea Sustainable Development Program
scf	Standard cubic feet (gas)
SOE	State-Owned Enterprise
ToR	Terms of Reference
tpa	Tonnes per annum
UBSA	Umbrella Benefit Sharing Agreement
USD	United States Dollar
VAT	Value Added Tax

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Executive Summary

The government of the Independent State of Papua New Guinea (PNG) committed to implement the EITI on 14 March 2013 by enacting National Executive Council (NEC) Decision 90/2013 on EITI implementation. An interim Multi-Stakeholder Group (MSG) was formed in 2012 and a permanent MSG was appointed in November 2013. The country was accepted as an EITI Candidate on 19 March 2014 at the EITI Board's meeting in Oslo.

On 25 October 2016, the Board agreed that PNG's Validation under the 2016 EITI Standard would commence on 1 April 2018. 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 Procedures and applied the Validation Guide in assessing PNG's progress with the EITI Standard. While the assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's preliminary assessment is that 14 of the requirements of the EITI Standard have not been fully addressed in PNG. Nine of these are assessed as unmet with inadequate progress. The recommendations and suggested corrective actions identified through this process relate in particular to license allocations (#2.2), license register (#2.3), state participation (#2.6), production data (#3.2), export data (#3.3), comprehensiveness (#4.1), SOE transactions (#4.5), direct subnational payments (#4.6), data quality (#4.9), distribution of revenues (#5.1), subnational transfers (#5.2), mandatory social expenditures (#6.1), SOE quasi-fiscal expenditures (#6.2), outcomes and impact of implementations (#7.4).

Overall conclusions

The EITI Standard is uniquely relevant to PNG, a country that has oscillated between commodity-driven booms and busts since independence in 1975. Requirements related to license management, state participation, traceability of revenues to the national budget, subnational revenue flows and social expenditures hold the key to providing much-needed transparency in issues of contention between host communities, companies and (local and national) government. In some ways, the minimum requirements of the EITI Standard are particularly demanding given the complex flows of extractives revenues to non-state actors like landowner groups.

The transparency achieved through the EITI reporting to date has had a remarkable impact in and of itself. Disaggregated data on per-company extractives revenues were provided for the first time ever – and immediately used in detailed civil society analysis questioning the benefits to government and host communities of some of the country's largest investment projects. Addressing areas of concern for government, industry and civil society, PNG EITI has led to the first public disclosures related to oil and gas license management, tax-deductible infrastructure spending, social expenditures and the flow of revenues between extractives state-owned enterprises and the government.

The civil society constituency and MSG have made extensive efforts to bridge gaps in civil society's (technical and financial) capacity. These challenges are compounded in a country the size of California with only 700km of paved roads. Despite financial constraints, civil society has held roadshows in extractives communities and sought to maintain regular communications with a constituency of interested stakeholders. While unable to regularly undertake its own studies, PNG's civil society has been

a regular contributor to research by CSOs in the Pacific, drawing on EITI data.

Industry and government have been regular users of EITI data in public presentations, and have leveraged EITI reporting and recommendations as diagnostic tools to support reforms, for instance in oil and gas license management. There is growing scope for government agencies to draw on the lengthening time series of open-format extractives revenue and non-financial data to strengthen its fiscal modelling capacities and improve its oversight of the extractive industries.

As PNG nears investment decisions on two LNG projects and a number of large new mines, the commercial impetus is matching the social justice imperative of strengthening key disclosures along the value chain while translating this newfound transparency into accountability in PNG's natural resource governance.

Recommendations

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

1. In accordance with Requirement 2.2, PNG is required to publicly disclose information related to the award or transfer of mining tenements and oil and gas licenses pertaining to companies covered in the EITI Report. This information should include the number of mining tenements and oil and gas licenses awarded and transferred in the year under review, a description of the award and transfer procedures, including specific technical and financial criteria assessed, and any non-trivial deviations from statutory procedures in practice.
2. In accordance with Requirement 2.3, PNG should maintain a publicly-accessible register or cadastre system(s), including comprehensive information on licenses for all oil, gas and mining companies. In the interim PNG should ensure that information set out under EITI Requirement 2.3.b is publicly accessible for all mining, oil and gas companies.
3. In accordance with Requirement 2.6, PNG should clearly establish its definition of SOEs to delineate the SOEs within the scope of EITI reporting and ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. PNG must also clarify the rules and practices governing financial relations between all SOEs, including their subsidiaries, and the state, including the existence of any loans or guarantees extended by the state, or SOEs, to extractives companies or projects.
4. In accordance with Requirement 3.2, PNG should ensure that the complete production volume for oil and gas, and production values for each of the extractives commodities produced during the year under review be publicly accessible, disaggregated by commodity. To strengthen implementation, PNG may also wish to consider disclosing the methodology adopted for calculating production volumes and values, not least given the robust public debate surrounding these figures.

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Commented [LA1]: Work has already commenced this month under the JICA Technical Cooperation Program. JICA dispatched 5 consultants from Tokyo led by the Team Leader and Public Financial Expert for "The Project on Improving Resource Related Revenue Management in PNG to support DPE and MRA to address this requirement. We feel this should be ranked as 'meaningful' to reflect the efforts made from 2017 to provide support, especially to DPE to improve capacity and this has finally kicked in.

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Commented [LA2]: Same as above. Work has already commenced this month under the JICA Technical Cooperation Program. We feel this should be ranked as 'meaningful' to reflect the efforts made well in advance from 2017 to support, DPE and MRA to improve capacity and this already underway and will be going on for the next 3 years.

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5. In accordance with Requirement 3.3, PNG should ensure that export volumes and values are publicly disclosed for each mineral commodity (including oil, condensate and gas) exported in the year under review. Given the high public interest in export data, PNG may wish to consider disclosing additional information on the mechanisms for tracking mining, oil and gas exports and the methodology for calculating export values.
6. In accordance with Requirement 4.1, PNG should ensure that the materiality threshold for selecting companies ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The MSG should ensure that PNG's next EITI Report includes the IA's assessment of the materiality of omissions from non-reporting entities, an assessment of the comprehensiveness of the EITI Report and that full unilateral government disclosure of total revenues, including from non-material companies, is provided for each of the material revenue streams. In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in comprehensiveness of reporting documented in the initial assessment.
7. In accordance with Requirement 4.5, PNG should undertake a comprehensive assessment of transactions between extractives SOEs (and their subsidiaries) and mining, oil and gas companies, as well as between the extractives SOEs (including their subsidiaries) and government in its scoping for future EITI Reports. All SOEs collecting material revenues or making material payments to government should be included in future EITI reporting.
8. In accordance with Requirement 4.6, PNG should establish whether direct subnational payments (to government entities) by extractives companies are material. Where material, PNG is required to ensure that direct subnational payments are reconciled between company payments and subnational government entities' receipts. Given widespread confusion yet vivid interest among stakeholders from all constituencies over extractives revenue flows accruing to subnational governments, PNG should to consider mapping out subnational revenue flows associated with each individual extractive project, drawing on results from the scoping study on subnational revenue flows being prepared in 2018.
9. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:
 - Ensure that the Independent Administrator provides a clear and categorical assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
 - Ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.

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Commented [LA3]: Work is already in advanced stage to meet this requirement. A scoping study on sub-national payments and transfers was commissioned by PGF through the Australian Government support in late 2017 and a report will be ready before end of this year. The second phase of this project will involve piloting a number of provinces for sub-national payments and transfers and this will be included in the 2018 PNGEITI Report. We feel that PNG should be assessed as having made 'meaningful' progress, taking into account the ongoing work in its efforts to meet this particular requirement

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In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in the reliability of reporting documented in the initial assessment.

10. In accordance with Requirement 5.1, PNG should clarify which extractive revenues are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of revenues should be explained, with links provided to relevant financial reports. PNG is encouraged to publicly clarify the equivalence of revenue classifications in EITI reporting with those used in its national budget (e.g. group tax and corporate income tax) to strengthen citizen oversight of the budgetary process.
11. In accordance with Requirement 5.2, PNG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism such as benefit-sharing agreements. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity on an annual basis. PNG is encouraged to reconcile these transfers.
12. In accordance with Requirement 6.1, PNG should ensure that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. To strengthen implementation, PNG may also wish to consider the feasibility of reconciling mandatory social expenditures.
13. In accordance with Requirement 6.2, PNG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs (and their subsidiaries) that could be considered quasi-fiscal. PNG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.
14. In accordance with Requirement 7.4, the MSG is required to review the outcomes and impact of EITI implementation on natural resource governance in PNG by ensuring that all the prescribed details of the annual progress report are mentioned in the next report. The MSG should ensure that all stakeholders, including those outside of the MSG, are given an opportunity to participate in the production of, and have their view reflected in, the annual progress report.

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Commented [LA4]: Our comments in #8 above also applies to this. PNG is making an effort to meet this requirement through the sub-national study that will be concluded next month and a report with recommendation to pilot reporting for a number of provinces as the next phase of the project. We feel it is unfair for PNG to be assessed as having made 'inadequate' progress. We feel we should be ranked as having made 'meaningful' progress on this requirement

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Commented [LA5]: The MSG had demonstrated through the PNGEITI Report it had published that this requirement is not applicable in the country because there are no known quasi-fiscal expenditures (this may become necessary to report in future, if such information becomes available). Despite this, we have been assessed and need an explanation on this.

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Figure 1 – Initial assessment card

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

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Beyond. 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

The discussions to implement the EITI in PNG started in 2006 through a series of workshops and outreach activities that led to the creation of an EITI state working group in 2011 and an informal Multi-Stakeholder Group (MSG) in 2012. In September 2012 the informal MSG recommended EITI implementation to the National Executive Council. The latter then issued NEC Decision No. 90/2013 formalizing the government's decision to sign up as a candidate country. The then Minister for Treasury, Don Pomb Poly was appointed senior government official to lead the EITI process. In March 2013, the government publicly announced its decision to implement the EITI through a press conference. In November 2013, the Memorandum of Understanding (MoU) on PNG EITI formally established the MSG. Subsequently, the MSG endorsed the PNGEITI Work Plan and submitted an application for candidacy on 11 December 2013. On 19 March 2014 PNG was accepted as an EITI Candidate by the EITI Board at its meeting in Oslo.

Objectives for implementation and overall progress in implementing the work plan

PNG's 2018 work plan clearly lays down the objectives for EITI implementation¹, which include objectives related to national priorities such as strengthening revenue generation and creating an avenue for consultative approaches to extractives public policy debates.

A majority of the activities in the 2017 work plan have been implemented, mostly pertaining to the preparation and publication of the EITI Report. Outreach activities to disseminate the findings of the report have been conducted in subnational units, with the participation of government representatives and civil society. However, aside from hiring a consultant and conducting meetings with companies, there was not much progress in the implementation of the beneficial ownership roadmap, which had been incorporated in the work plan. In terms of activities aimed at implementing the recommendations from the EITI Report, the inclusion of SOEs in the MSG and the removal of tax confidentiality provisions on the PNG Income Tax have been implemented. Work plan activities that were not implemented in 2017 include the hiring of a subnational consultant, drafting of EITI legislation, and engagement with parliament. It is unclear how the monitoring of stakeholder engagement is carried out as specified in the work plan. In terms of capacity building activities, the pace of capacity-building activities conducted by the MSG in 2017 is unclear, apart from its participation in the regional training conducted by the International Secretariat.

All PNG work plans are publicly accessible from the PNG EITI website.²

¹ The objectives of the 2018 work plan include: Ensuring a well-established and fully functional national secretariat office and MSG; Show extractive industries contribution (both direct and indirect) to the economy; Improve public understanding of the management of extractive industries; Strengthen revenue generation and collection that is consistent with government policy setting; Engagement of stakeholders to effectively address issues affecting PNG's extractive industries; Creating an avenue for consultative approach to public policy debates in the extractive sector; Endeavour to fully implement PNG EITI Report recommendations as directed by cabinet; Monitoring and Evaluation.

² See Workplan section of PNGEITI website, accessed [here](#) in April 2018.

History of EITI Reporting

Since the start of implementation, PNG has annually published four EITI Reports covering four fiscal years, namely, 2013-16. The last two reports were published simultaneously on 30 December 2017, ensuring PNG is well ahead of its reporting deadlines. PNG's EITI Reports have always been candid in describing and examining gaps in government systems, providing factual basis for institutional reforms. Among the key findings of the country's EITI Reports are the need to digitize the license register for oil and gas, which is currently underway, the lack of revenue data for subnational units, the lack of clarity on how trust funds are managed, illustration on how very little extractive revenues are recorded in the national budget, and issues on data quality due to absence of timely audits of government financial data. PNG EITI Reports have been instrumental in compiling and disclosing information on state-owned enterprises and its financial relationships with government and their stake in extractive projects in PNG. The MSG has also used their EITI Reports to explain the benefit-sharing agreements under the PNG-LNG project and arrangements for paying landowner compensation. Additional details on the PNG's EITI Reports are provided in Annex C.

Summary of engagement by government, civil society and industry

Permanent members of the MSG were selected on 1 November 2013, following a nationwide selection process and a series of workshops with different constituencies. The current MSG is composed of 30 representatives, with 15 members representing government, eight members representing civil society, and seven members representing industry. Each constituency has seven voting members. Industry is engaged through the PNG Chamber of Mines and Petroleum³. The CSOs are represented by an umbrella organisation, the PNG Resource Governance Coalition⁴. Over the years the number of MSG representatives has changed, although the timing of changes in the composition of the MSG are difficult to discern through available documentation, aside from the inclusion of SOEs as part of government representatives on the MSG decided in 2017, as an outcome of the recommendations from the first EITI Report. The MSG members are due for renewal in 2018. There had been changes to memberships over the years, but mostly with regard to individuals, not to agencies, companies or organisations represented in the MSG. An updated list of MSG members is available in Annex A.

Analysis of meeting attendance based on meeting minutes shows that attendance in the 2014-2018 period has been regular. All meetings have always been quorate. The same representatives attend most of the time, although government representatives have a pool of individuals that rotate depending on their availability. Civil society representatives and major companies, namely [Chevron Oil Search](#) and Exxon, consistently attend. Other companies have attended intermittently. There is no evidence to suggest that the rotation of attendees has affected the MSG's ability to oversee implementation.

Stakeholder engagement in the design, implementation and monitoring of the EITI process has been constantly strong. While the MSG's participation in preparing the work plan and monitoring outcomes through annual progress reports could be improved, there is nothing to suggest that this has adversely

³ Companies represented in the MSG include: Total E&P Ltd, Barrick Niugini Ltd, ExxonMobil PNG Ltd, Harmony Gold Ltd, Newcrest Mining Ltd, Oil Search (PNG) Ltd, PNG Chamber of Mines & Petroleum.

⁴ Organisations represented in the MSG include: Transparency International PNG, Institute of National Affairs, Consultative Implementation and Monitoring Council, Eco-Forestry Forum, Business Against Corruption Alliance, PNG Mining Watch Association Inc., PNG Council of Churches, PNG Resource Governance Coalition.

affected the quality of implementation. Instead, it can be seen that progress of implementation, specifically following up on lesson learned and recommendations, is being discussed regularly during MSG meetings.

Key features of the extractive industry

Papua New Guinea (PNG) is a significant producer of gold, copper, nickel, silver, cobalt and oil and gas⁵, ranking as the world's 13th largest gold producer⁶ and 10th largest LNG exporter⁷ in 2016. With extractives accounting for about 55% of exports and 24% of GDP in 2016, PNG's economy is one of the most reliant on extractives in the Asia Pacific.⁸ The country has traditionally been reliant on mining, with minimal crude oil production starting in 1992, although the start of significant liquefied natural gas (LNG) production and exports from 2014 has radically affected the structure of extractive industry revenues.

PNG had eight producing large-scale industrial mines in 2016⁹, alongside an extensive artisanal and small-scale mining (ASM) sector employing an estimated 80,000 small-scale miners directly as of November 2016 according to the regulator, the Mineral Resources Authority (MRA).¹⁰ Most producing mines are joint ventures between the government and foreign mining companies, alongside some wholly-foreign owned mines (e.g. Lihir) and the Ok Tedi copper mine, state-owned since 2013.¹¹ The country's industrial copper and gold production is concentrated in three large mines (Poregera, Lihir and, whilst declining, Ok Tedi), alongside smaller and developing mines in Simberi, Hidden Valley and Tolukuma.¹² The Toronto-listed Nautilus Minerals and the government have been piloting underwater deep seabed mining in the Bismarck Sea west of central New Ireland in 2017-2018.¹³

Having acquired Chevron Niugini Ltd's operations in 2003, Australia-listed Oil Search operates the five oil-producing fields in PNG¹⁴, having been involved in the country since 1929.¹⁵ While PNG's oil production has contracted by around a third between 2007 and 2014¹⁶, its natural gas production and exports have expanded dramatically since the ramping up of PNG LNG's production in early 2014, ahead of schedule.¹⁷ The project is operated by ExxonMobil (holding a 33.2% stake in the project), alongside joint venture partners Oil Search (29%), state-owned Kumul Petroleum Holdings (KPH, 16.8%), Australia's Santos (13.5%), Japan's JX Nippon Oil and Gas Exploration Corporation (4.7%), and local governments and landowners through the Mineral Resources Development Company (2.8%).¹⁸ With an initial 6.9m tons per annum (tpa) production capacity over two LNG trains, the USD 18.8bn project relies on a network of

Commented [AL6]: There should be a qualification on this statement. There is no mining happening yet. Exploration was done and the company was awarded a Mining Licence by the government of PNG

⁵ US Geological Survey (July 2017), 'The mineral industry of Papua New Guinea 2014', accessed [here](#) in April 2018, p.2.

⁶ World Gold Council (2017), Gold mining map, accessed [here](#) in April 2018.

⁷ International Gas Union (2017), 2017 World LNG Report, accessed [here](#) in April 2018, p.9.

⁸ NRGi (2017) 'Resource Governance Index 2017: Papua New Guinea', accessed [here](#) in April 2018.

⁹ PNG EITI (December 2017), 'PNG 2016 EITI Report', accessed [here](#) in April 2018, pp.65-73.

¹⁰ Ibid, p.73.

¹¹ US Geological Survey (July 2017), 'The mineral industry of Papua New Guinea 2014', accessed [here](#) in April 2018, p.2.

¹² US Geological Survey (February 2015), 'The mineral industry of Papua New Guinea 2012', accessed [here](#) in April 2018, p.2.

¹³ Nautilus Minerals (February 2018), 'Nautilus Completes Successful Trials in PNG', accessed [here](#) in April 2018.

¹⁴ PNG EITI (December 2017), 'PNG 2016 EITI Report', op. cit., p.86.

¹⁵ Wood MacKenzie (January 2018), 'Papua New Guinea upstream summary', accessed [here](#) in April 2018.

¹⁶ Platts (July 2014), 'Papua New Guinea's Kutubu crude gets lighter on production boost from PNG LNG', accessed [here](#) in April 2018.

¹⁷ PNG EITI (December 2017), 'PNG 2016 EITI Report', op. cit., p.85.

¹⁸ Platts (February 2018), 'PNG LNG facility shutdown after earthquake: Oil Search', accessed [here](#) in April 2018.

700km of pipelines connecting it to gas fields spread across the Central, Gulf, Hela, Southern Highlands and Western Provinces. While PNG LNG had committed around 95% of its projected 6.9m tpa capacity to Asian customers¹⁹ in contracts signed in 2009-2010, production reached 20% above planned production (8.3m tpa) by the first quarter of 2017.²⁰ The PNG LNG partners are planning an expansion, drawing on the existing Hides fields and new gas fields in P'nyang and Elk-Antelope.²¹ The Elk-Antelope field in Gulf Province, operated by Total (40.1%) alongside partners InterOil (acquired by ExxonMobil in 2017²²) (36.5%) and Oil Search (22.8%), is the largest, with estimated reserves of 9.9 standard cubic ft (scf) of gas.²³ In February 2018, ExxonMobil and Total announced an agreement to invest an additional USD 13bn to expand PNG LNG's capacity to 16m tpa through three new LNG trains (two from Elk-Antelope and one from P'nyang).²⁴

The extractive industries have been associated with social tensions in PNG.²⁵ There has been a history of protests by customary landowners against activities of mining companies, with a particularly notable example in the Bougainville civil war in the 1990s. The focus of host communities' concerns related to mining has been on the environmental and social impacts of extractives activities.

In the 2017 Resource Governance Index produced by NRGi, PNG received an overall score of 47/100 ("weak") ranking 46th of 89.²⁶ In particular, PNG was ranked as "poor" (40/100) on the enabling environment and weak rankings for value realisation and revenue management (both 50/100). The country's best score is in taxation ("satisfactory" – 60/100), mainly due to the transparency in its production and exports, while its worst is in licensing (39/100) and control of corruption (27/100).

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 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 Standard²⁷. 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

¹⁹ These long-term customers include China's Sinopec with a commitment for 2m tpa, Tokyo Electric Power Company with 1.8m, Japan's Osaka Gas at 1.5m and Taiwan-based Chinese Petroleum Corporation for 1.2m. See Reuters (April 2017), 'ExxonMobil markets mid-term Papua New Guinea LNG supplies', accessed [here](#) in April 2018.

²⁰ Platts (April 2017), 'PNG LNG production surges 20% above nameplate capacity in Jan-Mar: Oil Search', accessed [here](#) in April 2018.

²¹ Platts (April 2018), 'Key gas field for PNG LNG expansion gets huge resource upgrade', accessed [here](#) in April 2018.

²² Hydrocarbons Technology (February 2017), 'ExxonMobil completes InterOil acquisition for \$2.5bn', accessed [here](#) in April 2018.

²³ PNG EITI (December 2017), 'PNG 2016 EITI Report', op. cit., p.92.

²⁴ Reuters (February 2018), 'Papua New Guinea LNG partners set plans for big expansion', accessed [here](#) in April 2018.

²⁵ Lowy Institute (August 2017), 'Internal security in Papua New Guinea: trends and prospects', accessed [here](#) in April 2018, p.1.

²⁶ NRGi (2017) 'Resource Governance Index 2017: Papua New Guinea', accessed [here](#) in April 2018.

²⁷ See also EITI, 'Validation', can be accessed [here](#).

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 PNG 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 3-10 May 2018. All meetings took place in Port Moresby. The International Secretariat 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 International Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders are able to freely express their views and that requests for confidentiality are respected. The list of stakeholders consulted is outlined in Annex C.

3. Reporting on progress against requirements

This report provides the International Secretariat’s 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: Gay Ordenes, Alex Gordy, Olesia Tolochko, Dyveke Rogan and Sam Bartlett. Gay Ordenes and Alex Gordy conducted stakeholder consultation and prepared the draft initial assessment. Olesia Tolochko, Dyveke Rogan and Sam Bartlett provided support and quality assurance.

Commented [LA7]: We thought Dyveke had left the EITI well before the PNG validation took place. Is this statement correct?

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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 PNG first made its public statement to implement the EITI at a press conference on 10 April 2013 where then-Treasury Minister Don Pomb Polye highlighted the benefits of EITI implementation for the stable development of the country's extractives sector.²⁸ This public statement was followed by an announcement by Minister Polye during the EITI Global Conference in Sydney, Australia on 23-24 May 2013 where he stated PNG's intent to submit a candidature application by December 2013. Since then, several senior government officials have made high-level statements of commitment to EITI, including Prime Minister Peter O'Neill and Treasury Minister Patrick Pruaitch on 16 March 2016²⁹, Prime Minister O'Neill at the 14th PNG Mining and Petroleum Investment Conference on 17 January 2017³⁰ and Treasury Minister Charles Abel in his introductions to the 2015 and 2016 EITI Reports (p.x, 2015 EITI Report; p.xi, 2016 EITI Report).

Senior lead: Despite several changes in national champions over the years due to changes in the composition of Cabinet members, the Ministry of Treasury has consistently provided resources both in terms of funding and personnel to ensure the smooth implementation of EITI. The national secretariat is lodged in the Ministry of Treasury led by the National Coordinator, Lucas Aklan, who reports directly to the Minister.

The current senior official leading EITI implementation is Treasury Minister and Deputy Prime Minister Charles Abel, who replaced former Treasury Minister Patrick Pruaitch in August 2017 following the 2017 national elections. The first senior official appointed to lead PNG's EITI implementation was Don Pomb

²⁸ PNG EITI Candidature application, accessed [here](#) in April 2018, p.5.

²⁹ PNG EITI (March 2016), 'Minister's Speech at the Launch of the PNGEITI Country Report 2013', accessed [here](#) in April 2018 and 'Prime Minister's Speech during the PNGEITI 2013 Report Launch', accessed [here](#) in April 2018.

³⁰ PNG EITI (January 2017), 'Speech by Prime Minister Hon. Peter O'Neill CMG MP at the 14th Papua New Guinea Mining and Petroleum Investment Conference', accessed [here](#) in April 2018.

Polye, who was Treasury Minister from September 2011 to March 2014. Minister Pruaitch, who replaced Minister Polye in March 2014, chaired one two MSG meetings on 28 September 2016 and was instrumental in presenting the recommendations from EITI Reports to the National Executive Council. Both Prime Minister Peter O'Neill and former Treasury Minister Patrick Pruaitch attended the EITI Report launch in March 2016.

Active engagement: The government of PNG has actively taken the lead in implementing the EITI through the Ministry of Treasury. The 15 government representatives on the MSG are categorised into seven voting and eight non-voting members. These include representatives from the Department of Treasury, Internal Revenue Commission, Mineral Resources Authority, Department of Petroleum, Department of Finance, Department of National Planning & Monitoring, Department of Mineral Policy and Geohazards Management, Department of Prime Minister & NEC, Office of State Solicitor, Conservation & Environment Protection Authority, Auditor General's Office, Mineral Resources Development Company, Kumul Consolidated Holdings Ltd., Kumul Minerals Holdings Ltd, Kumul Petroleum Holdings Ltd. The latter five are SOEs, considered to be government representatives.

Government attendance at MSG meetings has remained consistent over the years, with the Treasury, Internal Revenue Commission and Mineral Resources Authority represented at all MSG meetings. Representatives from other agencies have attended intermittently. MSG meetings are often chaired by the Deputy Secretary of the Treasury Manu Momo or Assistant Secretary of Treasury, Donald Hehona. Other government attendees have mid-level positions, such as assistant first secretary, senior manager or advisers who rotate on an ad hoc basis. Given the lack of attribution to specific constituencies in MSG meeting minutes, the level of contributions of government members to MSG discussions is unclear from meeting minutes. The minutes show, however, that government has provided clarifications for technical reporting questions.³¹ It also appears that the government, particularly Minister Pruaitch, has actively lobbied for the endorsement of the MSG's recommendations to the NEC. Notably, government MSG representatives have ensured that their respective agencies have followed up on EITI recommendations, as evidenced by the swift engagement of SOEs and the steps taken to consider improvements of the DPE's license register.³²

In terms of government contribution to the work plan, annual progress reports and other documents, while the minutes do not clearly capture the government's participation in these discussions, there is evidence in email exchanges provided by the National Secretariat of government MSG representatives' input to work plans, APRs and other key documents.

However, government disclosure of EITI data has consistently remained a challenge. In all four EITI Reports (covering 2013-16), certain government entities have failed to disclose information on material revenues from companies below the materiality threshold and from companies that did not report. The EITI Reports also consistently show that government does not submit complete information in the reporting templates, omitting some information or submitting unsigned templates as in the case of IRC, DOF and CEPA in the 2016 EITI Report³³ (see *Requirement 4.1*). The number of material government

³¹ Such as the lack of an independent data verification mechanism by MRA, which relies on companies' self-reporting, as well as discussions related to royalty payments for oil and gas.

³² PNG EITI, Minutes of the MSG meeting (29 September 2017), accessed [here](#) in April 2018.

³³ See for example, PNG EITI (December 2017), 'PNG EITI Report for 2016', can be accessed [here](#), p.120.

Commented [LA8]: Minister Pruaitch chaired 2 MSG meetings in 2016 and not one. He chaired a MSG meeting in Rabaul (Kokopo) and in Madang. Need to check meeting minutes for 2016 and correct this statement.

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entities reporting in PNG's EITI Reports has risen from one of eight government entities in 2013 three in 2014 and four in 2015 and 2016.

Government has addressed some legal obstacles to EITI implementation, including by amending the confidentiality provisions in the Tax Code to enable IRC to disclose payments without securing confidentiality waivers from companies. Confidentiality clauses have been waived by companies who participate in the EITI reporting process from the first cycle of EITI reporting. However, some legal barriers remain unaddressed, such as the confidentiality clauses in contracts which hinder the disclosure of contractual provisions requiring mandatory expenditures, as well as confidentiality provisions in the PNG LNG joint venture agreement hindering the disclosure of LNG production data. There is no evidence that government agencies are following up with reporting entities that fail to participate in the reporting process. However, the NEC directive to implement recommendations from EITI Reports has been meant to address inconsistent reporting by material entities.

Government has consistently provided funding for all aspects of EITI implementation, including the salaries of the national secretariat, lodged with the Department of Treasury. There is no documentation reflecting the use of EITI data by government for policy formulations, nor any evidence of government MSG members' outreach within broader government beyond the MSG.

Commented [AL9]: However there has been cases where MPs used EITI data to debate over issues on the floor of the Parliament

Stakeholder views

Stakeholders consulted from all constituencies confirmed that high-level government officials had made repeated public statements of support for EITI and that a senior government lead had consistently been appointed to lead EITI implementation.

Stakeholders consulted from industry and civil society considered that government representation on the MSG could be improved in practice by ensuring that more senior officials with authority to take decisions attend MSG meetings. Government attendance by junior representatives was perceived by some MSG members as an indication of the lack of importance assigned to EITI implementation by government. Nonetheless, there were some stakeholders from all three constituencies who considered that, despite the lack of attendance by senior officials on the MSG that sometimes slowed decision-making, junior government representatives that did attend meetings were usually able to follow-up on action points from MSG meetings with their superiors. Stakeholders confirmed that government actively worked for the amendment of confidentiality provisions of the Tax Code to address barriers to EITI implementation, and for the approval of the NEC directive to institutionalise follow-up on EITI recommendations. Some industry representatives were encouraged by the government's participation in the launch of EITI Reports and by the high-level government statements of support for EITI. However, government attendance at MSG meetings needed to be more consistent according to most stakeholders consulted, many of which called for more concrete action on EITI recommendations. Secretariat staff explained that government MSG representatives tended to send the same proxies to MSG meetings on rotation, which effectively ensured continuity of MSG discussions.

Some civil society stakeholders considered that, while government was not directly blocking EITI implementation, it had not consistently ensured that all relevant information required under the EITI Standard was disclosed. As a result, the public's capacity to make use of EITI data was seen as limited by the government's failure to make all required information available. Among the examples cited were the

government's lack of enactment of a Freedom of Information law and lack of reply to civil society demands that extractives contracts be made public.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress in meeting this requirement. The government has regularly issued high-level statements of support for EITI implementation and senior government officials at the ministerial level have been appointed to oversee implementation. Government commitment has been clearly demonstrated through its provision of financial and human resources for EITI implementation as well as in its active participation in MSG meetings, in the endorsement of the MSG's recommendations to the NEC and in addressing legal barriers to implementation. While stakeholders consulted expressed concerns about the level of seniority in government participation at MSG meetings (*see Requirement 1.4*) and about gaps in government reporting of EITI-required data (*see Requirement 4.1*), these weaknesses do not appear to have hampered effective EITI implementation in practice. Indeed, there is evidence that government attendees at MSG meetings are able to follow up on MSG decisions and that they are sufficiently engaged in the design of the EITI process.

To strengthen implementation, PNG is encouraged to ensure that its participation in all aspects of EITI implementation is at a level of seniority commensurate to the decision-making requirements of each activity.

Industry engagement in the EITI process (#1.2)

Documentation of progress

Active engagement: Companies appear to be fully and actively engaged in the EITI process in general, as reflected in its participation in MSG meetings and some subnational outreach activities³⁴. The major oil companies (Exxon and Oil Search) as well as representatives from the PNG Chamber of Mines and Petroleum consistently attend MSG meetings. Attendance from mining companies, however, appears to be more intermittent, with only two mining companies attending for majority of the meetings. Some oil companies mention EITI in their community relations events as their way of promoting accountability.³⁵ In terms of contributions to the work plan, annual progress report and other documents, the minutes do not clearly capture the industry's participation in these discussions. Nonetheless, email exchanges provided by the National Secretariat indicate that companies have had the opportunity to provide input and approved these documents.

In terms of participation in the EITI reporting process, several companies³⁶ have failed to submit signed reporting templates in previous years. On average, around five companies fail to submit signed reporting templates every year. Submission of tax waivers appears to have been less problematic, with only around one or two companies not submitting waivers annually. There is however evidence of gaps in reporting by some companies, as reflected in omissions in company reporting of certain revenues such as group tax

³⁴ PNG EITI, 'PNGEITI 2016 Annual Progress Report', accessed [here](#) in April 2018, p.7.

³⁵ Ibid, p. 10.

³⁶ Lihir, Hidden Valley, MCC Ramu, Niuminco, Anomaly, Santos Ltd., Tolukuma, Ok Tedi, Barrick, New Guinea Gold, Edie Creek.

and company tax in the 2016 EITI Report for instance. Moreover, there have also been gaps in reporting companies' provision of required quality assurances for their templates, with only 58% of companies complying with the agreed data quality assurance in the 2016 EITI Report.

Enabling environment: Broadly speaking, company participation in the EITI is not restricted by any legislation. However, confidentiality provisions in the Tax Code hindered the government from disclosing company payments prior to each reporting company's signature of the tax confidentiality waiver. This issue had been addressed by revisions in the 2017 General Appropriations Act that waive tax confidentiality clauses for purposes of EITI reporting. Before this provision was enacted, companies were asked to sign Tax Waiver Letters (TWL) explicitly waiving the entities' rights to confidentiality of payments to the IRC for the purposes of EITI reporting (p.118). The 2016 EITI Report shows that only one company did not sign the tax confidentiality waiver (p.119). It appears from the 2016 EITI Report's discussion on reconciliation of group taxes that IRC only disclosed payments for companies that provided tax waivers (p.126). There are likewise confidentiality provisions in the PNG LNG joint venture agreement that prevent companies from disclosing LNG production data. However, there is evidence that the confidentiality provisions on LNG production have not hindered the MSG's ability to disclose aggregate production figures in practice (*see Requirement 3.2*).

Stakeholder views

Representatives consulted from constituencies other than industry expressed general satisfaction with company participation in MSG meetings, noting that representation from companies was usually at a high level. Most MSG members consulted confirmed that companies also regularly provided comments on work plans, annual progress reports, and EITI Reports, although some company representatives lamented that reviewing such lengthy documents could be tedious and could not be given priority given the timeframe provided for review. Nonetheless, one industry MSG member confirmed that the industry MSG members circulated draft EITI documents to their wider constituency to seek inputs. Several stakeholders confirmed that companies also participated in workshops and outreach activities, while including discussions on the EITI in some of companies' own activities. Several industry representatives confirmed plans to conduct an industry forum and discuss the findings of the recent EITI Report with constituent companies.

Regarding company participation in the reporting process, an industry representative noted the proposed Mining Act includes provisions to compel industry to participate in EITI reporting and sanctions for failing to participate. The Chamber of Mines was providing input to revisions to the Mining Act, according to the representative. More broadly, none of the stakeholders consulted considered that there were any legal, regulatory or practical barriers to company participation in EITI implementation. Several government stakeholders expressed satisfaction in highlighting the importance of the recent removal of tax confidentiality provisions of the Tax Code for EITI reporting purposes.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress in meeting this requirement. Despite the active nature of company participation in all aspects of EITI implementation, there have been consistent weaknesses in full company participation in EITI reporting, with a virtually unchanged number of non-reporting companies over the four EITI Reports. There is little evidence of MSG attempts to improve company participation in EITI reporting (*see Requirements 1.4 and*

4.1). Nonetheless, the largest companies in terms of payments to government consistently submit the required data, actively participate in MSG activities, and contribute to discussions of broader issues in the sector. On balance, these factors are sufficient to conclude that all significant aspects of the requirement have been implemented and that the broader objective of the requirement has been fulfilled.

To strengthen implementation, PNG is encouraged to ensure that all companies are fully, actively, and effectively engaged in the EITI process, including full company participation in EITI reporting. The government is also encouraged to ensure that any barriers to EITI implementation, including confidentiality provisions of extractives contracts that hinder disclosure of data required under the EITI Standard, be removed.

Civil society engagement in the EITI process (#1.3)³⁷

Documentation of progress

Expression: There are no legal restraints to freedom of expression in PNG. Freedom of speech is protected under Section 46 of the Constitution of the Independent State of Papua New Guinea, which defines freedom of expression as a) “freedom to hold opinions, to receive ideas and information and to communicate ideas and information, whether to the public generally or to a person or class of persons” and (b) freedom of the press and other mass communications media.” Freedom of assembly and association are likewise guaranteed.³⁸ Nonetheless, Civicus reports of threats and harassment against journalists who expose wrongdoing by government officials although these tend to be in relation to broader issues on governance rather than on issues relating to the extractive sector.³⁹ These incidents escalated during the 2017 national elections. There are no restrictions on online and social media. According to Asian Development Bank’s brief on civil society, the media in PNG is considered one of the freest in South Pacific.⁴⁰

With respect to the EITI, there have been no reports suggesting breaches of the EITI civil society protocol. Minutes of MSG meetings indicate that civil society representatives in the MSG are able to freely express their views whether during MSG meetings or other public events, and have in fact been candid in public, urging government through press releases and conferences to act on EITI recommendations.⁴¹ There is no evidence to suggest that self-censorship exists due to fear of reprisal. Several CSOs have lobbied on behalf of landowners related to issues in the extractive sector. Examples include Pacific Civil Society, a

³⁷ The first Validation under the EITI Standard (Azerbaijan 2016) established a process for the Validation of requirement 1.3. The CSO protocol “operationalises” requirement 1.3. Each part of the CSO protocol speaks to specific parts of Requirement 1.3:

2.1 of the CSO protocol is intended to assess provisions 1.3(d), 1.3(e)(i), 1.3(e)(iv).

2.2 of the CSO protocol is intended to assess provisions 1.3(b) and 1.3(c).

2.3 of the CSO protocol is intended to assess provision 1.3(e)(iii).

2.4 of the CSO protocol is intended to assess provisions 1.3(a) and 1.3(e)(ii).

2.5 of the CSO protocol is intended to assess provision 1.3(d).

³⁸ ‘Constitution of the Independent State of Papua New Guinea’, accessed [here](#) in April 2018.

³⁹ Civicus Monitor (November 2016), ‘Expression in Papua New Guinea’, accessed [here](#) on 12 April 2018.

⁴⁰ ADB, ‘Civil Society Briefs: Papua New Guinea’, accessed [here](#) on 11 April 2018.

⁴¹ See for example: The National (March 2016), ‘State told to put suggestions to effect’, can be accessed [here](#); Radio New Zealand (April 2016), ‘PNG gov’t urged to improve resources management’, can be accessed [here](#); Medium (March 2017), ‘PNG Resource Governance Coalition calls for implementation of EITI recommendations’, can be accessed [here](#).

coalition of CSOs that launched a campaign against (and filed a suit to stop) the Nautilus seabed mining project⁴² and the group of seven CSOs that lobbied in the press for banks to desist from funding the PNG LNG project in 2013.⁴³

Operation: There is no law requiring registration of a non-profit organisation in order to operate. For those wishing to register, registration is governed by the Associations Incorporation Act of 1966⁴⁴. The incorporation of land-owner groups, which comprise the bulk of organised CSOs, is governed by a special law, the Landgroups Incorporation Act 1974. Other related laws governing incorporation, depending on the nature and purpose of the organisation, are the Business Groups Incorporation Act 1974, Cooperative Societies Act 1982, and the Savings and Loan Societies Act 1961. Provisions of the Associations Incorporation Act pertaining to the registration process do not reveal any excessively restrictive or prohibitive requirements that could limit the operations of CSOs in PNG. The Income Tax Act affords income tax exemption to organisations engaged in the promotion of certain specific causes.⁴⁵

The International Secretariat is not aware of any restriction on CSO operations or access to funding in relation to EITI. All CSOs engaged in EITI implementation appear to operate without interference. During the sign-up and initial phases of EITI implementation in PNG, CSO participation was funded by the World Bank through Publish What You Pay International. Funding for outreach activities has been provided by the European Union through the CSO Consultative Implementation and Monitoring Council (CIMC). Current CSO participation in MSG meetings and activities is funded by the PNG government. The Government allocated PNGK770,000 (USD236,000) in December 2014 to the CSO members of the MSG to undertake outreach activities to increase awareness of EITI implementation.⁴⁶

Association: Section 47 of the PNG Constitution guarantees the right of every person to assemble, associate and to join political parties or any form of association. Section 38 of the Constitution provides specific exceptions⁴⁷ to the absolute freedom of association, although these are not linked to EITI-related issues. There is no evidence to suggest that freedom of association has been restricted in practice, especially with regards to organisations dealing with the extractive sector.

Civil society organisations in PNG consist of a combination of secular and church-based groups engaged on a broad range of issues ranging from human rights to health, poverty reduction and education, among others. In general, the sector is relatively small and focuses mainly on the delivery of social services.⁴⁸ Organisations engaged in issues of corruption and good governance, such as Transparency International, Business Against Corruption Alliance, and some faith-based groups have been among the more active and

⁴² Act Now! (May 2014), 'Groups against seabed mining', accessed [here](#) in April 2018.

⁴³ Banktrack (April 2013), 'NGOs warn banks not to further finance PNG LNG project', accessed [here](#) in April 2018. This coalition of seven NGOs includes BankTrack, Jubilee Australia, Pacific Environment, Act Now! PNG, Mineral Policy Institute, International Accountability Project and Friends of the Earth France

⁴⁴ Pacific Islands Legal Information Institute, 'Associations Incorporation Act of 1966', accessed [here](#) on 12 April 2018.

⁴⁵ Religion, science, public education, charity, music, art, literature, sport, and the development of aviation, of agricultural pastoral horticultural manufacturing and of the country's industrial resources.

⁴⁶ PNG EITI, 'PNGEITI 2015 Annual Progress Report', accessed [here](#) in April 2018, p.5.

⁴⁷ Such as on issues related to national defence, public safety, public order, public welfare, public health, the protection of children and persons with disabilities and the development of under-privileged or less advanced groups.

⁴⁸ Civicus Monitor (November 2016), 'Papua New Guinea overview', accessed [here](#) on 12 April 2018.

been considered successful in their constructive engagement with government in recent years, according to the ADB.⁴⁹ Many CSOs in PNG are clan-based or organised as landowner groups that yield significant influence, especially at the subnational level. Church-based groups are also influential in their role in delivering social services in areas where the national government's presence is limited.

Organisations that have been particularly active in natural resource management include those advocating for environmental issues related to mining, logging, forestry and the LNG project. Many of these are supported by international organisations such as Conservation International, Green Peace, Worldwide Fund for Nature, among others.⁵⁰

CSO representatives on the MSG are part of the PNG Resource Governance Coalition (PNGRGC) which counts among its members a broad range of organisations dealing with environmental, local, transparency and corruption issues. Civil society is able to engage with its wider constituency, as reflected in CSOs' discussions during subnational outreach activities and during constituency consultation workshops where CSOs collectively defined the constituency's goals for EITI implementation.⁵¹

CSOs engaged in extractive sector governance are mostly organised around the areas where the extractive project is found, such as the Panguna Landowner Mining Association operating in Bougainville, the site of one of the world's largest copper mines. The PNG Resource Governance Coalition (PNGRGC) was launched in March 2015 with the purpose of coordinating and facilitating the participation of civil society in implementing the EITI.

Engagement: Minutes of MSG and TWG meetings show that civil society is fully, actively and effectively engaged in EITI implementation by providing substantial inputs to the EITI reporting process on issues such as the scope of EITI reports and materiality, and in the approval of work plans, annual progress reports and beneficial ownership roadmap. It also appears that CSO MSG representatives are able to discuss substantive issues in the extractive sector. For instance, they have consistently advocated transparency at the subnational level⁵² in landowner payments, local benefits from the Umbrella Sharing Agreement (UBSA), publication of contracts⁵³, and updates on royalty payments to landowners.⁵⁴ CSOs have also taken the lead in dissemination efforts by participating and organising subnational outreach activities through regional roadshows⁵⁵

There is evidence from MSG meeting minutes and records of other EITI activities that civil society is actively, effectively and fully engaged in all aspects of EITI implementation, albeit with financial and technical capacity constraints. In terms of capacity, civil society has undertaken measures to build its capacity from the sign-up phase up to the present. Trainings and capacity-building visits undertaken by CSOs have included a study tour to the Philippines, participation in regional trainings conducted by the

⁴⁹ ADB, 'Civil Society Briefs: Papua New Guinea', accessed [here](#) on 11 April 2018.

⁵⁰ Ibid.

⁵¹ PNG EITI, 'PNGEITI 2016 Annual Progress Report', accessed [here](#) in April 2018, p.15.

⁵² PNG EITI, Minutes of the MSG meeting (28 September 2016), accessed [here](#) in April 2018.

⁵³ PNG EITI, Minutes of the MSG meeting (23 March 2016), accessed [here](#) in April 2018.

⁵⁴ PNG EITI, Minutes of the MSG meeting (29 September 2017), accessed [here](#) in April 2018.

⁵⁵ PNG EITI, 'PNGEITI 2015 Annual Progress Report', accessed [here](#) in April 2018, p.5.

EITI, and workshops conducted by Publish What You Pay. However, due to funding constraints, it appears that capacity-building activities have been limited since 2016.

Access to public decision-making: Public debate about natural resource governance is robust in PNG. CSOs within and outside of the MSG are able to launch campaigns calling for amendment of laws, closure of mines, and transparency in license allocations.⁵⁶ Analysis of EITI Reports by civil society remains limited, reflecting the need to build civil society's awareness and use of EITI information. There is no evidence to suggest that the limited use of EITI data is due to legal restrictions to freely engage in discussions on natural resource governance. Media engagements by CSOs in the EITI process are usually conducted every time an EITI Report is published typically at the beginning of the year. Public events, especially at the subnational level are conducted by civil society without any legal or practical barriers. Civil society is consulted before finalization of draft legislations such as in the Tax Review concluded in 2015.

The active role of civil society in ensuring government accountability is recognized as one of the key performance indicators in PNG's National Government Strategic Directional Statement (PNG Vision 2050).⁵⁷ The plan states that government will require a regional accreditation policy and framework for engagement with CSOs, and envisages the establishment of a Center for Civil Society.

Stakeholder views

Civil society stakeholders consulted considered that, despite instances where activists (including one MSG member) had been charged with defamation for criticizing government officials, these instances had not reached a level where they had hindered civil society's participation in the EITI or their freedom to express their views on extractives governance. They clarified that instances of defamation charges did not involve issues related to the extractives sector. Yet they lamented that the government's alleged inaction on their demands for more information (such as disclosure of key extractives contractual clauses) had hindered their ability to analyse and evaluate the governance of the extractives sector. In their view, even though the government did not impose barriers, its withholding of information could be considered an omission that in effect restricted full civil society participation in EITI implementation. One civil society representative mentioned that weaknesses in the country's telecommunications infrastructure also affected civil society's ability to reach wider constituencies. While several CSOs expressed wariness at the broad powers under the Cybercrime Bill, which they feared could be used to censor freedom of expression on social media, they did not consider that this bill had yet been used to curb freedom of expression on extractives or public finance management issues.

A civil society representative mentioned that he had been consulted in the preparation of a report on PNG LNG published by the Australian CSO Jubilee Australia, based on EITI data, which was critical of the PNG LNG project's contribution to the economy. Several CSO representatives highlighted a number of other independent CSO studies on which PNG's CSOs had collaborated, although they noted that the recent decrease in donor funding had affected their ability to produce them.

Stakeholders consulted from other constituencies considered that CSO MSG representatives had full freedom to express their views and had in fact been very vocal in expressing views during MSG meetings.

⁵⁶ See for example, Radio New Zealand (November 2016), 'Call for transparency around PNG seabed mining project', accessed [here](#) in April 2018.

⁵⁷ Department of Treasury, 'Papua New Guinea Vision 2050', accessed [here](#) on 12 April 2018.

One company representative considered that all constituencies had sufficient access to decision-making and were able to suggest amendments to laws, although he conceded that the extent to which the MSG was able to influence legislation could be improved.

Secretariat staff highlighted PNG EITI's proactive engagement of the domestic media and highlighted the value of the EITI in providing access to information for journalists. There are no indications that government is influencing the content media coverage of the EITI in PNG.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress in meeting this requirement. There is evidence that there is an enabling environment for civil society participation, reflected both in the legal and regulatory framework as well as actual practice. There are no known restrictions on freedoms of expression, operation, association and engagement of the broader civil society constituency in relation to EITI implementation. There is no evidence of government-imposed restrictions on civil society to impede their registration and operation. Although there are reports of incidences of threats to the media, these appear to be sporadic, unrelated to extractives issues and unrelated to a latent government policy to impinge upon freedom of the press. Overall, there is no evidence to suggest that the government has attempted to restrict or narrow public debate in relation to implementation of the EITI.

In terms of capacity, civil society in PNG has exerted ample efforts to build their capacity, soliciting technical assistance from international partners and other EITI implementing countries. It appears that CSOs are able to speak freely on transparency and natural resource governance issues as well as to ensure that the EITI contributes to public debate. In addition, civil society appears fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process. Stakeholders are taking part in outreach and efforts to promote public debate, especially on regional level.

To strengthen implementation, PNG is encouraged to further provide support for civil society's capacity development, particularly on technical aspects of the EITI Standard and in the use of EITI data, to further strengthen the constituency's effective participation in the design and implementation of the EITI process.

MSG governance and functioning (#1.4)

Documentation of progress

MSG composition and membership: The current MSG was created on 1 November 2013, following a nationwide selection process and a series of workshops with different constituencies. The current MSG is composed of 30 representatives, with 15 members representing government, eight members representing civil society, and seven members representing industry. Each constituency has seven voting members. Industry is engaged through the PNG Chamber of Mines and Petroleum⁵⁸. The CSOs are

⁵⁸ Companies represented in the MSG include: Total E&P Ltd, Barrick Niugini Ltd, ExxonMobil PNG Ltd, Harmony Gold Ltd, Newcrest Mining Ltd, Oil

represented by an umbrella organisation, the PNG Resource Governance Coalition⁵⁹. The original composition at the sign-up phase, as stated in the MSG's ToR, consisted of 21 members, equally split between each constituency and each representative having a maximum of two alternates.⁶⁰ Over the years the number of MSG representatives has changed, although the timing of changes in the composition of the MSG are difficult to discern through available documentation, aside from the inclusion of SOEs as part of government representatives on the MSG decided in 2017, as an outcome of the recommendations from the first EITI Report.

Civil society representation: The selection of the civil society MSG members was conducted through direct voting by the civil society constituency at a national CSO conference, following a series of workshops and consultations. It appears that the invitation to participate in the EITI was open and transparent, as 33 civil society representatives from different organisations approved the selection process and the list of CSOs selected to participate in the vote. In addition, a notice was issued and published by the Department of Treasury calling for the election of MSG representatives. The agreed criteria for selection, as stated in the EITI CSO Declaration dated 7-9 October 2017, pertains to organisations rather than individuals and include, among others, a track record and experience in engaging on extractives issues, capacity to stimulate debates and at least three to five years' operations. There is no reference in the criteria to ethnic diversity, gender balance or regional representation, although the current composition appears to be balanced in terms of these aspects the first set of CSO MSG members consisted of representatives from six groups⁶¹ selected as MSG members for the first reporting cycle, with plans for a subsequent self-selection process after the first EITI Report. However, it appears that CSO representatives eventually decided to extend the term of the same members after the publication of the second EITI Report in 2017 to ensure continuity, while adding representatives from Eco-Forestry and PNG Resource Governance Coalition as additional (non-voting) MSG members.

Industry representation: Industry representatives on the MSG were selected using criteria agreed by companies, which include inter alia full membership in the PNG Chamber of Mines and Petroleum, a proven track record in exhibiting a commitment to transparency, and ability to provide resources to support EITI implementation. Wide consultations were conducted with industry, initially upon the invitation of the Department of Treasury. On 1 November 2013, a notice was issued and widely circulated by the Department of Treasury calling for the election of MSG representatives, thus suggesting that the selection process was open and transparent. This was preceded by a workshop with companies organised by the PNG Chamber of Mines in July 2013. There is no documentation of how industry representatives were elected in practice. The first batch of industry MSG members comprised representatives from three oil companies⁶², from the Chamber of Mining and Petroleum, and from three mining companies⁶³. It appears that the composition has changed with representatives from Morobe Mining Joint Ventures and

Search (PNG) Ltd, PNG Chamber of Mines & Petroleum.

⁵⁹ Organisations represented in the MSG include: Transparency International PNG, Institute of National Affairs, Consultative Implementation and Monitoring Council, Eco-Forestry Forum, Business Against Corruption Alliance, PNG Mining Watch Association Inc., PNG Council of Churches, PNG Resource Governance Coalition.

⁶⁰ PNG EITI, 'PNGEITI MSG Memorandum of Understanding', accessed [here](#) in April 2018.

⁶¹ PNG Council of Churches, Business Against Corruption, PNG Mining Watch, Transparency International, Consultative Information and Monitoring Council, Institute of National Affairs.

⁶² Exxonmobil, Oil Search and Talisman Energy Niugini.

⁶³ Barrick Niugini, Morobe Mining Joint Ventures, Newcrest Mining Ltd.

Talisman Energy being replaced by those from Total E&P Ltd and Harmony Gold Ltd. There is no documentation of how these changes were effected.

Government representation: Government representatives on the MSG were selected from the members of the State Working Group that was constituted to evaluate whether PNG should sign up for EITI⁶⁴. The State Working Group agreed the attribution of MSG seats based on their statutory mandates for oversight of the extractives sector. The Department of Treasury, which had led the process from the start, has continued to chair the MSG to date. The original composition of MSG representatives has changed since the sign-up phase, with the addition of four SOEs⁶⁵ (considered government representatives by the MSG) and four agencies in 2017.⁶⁶ There is no documentation of how these changes were effected.

Terms of reference: The MSG agreed and signed a Memorandum of Understanding (MoU), which provides the MSG's ToR, on 1 November 2013, coinciding with the official appointment of the MSG. The MoU has since been amended on 1 January 2017. The amendments include the reconfiguration of government composition to reflect inclusion of SOEs, flexibility in chairing of meetings to allow other government representatives to chair in the absence of the Treasurer, and the addition of observers and a Code of Conduct.⁶⁷ The MoU is publicly available from the PNG EITI website.⁶⁸

Representation: The number of representatives (Sec.7), role of each constituency (Sec 6), selection process (Sec. 7) and duty to liaise with other members of their constituency (Sec. 5) are all stipulated in the MoU. There are also provisions requiring outreach activities (Sec. 5 and 6) and ensuring the independence of the selection process (Sec. 8). Review of available EITI documents indicates that these provisions of the MoU are followed in practice.

Section 8 of the MoU explains that MSG members shall be appointed for an initial term of three (3) years with the possibility of reappointments consistent with rules set by the PNGEITI MSG, and that the MSG has the right to replace its members anytime. The MoU does not define the procedures for replacement of MSG members however. It also lists the following responsibilities of the MSG: Approve the PNGEITI Annual Work Plans, the appointment of the Independent Administrator (IA), the Terms of Reference (ToR) for the IA and the EITI Annual Reconciliation Reports.

Internal governance and procedures: While the MoU mentions that the MSG's responsibilities include adopting rules and procedures necessary for the PNGEITI MSG's internal governance and operations, there is no evidence that the MSG has yet adopted such rules to date. It should be noted, however, that Item 9 of the MoU contains provisions pertaining to the functioning of the MSG such as rules on quorum, setting of agenda for meetings, advance circulation of notices of meetings and documents, and frequency of meetings. Review of MSG meeting minutes indicates that these rules have been followed in practice

⁶⁴ PNG EITI, 'PNGEITI MSG Memorandum of Understanding', accessed here in April 2018, section 7.

⁶⁵ Kumul Consolidated, Kumul Minerals, Kumul Petroleum and Mineral Resources Development Company.

⁶⁶ Office of State Solicitor, Department of Prime Minister and NEC, CEPA and Office of Auditor General.

⁶⁷ PNG EITI, Minutes of MSG meeting (6 March 2017), accessed [here](#) in April 2018.

⁶⁸ Can be accessed [here](#).

during the 2014-18 period.

The MSG has agreed on a Code of Conduct⁶⁹ which substantially adopts the EITI Code of Conduct.

It should be noted that a Technical Working Group supports the work of the MSG by providing recommendations on the technical aspects of implementation, such as the scope of the EITI Report, and approaches to subnational reporting and beneficial ownership disclosure. It appears that most topics are more thoroughly discussed at the TWG level, which is comprised of MSG members and select stakeholders outside the MSG, with recommendations then elevated to the MSG. The reporting responsibilities and accountability of the TWG to the MSG do not appear to be codified in any document.

Decision-making: Section 10 of the MoU describes the MSG's decision-making process as consensus-based. If consensus is not reached, the MSG agreed a more elaborate decision-making protocol (appended to the MoU) that follows a three-tiered approach to decision-making based on what it calls absolute consensus⁷⁰ and modified consensus⁷¹. Rules for appointment of proxies are also included in the MoU. According to the rules, where a member is unable to be present at a meeting, that member will appoint another person to act as proxy at that meeting, and advise the PNGEITI National Secretariat of the appointment in advance of the meeting. All proxy appointees will be required to sign confidentiality and conflict of interest forms where necessary. A PNGEITI MSG member may appoint any other person that is a member of the PNGEITI MSG as their proxy for a specific meeting. No person may hold more than one proxy vote for PNGEITI MSG members at a time with the exception of the Chair. In exceptional circumstances and at the Chairman's discretion, when no advice on a proxy has been given and a member is absent from a meeting, the chair will be the proxy by default. The MoU states that the MSG Chair may "allocate" the vote, abstain or use the vote as he sees fit. It is unclear what allocating the vote means.

Based on MSG meetings minutes, all MSG decision-making has been on a consensus basis to date.

Record-keeping: The MoU states that meeting discussions shall be kept by the national secretariat (Item No. 9). The national secretariat keeps a record of all documents, the most relevant of which (such as work plans, minutes of MSG and TWG meetings, TORs, annual progress reports, and correspondences to government) are published on the PNG EITI website. The MoU (Item 9) states that minutes of meetings will be circulated to the PNGEITI MSG and will be made publicly available after agreement among the members and signed by the MSG Chair. While the minutes of MSG meetings accessible on the PNG EITI website are up-to-date, the contents of minutes are sometimes general, focusing on the final decisions rather than on the options considered and the rationale for arriving at those decisions.

Capacity of the MSG: The MoU is silent regarding the MSG's responsibility for ensuring capacity-building activities are carried out for the benefit of MSG members. The work plan mentions capacity-building activities for the MSG without identifying specific capacity gaps. Nonetheless, minutes of MSG meetings show that MSG members are capable of engaging in discussions related to the EITI and to wider sectoral

⁶⁹ PNG EITI, 'PNGEITI MSG Members Code of Conduct', accessed [here](#) in April 2018.

⁷⁰ Consists of a two thirds majority of exercised votes (i.e. minus abstentions) and includes a minimum of 2 representatives from each constituency.

⁷¹ A working group will be formed comprising equal representation from each constituency.

issues. There is evidence that the MSG is capable of discussing the technical aspects of the Standard, as reflected in its discussions on the scope of the report⁷², definition of social expenditures⁷³, contract disclosure⁷⁴, and data reliability.⁷⁵ It is evident from MSG meeting minutes that civil society and industry representatives proactively raise issues on extractive sector governance, often asking for clarification on government policies and processes, such as government expenditures, royalty payments⁷⁶ and clan vetting procedures.⁷⁷ Government participation is evident from its contribution to discussions on the application of certain EITI requirements in PNG's context. Public EITI-related events, such as the launch of the first EITI Report, show that all constituencies are capable of explaining the EITI process. There is, however, limited evidence of the MSG's capacity to analyse EITI data, explain the technical findings of the report to a wider audience, and formulate policies to reform government systems beyond the recommendations proposed by the IA in the EITI Report. The MSG's work on thematic issues such as beneficial ownership and SOEs, has tended to rely on external consultants.

Per diems: The MSG has a per diem policy which allows payment of allowances for travel, but not for attendance at MSG meetings. This policy is not mentioned in any document, nor disclosed on the PNG EITI website but was explained during Validation stakeholder consultations.

Attendance: Based on review of MSG meeting minutes, MSG meetings have always been quorate in the 2014-18 period, with all constituencies regularly attending in line with the quorum rules in the PNG EITI MoU, i.e. three members from each constituency. The records show that the same government agencies are regularly represented at MSG meetings, albeit with rotation among individuals attending. There is more consistency in the attendance of representatives from oil companies and civil society. There is no evidence to suggest that the rotation of attendees has affected the MSG's ability to oversee implementation.

National secretariat: The national secretariat was established by the MSG in 2015. Its mandate, according to the MoU, is to provide administrative support to the PNGEITI MSG Chairman and MSG Members, as well as coordination and facilitation support (Sec. 7). Even though the national secretariat is lodged in the Ministry of Treasury, the mandate to provide direction and oversight to the activities of the PNGEITI National Secretariat is given to the entire MSG under the MoU (Sec. 4). The current secretariat is composed of seven staff led by National Coordinator Lucas Alklan, who reports directly to the Minister for Treasury Secretary. Other staff include a communications officer, procurement and finance officer, revenue/technical officer, and several administrative staff. The national secretariat appears to be well-organised and proactive especially in terms of promoting the EITI.

Stakeholder views

Representatives consulted from all constituencies confirmed that their respective constituencies' MSG member selection processes were open and inclusive. Several company representatives mentioned that they had convened a meeting of all extractive companies to select their representatives and that the

⁷² PNG EITI, Minutes of the MSG meeting (27 March 2015), accessed [here](#) in April 2018. See also PNG EITI, Minutes of the MSG meeting (8 August 2016), accessed [here](#) in April 2018.

⁷³ PNG EITI, Minutes of MSG meeting (17 April 2015), accessed [here](#) in April 2018.

⁷⁴ Ibid.

⁷⁵ PNG EITI, Minutes of the MSG meeting (8 August 2016), accessed [here](#) in April 2018.

⁷⁶ PNG EITI, Minutes of the MSG meeting (29 September 2017), accessed [here](#) in April 2018.

⁷⁷ PNG EITI, Minutes of the MSG meeting (23 March 2016), accessed [here](#) in April 2018.

decision was documented in the meeting's minutes. However, the minutes of the relevant industry meetings were not shared during stakeholder consultations. Several civil society representatives explained that they had conducted a wide consultation process in preparation of the selection of their MSG members and that all CSO members had agreed to the selection criteria. While the constituency had sought regional representation in their MSG membership, they recognized the challenges due to logistical considerations linked to the country's vast geography and challenging transport and communications links. The representatives confirmed that the selection process for civil society was conducted through secret balloting after a series of workshops. While a few organisations had been inevitably disappointed and felt left out for not being selected, the representatives considered that they had been able to subsequently resolve this issue and ensure that all participating CSOs felt represented.

Regarding the composition of the MSG, several government representatives explained that their constituency had been represented by the same agencies from the start, but that there had been changes in the individuals holding MSG seats. They confirmed the lack of existing guidelines for selecting individual government representatives within each entity but explained that the MSG seat for a particular agency tended to rotate with changes in functions within each agency. For civil society, several CSO representatives anticipated further changes in their MSG representation in 2018 given that Eco-Forestry had ceased to exist. They intended to conduct consultations on the renewal of CSOs' MSG representation in 2018, albeit subject to the availability of funding. For industry, several representatives explained that the same companies had participated in EITI implementation since 2013 but that replacements of individuals had occurred for MSG seats held by the Chamber of Mines, Newcrest, and ExxonMobil. Given the three-year term limit for all MSG member, industry representatives explained that they would decide on changes to their MSG representation in 2018.

When asked about their ability to adequately participate in the design and implementation of the EITI, representatives from all constituencies considered themselves meaningfully engaged in all aspects of EITI implementation. However, based on their description of the extent of their participation in drafting the work plans and annual progress report, a majority of MSG members consulted explained that the national secretariat usually circulated drafts of documents that were subsequently approved by the MSG with little comment. However, one company representative considered that some documents like the draft annual progress report, work plan and EITI Report were not consistently circulated. On occasions when other documents were shared, the representative did not consider that the MSG had sufficient time for review. Several stakeholders from all constituencies confirmed that decisions on the scope of the EITI Report were discussed during MSG meetings, with each constituency sending comments on the draft EITI Reports circulated by the national secretariat. Almost all MSG members consulted, however, lamented that they are usually given a short time to approve the report, making it impossible for them to do a detailed review. One government representative noted several errors in the report during stakeholder consultations.

Moreover, several representatives from industry and civil society considered that they were not consistently informed of the ways in which their comments had been considered. While most MSG members consulted confirmed that they received notices of meetings, one company representative considered that they did not receive such notices, but rather only asked to submit data for the EITI Report. The national secretariat admitted that advance circulation of documents was sometimes delayed to one week prior to the meeting, in contrast to the MoU's requirement for two-weeks advance notice. Several civil society representatives considered that there had been several instances when their opinion

had been overruled by other MSG members, although they conceded that in such instances they had simply refrained from participating in the MSG's decision rather than seek to block it. Several CSOs expressed their dissatisfaction with the practice of industry representatives chairing MSG meetings while civil society had never been given the opportunity to chair meetings.

Several MSG members and secretariat staff confirmed that observers were allowed to speak during MSG meetings, but not allowed to participate in decision-making. They confirmed that non-voting observers also received notices and documents like other MSG members.

Regarding the MSG's capacity to perform their duties, civil society representatives consulted recognized that there were still technical capacity constraints for some CSO MSG members, given limited awareness of budgeting, taxation and other financial issues. On the other hand, several company representatives considered that their ability to take positions or express opinions was limited by the fact that they could not take an official stand until they consulted with all companies they represented, which could be time-consuming. Government representatives consulted did not express any concern about their capacity to participate in the EITI. In general, all MSG members consulted expressed trust in each constituency's ability to contribute to technical discussions, although representatives from both companies and civil society called for more senior government officials to attend MSG meetings. Several civil society stakeholders lamented that funding constraints over the past two years had limited their ability to conduct activities since government only funded CSO activities organised by the national secretariat.

Stakeholders from all constituencies confirmed that the PNG EITI per diem policy was not embodied in any publicly-available documents and had not been formally discussed by the MSG. However, the national secretariat confirmed that PNG EITI followed the government's general per diem policies in terms of the level of allowances (PGK 200 per day) for MSG members participating in EITI activities outside Port Moresby. For international travel, they explained that PNG EITI followed rates specified in the Public Sector General Order., with per diems provided in addition to expenses for travel and accommodation. However, secretariat staff confirmed that PNG EITI had not started paying any per diems to date. None of the stakeholders consulted considered that the PNG EITI per diem policy created any conflicts of interest. Secretariat staff confirmed that per diems had not been paid to date.

Although several civil society MSG members considered that they had been overruled a number of times in MSG decisions, they conceded that they had never sought unsuccessfully to block decisions and there was a general opinion among all stakeholders consulted that MSG decisions had always been taken by consensus. All stakeholders consulted agreed that the MoU was generally followed except for inevitable delays in the circulation of documents due to time constraints.

Finally, MSG members consulted from all constituency confirmed that they regularly liaise with their constituency groups. Government representatives explained that they oversaw implementation of EITI recommendations across government agencies. Civil society representatives explained that they regularly convened meetings with the wider CSO constituency to discuss EITI implementation. Company representatives explained that they consistently ensured that EITI documents were circulated to all members of the PNG Chamber of Mining and Petroleum to seek input, while the Chamber also conducted regular meetings to discuss the findings of the EITI Report.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress towards meeting this requirement. All constituencies of the MSG regularly attend MSG meetings and actively participate in the design and implementation of the EITI. They engage in substantive conversations about the issues in the sector, as reflected in the minutes of MSG meetings. It also appears that the decision-making processes as set out in the MoU are followed, and that there is adequate representation of each constituency in the MSG. There is evidence that the MSG approves all important documents required by the Standard and by its MoU. Despite the limited evidence of their actual contribution to the discussions of these documents beyond merely approving them, it does not appear that this factor has adversely affected the quality of implementation. While the criteria for selecting MSG representatives, specifically for companies, has not been published, it was shown that the selection process of all constituencies was open and transparent, with clear criteria for selection. It is also unclear how and when changes to the current composition of the MSG have been effected, but this appears to be a minor gap considering that changes were generally as to individuals rather than organisations or agencies. The MoU contains essential provisions pursuant to Section 1.4 such as the responsibilities and rights of the MSG, approval of work plans, EITI reports and APRs, and internal governance procedures. While there appears to be deviation from the terms of the MoU that has raised concerns from some constituencies regarding the circulation and approval of documents, this appears to be an isolated incident, as majority of the stakeholders who are actively engaged in the process confirmed that documents are widely circulated on time. The lack of a per diems policy is mitigated by the fact that government rules are understood by MSG representatives to be applicable, and that **no such per diems have been paid so far**. MSG has not discussed nor published a per diems policy.

To strengthen implementation and internal governance, PNG is encouraged to:

- Ensure that all MSG members meaningfully participate in the approval of the work plan, EITI Reports and annual progress reports, in accordance with Requirement 1.4.b.iv
- Review their MoU and agree on clear rules for circulation of notices and documents to reflect actual practices and realities in accordance with Requirement 1.4.b
- Publish a per diem policy pursuant to Requirement 1.4.b.vi
- Agree and publish a clear procedure for selecting and changing MSG representatives for each constituency pursuant to Requirement 1.4.b.vi

Work plan (#1.5)

Documentation of progress

Considering that the Validation is being conducted in April, it is relatively soon to assess the country's progress in the implementation of the 2018 work plan. Therefore, insofar as actual implementation is concerned, this assessment is based both on the 2017 and 2018 work plans, which are similar in content aside for the budget and a few activities.⁷⁸ The 2018 work plan also added an additional objective, i.e. implementation of report recommendations that include activities such as monitoring of progress by the

⁷⁸ Hiring of a beneficial ownership consultant which is no longer in the 2018 work plan, hiring of additional staff in 2018 to assist in preparations for Validation, and forum with members of parliament which is no longer included in the 2018 work plan.

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secretariat and regular consultation meetings with relevant agencies. The PNGEITI MSG renews its work plan every year, with only slight modifications of activities. The minutes of the MSG's 21 October 2016 meeting reflects the TWG's initial drafting and the MSG's approval of the 2017 work plan.

Publicly accessible workplan: PNG's EITI work plans are available on the PNG EITI website.⁷⁹

Objective for implementation: The objectives for EITI implementation are clearly described in both the 2017 and 2018 work plans.⁸⁰ While two objectives pertain to EITI implementation, the rest relate to addressing issues in extractive sector governance. An impressive feature of the work plan is its clear explanation of the rationale for each objective and their relation to broader extractives governance challenges. For instance, the second objective of showing the extractive industries' contribution to the economy is meant to address issues on the quality and comprehensiveness of government data, as well as legislative restrictions on information disclosure. Other governance-related challenges linked to this objective are explained, including the absence of disaggregated data at different levels of government and lack of data to inform policies on proper fiscal regime, tax holidays and tax incentives. The expected outcomes of each objective are also explained, ranging from increased transparency and public understanding of the extractive sector to more specific outputs like policy recommendations. While it appears that the work plan objectives were well-considered and related to broader governance issues, the discussions on the objectives were not adequately documented in the MSG and TWG minutes. The level of constituency consultations on the work plan objectives, both on and off the MSG, are thus unclear based on publicly-available documentation.

Measurable and time-bound activities: The work plan contains measurable and time-bound activities with schedules aligned with Validation and reporting cycles. The timetable for activities appears realistic, albeit sometimes too general (e.g. ongoing or January onwards) to ascertain the actual period of implementation for each activity.

Activities aimed at addressing any capacity constraints: The work plan includes plans to address the MSG and national secretariat's capacity constraints in implementing the EITI Standard, although full details of specific capacity constraints were not provided in the work plan. The only training focused on a specific topic consists of training for reporting entities (government and industry).

Activities related to the scope of EITI reporting: The work plan outlines the activities to be undertaken by the MSG to address the technical aspects of the EITI Standard, such as agreeing on the scope of the report, materiality, level of disaggregation and reporting templates.

Activities aimed at addressing any legal or regulatory obstacles identified: To address legal obstacles to implementation, the work plan lists activities such as hiring a policy consultant to draft recommendations and laws to remove legal barriers.

Recommendations from Validation and EITI reporting: One of the objectives cited in the 2018 work plan is to fully implement the recommendations from EITI Reports. The activities related to this objective are

⁷⁹ Can be accessed [here](#).

⁸⁰ See Introduction for list of objectives.

listed, including engaging with relevant agencies and closely monitoring the progress on each recommendation. In practice, as reflected in MSG meeting minutes, the MSG invites these agencies to participate in MSG meetings to provide updates on the implementation of recommendations and highlight barriers that need to be overcome.

Costings and funding sources: The 2018 work plan is fully costed, with full implementation costs estimated at PKG 5,039,300 (USD 1,549,181). Of this amount, PKG 2.7 million (USD 830,034) is funded by government while PKG 2.3 million (USD 707,066) is funded by donors including the World Bank, JICA and the Australian government. The budget and source of funding are indicated for each activity.

Stakeholder views

All MSG members consulted confirmed that they approved new work plans annually. It appears from stakeholder consultations that the process for each annual work plan was for the national secretariat to draft the work plan including the objectives and then circulate it to the MSG for approval. Several civil society representatives explained that they suggested some additions to outreach activities in the 2018 work plan. Several company representatives explained that they had suggested the addition of monitoring and evaluation to the 2018 work plan.

With regard to actual implementation of activities under the 2017 work plan, secretariat staff explained that some activities such as capacity building and outreach had been rolled over into the 2018 work plan given that they were still ongoing at the end of 2017. They noted that some activities had not been initiated in 2017 due to lack of funding, such as the study on subnational payments that was ongoing at the time of Validation.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress towards meeting this requirement. The 2017 and 2018 work plans contain objectives aligned with national priorities, have measurable and time-bound activities, provide for plans to address capacity constraints, legal obstacles, and scope of EITI reporting, as well as plans for follow-up on past EITI recommendations. The work plans are fully costed, with indications of the sources of funding. The work plan could elaborate more on the activities intended to address specific capacity constraints and more specifically define the timeframe for certain activities. However, considering that some details on addressing capacity constraints and the timing of activities are nonetheless provided in the work plans, it can be concluded that all aspects of the requirement have been implemented and that the broader objective of the requirement has been fulfilled.

To strengthen implementation, PNG may wish to improve the level of consultation with the three broader constituencies in developing the work plan to improve linkages to other ongoing government reforms. The MSG may also wish to specify capacity gaps, to guide the planning of capacity-building activities, and include more specific timeframes for all activities in future annual work plans.

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)	Government provides support and resources to the EITI process, actively participates in MSG meetings, and acts on the MSG's recommendations. The absence of senior government representatives in the MSG does not appear to hamper EITI implementation. Instead, there is enough evidence to show that government representatives are able to follow-up on decisions made by the MSG and that they are sufficiently engaged in the design of the EITI process.	Satisfactory progress
Company engagement (#1.2)	There is no evidence of MSG attempts to improve the level of company participation in EITI reporting, with the same number of companies failing to submit signed reporting templates and tax waivers through the years. Submission of production data is likewise an issue due to confidentiality clauses under the PNG LNG project. Nonetheless, the largest companies actively participate in MSG activities, and contribute to discussions of broader issues in the sector.	Satisfactory Progress
Civil society engagement (#1.3)	There is an enabling environment for civil society participation and no known restrictions on the right to express, operate, associate and engage wider constituencies. Neither does government impose unreasonable restrictions on civil society to impede their registration and operation. Overall, there is no evidence to suggest that the government has attempted to restrict or narrow public debate in relation to implementation of the EITI.	Satisfactory progress
MSG governance and functioning (#1.4)	All constituencies regularly attend MSG meetings and actively participate in the design and implementation of the EITI, and engage in substantive conversations about the issues in	Satisfactory progress

	the sector. However, there are some deviations from the MoU which has raised concerns about the ability of some stakeholders to participate in the EITI process. While there is adequate representation of each constituency in the MSG, the selection process needs to be clarified and published. The MSG should agree and publish a per diem policy.	
Work plan (#1.5)	The 2017 and 2018 work plans contain objectives aligned with national issues, have measurable and time-bound activities, provides for plans to address capacity constraints, legal obstacles, and scope of EITI reporting, as well as plans for implementing recommendations. It is fully costed with indication of the sources of funding.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. To strengthen implementation, PNG is encouraged to ensure that its participation in all aspects of EITI implementation is at a level of seniority commensurate to the decision-making requirements of each activity. 2. PNG is encouraged to ensure that all companies are fully, actively, and effectively engaged in the EITI process, including full company participation in EITI reporting. The government is also encouraged to ensure that any barriers to EITI implementation, including confidentiality provisions of extractives contracts that hinder disclosure of data required under the EITI Standard, be removed. 3. PNG is encouraged to further provide support for civil society's capacity development, particularly on technical aspects of the EITI Standard and in the use of EITI data, to further strengthen the constituency's effective participation in the design and implementation of the EITI process. 4. To strengthen implementation and internal governance, PNG is encouraged to: <ul style="list-style-type: none"> • Ensure that all MSG members meaningfully participate in the approval of the work plan, EITI Reports and annual progress reports, in accordance with Requirement 1.4.b.iv • Review their MoU and agree on clear rules for circulation of notices and documents to reflect actual practices and realities in accordance with Requirement 1.4.b • Publish a per diem policy pursuant to Requirement 1.4.b.vi • Agree and publish a clear procedure for selecting and changing MSG representatives for each constituency pursuant to Requirement 1.4.b.vi. 5. PNG may wish to improve the level of consultation with the three broader constituencies in developing the work plan to improve linkages to other ongoing government reforms. The MSG may also wish to specify capacity gaps, to guide the planning of capacity-building activities, and include more specific timeframes for all activities in future annual work plans. 		

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 2016 EITI Report (pp.34-41) provides a comprehensive discussion of the laws applicable to the mining, oil and gas sectors, as well as the roles of agencies in regulating these sectors. The applicable laws for mining are the Mining Act of 1992 (MA), Mining Safety Act of 1977, and Environment Act of 2000. For oil and gas, the relevant laws include the Oil and Gas Act of 1998 (OGA and the Oil and Gas Regulation of 2002. A special law, the Unconventional Hydrocarbons Act of 2015 was recently enacted. There is nothing to suggest that pertinent laws have been omitted from the report.

As for laws pertaining to the fiscal regime of the extractive sector, the 2016 EITI Report (p. 35-45) cites the Income Tax Act 1959 (ITA), The Goods and Services Act of 2003, Oil and Gas Act and the Resource Contracts Fiscal Stabilisation Act of 2000. There is nothing to suggest that other relevant laws were excluded from the discussion.

Government agencies' roles: The 2016 EITI Report (pp. 37-39) explains that the key government agencies responsible for regulating the extractive sector are the Mineral Resources Authority (MRA) and the Department of Petroleum and Energy (DPE). For tax collection purposes, the relevant ministry is the Ministry of Treasury and Finance under which the Internal Revenue Commission (IRC) and the PNG Customs are attached. When necessary, the Mining Advisory Council and the National Executive Council exercise high-level oversight and policy-making functions over the extractive sector There is nothing to suggest that relevant government agencies were excluded in the discussion.

Fiscal regime: The 2016 EITI Report comprehensively lists the revenues that pertain to the extractives sector in PNG which include the following for mining: production levy payable to MRA, royalties payable to the central and local governments but reported to MRA, and the mine closure bond payable to the Conservation and Environment Protection Agency (CEPA) (p.4) For petroleum, the applicable revenue streams are the development levy collected by DPE, reported to Treasury and payable to local governments, license fees payable to DPE, decommissioning bond payable to CEPA, additional profits tax payable to IRC, equity distribution payable to MRDC, share of sales payable to SOEs, and royalties payable to DPE and lodged in specific trust accounts (Id). The revenue streams common to mining and petroleum

Commented [AL12]: Not true. Paid directly to beneficiaries i.e. Land Owners

that are collected by IRC are group tax, corporate income tax, business payment tax, dividend withholding tax, infrastructure tax credits, interest withholding tax, management fee withholding tax, royalty withholding tax and foreign company withholding tax and goods and services tax (Id). The PNG customs service also collects goods and services tax. The other applicable revenue streams for mining and petroleum are dividends collected by the Ministry of Treasury, environment permit fees collected by CEPA, and mandatory and voluntary social expenditures paid directly to intended recipients (Id). Extractive companies may avail of Infrastructure tax credits (ITCs) (p.37).

Degree of fiscal devolution: The Report explains which payments are collected at the national and provincial level (p.37). This is also indicated in the explanation of subnational payments.

Reforms: The 2016 EITI Report (pp. 40-41) describes the ongoing comprehensive tax reform in PNG that commenced in 2013 and aims primarily to ensure that PNG's tax administration and collection system encourage investment. The comprehensive reform includes a review of tax and non-tax revenues to ensure that the rates are fair and competitive.

The Tax Review Committee reviewed PNG's mining and petroleum fiscal regime which resulted in seven recommendations related to the extractives industry, such as reducing levels of State equity participation in extractive operations, extending the additional profits tax to the mining and petroleum sector, and changing the terms and availability of fiscal stability agreements. A number of recommendations that were not specific but affect the extractives sector relate to the introduction of a capital gains tax regime and a tightening up of tax concessions.

Stakeholder views

None of the stakeholders expressed any concern regarding the comprehensiveness of the discussion of legal and fiscal regime in the 2016 EITI Report. There appear to have been efforts to revise the 1992 Mining Law in 2017⁸¹, which have elicited opposition from the PNG Chamber of Mines and Petroleum⁸², although several stakeholders considered that these planned reforms would be covered in subsequent EITI Reports. Several stakeholders also mentioned the reduction in the company tax rate on petroleum projects from 50% or 45% to a harmonised 30% in the 2017 budget. While there was a partial off-setting increase in Dividend With-holding Tax, an April 2018 report by the CSO Jubilee Australia noted that the harmonisation of the tax rate at 30% in 2017 still led to a significant reduction in effective tax rates on oil resource companies (especially Oil Search).⁸³

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress in meeting this requirement. The 2016 EITI Report contains sufficient information on the governing laws in the extractives sector, the roles of the regulatory agencies, and provides an overview of the applicable fiscal regime, including the level of fiscal devolution. The report also covers recent policy reforms. It can be

⁸¹ See for example, Oxford Business Group 'Legal amendments to facilitate mining in PNG', can be accessed [here](#), and Legal changes on the horizon for Papua New Guinea's mining sector', can be accessed [here](#).

⁸² PNG Industry News (February 2018), 'Grave concern over PNG's mine law changes', accessed [here](#) in April 2018.

⁸³ Jubilee Australia Research Centre (April 2018), 'Double or Nothing: The Broken Economic Promises of PNG LNG', accessed [here](#) in May 2018, p.32.

concluded that that all aspects of the requirement have been implemented and that the broader objective of the requirement has been fulfilled.

License allocations (#2.2)

Documentation of progress

Awards/transfers: For mining, the 2016 EITI Report provides a list of 13 exploration licenses (EL), one mining lease (ML) and 31 alluvial mining leases (AML) issued in 2016 (pp.81-82). The report also details the transfer of one exploration license and the transfer of interest in a second exploration license (p.82). Finally, a list of ELs and AMLs renewed in 2016 is provided in Appendix C (pp.161-162).

For oil and gas, the report states that six Petroleum Prospecting Licences (PPL) were awarded in 2016 (p.98). While Table 27 states that eight PPLs and two Petroleum Retention Licences (PRL) were transferred in 2016 (p.98), Appendix F provides a list of eight PPLs and three PRL transferred during the year under review (pp.170-171).

Award/transfer procedure: For mining, the report provides a description of the process for awarding mining tenements, including Exploration Licence, Special Mining Lease, Mining Lease, Alluvial Mining Lease, Lease for Mining Purpose and Mining Easement, in line with the Mining Act.⁸⁴ The report refers to the MRA website's⁸⁵ description of the application process for different types of tenements, including a step-by-step process flow chart, fees and minimum expenditures for each type of license (pp.38-39,80-82). The report clarifies that tenements are not awarded through a bidding process (p.80). The process for securing environmental approval from the PNG Conservation and Environment Protection Authority (CEPA), a requirement for all tenement awards, is described (pp.80-81). The report also details the process for determining the benefits package through a development forum conducted by representatives from the national and regional government, landholders and the mining company, a prerequisite for mining lease awards. The result of this process is either a memorandum of agreement ~~negotiated-facilitated~~ by the MRA Development Coordination Division and drafted by the State Solicitor, or a separate Mining Development Contract, which is negotiated by the State rather than the MRA and approved by NEC (p.81).

Commented [AL13]: Negotiated by the Parties, i.e. Company, LO and the State

In terms of transfers of mining tenements, the report describes the process⁸⁶ for transferring tenements in line with the Mining Act (p.81).

⁸⁴ The report explains that pursuant to the Mining Act, mining tenement applications are administered and assessed by the Tenement Administration Branch of the MRA's Regulatory Operations Division. Large-scale operations are covered by Special Mining Leases that are issued by the Head of State, acting on advice from the NEC. All other tenements are issued by the Minister for Mining upon recommendation of the Mining Advisory Council.

⁸⁵ See Mineral Resources Authority website, Licenses section, accessed [here](#) in March 2018.

⁸⁶ The EITI Report states that the process requires a written application for approval of the transfer to be sent to the Registrar, who then submits the application to the Board for its consideration. The Minister of Mining then approves or refuses the transfer based on the recommendation of the Board. In practice, ultimate ownership of tenements can be transferred through a change in the ownership of the company, or companies, holding the tenement without regulatory approval.

For oil and gas, the report provides an overview of the process⁸⁷ for awarding exploration and production licenses (pp.96-97). The report further notes that the exploration and production licensing for unconventional hydrocarbons is governed by Division III of the Unconventional Hydrocarbons Act (p.97). Similar to the requirements for mining tenement awards, the report describes the requirements for a social mapping, clan vetting and development forum as well as environmental approval from CEPA prior to awarding a petroleum license (p.97).

In terms of the process for transferring oil and gas licenses, the report explains that the procedure for production license transfers is outlined in the Oil and Gas Act, although it explains that while transfers are registered by DPE, no criteria are applied given that transfers are considered commercial transactions. The report also notes that exploration licences cannot be transferred for a period of two years from being granted (p.98).

Technical and financial criteria: For mining, the report states that technical and financial criteria for mining tenement awards are set out in Part V of the Mining Act, although its summary of the process refers only to the need to provide “statements and evidence of financial and technical capacities” without defining these (p.80). For transfers, the report states that the Minister’s approval is premised on a recommendation from the ~~MRA Board~~ Mining Advisory Council (MAC) (p.81), although it is unclear whether any technical and financial criteria are assessed in the process.

For oil and gas, the report states that technical and financial criteria for awards of PPLs are set out in the Petroleum Policy Handbook (p.96). Technical criteria are described as including “prior experience in PNG and descriptions of similar exploration programmes carried out elsewhere, as well as the resumes of key individuals to be involved in the proposed programme” (p.96). Financial criteria are detailed as including “the most recent financial statements and where appropriate outlines of similar ventures undertaken” (p.97). For production license awards, the report describes the documents⁸⁸ required from applicants (p.97), although these consist of technical and financial proposals rather than criteria assessed during this process. The report explains that applications are assessed by the DPE’s registrar for completeness, while the geoscience staff assesses compliance with technical criteria and the economics staff evaluates compliance with financial criteria (p.97). It is unclear from the report whether the criteria assessed by DPE staff in applications for production licenses are the same as for prospecting licenses. The report confirms that no criteria are set for oil and gas license transfers (p.98).

License awardee information: For mining, the full list of tenements awarded in 2016, sourced from MRA, is provided in Table 21 (p.82), indicating the names of tenement-holders. The report also provides the names of previous and new license-holders for the two mining exploration licenses transferred in 2016 (p.82).

For oil and gas, the report provides the number of PPLs awarded in 2016 (p.98), although it does not

⁸⁷ The process for DPE’s allocation of oil and gas exploration and production licenses consist of the following steps: 1. receipt of application; 2. publication of the application in the national gazette; 3. Evaluation of the Petroleum Advisory Board (PAB) and recommendation to the minister; 4. Evaluation by the minister considering the report from PAB; 5. Offers to grant application or refusal to grant application; 6. Award of license for an initial six-year term; 7. Acceptance of the offer; and 8. Offer by the minister to grant the license with draft license conditions including annual rental and security.

⁸⁸ including a detailed proposal for the construction, establishment and operation of all facilities and services for and incidental to the recovery, processing, storage and transportation of petroleum from the license area.

provide the names of license-holders or license numbers. Although Appendix E provides a list of active oil and gas licenses (pp.168-169), the lack of dates of award makes it impossible to reconstitute the names of companies receiving the six PPLs in 2016. The list of PPLs and PRLs transferred in 2016 provided in Appendix F includes the names of previous and new license-holders (pp.170-171).

Non-trivial deviations: For mining, the EITI Report states that MRA shared the submission forms and assessment processes for tenement applications with the IA, indicating that clear, detailed and consistent criteria were applied (p.80). The report also quotes MRA's confirmation that all mining tenements awarded in 2016 were assessed based on the criteria prescribed by the Mining Act (p.81). The report does not comment on any non-trivial deviations in mining tenement transfers in 2016.

For oil and gas, the report quotes DPE's confirmation that there were no non-trivial deviations from the regulatory regime in 2016 (p.97). However, the report also notes that DPE's compliance review of oil and gas licenses found that 50% of active licenses did not comply with the Oil and Gas Act (p.95), although it is unclear whether these instances of non-compliance relate to the manner in which they were awarded, non-compliance with work programme obligations, or other aspects.

Comprehensiveness: The report provides information on mining tenements and oil and gas licenses awarded and transferred in 2016, but not on awards and transfers in preceding or subsequent years.

Bidding process: The report clarifies that mining tenements are not awarded through a bidding process (p.80) and that there were no oil and gas licenses awarded through a competitive bidding in 2016 (p.97).

Commentary on efficiency: The report does not include any commentary from the IA on the efficiency of the licensing process, although it refers to conclusions of the 2015 PNG Taxation Review that evaluated the awarding of mineral exploration licenses as part of its review of mining and petroleum taxation. The 2015 Review made no recommendations for mining tenements, stating that "the Chamber of Mines and Petroleum supports maintaining the current system of awarding exploration licenses. It argues that it has worked well for the country and should not be changed" (p.80).

Stakeholder views

Awards/transfers: With regards to mining tenement awards, a senior government official stated categorically that the list of awards provided in Table 21 of the 2016 EITI Report was not a comprehensive list of all awards in 2016. The official noted that while the MRA had provided a comprehensive list of awards to the IA, this had not been included in the 2016 EITI Report. Mining company representatives consulted did not express any views on the comprehensiveness of awards listed in the report. While several CSOs expressed confidence in MRA data, they noted that they would not be able to ascertain whether the list of awards in the report was comprehensive. The MRA website provides an overview of mining tenement awards for the first quarter of 2016⁸⁹, which lists three mining exploration license awards⁹⁰ that do not feature in the 2016 EITI Report.

⁸⁹ Mineral Resources Authority website, EL 2016-2018 page, accessed [here](#) in May 2018.

⁹⁰ The three licenses listed on the MRA website (EL 2396 to Cheroh Mining PNG Ltd; EL 2405 to Kavra Maah Ltd; and EL 2413 to Rio Tinto Exploration (PNG) Ltd) were awarded on the same day, 9 March 2016.

In terms of oil and gas license awards, stakeholders consulted did not express any particular views on the comprehensiveness of information on oil and gas license awards and transfers in the 2016 EITI Report. A government official only noted that there were often delays in updating the DPE's paper ledger with new oil and gas license awards, which might have affected the comprehensiveness of information on license awards in the 2016 EITI Report. There is evidence online of the award of two PPLs⁹¹ to Rawson Resources Ltd in 2016, although it is unclear from the 2016 EITI Report whether these were included in the six PPLs listed as awarded in the report. There is also evidence on the Santos corporate website that a 20% interest in PPL 402 was farmed out from ExxonMobil and Oil Search to Santos in November 2016⁹², although this is not listed in the 2016 EITI Report's Appendix F.

Technical and financial criteria: With regards to mining tenements, company representatives confirmed that the process was first-come-first-served. A senior government official explained that while the MRA used an internal checklist to evaluate applications for mining tenements, this was not a public document given that it did not represent a formal MRA regulation. The official confirmed that the checklist had been provided to the IA, but explained that the specific criteria in the checklist were only available to prospective applicant companies upon request from the MRA. While the practice was not to disclose the specific technical and financial criteria, the official explained that it could not be considered official government policy not to disclose them. Several company representatives confirmed that while technical and financial criteria existed, companies did not know the specific criteria upon which their applications were evaluated. A senior official explained that applications were never outright rejected, but that companies were rather given the chance to submit missing information in cases where they did not meet the criteria. The official also noted that companies tended to be familiar with the requirements if they had experience operating in PNG.

In terms of oil and gas licenses, all stakeholders consulted confirmed that no bidding round was conducted in 2016 (or indeed since 2006). A government official confirmed that the technical and financial criteria for license allocations were not defined in the Oil and Gas Act, but rather in internal guidelines of the DPE that were not public. However, the official explained that the criteria were available upon request from the DPE. A company representative confirmed that the criteria were defined in the Petroleum Licensing Handbook, but expressed uncertainty over whether this document was public. A government official explained that the DPE examined an applicant's financial statements, assets and estimated project expenditures as part of assessing its financial capacity. For technical capacities, the DPE looked at the applicant's prior experience to assess its capacity to execute the proposed work programme. The official confirmed that there were no technical or financial criteria assessed for oil and gas license transfers. The Minister of Petroleum is also statutorily enabled to reserve oil and gas licenses at its discretion, according to the official.

Non-trivial deviations: Most stakeholders consulted considered that there were no significant non-trivial deviations in the award and transfer of mining tenements. Mining company representatives consulted did

⁹¹ Rawson Resources Ltd was awarded PPL 391 and PPL 549 in 2016. See Rigzone (June 2016), 'Papua New Guinea Awards Petroleum Prospecting License 549 to Rawson', accessed [here](#) in May 2018; and Oil & Gas Journal (June 2016), 'Rawson Resources picks up licenses onshore Papua New Guinea', accessed [here](#) in May 2018.

⁹² Santos (November 2016), 'Santos farms-in to PNG exploration licence', accessed [here](#) in May 2018.

not express any concerns over non-trivial deviations from statutory procedures, although several company representatives noted that there were sometimes delays in processing applications. Most CSOs consulted expressed confidence in the MRA's licensing procedures, citing findings from the 2017 Corruption Risks in Mining Awards published by Transparency International PNG.⁹³ One CSO however expressed concerns that wardens that conducted pre-award hearings were not independent from the MRA and considered that the hearings did not represent judicial proceedings. Several CSOs also raised concerns that the final ministerial decisions on mining tenement awards sometimes differed from the recommendations from the Mining Advisory Council, although there were no specific examples of non-trivial deviations.

In terms of oil and gas licensing, company representatives consulted explained that proactive follow-up with DPE was required on the part of applicants to avoid delays, noting that the statutory 40 day timeframe for processing applications was not consistently met, although they considered such deviations to be trivial. A government official considered that there were generally no deviations from the statutory procedures, but noted an incident in 2014 when a license transfer had been approved while the award of the license was still pending, prompting the DPE to subsequently amend the date of award to ensure consistency with the date of transfer. The majority of CSOs consulted alleged abuses of the oil and gas licensing system, noting unspecified instances when oil and gas licenses had been awarded to companies affiliated to politically-exposed persons that had no prior experience in the industry. The allegation was that these licenses were subsequently sold on to bona fide oil and gas companies. Several government officials stated that environmental permits from CEPA were consistently required for all mining tenement and oil and gas licenses as part of the application process and that there were no deviations.

Initial assessment

The International Secretariat's initial assessment is that PNG has made inadequate progress towards meeting this requirement. The 2016 EITI Report provides a list of mining tenement awards and transfers, although there is evidence from government sources this list is not comprehensive. While the report provides a list of oil and gas licenses transferred in 2016, which appears likewise non-comprehensive, it only provides the number of licenses awarded in the year under review without providing the specific licenses awarded. While the report describes the general process for awarding and transferring mining tenements and oil and gas licenses, it does not provide the specific technical and financial criteria assessed in the application process. While the report states that there were no non-trivial deviations from statutory procedures in the licensing process in both mining and petroleum, there appear to be deviations in the timeframe for processing oil and gas license applications and there are significant concerns from civil society over non-trivial deviations.

In accordance with Requirement 2.2, PNG is required to publicly disclose information related to the award or transfer of mining tenements and oil and gas licenses pertaining to companies covered in the EITI Report. This information should include the number of mining tenements and oil and gas licenses awarded and transferred in the year under review, a description of the award and transfer procedures, including specific technical and financial criteria assessed, and any non-trivial deviations from statutory procedures in practice.

⁹³ Transparency International PNG (June 2017), 'Corruption Risks in Mining Awards Country Report', accessed [here](#) in May 2018.

License registers (#2.3)

Documentation of progress

For mining, the 2016 EITI Report explains that the official register of tenements is maintained by MRA in the form of hand-written ledgers (p.79), but that the MRA also maintains an online Mining Cadastre Portal⁹⁴ covering all active mining tenements, updated in real time following new approvals (pp.7,43,79).

For oil and gas, the report notes that the DPE only maintains handwritten ledgers, not organised sequentially on the basis of licence numbers and updated manually when applications are made. While the report cites assurances from the DPE that the register is publicly accessible, it comments that “this is not a practical reality” (p.95). Appendix E of the report provides a list of active oil and gas licences in 2016 (pp.168-169).

License-holder names: For mining, the MRA online Mining Cadastral Portal provides license-holder names for all active mining tenements, as confirmed in the report (p.79). For oil and gas, the report’s Appendix E provides the operator names for all oil and gas licenses active in 2016, although not of consortium partners (p.168) and it is unclear from the report whether the DPE handwritten ledger provides information on non-operator partners on any of the oil and gas licenses. However, Table 23 provides the names and interests of partners for all PDLs (pp.90-92), but not for other types of oil and gas licenses held by material companies (e.g. PRLs).

License coordinates: For mining, the Mining Cadastre Portal contains license areas including coordinates for all tenements, as confirmed in the report (p.79). For oil and gas, it is unclear from the report whether the handwritten ledgers contain coordinates of all active licenses and no guidance is provided on accessing coordinates of oil and gas licenses held by material companies.

Dates: For mining, the Mining Cadastre Portal provides the dates of application, award and expiry for all active tenements, as confirmed in the report (p.79). For oil and gas, the report does not provide information on dates of application, award and expiry for any oil and gas license and it is unclear from the report whether this information is included in the DPE handwritten ledgers.

Commodity: For mining, while the report notes that information on commodities covered by active tenements is not provided on the Mining Cadastre Portal, information on the commodity(ies) covered by mining leases held by material companies is provided (pp.65-72). For oil and gas, the information in Appendix E does not specify the commodity(ies) covered by production licenses held by material companies (p.168) and it is unclear from the report whether this information is included in the DPE handwritten ledgers.

Licenses held by non-material companies: For mining, the Mining Cadastre Portal contains all active mining tenements, including those held by non-material companies. For oil and gas, the report does not confirm whether the DPE handwritten ledgers include all active licenses, although it states that the ledgers are updated “regularly”. However, the report’s Appendix E includes information on licenses held

⁹⁴ Mineral Resources Authority, PNG Mining Cadastre Portal, accessed [here](#) in March 2018.

by non-material companies (p.168).

Additional comments: For mining, the report provides commentary on the comprehensiveness of information provided in the Mining Cadastre Portal (p.79). For oil and gas, the report cites DPE's description of the process of scanning the handwritten ledger to create a digital copy and the holding of a workshop in 2016 with the objective of establishing a licencing database similar to the one implemented by the MRA. The improvement of DPE's license register has been included among the MSG's recommendations since PNG's first EITI Report and an official directive had been issued by the NEC for DPE to act on this recommendation (p.95).

Stakeholder views

With regards to mining, a senior government official considered that the information on mining tenements included in the 2016 EITI Report was not comprehensive, citing the lack of listing of the Special Mining Lease for Lihir gold mine under Section 7.2.2 as evidence. While the official confirmed that data on all active mining tenements was accessible from the MRA's Mining Cadastre Portal, the implication was that data on commodities covered by MLs in the report was not comprehensive. The official confirmed that while MLs were granted for specific commodities, ELs covered all commodities given that applicants could not prejudge the minerals they would discover. Several government representatives confirmed that the online cadastre included conservation areas.

With regards to oil and gas, a government official confirmed that the DPE's handwritten ledgers provided dates of application and of filing, paid fees, proof of the application's 30-day publication in the national gazette, applicant name, participating interests, map sheets, date of award and license duration. The date of award was considered to be the date on which the minister signed the license. The official noted there were often delays before registering the license. The IA confirmed that the information on oil and gas licenses included in the 2016 EITI Report was the only information provided by the DPE. While the DPE's handwritten ledgers did not provide license coordinates, the government official explained each license indicated the block number and location name (including whether it was onshore or offshore). In order to avoid overlaps in licenses awarded, the DPE undertakes a verification process described as tedious, given the lack of a consolidated or digitised license map. The official explained that there had been several instances of awards of licenses that partly overlapped. Although the licenses did not explicitly specify the commodities covered, the official confirmed that all licenses covered both oil and gas. However, several stakeholders from all three constituencies highlighted the enactment of the Unconventional Hydrocarbons Act, implying that conventional oil and gas licenses did not cover unconventional hydrocarbons. The official explained that the handwritten ledgers were accessible upon request to the director of the registry, but confirmed that all requests were granted.

All stakeholders other than the DPE expressed significant reservations regarding the comprehensiveness of the DPE's handwritten ledgers. Government and development partner representatives noted that most oil and gas companies maintained their own maps of licenses. Indeed, the Kumul Petroleum Holdings website provides maps of licenses⁹⁵ in which KPH holds interests, sourced from an ArcGIS online mapping tool.⁹⁶ A government official highlighted plans for future reforms of the DPE, which included plans to

⁹⁵ Kumul Petroleum Holdings website, License interests page, accessed [here](#) in May 2018.

⁹⁶ ArcGIS, KPHL Assets Map, accessed [here](#) in May 2018.

digitize the ledgers and map out licenses. Several development partners consulted expressed strong interest in supporting DPE reforms, but noted that such support was contingent on restructuring the department as an independent authority along the lines of the MRA.

Initial assessment

The International Secretariat's initial assessment is that PNG has made meaningful progress towards meeting this requirement. While all of the information per Requirement 2.3 is publicly available for all active mining tenements, there are significant shortcomings in the public availability and comprehensiveness of information on oil and gas licenses. The 2016 EITI Report provides a list of oil and gas licenses held by material companies, including names of operators and names of partners and interests for production licenses, but there is no information on dates of application, award or expiry, license coordinates or commodity(ies) covered. It can be reasonably concluded that significant aspects of the requirement are being implemented and that the broader objective is in the process of being fulfilled.

In accordance with Requirement 2.3, PNG should maintain a publicly-accessible register or cadastre system(s), including comprehensive information on licenses for all oil, gas and mining companies. In the interim PNG should ensure that information set out under EITI Requirement 2.3.b is publicly accessible for all mining, oil and gas companies.

Contract disclosures (#2.4)

Documentation of progress

Government policy: The 2016 EITI Report cites three provisions in existing laws that mandate contract confidentiality, namely, Section 163 of the Mining Act, Section 51 MRA Act and Section 159 of the Oil and Gas Act (p.42). While the principles on freedom of information are enshrined in the PNG Constitution, the specific confidentiality clauses in the aforementioned laws are understood to provide limitations to the general constitutional provisions. The report further explains that benefits for a particular project are agreed in a development forum with relevant stakeholders, including the State, company, provincial government, local level government and landowners, and set out in a Memorandum of Agreement. These agreements are not publicly disclosed (p.5).

Actual practice: The report explains that contracts are held and maintained by the Solicitor General's office and could only be made public with the approval of both the company and the DPE or MRA. The report confirms that, to date, no contracts have been made publicly available (p.42). The report notes that the issue of contract disclosure has been discussed by the MSG and explains that, while mining companies were amenable to it, oil and gas companies expressed discomfort with the disclosure of some contractual provisions that were deemed commercially sensitive (p.42).

Accessibility: As noted above, the report confirms that access to contracts is limited by the necessity of obtaining approval both from the company and the regulating agency, with no contracts published to date.

Stakeholder views

There were divergent views among different stakeholders consulted on the desirability of publicly disclosing extractives contracts. Several mining companies stated that they were not opposed to contract disclosure, given the lack of confidentiality clauses in mining contracts, contrary to popular belief. One company representative explained that mining contracts had no bespoke fiscal terms, which were all set in legislation, implying that there were no controversial provisions in mining contracts. The representative also noted that the contract governing the Lihir mine had been approved by parliament, implying that it should thus be a public document. Several oil company representatives considered that oil and gas contracts included commercially-sensitive information, which made it important to discuss in detail the specific provisions that would be disclosed, such as social contributions and benefits to different levels of government and landowners.

Several civil society representatives explained that the public had not been able to access extractives contracts given confidentiality provisions covering extractives contracts in the Mining Act and the Oil and Gas Act. They lamented that despite provisions in the Constitution assuring access to information, the government had not yet proposed a Freedom of Information Act to Parliament.

Several government representatives recognized the importance of contract disclosure in the extractive industries. One official considered that mining contracts should be published to enable the identification of revenue leaks and assess the impact of tax holidays.

With regards to MoAs between companies, government and landowner groups, several officials explained that landowners had copies of their MoAs, implying that public disclosure of MoAs would not pose any legal challenges, even if the logistical challenges of collecting MoAs from all relevant landowner groups were mentioned. So far, an official noted that the MRA had not received any request for access to MoAs to date. On the other hand, the official noted that mining development agreements had been demanded by CSOs. One senior government official explained that the lack of publication of contracts posed challenges for government entities like PNG Customs, given their role in collecting revenues on behalf of the government. The official noted one example where a mining company had refused to settle its dues to government claiming the company had an exemption in its contract, but refused to provide a copy of the contract as evidence. The official explained that government officials were forced to trust companies' calculations of liabilities to government, given the inability of government to verify the underlying contract.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress towards meeting this requirement. The 2016 EITI Report clearly explains the government's policy and actual practice in terms of contract disclosure.

To strengthen implementation, PNG is encouraged to work with industry stakeholders to explore the scope for publishing extractives contracts and MoAs between companies, different levels of government and landowner groups.

Beneficial ownership disclosure (#2.5)

Documentation of progress

Government policy: The 2016 EITI Report states that the PNG Government does not require companies to disclose the beneficial owners of companies producing oil and gas or minerals, and does not have a publicly available register of the beneficial owners of the corporate entities in the sector (p. 43). The terms ‘beneficial owner’ and ‘politically exposed person’ are however defined in the country’s Anti-Money Laundering Act 2015. Beneficial owner is defined as a natural person who directly and indirectly owns a customer, or has ultimate direct or indirect control of a customer. The Act requires financial institutions or designated non-financial business persons (DNFBP) which include dealers with precious metals and stones to disclose their beneficial owners to the relevant regulatory authority upon application for license (Sec.59.1). The source of funds used to pay for the capital of the financial institution or the DNFBP should also be disclosed (Id). Any changes in the information should be regularly reported to the relevant authority (Sec. 59.3). Monetary penalties as well as penal sanctions are imposed for failing to adhere to this requirement (Sec. 59.4 and 6). The relevant regulatory authority that has custody of these disclosures is mandated to verify the information and make it available in to the Financial Analysis and Supervision Unit, an independent body created to implement the Act (Sec.60-61). Politically exposed person is defined in the law is someone who has been granted prominent public functions overseas or in PNG or prominent functions as a member of an international organisation. The person could also be a senior executive of a foreign SOE or company or senior official of a political party. Family members or close associates of these persons are deemed included in the definition.

The scoping study on beneficial ownership commissioned by the MSG in 2017 confirmed that from all feedback and written responses gathered during stakeholder consultations, beneficial ownership transparency is not specifically contained in PNG’s national priorities (p. 23).

Actual practice: There is currently no disclosure of beneficial owners in any of the government systems. The Investment Promotion Authority manages the company register⁹⁷ in PNG where one can search for names of shareholders with corresponding information on the number of shares owned. While some companies list natural persons as shareholders, names of company shareholders are typically listed.

The scoping study on beneficial ownership looked into shareholding information from IPA of 42 extractive companies. Companies with the most number of licenses held and applied for in PNG were selected by the MSG. The study found that nine out of 42 extractive companies in PNG were incorporated overseas and provided little or no information on beneficial owners. Only four out of 42 entities had listed individuals as the ultimate shareholder of the company. One of these four companies had the Prime Minister of PNG as the trust shareholder. 28 entities had listed other companies as shareholders, while ten entities had listed both companies and individuals as shareholders (p.20). The study notes the beneficial ownership information is not required by IPA when companies apply for a license (p.46)

Legal owners of material companies: The EITI Report shows the ownership structure of mining companies (pp.66-74) in terms of the percentage of ownership that other corporations hold in the companies. It goes

⁹⁷ See Investment Promotion Authority’s website [here](#).

until at least the second or third level of legal ownership and lists the stock exchange where they are listed where applicable. There is no disclosure of ultimate beneficial owners for mining companies, even though the report mistakenly labels legal owners as beneficial owners. For oil and gas, however, neither the legal owners nor the beneficial owners are provided. The report only lists the parent organisation for each company and indicates where they are listed. (pp.90-93).

Stakeholder views

According to IPA, discussions on beneficial ownership in PNG is in the early stages, and is largely driven by efforts related to Anti-money laundering led by the Bank of PNG. They explained that it will be the Bank of PNG who will identify companies that will be required to report beneficial owners under their Know Your Client (KYC) procedures. This information will be shared with other agencies. Under the current system, legal owners are already disclosed in the company register which is publicly accessible. They expressed that without a law, it would be difficult to require companies to disclose their beneficial owners. Discussions are ongoing in the amendment of laws for non-profit organisations and the Companies Act. While IPA could potentially champion the beneficial ownership agenda in PNG, they anticipate the challenges they might face in the absence of a beneficial ownership law. They could not say whether the existing provisions in AML could address this challenge.

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.

To strengthen implementation, the MSG is encouraged to start disclosing actual beneficial owners in their EITI Reports and to agree on the level of details to be disclosed, with the objective of being able to fully report beneficial owners by 2020. The MSG might wish to align their efforts on beneficial ownership with broader government reforms on anti-corruption or implementation of good corporate practice.

State participation (#2.6)

Documentation of progress

Materiality: The 2016 EITI Report provides a list of five extractives SOEs⁹⁸ active in 2016, of which only four are categorised as having received any extractives revenues in 2016 (Kumul Consolidated Holdings did not) (p.99). While the report does not explicitly assess the materiality of payments to government from these five SOEs, it includes these four SOEs in the scope of reporting as material companies (pp.5,18). The assessment of these four SOEs' materiality was made on the basis of their holding interests in (or responsibility for managing interests in) extractive projects that were producing saleable commodities in 2016 (p.18), rather than the materiality of their payments to government in 2016.

Financial relationship with government: The report describes the state's right to equity participation that appears applicable to all companies. The state has a right to acquire up to 22.5% of an oil and gas project

⁹⁸ Kumul Consolidated Holdings (KCH); Kumul Petroleum Holdings Ltd (KPH); Kumul Mineral Holdings Ltd (KMH); Ok Tedi Mining Ltd (OTML); and Mineral Resources Development Company Ltd (MRDC).

and 30% of a mining project at par value, or 'sunk cost' (pp.40,99). In cases where the state does not have the resources to purchase equity in the project or fund its share of cash calls, the report explains that "*the resource development agreement may allow for the government to forego their shares of resource income (dividends) to meet the State's accumulated liability*" (p.40). The report describes the state's established practice of granting free equity (from its share) in projects in which the state participates to landowners from areas hosting the extractives project (p.40).

The report confirms the state's entitlement to a share of SOEs' profits paid as dividends in line with its shareholder rights. Dividends are based on equity interests in line with related agreements (p.40). It is noted in footnote 90 that the term 'dividend' in relation to SOEs in PNG is different from shareholder dividends, where "*state entities, like other consortium partners, are paid their share of profits based on equity interests, in line with related agreements*" (p.40).

In terms of *Kumul Consolidated Holdings Ltd* (KCH), the report explains that KCH is allowed to retain earnings to reinvest in its operations, thereby reducing the level of dividends paid to government (p.100). It also describes KCH's 100% ownership of the General Business Trust (GBT). GBT holds a 3.2% interest in Highlands Pacific Ltd and is managed by KCH on behalf of the state as the GBT's trustee (pp.99-100). The report confirms that the GBT was not the owner of any SOEs (i.e. majority state-owned companies) directly involved in the extractives industries in 2016 (p.99). The report also confirms the lack of payments from Highlands Pacific Ltd to the GBT in 2016 (p.100) and that KCH thus did not receive any extractives revenues in 2016 (pp.99,100). The report confirms that KCH receives a monthly budgetary allocation approved by the NEC (p.100). While the report states that KCH had no outstanding loans or guarantees to any extractives companies in 2016 (p.100), it does not clarify whether KCH is statutorily entitled to contract third-party (debt or equity) funding, nor whether there was any such active external funding for KCH in 2016.

With regards to *Kumul Petroleum Holdings Ltd* (KPH), the report explains that it has a wholly-owned subsidiary, NPCP Kroton Ltd, which has a 20.5% interest in four petroleum development licences, namely PDL 1 Hides, PDL 7 Hides, PDL 8 Angore and PDL 9 Juh that together equate to a 16.57% interest in PNG LNG. By virtue of KPH's ownership of NPCP Kroton, KPH collects dividends from PNG LNG and transfers these to Treasury as "consolidated revenues" (p.101). The report does not clarify whether KPH can retain earnings from its second wholly-owned subsidiary NPCP Oil Company Pty (distinct from NPCP Kroton), which holds minority interests in four oil and gas projects (pp.101-102). The report also describes an escrow-account type of arrangements linked to government equity in the oil and gas sector. It notes that KPH is entitled to dividends from the state's 10% interest in Oil Search Ltd., but that these dividends are transferred to a JP Morgan account, which deducts loan repayment costs in line with the UBS loan agreement from dividends it remits to KPH (p.103). The value of 2016 dividends paid by Oil Search⁹⁹ (to JP Morgan) and that of dividends received by KPH¹⁰⁰ is included (p.103). The report also provides the value of KPH's consolidated dividend to the Treasury (PGK 100m) and an ad hoc advance payment to finance the 2016 budget, with a Treasury letter quoted as a reference (p.103).

In terms of *Kumul Mineral Holdings Ltd* (KMH), the report confirms that Kumul LNG Ltd. (which was only

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⁹⁹ PGK 23,396m.

¹⁰⁰ PGK 822,349.

transferred to KPH in June 2016) received a share from PNG LNG in the first half of 2016, and that another wholly-owned subsidiary, Eda Oil Ltd, received a share of sales from the Moran Petroleum project for the first half of 2016 (p.106). It is explained that Kumul LNG deducts its share of PNG LNG royalties and development levies from the PNG LNG share of sales to pay the project operator ExxonMobil PNG (presumably to cover sunk costs/cash calls incurred). Similarly, Eda Oil deducts its share of Moran Petroleum royalties and development levies from its share of sales to pay the project operator Oil Search (presumably to cover sunk costs/cash calls incurred) (p.106). The report notes that KMH pays dividends to the Department of Finance based on decision of the KMH board of directors, but that no dividends were agreed by the Board in 2016 (p.106).

With regards to *Ok Tedi Mining Ltd* (OTML), the report describes five types of statutory dividend obligations pertaining to OTML (p.109):

- dividends to the State (as any other SOE);
- dividends to Fly River Provincial Government (managed by MRDC);
- dividends to Mine Village Landowners (managed by MRDC);
- dividends to village communities under the CMCA agreement (managed by the Ok Tedi Development Foundation);
- dividends to non-CMCA region villages (managed by the Fly River Provincial Government).

The report does not explain the rules related to retained earnings, reinvestments and third-party funding that determine the split in each of the five parties' share of dividends. The report discloses total dividends declared in 2016 and the value of 2016 dividends paid to the state (p.110), with PGK 100.5m paid to the PNG Treasury and the outstanding PGK 49.5m withheld pending finalisation of arrangements to transfer 33% direct equity in OTML from the government to the Fly River Provincial Government and special-purpose entities holding community interests (pp.108,110). The report also discloses total income for OTML from the Ok Tedi operations (p, 110).

In terms of the *Mineral Resources Development Company Ltd* (MRDC), the report describes the SOE's three functions as (pp.111-112,115):

- Manage landowner and provincial government interests in mining, oil and gas projects as trustee, under a management agreement;
- Hold direct equity holdings in Highlands Pacific Ltd (7%) and the Ramu Nickel Project (3.94%);
- Establish and manage subsidiary companies (whose boards are chaired by landowners) that hold equity interests in trust for landowners.

The report also describes the state's statutory right to acquire equity interests of 30% in mining and 22.5% in oil and gas projects (at sunk cost/par value), and describes the general practice of granting free equity to landowners from the area hosting the project, through companies managed by state-owned MRDC in line with section 167 of the OGA (pp.2,7,40). In terms of provincial government equity in extractives projects, the report explains that the state provides free equity of 2.5% to provincial governments (alongside 2.5% for landowners) on a free-carried basis (with an option to buy more on commercial terms), with the equity controlled by a company managed by MRDC (p.40). In terms of provincial governments' equity interests in mining projects, the report describes the 12.2% of Ok Tedi Mining held by Mineral Resources Ok Tedi No. 2 Ltd (managed by MRDC) and the reform in 2016

(effective 2017) to increase the interest to 33% through a reduction of the state's 87.8% interest to 67% (p.66).

The report describes the statutory allocations of MRDC-collected royalties, equity distribution and share of sales from projects in which it holds equity interests on behalf of landowners and provincial governments (pp.115-116). The general description of the government's rights to equity participation in extractives projects (at 'sunk cost') described under Section 4.7 (p.40) appear to pertain to MRDC's revenues from its equity interests and resulting dividend payments to the Treasury. MRDC does not appear to make any payments to the State. Yet while the report explains that MRDC funds its operations through a management fee from each of its subsidiary companies, it explains that there is no fixed management fee rate and that the IA could not obtain a clear explanation of the fee arrangements (p.115). The report describes MRDC's functions as a trustee shareholder in extractives projects on behalf of landowner groups and provincial governments (pp.111-116).

The other transactions between MRDC and the state in the report are transfers from government entities (DPE and DoF) of royalties and equity dividend payments to MRDC, which are then managed by MRDC and distributed on behalf of the landowners. The report provides the value of 2016 royalties, equity distributions and shares of sales received by each of its subsidiary entities and the 2016 payments to associated trusts (pp.116-117).

Government ownership and changes: The report provides a list of the government's equity interests in the five extractives SOEs in 2016 (pp.100,102,106,108,111).

With regards to ***KCH***, the report describes the SOE's 100% interest in GBT, which in turn holds a 3.2% interest in Highlands Pacific (pp.99-100). While reference is made to the Kumul restructuring, which would involve the transfer of the GBT investment in Highlands Pacific to the Kumul Mineral Trust, the report notes that the transfer was still pending completion of legal procedures as of 8 September 2017 (p.100). The report does not refer to any KCH ownership interest in exploration projects. While the report does not describe the terms associated with KCH equity in Highlands Pacific, it can be assumed that the general explanation of the terms associated with state equity, i.e. fully-paid equity (p.40), pertain to this equity interest, although this is not explicitly confirmed.

In terms of ***KPH***, the report lists the following equity interests (pp.10-102;105):

- 100% ownership of NPCP Kroton Ltd, which holds 20.5 % interest each in four PLDs (PDL1 Hides, PDL7 Hides, PDL9 Juha and PDL8 Anqore) that together equate to a 16.57% interest in the PNG LNG project.
- 100 % ownership in NPCP Oil Company Pty Ltd, which owns minority interests in four PLDs (p.101).
- 100 % ownership of Eda Oil Ltd, which owns 20.5 % interest in PLD 5 which equates to a 11.275 % interest in the Moran project.
- Through Eda Oil, 100% ownership of Kumul LNG Ltd, which holds a 0.2% interest in PNG LNG.
- 14.89% interest in PRL 9.
- 37.44% interest in PRL 14.
- 20% interest in PRL 28.

It is unclear from the report whether KPH has ownership interests in any prospecting licenses.. Apart from the general description of fully-paid equity (p.40), it is not clear from the report what terms are attached to KPH's and its subsidiaries' equity interests listed above.

The report describes the restructuring of SOEs launched in 2015, which continued to be implemented in 2016 under the Kumul Consolidation Agenda (p.99). The key change in government ownership enacted in 2016 consisted of the transfer of the state's interest in Eda Oil Ltd (and its interests in PDL5 Moran and Kumul LNG) from KMH to KPH on 30 June 2016, with all liabilities assumed by KPH and no payment associated with the transaction (pp.102,106). There is no suggestion of other ownership changes pertaining to KPH in 2016 in the report.

With regards to KMH, the report lists the following equity interests in 2016 (p.106):

- Until 30 June 2016, the ownership in Eda Oil and Kumul LNG (as described under KPH above).
- The Tolukuma Mine, which was agreed to be sold to Asidokona Mining Resources in 2015, but whose sale had not been completed as of August 2017. The mine was not operating in 2016.
- 100% ownership in Eda Kopa and Eda Minerals, which hold mining and exploration interests. The ownership held by Eda Kopa and Eda Minerals does not appear in Annex C showing legal owners of all mining licenses.

The changes in ownership pertaining to Eda Oil and the Tolukuma mine are described in the report (p.106). The report seems to suggest that KMH used its portion of royalty and development levy payments pertaining to Eda and Kumul to finance the equity share of cash calls for these companies (p.106). The report also notes that KMH has established (unspecified) "other subsidiaries" in 2016 as special-purpose vehicles to facilitate participation in mining and petroleum projects, although these were categorised as "not yet operational" in 2016 (p.106).

The report states that "the state" holds a 15% interest in "the Nautilus project" (p.74), although it does not clarify the specific government entity holding the interest nor whether the government interest is in the Nautilus Minerals company or through other means. Corporate reporting (not referenced in the EITI Report) from Nautilus Minerals Inc. indicates that Petromin subsidiary Eda Kopa (Solwara) Ltd held a 15% interest in the Toronto-listed company acquired in 2014.¹⁰¹ The 2016 EITI Report does confirm however that Petromin is now considered KMHL (p.74), implying that Eda Kopa (Solwara) Ltd was transferred to KMHL as well although the report stays silent on this.

In terms of OTML, the report describes the SOE's 100% ownership of the Ok Tedi mine and its ownership of a "portfolio of exploration leases" near its Mt Fubilan mining operations (p.108). The planned transfer of a 20.7% interest in OTML from government (reducing its interest in OTML from 87.8% to 67%) to the Fly River Provincial Government and special-purpose community vehicles is described, but the report notes that the transfer would only be effective after the execution of share transfers in 2017 (p.108). The list of OTML's exploration leases is provided in Annex C (pp.153-156). It is not clear from the report if there have been changes to the ownership in exploration leases in 2016. OTML owns three subsidiaries¹⁰²,

¹⁰¹ Nautilus Minerals Inc. (March 2016), Annual report for fiscal 2015, accessed [here](#) in May 2018, pp.10,15.

¹⁰² OTML holds 100% interests in Ok Tedi Australia PTY Ltd and Ok Tedi Power Ltd, as well as 75% interest in Ok Tedi Development Foundation Ltd.

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none of which are engaged in upstream activities (p.108). The report clarifies that the terms attached to the OTML ownership of the Ok Tedi Mine is full paid equity (pp.108-109), although the terms attached to the exploration leases are unclear.

With regards to *MRDC*, the report describes the SOE's direct equity interests in two projects: Highlands Pacific (7%) and Mineral Resources Ramu (3.94%) (p.112). The report does not comment on any changes in these equity interests in 2016, nor on the terms attached to the equity stake. While it can be assumed that these two interests represent paid equity, given that MRDC receives equity distribution payments from these operations, this is not explicitly stated in the report. It is unclear from the report whether MRDC holds interests in any exploration projects.

The report describes the state's practice of granting free equity in petroleum projects to provincial governments (and landowners). It explains that the PNG LNG Umbrella Benefits Sharing Agreement provides a total of 2.78% free equity participating interest in PNG LNG to project area landowners and local level governments, and an option for the two groups to buy up to a combined 4.22% additional interest on commercial terms between January and June 2016 (p.58). The report describes the decisions by ten provincial governments and landowner groups¹⁰³ to exercise an option to acquire a shareholding interest in Kumul Petroleum (Kroton) Ltd, the government's nominee company in the PNG LNG Project, although the purchase of interests was not concluded in 2016 (p.104). As part of its discussion of the proposed 'Kroton Equity Option' vendor financing scheme, the report lists four provincial governments¹⁰⁴ (and six landowner group entities) as taking the option of acquiring equity although the transaction did not close in 2016 (pp.104-105).

The report describes MRDC's ownership of 15 subsidiaries¹⁰⁵ that hold equity interest in projects on behalf of landowners and provincial governments as a trustee (p.113-14). Of the 15 subsidiaries of MRDC listed (alongside the two direct equity interest in extractives projects held by MRDC), six of these are managed on behalf of landowner groups only and four of them are managed on behalf of both landowner groups and provincial government, although the precise split between the two groups' equity is not consistently provided. In addition, the report does not provide the identity of beneficiaries for five companies managed by MRDC (pp.113-114). The report does not comment on any changes in the ownership interests of these companies, nor on the terms associated with the equity stake.

Loans and guarantees: The report confirms that four of the five SOEs¹⁰⁶ did not have any outstanding loans or guarantees to third-parties in 2016 (pp.100,106,110,116). The report includes MRDC's clarification that it provided loans to its subsidiaries, but not outside parties (p.116), albeit without any

¹⁰³ The ten provincial governments and landowner beneficiary groups that elected to exercise their 'Kroton Equity Option' to purchase a shareholding interest in Kumul Petroleum (Kroton) Ltd using vendor finance (expected in 2017) were: Fly River Provincial Government; Southern Highlands & Hela Provincial Government; Central Provincial Government; Gulf Provincial Government; PDL 4 (Gobe); PDL 5 (Central Moran); PDL 9 (Juha); PNG LNG Pipeline, (Segment 1- 8); PNG LNG Plant site (Papa, Lealea, Boera, Porebada); and North West Moran.

¹⁰⁴ Fly River Provincial Government, Southern Highlands & Hela Provincial Government, Central Provincial Government and Gulf Provincial Government.

¹⁰⁵ In 2016, MRDC managed Mineral Resource Enga Ltd (MRE) on behalf of shareholders; and held 100% interest in Petroleum Resources Kutubu Ltd (PRK); Petroleum Resources Gobe Ltd (PRG); Petroleum Resources Moran Ltd (PRM); Mineral Resources Star Mountains Ltd (MRSM); Mineral Resource Ok Tedi No. 2 Ltd (MROT); Mineral Resource Madang Ltd (MRM); Gas Resources Gigira Ltd; Gas Resources Gobe Ltd; Gas Resources Angore Ltd; Gas Resources Hides 4 Ltd; Gas Resources Juha Ltd; Gas Resources Kutubu Ltd; Gas Resources Moran Ltd; Gas Resources North West Moran Ltd.

¹⁰⁶ KCH, KMH, OTML and MRDC.

additional information on these loans.

The report does not describe whether KPH had any outstanding loans or guarantees to outside parties in 2016, but describes a system of “vendor finance” established in 2016, whereby KPH provides loans to landowner groups or provincial governments to purchase a shareholding interest in Kumul Petroleum (Kroton) Ltd, the government’s nominee company in the PNG LNG Project (p.104). While ten landowner groups and provincial governments signed their intent to exercise the “vendor finance” option for acquiring interests in Kumul Petroleum (Kroton) Ltd before the 31 December 2016 deadline, the report explains that shareholding interests were not all registered by the end of 2016 and that the transactions would be included in the 2017 EITI Report (p.105).

The report does not clarify whether the government had any outstanding loans or guarantees directly to extractives companies (including sovereign guarantees to extractives SOEs) in 2016.

The report does describe the loan taken by the government from the Australian branch of Swiss bank UBS in 2014 to buy a 10% interest in Oil Search, mortgaging future revenue from the PNG LNG project for the loan. It notes that the government did not pass legislation in Parliament enabling the transaction and that KPH sold the Oil Search shares in 2017 (p.101), but does not provide additional details on the terms of the UBS loan (e.g. tenor, rates). In 2016 however, the report describes the management of Oil Search royalties, which are first transferred to a JP Morgan account, which retain funds in accordance with the UBS loan agreement before remitting net dividends to KPH (pp.103,130). The value of dividends withheld to service the UBS loan in 2016 is provided (p.103).

Stakeholder views

Materiality: There were differences of opinion among stakeholders regarding whether the five SOEs listed in the 2016 EITI Report should be considered SOEs under the definition in Requirement 2.6.a, i.e. majority-owned by government and engaged in extractive industries. None of the stakeholders consulted considered KCH to be an extractives company, but rather an asset management company that held the government’s interest in primarily non-extractives SOEs. The only interest held in an extractives project was the 3.2% interest in Highlands Pacific Ltd. through the GBT, which was due to be transferred to KMH (although this had yet to be completed at the time of Validation). While several government officials confirmed that KMH did not hold interests in extractives companies since the transfer of its oil and gas assets to KPH in 2016, they noted that all state mining assets (including OTML) were due to be transferred to KMH in future. All stakeholders consulted did however consider KPH and OTML as primarily extractives companies. The case of MRDC was considered unique, although stakeholders from all constituencies (including MRDC) considered it an extractives company, despite the fact it only held interests on behalf of provincial governments and landowner groups. In terms of the state entity that held the shares in the five SOEs, stakeholders from all constituencies stated that the Office of the Prime Minister held the interests in KCH, KMH, KPH and MRDC in trust for the citizens of PNG. There was uncertainty regarding the entity holding the state’s interest in OTML, although one government official considered that it was the Department of Treasury that held state equity in Ok Tedi.

Kumul Consolidated Holdings: Several government officials confirmed that the GBT, owned by KCH, still held the 3.2% equity in Highlands Pacific, but that Prime Minister O’Neill had issued instructions in 2018 for the transfer of this asset to KMH. Officials at the SOE explained that KCH was statutorily required to

pay dividends to the state on the non-extractives SOEs it oversaw, but that it could retain earnings from minority investments such as the 3.2% interest in Highlands Pacific. There was consensus that Highlands Pacific had not paid dividends in 2016. Officials confirmed that KCH was not entitled to budgetary transfers to cover their operational costs, which were funded through retained earnings, but that the holding group could receive project-specific funding from the budget, in order to pay for the government's equity interest in new projects for instance. Officials confirmed that KCH prepared annual financial statements audited by external auditors, which it then submitted to the Auditor General, and that KCH intended to start publishing an annual report in future. Several government officials confirmed that KCH could provide loan guarantees to specific projects upon explicit permission from the Treasury, but that there were no outstanding KCH guarantees on any extractives projects or loans in 2016.

Kumul Mineral Holdings: Several government officials confirmed that KMH did not have any extractives assets at present, since the transfer of its oil and gas assets to KPH in June 2016. They noted that KMH had been downsized to three staff that collocated at the OTML office, even though the OTML interest had yet to be transferred to KMH in line with the 2015 Kumul reorganisation. Staff at the SOE explained that KMH did not receive budget funding and had survived since June 2016 on the proceeds of a building it owned in Port Moresby. There was a lack of clarity among stakeholders consulted over whether the 15% interest held in Nautilus Minerals had been transferred from the Petromin subsidiary Eda Kopa (Solwara) Ltd to KMH. Government officials confirmed that KMH prepared financial statements and underwent external audits annually, which had been provided to the IA in preparing the 2016 EITI Report. With regards to the situation prior to June 2016, before the KMH subsidiary Eda Oil was transferred to KPH, a government official confirmed that Eda Oil and Kumul LNG could retain earnings to cover monthly cash calls for the projects they held interests in, as had been described in the 2016 EITI Report. They also confirmed that Eda Oil's 11.275% interest in Moran Petroleum and Kumul LNG's 0.203709% interest in the PNG LNG project were held purely on commercial terms and that the companies were required to cover their share of costs. Officials confirmed that the oil and gas assets had been transferred from KMH to KPH in 2016 without compensation. While KMH was statutorily required to pay dividends to the state when profitable, several officials confirmed that KMH had not paid a dividend in 2016. The officials explained that KMH could contract third-party debt (but not equity) and could benefit from a sovereign guarantee depending on the nature and value of the project, but considered that there were no such loans or guarantees to KMH or its subsidiaries in 2016. However, several government and civil society representatives noted the existence of two loan guarantees involving Petromin, one of which was still active in 2016, although there was uncertainty over whether all Petromin assets had yet been transferred to KMH. The first sovereign guarantee consisted of a USD 2.1bn completion guarantee on the PNG LNG project, extended through the then-IPBC, Petromin PNG Holdings and MRDC, although government officials emphasised that this guarantee had expired with completion of the PNG LNG project in 2013. The second guarantee, considered still active in 2016, was a sovereign guarantee agreed in 2014 to cover a USD 200m loan from the Bank of South Pacific to Petromin for its acquisition of a 15% equity interest in Nautilus Minerals, operator of the Solwara deep-sea mining project. There is evidence of this loan guarantee in third-party sources such as Nautilus Minerals and World Bank reports.¹⁰⁷

Ok Tedi Mining: Government officials and a mining representative explained that OTML's statutory financial relations with the state were codified in the OTML Board Charter. They confirmed that the

¹⁰⁷ World Bank (January 2012), 'Papua New Guinea Economic Briefing: The challenge of transforming today's boom into better living standards for tomorrow', accessed [here](#) in May 2018, p.5; and Nautilus Minerals Inc. (March 2016), op. cit., pp.10,15.

company operated like any other company and that the OTML Board could decide on retained earnings, reinvestments and third-party funding. With regards to the two OTML subsidiaries, company officials explained that they did not pay dividends to OTML since Ok Tedi Power was a rural electrification company providing subsidised power and Ok Tedi Australia was a supply and logistics company. In terms of OTML's interests in mining tenements, officials confirmed that these were held on the same terms as any private tenement-holder. The officials confirmed that OTML did not provide loans or guarantees to any other extractives companies and that OTML did not benefit from any sovereign guarantee on its borrowing.

Kumul Petroleum Holdings: While several government officials considered the list of KPH subsidiaries in the 2016 EITI Report to be comprehensive, there is evidence (including in PNG Auditor General reports) of four KPH subsidiaries¹⁰⁸ that were not listed in the report.¹⁰⁹ One of these subsidiaries, Kumul Petroleum Investment Ltd., is described as a wholly-owned special purpose vehicle on the KPH website¹¹⁰ and appears of material relevance to Requirement 2.6.b. Indeed, there is evidence from Oil Search's statutory reporting to the Australian Stock Exchange that the AUD 1.2bn sovereign loan from UBS, which had used the state's 10% equity interest in Oil Search as collateral when the loan was agreed in 2014¹¹¹, was novated (change of debtor) to Kumul Petroleum Investment Ltd. in February 2016.¹¹² However, a SOE official considered that the novation of the UBS loan had taken place in 2017 and would thus be covered in the 2017 EITI Report. The 2015 Kumul Petroleum Holdings Ltd Authorisation Act explicitly states that neither KPH nor any of its subsidiaries is entitled to render the state liable for its debt, liabilities or obligations¹¹³, implying a quasi-fiscal component of the loan novation (see Requirement 6.2). In September 2017, KPH sold the 10% equity interest in Oil Search to repay the AUD 1.2bn loan in full.¹¹⁴ There was considerable interest in off-budget debt issuance by KPH on the part of civil society, development partners, analysts and some government officials. Given the lack of sovereign guarantee for KPH debt, several CSOs expressed concern that the SOE might be using its two main productive assets (its interests in Moran Petroleum and the PNG LNG project) as collateral for loans, although no specific examples of this were provided during stakeholder consultations.

With regards to the financial relations between KPH and the state, several government officials confirmed that the SOE's Board could decide to retain earnings, reinvest in its operations and raise third-party debt, but not equity, as defined in the 2015 Kumul Petroleum Holdings Ltd Authorisation Act. The 2015 Kumul Petroleum Holdings Ltd Authorisation Act confirms KPH's ability to issue debt without explicit authorisation from government, subject to specific exemptions in the Act.¹¹⁵ While the Board was sovereign to agree the dividend policy annually, the Board's proposals were always submitted to the NEC for approval. Officials at the SOE also explained that the Treasury could direct KPH to pay advances on dividends during the year, as was the case in 2016, and that these dividend advances were then reflected in the revised national budget. A development partner noted public speeches by KPH management that

¹⁰⁸ Kumul Petroleum Development Ltd.; Kumul Petroleum Investment Ltd.; Kumul Petroleum (PNG LNG) Ltd.; Kumul Petroleum Technical Institute and Consulting Ltd.

¹⁰⁹ Auditor General's Office (July 2016), '2015 Report of the Auditor General on the Accounts of Public Authorities and Statutory Bodies established under the Act of Parliament and Government Owned Companies established under the Companies Act', accessed [here](#) in May 2018, pp.263-266.

¹¹⁰ KPH (September 2017), 'Kumul Petroleum divests stake in Oil Search', accessed [here](#) in May 2018.

¹¹¹ Reuters (September 2017), 'Papua New Guinea government to sell stake in Oil Search', accessed [here](#) in February 2018.

¹¹² LoopPNG (February 2016), 'Kua alludes to financial disaster looming', accessed [here](#) in May 2018; Australian Stock Exchange (February 2016), 'Oil Search submission of Form 4: Notice of change in substantial shareholding', accessed [here](#) in May 2018, pp.17,18,34,50.

¹¹³ The Kumul Petroleum Holdings Ltd Authorisation Act 2015, accessed [here](#) in May 2018, Article 8.

¹¹⁴ ABC (September 2017), 'PNG sells Oil Search stake after deal leaves Government massively out of pocket', accessed [here](#) in May 2018.

¹¹⁵ The Kumul Petroleum Holdings Ltd Authorisation Act 2015, op.cit., p.11.

indicated their desire to reform KPH as a conventional, commercially-oriented, national oil company. With regards to KPH's three wholly-owned subsidiaries (NPCP Kroton, NPCP Oil Company and Eda Oil), the officials explained that these subsidiaries could retain earnings to finance their operations, as was the case for instance with Eda Oil's retained earnings to fund monthly cash calls. With regards to the equity interests in extractives projects held by the three KPH subsidiaries, the officials confirmed that there were no special terms associated with this equity and that the shares were held on the same terms as those of any private company. With regards to loans and guarantees provided by KPH to extractives companies, the officials confirmed that the 'Kroton Equity' vendor financing consisted of the provision of loans to companies owned by landowner groups and provincial governments for the purchase of equity in the PNG LNG project, but explained that the vendor financing agreement had yet to be finalised at the time of Validation in 2018. Several civil society and media representatives expressed concern over allegations that KPH was making loans to third-parties, although no specific evidence of such loans was provided during consultations. However, a journalist noted that KPH had established two joint ventures (with Oil Search and MRDC respectively) for the development of gas-fired power plants in Port Moresby, although this was subsequent to 2016.

Mineral Resources Development Company: SOE representatives explained that while MRDC had originally been established to hold the state's interest in OTML, it had since evolved to manage landowner groups and provincial governments' interests in extractives projects. While the officials considered the list of MRDC subsidiaries in the 2016 EITI Report to be comprehensive of all MRDC entities, they considered that these should have been split between companies managed solely on behalf of landowner groups, which were private interests, and those managed on behalf of provincial governments and landowner groups, since those could be considered SOEs part-owned by provincial governments. The SOE officials confirmed that MRDC were neither entitled to funding from the national budget nor required to pay dividends to the state. Rather, they explained that MRDC was entirely funded through management fees levied from their 15 subsidiary companies and income from their investments. They confirmed that MRDC was regulated under the Companies Act and the MRDC company statutes. The company was entitled to raise third-party debt, albeit without sovereign guarantee, subject to the MRDC Board's approval.

The officials noted that management fees for each subsidiary were agreed annually as part of the MRDC budgeting process and that these differed according to each subsidiary's capacity. Thus MRDC entities involved in producing projects that generated significant revenues were required to pay higher management fees than others. The officials confirmed that these management fees were not public but could be disclosed subject to decision by the MRDC Board. With regards to revenues from the two interests in extractives projects held directly by MRDC (Highlands Pacific Ltd and Mineral Resources Ramu Ltd), the SOE officials confirmed that neither had paid dividends yet given that the underlying Ramu Nickel project had not yet achieved profitability. The officials confirmed that these interests had been acquired on purely commercial terms and that the terms associated with MRDC's direct equity interests were the same as for any private company. They confirmed that MRDC was subject to statutory audits by external auditors, but that the 2016 audited financial statements had not yet been prepared. All stakeholders consulted considered that there were significant misconceptions about MRDC's activities, with several government officials considering that public perceptions of MRDC were negatively skewed. Several CSOs and journalists expressed concerns over MRDC's management of funds on behalf of landowner groups, highlighting that MRDC was one of the largest real estate investors in Fiji and calling for more clarity on their investments.

Initial assessment

The International Secretariat's initial assessment is that PNG has made meaningful progress in meeting this requirement. The 2016 EITI Report provides a list of companies in which the government holds majority equity interest and clarifies that state participation in four of the five extractives SOEs gave rise to material revenues in 2016. However, the list of state participations in the 2016 EITI Report does not appear comprehensive and there is evidence that legal entities majority-owned by the state that were material to EITI reporting (on public-sector loan guarantees to extractives projects) were omitted from the report. The report clarifies the actual practice of financial relations between the five SOEs and the government in 2016, but does not clearly describe the statutory rules governing the financial relations between extractives SOEs and the national government. The report provides information on the terms associated with some, but not all, state equity and describes changes in state participation in the mining, oil and gas sectors in 2016. Finally, while the report clarifies that SOEs did not have any outstanding loans or guarantees to extractives companies in 2016, it does not clarify whether the government had any outstanding loans or guarantees to extractives companies (including SOEs) directly in 2016.

In accordance with Requirement 2.6, PNG should clearly establish its definition of SOEs to delineate the SOEs within the scope of EITI reporting and ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. PNG must also clarify the rules and practices governing financial relations between all SOEs, including their subsidiaries, and the state, including the existence of any loans or guarantees extended by the state, or SOEs, to extractives companies or projects.

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 2016 EITI Report contains sufficient information on the governing laws in the sector, the roles of the regulatory agencies, and provides an overview of the applicable fiscal regime and a level of fiscal devolution. Policy reforms are also mentioned.	Satisfactory progress
License allocations (#2.2)	The 2016 EITI Report provides a list of mining tenement awards and transfers, although there is evidence from government sources this list is not comprehensive. While the report provides a list of oil and gas licenses transferred in 2016, which appears likewise non-comprehensive, it only provides the number of licenses awarded in the year under review without providing the specific licenses awarded. While the report describes the general process for awarding and transferring mining tenements and oil and gas licenses, it does not provide the specific technical and financial criteria assessed in the application process. While the report states that there were no non-trivial deviations from statutory procedures in the licensing process in both mining and petroleum, there appear to be deviations in the timeframe for processing oil and gas license applications and there are significant concerns from civil society over non-trivial deviations.	Inadequate progress
License registers (#2.3)	While all of the information per Requirement 2.3 is publicly available for all active mining tenements, there are significant shortcomings in the public availability and comprehensiveness of information on oil and gas licenses. The 2016 EITI Report provides a list of oil and gas licenses held by material companies, including names of operators and names of partners and interests for production licenses, there is no information on dates of application, award or expiry, license coordinates or commodity(ies) covered.	Meaningful progress
Contract disclosures (#2.4)	The 2016 EITI Report sufficiently explains the government's policy actual practice when it comes to contract disclosure. It should be noted,	Satisfactory progress

	however, that PNG contracts are not publicly accessible due to confidentiality provisions in the contracts.	
Beneficial ownership disclosure (#2.5)	The 2016 EITI Report does not contain any information on beneficial owners, although it provides some information on legal owners of mining companies. No such information was given for oil and gas companies.	Encouraged
State-participation (#2.6)	The 2016 EITI Report provides a list of companies in which the government holds majority equity interest and clarifies that state participation in four of the five extractives SOEs gave rise to material revenues in 2016. However, the list of state participations in the 2016 EITI Report does not appear comprehensive and there is evidence that legal entities majority owned by the state that were material to EITI reporting on public-sector loan guarantees to extractives projects were omitted from the report. The report clarifies the actual practice of financial relations between the five SOEs and the government in 2016, but does not clearly describe the statutory rules governing the financial relations between extractives SOEs and the national government. The report provides information on the terms associated with some, but not all, state equity and describes changes in state participation in the mining, oil and gas sectors in 2016. Finally, while the report clarifies that SOEs did not have any outstanding loans or guarantees to extractives companies in 2016, it does not clarify whether the government had any outstanding loans or guarantees to extractives companies (including SOEs) directly in 2016.	Meaningful progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In accordance with Requirement 2.2, PNG is required to publicly disclose information related to the award or transfer of mining tenements and oil and gas licenses pertaining to companies covered in the EITI Report. This information should include the number of mining tenements and oil and gas licenses awarded and transferred in the year under review, a description of the award and transfer procedures, including specific technical and financial criteria assessed, and any non-trivial deviations from statutory procedures in practice. 2. In accordance with Requirement 2.3, PNG should maintain a publicly-accessible register or cadastre system(s), including comprehensive information on licenses for all oil, gas and mining companies. In the interim PNG should ensure that information set out under EITI Requirement 2.3.b is publicly accessible for all mining, oil and gas companies. 		

3. To strengthen implementation, PNG is encouraged to work with industry stakeholders to explore the scope for publishing extractives contracts and MoAs between companies, different levels of government and landowner groups.
4. To strengthen implementation, the MSG is encouraged to start disclosing actual beneficial owners in their EITI Reports and to agree on the level of details to be disclosed, with the objective of being able to fully report beneficial owners by 2020. The MSG might wish to align their efforts on beneficial ownership with broader government reforms on anti-corruption or implementation of good corporate practice.
5. In accordance with Requirement 2.6, PNG should clearly establish its definition of SOEs to delineate the SOEs within the scope of EITI reporting and ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. PNG must also clarify the rules and practices governing financial relations between all SOEs, including their subsidiaries, and the state, including the existence of any loans or guarantees extended by the state, or SOEs, to extractives companies or projects.

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 2016 EITI Report provides an overview of major mining operations in 2016 (pp.65-72), including significant exploration activities (p.75) and lists of exploration licenses, mining leases and special mining leases active in 2016 (pp.64,153-166). The report provides a brief overview of oil and gas exploration and notes that oil and gas exploration has remained high since 2012, at which point there were 71 Petroleum Prospecting Licences and over 15 applications pending, covering large parts of the country (p.93)

The introduction of the Unconventional Hydrocarbons Act 2015 (UHA) during 2015 has also cleared the way for further exploration and production including unconventional hydrocarbons such as shale oil and gas that were previously excluded from the OGAA brief overview of the alluvial mining sector is also provided (p.73). The report provides an overview of the main oil and gas projects (pp.84-89), including significant exploration activities and new projects (pp.92-93).

Stakeholder views

Stakeholders consulted did not express any particular views on the 2016 EITI Report's overview of the extractive industries and significant exploration activities. Several industry representatives considered that the report provided an accurate depiction of the major trends in the sector, even if more detail could always be added. However, some oil and gas companies considered that the narrative description of the extractive industries could be expanded. A government official noted that the DPE did not provide updates on significant oil and gas activities on its website, but highlighted plans to develop an integrated map of all oil and gas activities in PNG.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress towards meeting this requirement. The 2016 EITI Report provides an overview of the mining, oil and gas sectors, including significant exploration activities.

To strengthen implementation, PNG may wish to explore means of publishing timelier updates on the extractive industries, including significant exploration activities, in coordination with relevant sector regulators (MRA and DPE) and the PNG Chamber of Mines and Petroleum.

Production data (#3.2)

Documentation of progress

For mining, the 2016 EITI Report presents the reconciliation of production *volumes*, disaggregated by mine/project, between figures from the MRA and from reporting companies (pp.65-68,69-73,77-78). While the reconciliation highlights significant discrepancies (of more than 5%) in the case of three mines¹¹⁶, the report only explains the reasons for discrepancies in the case of the Hidden Valley mine (p.79). Although figures are provided for *values* in FOB terms (pp.77-78), it is unclear whether these relate to volumes of production or of exports, both of which are provided. Given that it is uncommon to provide mining production figures in FOB terms, it can be assumed that these FOB values relate to exports, rather than production. The lack of provision of production values appears to have been an oversight by the MSG and IA, who published the missing production values on the PNG EITI website on 16 May 2018.¹¹⁷

For oil and gas, there is evidence that the MSG attempted to reconcile production *volumes* between disclosures from the DPE and operators, although the report indicates that DPE provided only partial (and delayed) information on oil and gas production (pp.6,93-94). Thus, the report presents figures from ExxonMobil and Oil Search for production volumes of oil, condensate, gas and LNG (pp.6,93-94), alongside production volumes from DPE for oil, but not for condensate, gas or LNG (p.94). On this basis, the aggregate reconciliation of oil production volumes between DPE and operators is presented, highlighting significant discrepancies (of around 50%) in reported oil production figures (p.94). The report presents the *value* of exported oil, condensate and LNG (pp.6,93-94), but it does not present the value of production. The report provides the maps with the location of production for both mining (pp.65-72) and oil and gas (p.85).

While the report provides the source of production data for mining (pp.65-68,69-73,77-78) and oil and gas (pp.6,93-94), it does not provide additional information on the methodology for calculating production figures, even if this is only encouraged by Requirement 3.2. Nonetheless, the report notes that while the MRA and DPE undertake “reasonableness checks” on monthly production data from operators, they do not have the capacity to audit the data despite their statutory powers to do so (pp.76,93).

Stakeholder views

Stakeholders consulted from all constituencies confirmed that both DPE data on oil and gas production and MRA data on mining production were based on reports by companies without being independently verified. Several government and civil society representatives raised concerns over the quality of production data reported. Several CSOs considered that the reconciliation of production data between the regulators (MRA and DPE) and operators did not represent a real reconciliation, since the government’s production data was solely based on company self-reporting without independent verification.

In terms of mining production data, there was uncertainty among company and government

¹¹⁶ Porgera mine, Kurumbukari mine and Hidden Valley mine.

¹¹⁷ PNG EITI (May 2018), “Supplementary Information to the 2016 Papua New Guinea Extractive Industry Transparency Initiative (EITI) Report”, accessed [here](#) in May 2018.

Commented [AL16]: It has always been said that these are export FOB values.

representatives consulted about whether the FOB values disclosed in the 2016 EITI Report related to values of mineral production or exports. However, there was consensus among all CSOs consulted that the FOB values provided in the report related to mineral exports, rather than production. They explained that this had been highlighted as a concern to the IA during the finalisation of the report, but that the final report had not taken civil society's concerns on this point into account. Several CSOs also argued that it was methodologically unsound to equate production and export volumes and values, given the practice of stockpiling reserves exported in subsequent years and the potential difference between production and export values. A government representative highlighted the value of the 2016 EITI Report's mining production data, noting that the MRA had not previously been aware of silver production at the Lihir mine.

With regards to oil and gas production value, several stakeholders from all constituencies confirmed that the price of LNG was covered by confidentiality provisions and could not be legally disclosed. Several stakeholders confirmed that the MSG had not discussed the possibility of disclosing aggregate volumes and values of PNG's 2016 natural gas production, which would have included both PNG LNG feedstock and Hides gas. Several stakeholders from both government and civil society confirmed that there was no publicly-accessible source of information on aggregate production values of oil, condensate and natural gas, given that the central bank only published export data. While the 2016 Oil Search annual report provides a figure for the average realised price in 2016 for oil and condensate (USD 45.04 per barrel)¹¹⁸ and LNG and gas (USD 6.36 per mmBtu)¹¹⁹, a CSO did not consider that such figures could be used for calculating estimates of production values for these commodities given that they related to effective export prices. Several CSOs strongly criticised the lack of information on values of oil and gas production and considered it to be the right of citizens to know the value of commodities being produced in PNG.

Initial assessment

The International Secretariat's initial assessment is that PNG has made inadequate progress towards meeting this requirement. The 2016 EITI Report provides production volumes for minerals, oil and gas produced in 2016, as well as maps showing the location of producing projects. While PNG has made efforts to go beyond the minimum requirement by attempting to reconcile production volumes for minerals, oil and gas, the 2016 EITI Report does not provide the production values for minerals, oil and gas produced in 2016. Recognising the oversight however, the MSG published missing production values for minerals on its website in May 2018 (subsequent to the commencement of Validation), but production values for oil and gas are still missing. The significant discrepancies in the reconciliation of production figures and the delayed and incomplete reporting by the DPE are also a concern, given that they are based on companies' self-reporting.

In accordance with Requirement 3.2, PNG should ensure that the complete production volume for oil and gas, and production values for each of the extractives commodities produced during the year under review be publicly accessible, disaggregated by commodity. To strengthen implementation, PNG may also wish to consider disclosing the methodology adopted for calculating production volumes and values, not least given the robust public debate surrounding these figures.

¹¹⁸ Oil Search (February 2017), 2016 Full Year Results, accessed [here](#) in May 2018, p.1.

¹¹⁹ Ibid, p.1.

Export data (#3.3)

Documentation of progress

For mining, the 2016 EITI Report provides a reconciliation of mineral export *volumes* and *values* between the MRA and mine operators, disaggregated by commodity and by mine/project (pp.77-79). The value of mineral exports, disaggregated per commodity, is also compared to export figures in the national budget (p.79). The report also provides a graph of the value of mineral exports, disaggregated by mine and commodity, based on MRA data alone (p.5).

For oil and gas, the report presents 2016 oil export *volumes* sourced from DPE and the operator, with significant discrepancies (of over 50%) (pp.93-94). The *value* of 2016 oil exports is disclosed and reconciled between figures from the operator and the national budget (p.93). The *volumes* of 2016 condensate exports are provided, sourced from the operator (p.93). The report presents a comparison of the *value* of 2016 condensate exports, sourced from the operator and from the national budget (p.93). However, while the report provides LNG production volumes, the report states that the operator did not report LNG export *volumes*. However, this appears to have been an oversight and the MSG published the missing LNG export volumes on the PNG EITI website on 16 May 2018.¹²⁰ The *value* of 2016 LNG exports is provided, sourced from the national budget (p.94), although it is unclear from the report whether these represent projections from the 2016 national budget (drafted in 2015), or realised revenues in the 2016 budget execution report or 2017 national budget. Figure 40 provides a low-definition map of oil and gas projects as well as the oil export pipeline and gas pipelines (p.85).

Stakeholder views

With regards to mineral exports, several government officials explained that they had confidence in export figures for copper, nickel and cobalt, but raised significant concerns over the reliability of official data on gold export, including from large-scale industrial mines. Noting that small-scale gold production was largely unrecorded, the officials also considered that PNG Customs did not have reliable data on gold exports due to capacity constraints and the fact that Customs did not have an incentive to track mineral exports given that they did not levy any duties on these. A senior official explained that PNG Customs had been lobbying the Treasury to introduce export duties on minerals as part of the annual national budget, although this had been unsuccessful to date. Stakeholders from government and civil society confirmed that export figures were based on companies' self-reporting without independent verification by government. While the central bank provided data on export volumes and values per commodity in its Quarterly Economic Bulletins¹²¹, the representatives explained that this data was based on companies' self-reporting to BPNG, rather than data from PNG Customs.

With regards to oil and gas exports, several CSOs stated unequivocally that export values marked as sourced from the national budget (for oil, condensate and LNG) in the 2016 EITI Report were in fact projections in the 2016 national budget (drafted in 2015) rather than realised values that would be

¹²⁰ PNG EITI (May 2018), op. cit.

¹²¹ Bank of Papua New Guinea website, Quarterly Economic Bulletin page, accessed [here](#) in May 2018.

available from BPNG or the 2017 national budget. Indeed, the December 2016 BPNG Quarterly Economic Bulletin provides a different figure (PGK 8185.6m) for the value of 2016 LNG exports¹²² than that in the 2016 EITI Report (PGK 8013m). The PNG LNG website provides the volumes of LNG exports in 2016 as “around” 7.9m tonnes of LNG.¹²³ There is additional information on 2016 oil and gas exports available online. Oil Search’s 2016 financial results, available from its website, state that 108 LNG cargos were exported from PNG in 2016¹²⁴, while the PNG LNG website provides the capacity of the four LNG carriers used for LNG exports as ranging from 169,000 cubic metres to 175,000 cubic metres.¹²⁵ The December 2016 BPNG Quarterly Economic Bulletin provides figures for the average 2016 FOB export price of condensate (PGK 141 per barrel)¹²⁶, crude oil (PGK 132 per barrel)¹²⁷ and LNG (USD 6,8000 per mmbtu).¹²⁸

Initial assessment

The International Secretariat’s initial assessment is that PNG has made meaningful progress in meeting this requirement. The 2016 EITI Report discloses export values for all minerals, oil and gas exported in 2016, but only provides export volumes for minerals, oil and condensate, not for LNG. However, recognising the oversight, the MSG published the missing LNG export volumes for 2016 (disclosed by the operator) on the PNG EITI website in May 2018. While it is a concern that the value of 2016 LNG exports provided in the 2016 EITI Report is an estimate based on budget projections, the EITI Board has taken the view in previous Validations¹²⁹ that the provision of an estimated value of production based on official sources was sufficient to achieve satisfactory progress in meeting Requirement 3.3. Although the volumes of LNG exports in 2016 appear readily available from the PNG LNG website, there is no reference to the availability of this data in the 2016 EITI Report. Thus, it can be reasonably concluded that most aspects of the requirement have been implemented and that the broader objective is being fulfilled.

In accordance with Requirement 3.3, PNG should ensure that export volumes and values are publicly disclosed for each mineral commodity (including oil, condensate and gas) exported in the year under review. Given the high public interest in export data, PNG may wish to consider disclosing additional information on the mechanisms for tracking mining, oil and gas exports and the methodology for calculating export values.

¹²² Bank of Papua New Guinea (December 2016), ‘December 2016 Quarterly Economic Bulletin (QEB)’, accessed [here](#) in May 2018, p.14.

¹²³ PNG LNG website, ‘Export and shipping’ page, accessed [here](#) in May 2018.

¹²⁴ Oil Search (February 2017), op. cit., p.8.

¹²⁵ PNG LNG website, ‘Export and shipping’ page, op .cit.

¹²⁶ Bank of Papua New Guinea (December 2016), ‘December 2016 Quarterly Economic Bulletin (QEB)’, accessed [here](#) in May 2018, p.14.

¹²⁷ Ibid, p.15.

¹²⁸ Ibid, p.35.

¹²⁹ See for instance the 2016 Validations of Peru and of Mongolia for instance.

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 extractive sector, including exploration activities (#3.1)	The 2016 EITI Report provides an overview of the mining, oil and gas sectors, including significant exploration activities.	Satisfactory progress
Production data (#3.2)	The 2016 EITI Report provides production volumes for minerals, oil and gas produced in 2016, as well as maps showing the location of producing projects. While PNG has made efforts to go beyond the minimum requirement by attempting to reconcile production volumes for minerals, oil and gas, the 2016 EITI Report does not provide the production values for minerals, oil and gas produced in 2016. The significant discrepancies in the reconciliation of production figures and the delayed and incomplete reporting by the DPE are also a concern, given that they are based on companies' self-reporting.	Inadequate progress
Export data (#3.3)	The 2016 EITI Report discloses export values for all minerals, oil and gas exported in 2016, but only provides export volumes for minerals, oil and condensate, not for LNG. While it is a concern that the value of 2016 LNG exports provided in the 2016 EITI Report is an estimate based on budget projections, the EITI Board has taken the view in previous Validations ¹³⁰ that the provision of an estimated value of production based on official sources was sufficient to achieve satisfactory progress in meeting Requirement 3.3. Although the volumes of LNG exports in 2016 appear readily available from the PNG LNG website, there is no reference to the availability of this data in the 2016 EITI Report. Thus, it can be reasonably concluded that most	Meaningful progress

¹³⁰ See for instance the 2016 Validations of Peru and of Mongolia for instance.

	aspects of the requirement have been implemented and that the broader objective is being fulfilled.	
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. To strengthen implementation, PNG may wish to explore means of publishing timelier updates on the extractive industries, including significant exploration activities, in coordination with relevant sector regulators (MRA and DPE) and the PNG Chamber of Mines and Petroleum. 2. In accordance with Requirement 3.2, PNG should ensure that the complete production volume for oil and gas, and production values for each of the extractives commodities produced during the year under review be publicly accessible, disaggregated by commodity. To strengthen implementation, PNG may also wish to consider disclosing the methodology adopted for calculating production volumes and values, not least given the robust public debate surrounding these figures. 3. In accordance with Requirement 3.3, PNG should ensure that export volumes and values are publicly disclosed for each mineral commodity (including oil, condensate and gas) exported in the year under review. Given the high public interest in export data, PNG may wish to consider disclosing additional information on the mechanisms for tracking mining, oil and gas exports and the methodology for calculating export values. 		

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 MSG first discussed its approach to materiality at its meeting 27 March 2015 and then adopted the same materiality threshold for succeeding reports. In line with previous reports, the MSG agreed to include all revenue streams accounting for more than 2% of total government extractives revenues in the 2016 EITI Report, a threshold considered broadly consistent with those used in other EITI implementing countries (p.16). Alongside its quantitative materiality threshold, it is explained that the MSG also considered qualitative aspects in its materiality definition, including revenue flows below the 2% threshold, namely production levies, given stakeholders' interest in such flows (pp.16-17,19).

Descriptions of material revenue streams: The 2016 EITI Report lists and describes the material revenue streams (pp.19-20,36-37,123-133), including:

- Development levy (for petroleum)
- Equity distribution (for petroleum)
- Shares of sale (for petroleum)
- Royalties (for mining and petroleum)
- Dividends (for mining and petroleum)
- Group Tax (for mining and petroleum)
- Mining and petroleum tax/Corporate income tax (for mining and petroleum)
- Foreign contractor withholding tax (for mining and petroleum)
- Infrastructure tax credits (for mining and petroleum)
- Production levy (for mining)

It appears that all revenue streams listed under Requirement 4.1.b are covered in the scope of reconciliation, given that Profit Oil and Bonuses are not applicable within the PNG fiscal regime.

Materiality threshold for companies: The MSG first discussed its definition of materiality in selecting companies for reconciliation during its MSG meeting on 27 March 2015 and then adopted the same materiality threshold for succeeding reports. It agreed to include all producing companies, including those with interests in operations that were producing saleable commodities in 2016, in the scope of reporting (p.4). In addition, all SOEs were considered material (p.4).

The report refers to a case study “in Chapter 8” that discussed the payment streams from exploration companies (p.17), implying that this case study provided a justification for excluding non-producing companies from the scope of reporting, there is no evidence of this case study in the 2016 EITI Report.

Material companies: The report lists the eight mining companies¹³¹, four oil and gas companies¹³² and four SOEs¹³³ included in the scope of reporting (pp.5,17).

Material company reporting: Table 30 provides a list of non-reporting companies, indicating that two mining companies (Niuminco Group Ltd. and Anomaly Ltd.) and one SOE (Kumul Petroleum Holdings Ltd.) did not submit reporting templates (p.119). All oil and gas companies reported (pp.8,119). However, while the report provides the percentage of number of material companies reporting (75% of the number of mining companies, 100% of oil and gas companies and 84% of all material companies) (p.8), it does not provide an assessment of the materiality of omitted payments from non-reporting companies, i.e. as a share of total government extractives revenues. The results of reconciliation suggest additional omissions by reporting companies, such as the lack of reporting of mining royalty payments by MCC Ramu NiCo Ltd (pp.123-130), although the materiality of these omissions is not explicitly assessed.

Commented [AL17]: There is no such mining company in PNG

Material government entities: The MSG identified material government entities based on their receipt of material revenues from companies in the scope of reporting. The report explains that government entities that did not receive payments but kept records of payments were also included in as material government entities (p.18). The seven material government entities are listed (pp.18,120).

Government reporting: While the report lists the six government entities that reported (p.120) out of seven material entities, and provides the percentage of number of material government entities reporting (p.8), the report does not assess the materiality of omissions, i.e. the share of material government revenues collected by the Department of Finance. In addition, there is no evidence of government reporting of revenues collected from the two non-reporting material mining companies (p.123,126,128). While the report merely notes that the IA experienced varied levels of cooperation from reporting entities, it states that reporting entities showed “an increasing level of understanding of the process, and willingness to participate since the first PNG EITI Report on 2013” (p.ix)

Discrepancies: There is no evidence that the MSG set a specific materiality threshold for investigating discrepancies. The report highlights significant final unreconciled net discrepancies in the reconciliation of several revenue streams, including additional profits tax (110%), corporate income tax (90.31%), development levies (89.34%), equity distributions - Oil Search shares (96%), infrastructure tax credits (29.26%), and royalties (4.73%) (pp.122-130). The report explains that in most cases, however, these overall variances do not imply systemic issues when examined in more detail. The report presents an explanation for discrepancies identified, per company (pp.13-130). In some cases, such as Infrastructure Tax Credits, there appears to be differing interpretations of which amounts should be reported. (p.9)

¹³¹ Barrick (Niugini) Ltd., Anomaly Ltd., Hidden Valley JV, Lihir Gold Ltd., MCC Ramu NiCo Ltd., Niuminco Edie Creek Ltd., Simberi Gold Co. Ltd., and Ramu Nickel Ltd.

¹³² ExxonMobil PNG Ltd (and subsidiaries), JX Nippon Oil and Gas Exploration Corporation (and subsidiaries), Oil Search (PNG) Ltd. and Santos Ltd (and subsidiaries).

¹³³ Kumul Mineral Holdings Ltd., Kumul Petroleum Holdings Ltd., Mineral Resources Development Company Ltd. and Ok Tedi Mining Ltd.

Full government disclosure: There is no evidence in the 2016 EITI Report of full unilateral government disclosure of total revenues, including from non-reporting companies, for each of the revenue streams included in the scope of reconciliation. There are also several instances where there is no evidence of government reporting of revenues from non-reporting material companies, despite the fact that one of the two non-reporting mining companies (Niuminco) signed the tax confidentiality waiver (p.123).

Stakeholder views

Materiality: In terms of the materiality of *revenue streams*, a government official and several CSOs expressed satisfaction at the MSG's decision to include group tax in the scope of reconciliation, following its exclusion in the 2013 EITI Report. This was considered particularly important given that group tax consistently accounts for more revenues from extractives companies than their corporate income tax. None of the stakeholders consulted expressed concern over the exclusion of exploration-related fees, including from (material) producing companies, from the scope of reporting. While several industry representatives emphasised the importance of disclosures of companies' indirect contributions to the economy, for instance through social expenditures, all representatives consulted considered that the 2% threshold for selecting material revenues was adequate. With regards to the categorisation of infrastructure tax credits, none of the stakeholders consulted considered that the 2016 EITI Report's description of expenditures under the infrastructure tax credit (ITC) scheme as infrastructure provisions or barter arrangements was correct. Several industry representatives explained that their companies booked such payments as "pre-payments of corporate income tax in kind" in their accounts. A government official concurred with this categorisation, noting that the national budget categorised ITCs as "revenue forgone" (see Requirement 4.3).

In terms of the materiality of *companies*, all government and industry representatives consulted confirmed that revenues from non-producing extractives companies were not considered material. The IA could not explain why the study on exploration companies had not been included in the 2016 EITI Report. A government official confirmed that the most significant tax payments from exploration companies were group tax and stamp duties, although they were also required to pay foreign contractor withholding tax and dividend withholding tax, where applicable. All oil and gas companies consulted confirmed that exploration companies did not make material payments, explaining that exploration fees were set at PGK 10,000 and confirming that signature bonuses were not applicable under PNG's fiscal regime for oil and gas. All mining companies confirmed the lack of material payments from mining companies at the exploration stage, noting that the largest payment consisted of a one-off PGK 500,000 application fee for a Special Mining Lease. However, several CSOs called for more information on companies at the exploration stage, in particular on Nautilus given its work on sea-bed mining. They noted that the economic impact of large extractives projects was much more significant during the construction phase than during their operation. However, they noted that they had agreed to exclude non-producing companies given that exploration fees had not been considered material. In terms of the selection of operating companies for reporting, a government official confirmed that payments such as group tax were paid by the operator on behalf of partners.

In terms of the materiality of *government entities*, a government official confirmed that companies could agree with the government, as part of the project agreement, to make tax payments into an offshore USD-denominated account held by BPNG, but that the IRC was still the manager of the tax revenue and thus the natural agency to participate in EITI reporting. Several government officials confirmed that neither PNG Customs nor the Department of Finance collected extractives revenues.

Company reporting: None of the stakeholders consulted expressed any views on the reasons for the two mining companies' non-reporting. While the 2016 EITI Report stated that KPH had not reported, representatives from the company provided evidence that they had submitted their reporting template. With regards to omissions in company reporting templates, several SOE representatives explained that this was likely due to confusion on the part of staff filling out the template. A government representative noted that the IRC would only have been able to provide data on revenues from one of the two non-reporting mining companies (Niuminco), given that Anomaly Ltd had not signed the tax confidentiality waiver. The IA considered that it had data on the materiality of omissions from non-reporting companies even if this was not provided in the 2016 EITI Report.

Commented [AL18]: It's not a mining company. It's an exploration company.

Government reporting: A government official explained that the IRC prepared data on tax revenues from all material companies, but was only able to disclose tax revenues from companies that had submitted a signed tax confidentiality waiver. However, several government officials highlighted recent reforms to the Income Tax Act that had lifted taxpayer confidentiality provisions for EITI reporting, which would facilitate future EITI reporting (see Requirement 1.2). The government official explained that data on government tax revenues from extractives companies included in the 2016 EITI Report represented payments from material companies only. Although the Department of Finance had not submitted its reporting template, the IA confirmed that the department did not collect extractives revenues. While the IRC was able to report aggregate tax revenues from all material companies combined, the official explained that this information had not been requested by the IA. The IA confirmed that it did not have figures for total revenues, including from non-material companies, for each of the material revenue streams.

Discrepancies: There was considerable surprise from all representatives of reporting companies and government entities consulted over the level of final unreconciled discrepancies in the 2016 EITI Report. None of the stakeholders consulted provided any additional comments on the reasons for these discrepancies beyond the explanations provided in the 2016 EITI Report. A government official expressed dissatisfaction at the explanations of many of the discrepancies in the reconciliation of tax revenues in the report, considering that these could not explain such significant discrepancies. The IA explained that it had convened meetings between individual companies and government entities to investigate discrepancies, but explained that it was not possible to find explanations for the final unreconciled discrepancies in the report.

Initial assessment

The International Secretariat's assessment is that PNG has made inadequate progress towards meeting this requirement. The MSG has agreed materiality thresholds for selecting companies and revenue streams. Despite the lack of materiality threshold for selecting material companies based on total payments to government, there is no evidence of any material payments from non-producing companies that were excluded from the scope of reconciliation. The 2016 EITI Report lists and describes all material companies and revenue streams. While the report lists the non-reporting material companies and government entities, it does not provide an assessment of the materiality of non-reporting companies' payments to government. The high value of final unreconciled discrepancies is a concern, particularly given stakeholders' lack of confidence in the explanations provided for discrepancies in the report. There appear to have been gaps in government reporting and there is no evidence of full unilateral disclosure of government revenues, including from non-material companies, for each of the revenue streams included in the scope of reconciliation. In view of these weaknesses, it can reasonably be concluded that significant aspects of the requirement have not been implemented and that the broader objective is far from

fulfilled.

In accordance with Requirement 4.1, PNG should ensure that the materiality threshold for selecting companies ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The MSG should ensure that PNG's next EITI Report includes the IA's assessment of the materiality of omissions from non-reporting entities, an assessment of the comprehensiveness of the EITI Report and that full unilateral government disclosure of total revenues, including from non-material companies, is provided for each of the material revenue streams. In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in comprehensiveness of reporting documented in the initial assessment.

In-kind revenues (#4.2)

Documentation of progress

The 2016 EITI Report suggests that the government did not receive any in-kind revenues in 2016, although it does not categorically state so. The report confirms that KCH did not receive any physical share of production (p.100).

In terms of KPH, the report describes that KPH's share of natural gas from the PNG LNG project is marketed together with other consortium participants' natural gas by an incorporated entity called GloCo (p.103). It is stated that GloCo is operated on behalf of PNG LNG partners by ExxonMobil but is not an affiliate or subsidiary of ExxonMobil, being jointly-owned by PNG LNG consortium partners in line with their equity ownership in the project (p.103). Given KPH's 16.57% interest in PNG LNG, GloCo cannot be considered a SOE under the definition provided in Requirement 2.6.a.¹³⁴ The report clarifies that GloCo transfers the proceeds of natural gas sales to its owners (PNG LNG partners) once a quarter (p.103) and discloses revenues paid by GloCo to KPH in 2016 (pp.103,132). While this seems to imply that KPH does not receive in-kind revenues from its interests in the PNG LNG project, this is not explicitly stated in the report. The report also explains that KPH jointly sells natural gas from PDL1 Hides together with its partners to the Hides gas-to-electricity (GTE) Project owned by Oil Search, which conditions and sells the gas to the Porgera mine (p.101). This description implies that KPH takes physical delivery of natural gas produced from PDL1 Hides and subsequently sells this gas to the Hides GTE Project. While the report discloses revenues collected by KPH from the sale of this natural gas to the Hides Project (p.103), the volumes of natural gas collected by KPH and sold to the Hides Project are not disclosed.

With regards to KMH, the report explains that the SOE received its share of royalty and production levy in cash up to June 2016 and that the shares were transferred to KPH thereafter (p.106). While the report does not clarify whether KPH received its share of royalty and production levy after June 2016, it can be assumed royalty and production levy were transferred in cash (as they were for KMH prior to June 2016). KMH did not hold interests in any producing projects after June 2016 (p.106), implying that KMH did not receive any revenues in kind in 2016.

¹³⁴ EITI Requirement 2.6.a provides the following definition of SOEs: "For the purpose of EITI reporting, a SOE is a wholly or majority government-owned company that is engaged in extractive activities on behalf of the government."

The report's description of Ok Tedi implies that, while Ok Tedi is state-owned, the fiscal terms for its operations do not include any in-kind revenues (pp.109-110). Given that Ok Tedi finances the costs of its operations, pays taxes and royalties like any private company and is only liable to pay dividends to the state, it does not collect any in-kind revenues on behalf of the state.

Finally, the report explains that MRDC does not operate any upstream projects and only holds direct equity interests in two projects (p.111), confirming that MRDC does not receive any revenue in-kind revenues other than its share of production (p.115). It is evident from Table 29 that MRDC does not collect its share of production in kind (pp.116-117).

Stakeholder views

All SOE representatives consulted confirmed that they did not collect any revenues in-kind. Representatives of two SOEs confirmed that under the fiscal regime for oil and gas in PNG, the state was not entitled to revenue in-kind as fiscal revenues. Although a report on the PNG LNG project by ExxonMobil explains that GloCo purchases natural gas from the PNG LNG partners (given that it is an unincorporated joint venture), implying that GloCo takes legal title of the natural gas prior to selling LNG to customers¹³⁵, several SOE representatives confirmed that GloCo payments to KPH represented proceeds of sales of equity gas and did not represent a fiscal payment to government. The representatives confirmed that natural gas from PDL1 sold to Oil Search's Hides GTE Project also represented equity gas.

Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable to PNG in the year under review (2016). Although the 2016 EITI Report does not explicitly state that the government is not entitled to in-kind revenues as fiscal payments, there was consensus among stakeholders consulted that Requirement 4.2 was not applicable to PNG under the current fiscal regime.

Barter and infrastructure transactions (#4.3)

Documentation of progress

The 2016 EITI Report explains that barter arrangements exist in the form of infrastructure tax credits (ITC) according to Treasury (p.21). The report describes the use of infrastructure tax credits as a "public-private partnership model" (p.37), whereby mining, oil and gas companies develop infrastructure¹³⁶ for the needs of communities surrounding extractives projects and subsequently claim the expenditure against tax payable (pp.37,61). The report explains that expenditures on such tax-recoverable infrastructure must first be approved by the Department of National Planning and Monitoring (p.61) and that the credit amount is "generally" limited to a maximum of 0.75% of assessable income or tax payable each year (p.37). It is further clarified that "Unspent amounts can be carried forward and utilised within the next two years, while unused credits can be carried forward to succeeding years of income until fully utilised. A further 1.25% can be utilised for specified projects" (p.37). While the report does not clarify whether

¹³⁵ ExxonMobil Gas & Power Marketing Company (2017), 'PNG LNG: a world-class financing venture', accessed [here](#) in May 2018, p.5.

¹³⁶ Such as roads (construction, upgrading and maintenance), power supplies, government services (administration, policing, courts, education and health) and community facilities (p.61).

companies are required (by law or contract) to undertake a mandatory minimum of expenditures under the ITC scheme, it implies that this is a voluntary scheme given its statement that companies “can” claim expenditures under the ITC (p.37), rather than being required to do so.

The report documents challenges with the ITC scheme based on the Tax Review in the 2017 budget, noting that *“over almost 20 years since the introduction of the ITC, there has been no substantive review of its operation. Generally, there is a significant lack of reporting in relation to the ITC expenditures and monitoring of approved projects. The absence of a standard format for reporting ITC expenditures has resulted in a lack of consistency in the provision of the information by developers. This creates difficulty for the collation of tax expenditure data. The appraisal process has suffered from a lack of technical capacity and funding within the Department of National Planning and Monitoring (DNPM). These processed relate to policy screening, cost appraisal and approval of the projects by the Project Appraisal Committee. Monitoring and evaluation of these projects has been compromised for decades”* (p.42). The 2016 EITI Report puts forward recommendations on this issue (p.143). In terms of disclosures, the report presents the results of reconciliation of five companies’ reporting of expenditures on ITC-eligible projects in 2016 with data from DNPM, which monitors ITC activity (p.125). The report also presents the offsets against tax claimed by companies in 2016 and corresponding data from IRC (p.125).

Stakeholder views

There was consensus among stakeholders (from all constituencies) consulted who expressed an opinion on the issue that ITC expenditures could not be considered a form of barter arrangement or infrastructure provision under the definition provided in Requirement 4.3. Several government and company representatives confirmed that there was no mandatory minimum expenditure required from companies under the ITC scheme, which was purely voluntary. Several industry representatives explained that extractives companies often operated in remote location where the government’s presence was limited, so infrastructures would not otherwise have been developed sans the ITC scheme. A government official explained that ITC expenditures were reported as “revenue foregone” in the national budget, while company representatives considered them as forms of pre-payment of corporate income tax provided in-kind (see Requirement 4.1). While several CSOs raised concerns over the oversight of ITC-eligible expenditures and allegations of abuse of the scheme, all stakeholders consulted confirmed that such expenditures were not legally required in order to acquire an operating license or to be eligible to take physical delivery of extractives commodities. Many stakeholders highlighted the government’s on-going review of the ITC scheme’s administration, which could lead to a moratorium, with several CSOs and government officials praising the review and several companies raising concerns over what they considered a key benefit stream to local governments and communities. Stakeholders consulted did not express any particular views on the reasons for the 2016 EITI Report’s categorisation of ITC-eligible expenditures as a form of barter, other than categorically stating that this was a mis-categorisation.

Initial assessment

The International Secretariat’s initial assessment is that this requirement is not applicable to PNG in the year under review. While the 2016 EITI Report categorises expenditures under the infrastructure tax credit (ITC) mechanism as a form of barter arrangement, there was consensus among stakeholders consulted that extractives companies were not required to undertake expenditures under the ITC scheme in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities.

Transport revenues (#4.4)

Documentation of progress

The 2016 EITI Report states that according to Treasury, transport revenues do not exist in PNG except for pipeline fees which are not material, although their values are still provided in the report. (p. 21)

Stakeholder views

The stakeholders are not aware of any transportation fees being paid or collected. OTML is said to be paying harbour fees and spending on maintenance of roads but both payments could not be considered specific only to the extractive sector.

Initial assessment

The International Secretariat's initial assessment is that Requirement 4.4 is not applicable in PNG. The 2016 EITI Report confirms that transport revenues did not exist in PNG in 2016.

Transactions between SOEs and government (#4.5)

Documentation of progress

In order to assess the disclosure of transactions between the SOEs and extractives companies in the mining, oil and gas sectors, it is necessary to first understand the existing flows between the SOEs and the companies they hold interests in. The report confirms all SOEs' entitlement to receive a share of profits from companies in which they hold interests, as dividends in line with shareholder rights (p.40), but notes that only four of the five SOEs received extractives revenues in 2016 (p.99). There is no evidence in the report to suggest that any of the SOEs operate as fiscal agents on behalf of the state, i.e. collecting tax or non-tax revenue, aside from dividends from interests in upstream companies.

In terms of revenues collected by KCH, the report confirms that Highlands Pacific Ltd did not generate a dividend in 2016 (p.100), implying that KCH received no revenues from its 100% interest in GBT, which holds the 3.2% interest in Highlands Pacific.

In terms of revenues collected by KMH, the report seems to suggest that KMH used its portion of royalty and development levy payments pertaining to Eda, Kumul LNG and PDL5 Moran (prior to their June 2016 transfer to KPH) to finance the equity share of cash calls for these companies (p.106). The report does not provide the value of Kumul LNG and Eda Oil dividend payments to KMH prior to June 2016 and to KPH thereafter. The payments of taxes from the equity share of Eda Oil and Kumul LNG Ltd are disclosed in the report (pp.123-133), but the report does not clarify whether these companies made any dividend payments to KMH/KPH (post-June 2016).

With regards to revenues collected by OTML, the report does not clarify whether the SOE receives revenues from the two commercial companies (Ok Tedi Australia Pty Ltd and Ok Tedi Power Ltd) it holds interests in.

With regards to revenues collected by *KPH*, the report lists the three companies in which KPH holds interests, their ten subsidiaries/projects¹³⁷ (p.102) and provides KPH's unilateral disclosure of 2016 revenues from:

- PNG LNG equity distribution
- PDL 1 (Hides GTE)
- Oil Search dividends (net of retained debt-servicing funds linked to the UBS loan) (p.103).

The payment of Oil Search dividends is reconciled between figures from Oil Search and KPH. The value of revenues from PNG LNG equity distribution and from PDL 1 (Hides GTE) were unilaterally disclosed by KPH, and were not reconciled with the operators of PNG LNG GloCo and PDL1 GTE projects (p.130).

As a joint-venture partner in the PNG LNG project, KPH also receives a share of sales of PNG LNG-produced liquids (LNG, condensate, naphtha) sold through a joint-venture marketing agent of PNG LNG co-venture partners, GloCo. The value of KPH's share of 2016 sales proceeds is disclosed (p.103), but the report explains that KPH did not actually receive these funds in 2016 (p.103).

In terms of revenues collected by *MRDC*, the report does not state whether MRDC received any dividends in 2016 from its direct interests in Highlands Pacific and Mineral Resources Ramu (p.112), although it had previously clarified that Highlands Pacific did not generate a dividend in 2016 (p.100). Although the report explains that MRDC funds its operations from a management fee levied on each of its subsidiaries, it explains that there is no fixed management fee rate and that the IA could not obtain a clear explanation of the fee arrangements (p.115).

In terms of equity distributions (dividends) received by MRDC on behalf of provincial governments and landowners, the report confirms that these were excluded from the scope of reconciliation, but unilaterally disclosed by MRDC (p.131). Table 29 provides the value of three revenue streams (royalty, equity distribution and share of sales) collected by MRDC's subsidiaries and associated trusts on behalf of provincial governments and landowners in 2016 (pp.116-117).

While the report provides four SOEs' (Eda Oil, Kumul LNG, KPH and MRDC) shares of 2016 oil and gas sales proceeds (p.132), these are unilaterally disclosed by the SOEs and not reconciled with payments from the joint PNG LNG marketing venture, GloCo. The report notes that figures for "share of sales" were not included in calculations of total government extractives revenues given overlaps with the PNG LNG equity distribution (borrowers restricted payments) reported by KPH (p.132).

In terms of transactions between SOEs and government in the mining, oil and gas sectors, the report confirms that OTML is the only company operating extractive projects and therefore paying royalties, production levy and other non-tax payments to government (p.108). For the other four SOEs that simply hold equity in extractives companies, these payment flows are paid by the operators on behalf of the consortium. The SOE as equity-holder only pays general taxes (when at profit) and dividends to the state,

¹³⁷ KPH holds 100% interest in NPCP Kroton Ltd, NPCP Oil Company Pty Ltd and Eda Oil Ltd (since 2016). NPCP Kroton Ltd hold 20.5% interests each in four oil and gas licenses (PDL1 Hides, PDL7 Hides, PDL9 Juha and PDL8 Anqore). NPCP Oil Company Pty Ltd holds 5.57% interest in PDL3 South East Gobe, 3.29% in SE Gobe Unit, 14.9% of PRL9 and 10.9% in PRL14. Eda Oil Ltd holds 20.5% interest in PDL5 Moran and 100% of Kumul LNG Ltd.

when applicable. While tax and non-tax payments common to all extractives companies are covered under Requirement 4.1, Requirement 4.5 covers transactions specific to SOEs, in this case dividends. Three of the five SOEs' dividends to Treasury are provided, with dividends of PGK 100m each reported by only two SOEs (KPH and OTML), without discrepancy (pp.103,110,124). The report does not explain the lack of dividend from KMH, KCH and MRDC.

In addition to statutory dividend payments from SOEs to Treasury, the report notes that there was one additional ad hoc payment of PGK 200m by KPH to the government as an "advance" to cover the 2016 budget (p.103), without clarifying that this is an advance on dividend to the Treasury.

The report also includes the unilateral disclosure of 2016 allocations of revenues by MRDC to the three types of funds it manages as a trustee (Incorporated Landowner Groups, Community Investment Trust Fund and Future Generations Trust Fund), including for provincial governments (pp.116-117).

In terms of transfers from government to SOEs, the report confirms that KCH receives a monthly budgetary allocation approved by the NEC, which is disclosed in the KCH operating budget (p.100). However, the report does not provide the value of the 2016 budgetary transfers to KCH, nor provide guidance on accessing the KCH operating budget. The report does not explicitly state whether any of the other four SOEs received budgetary transfers in 2016, although it implies that all four fund their operations through retained earnings on dividends received (or management fees, in the case of MRDC).

Stakeholder views

Members of the MSG and the IA confirmed that the MSG had not set a different materiality threshold for reconciling SOE transactions, adopting the default materiality threshold described under Requirement 4.1. Stakeholders could not explain why all SOE transactions were not reconciled, only the dividend from the two SOEs reporting payments to government (not their subsidiaries).

In terms of *KCH* payments to government, several government officials confirmed the lack of Highlands Pacific dividends to date. They did not consider KCH to be an extractives SOE for reporting purposes even if the MSG did, since KCH was the government's asset manager for non-extractives SOEs.

In terms of *KMH* payments to government, several government and industry representatives confirmed that the oil and gas assets under KMH had been transferred to KPH in June 2016, without compensation. A government official stated that all earnings by Eda Oil and Kumul LNG had been retained by those entities to cover their share of cash calls, without any dividend having been paid to KMH for the period January-June 2016. Stakeholders confirmed that KMH did not have any other dividend-yielding interests in extractives companies in the period under review. Government representatives confirmed the lack of dividend from KMH to the Treasury in 2016 and the lack of budget transfers to KMH in 2016. Officials explained that KMH would have only made payments for common taxes such as Group Tax in 2016.

In terms of transactions involving *OTML*, several government and industry representatives confirmed that OTML did not receive dividends from any of its three subsidiaries. The representatives confirmed that OTML only paid a PGK 100.5m dividend to Treasury in 2016, which had been disclosed both in the 2016 EITI Report and in relevant budget documents.

In terms of transactions involving *KPH*, several government officials confirmed that the PGK 200m “advance” transferred by *KPH* to Treasury in 2016 represented an advance of future dividends to Treasury. They explained that the *KPH* Board approved dividends as part of the annual operating plan that was submitted to the NEC, but that exceptional advances could be agreed between the SOE and Treasury on a needs basis. Such advances would be included in the supplementary budget approved during the course of the year. Officials and the IA confirmed that *KPH* had not reported the PGK 200m advance to Treasury as part of its reporting template, but that the IA had subsequently confirmed the advance payment had been recorded in both Treasury and *KPH* accounts.

In terms of *MRDC*’s management of extractives equity interests on behalf of provincial governments, a government official explained that *MRDC* had not received any dividends from the two interests in upstream companies it held directly, given that the underlying mine had not yet started recording a profit. Several officials also confirmed that *MRDC* was neither required to pay dividends to the state nor entitled to receiving any transfers from the national budget. Officials confirmed that *MRDC*’s funding came from management fees withheld on earnings from companies managed by *MRDC* on behalf of provincial governments and landowner groups. Several officials considered that the equity distributions to companies controlled by provincial governments disclosed in Table 29 of the 2016 EITI Report were not comprehensive of total equity distributions to companies controlled by provincial governments in 2016. Stakeholders could not explain why equity distributions associated with provincial governments’ equity in upstream projects had not been comprehensively reconciled.

There was significant demand for information on dividends from extractives SOEs on the part of various government entities themselves (e.g. Treasury), civil society and analysts covering the PNG economy. While data on dividends reported in the 2016 EITI Report was consistent with that in the 2016 budget execution report¹³⁸, several analysts raised questions over the significant planned increases in total dividends from SOEs to government, which the government expected to rise from PGK 817m in 2017 to PGK 1.25bn in 2018. A government official noted ongoing implementation of the IFMIS system in line with the 2016 PFM Act, which required SOEs to operate a dividend policy that requires them to operate in line with commercial principles.¹³⁹

Initial assessment

The International Secretariat’s initial assessment is that PNG has made meaningful progress in meeting this requirement. The 2016 EITI Report discloses, but does not reconcile, some revenues collected by SOEs from mining, oil and gas companies they hold interests in. While two SOEs’ dividends to Treasury are disclosed and reconciled, it is unclear whether reporting of SOE transactions with other government entities is comprehensive.

In accordance with Requirement 4.5, PNG should undertake a comprehensive assessment of transactions between extractives SOEs (and their subsidiaries) and mining, oil and gas companies, as well as between the extractives SOEs (including their subsidiaries) and government in its scoping for future EITI Reports. All SOEs collecting material revenues or making material payments to government should be included in

¹³⁸ Government of PNG, 2016 Final Budget Outcome, accessed [here](#) in February 2018, p.13.

¹³⁹ IMF (January 2017), ‘Papua New Guinea 2016 Article IV Consultation’, accessed [here](#) in February 2018, p.38.

future EITI reporting.

Subnational direct payments (#4.6)

Documentation of progress

The 2016 EITI Report explains that subnational data from the extractive sector is difficult to obtain and that data for 2016 was not available. The MSG agreed that subnational payments would not be included in the scope of reconciliation but that it would include any relevant information in the report's narrative section (p.7). At its 26 June 2017 meeting, the MSG technical working group agreed to undertake a standalone scoping study on subnational payments to be published in the 2015 and 2016 EITI Reports¹⁴⁰, although the 2016 EITI Report states that this study was expected to be completed in 2018 (p.7). The 2016 EITI Report presents a list of revenues ("royalties, dividends, compensation payments, development levies, Special Support Grants, and other benefits as agreed") accruing to subnational governments, albeit without clearly differentiating between subnational direct payments, subnational transfers and payments to private entities such as landowners (pp.7,57-58). Although the report presents estimates for royalty and dividend payments to provincial governments in 2013, 2014 and 2015¹⁴¹, sourced from the National Economic and Fiscal Commission (NEFC) (p.57), it states that data for 2016 royalty and dividend revenues accruing to provinces was not yet available at the time of the EITI Report's preparation (p.57).

For *mining*, the report presents four revenue streams accruing to provincial and local governments, alongside revenue flows to private entities (p.57). One of these, dividends to provincial governments holding equity in mining projects, is best categorised as a SOE transaction involving provincial government equity-holders rather than a form of direct subnational payment, although this is not clarified in the report. The second, mining royalties, is described as being paid by companies to the state, which then "apportions" mining royalty revenue to affected landowners, provincial and local-level governments (p.57). However, in the results of reconciliation, the report contradicts this description by stating that mining royalties are paid directly by mine operators to beneficiaries including provincial and local governments on a monthly basis, with payments reported to the MRA (p.128). The third type of revenue flow consists of dividends associated with subnational government equity in mining projects (p.57), although this would be categorised as a SOE transaction involving subnational governments under the EITI Standard's definition in Requirement 4.5. The fourth type of revenue flow consists of special support grants that provide funding for subnational governments hosting mining projects (p.57), although the source of funding for these grants is unclear from the report.

The report presents the results of reconciliation of mining royalties for five of the eight material companies between figures from companies and from MRA, aggregated per company (p.129) and disaggregated by beneficiary (including provincial and local governments) (pp.172-173). Aside from the omissions due to two mining companies' lack of participation in EITI reporting (see *Requirement 4.1*), there appears to have been no reporting of mining royalties for MCC Ramu NiCo either by the company or by MRA (p.129), although no explanation is provided for this gap. Despite the materiality of mining royalty payments, there is no evidence that provincial or local governments were included in the scope of

Commented [AL19]: There is no contradictions here. The stated forfeited royalty payments to be paid to LO and LLG. That's why payments are paid directly to beneficiaries.

¹⁴⁰ PNG EITI, Minutes of the MSG technical working group meeting (26 June 2017), available at International Secretariat, p.3.

¹⁴¹ The NEFC estimated that provinces received PGK 84.2m from royalty and dividend payments in 2015, down from PGK96.7 million in 2014 and PGK 133.6m in 2013.

reporting, although it should be noted that the report is candid in explaining the lack of available data from these subnational governments.

For *oil and gas*, the report describes four types of revenue flows accruing to subnational governments. The first, oil and gas royalty, is described as being paid to the government (either DPE for Oil Search or BPNG for ExxonMobil) before being apportioned to relevant landowners, provincial and local governments (p.37), implying it is a subnational transfer (see *Requirement 5.2*). The second, development levy, is described in two inconsistent ways in the report. On the one hand, the report describes development levy as being paid directly by companies to provincial and local governments (p.37). On the other, development levy is described as paid to the national government (either DPE for Oil Search or BPNG for ExxonMobil), before being transferred to a Department of Finance trust account before being transferred to the trust accounts of relevant provincial and local governments (pp.19,131). The third type of revenue flow consists of dividends associated with subnational government equity in oil and gas projects (p.58), although this would be categorised as a SOE transaction involving subnational governments under the EITI Standard's definition in Requirement 4.5. The fourth type of revenue flow consists of project grants from the central government, provided either in cash or in-kind, to subnational governments hosting mining projects (p.58), although the source of funding for these grants is unclear from the report.

The results of reconciliation of oil and gas royalties and development levies between reporting from the two oil and gas operators and the DPE (p.131) appear to confirm that these revenue flows represent subnational transfers rather than subnational direct payments, although this is not explicitly stated (see *Requirement 5.2*).

Stakeholder views

There was considerable confusion and differences of opinion among stakeholders consulted over the distinction between subnational direct payments, subnational transfers, SOE transactions with subnational governments and transfers to private landowner groups. All stakeholders consulted expressed significant interest in clarifying the flow and value of revenues to subnational governments and landowner groups. Many representatives from all constituencies highlighted the ongoing scoping study on subnational revenue flows funded by the PNG-Australia Partnership, expected to be completed in September 2018. Several government officials explained that provincial governments had the statutory right to levy non-tax revenues, while local governments were not. Stakeholders consulted, including the IA, did not express any particular views as to the reasons why the 2016 EITI Report had presented different types of revenues accruing to subnational governments and landowner groups without clear distinction.

Several government officials explained that the NEFC collected information on royalty and dividend payments to subnational governments from MRA, DPE and the government accounting system (PGAS), in order to calculate the level of different grants for subnational governments. Indeed, the value of these grants, funded based on Goods and Service Tax (GST) that were not linked to extractives revenues, was inversely correlated to the value of royalty and dividends accruing to the subnational government entity in question. A senior government official explained that Special Support Grants listed in the 2016 EITI Report were in fact funded from the Consolidated Revenue Fund and thus were not linked to extractives revenues. Several government officials explained that the NEFC data on royalty and dividend revenue to subnational governments was not precise and that the NEFC often had to rely on proxy indicators. There

was considerable interest in any EITI data on revenue flows to subnational governments to improve the NEFC's calculations, not least given the perception that subnational governments often under-reported revenues to the NEFC when they claimed additional grants. There was consensus among all stakeholders consulted, including CSOs, that company payments to landowner groups represented private-to-private transactions.

All stakeholders consulted confirmed that all *oil and gas* payments were to the national government and that oil and gas companies made no subnational direct payments.

In terms of *mining*, several industry stakeholders consulted explained that while the 1992 Mining Act required companies to pay royalties to the MRA, which would then redistribute this revenue to provincial and local governments (and affected landowners), the practice since the mid-1990s had been for companies to make these payments directly to beneficiaries and subsequently provide proof of payment to the MRA. While the payment structure had been made as a result of weaknesses and delays in the redistribution of mining royalties to the beneficiaries, the executives explained that this payment structure was only codified in the Memorandums of Agreement (MoAs) concluded for each mining project and that MoAs were not currently publicly accessible. All stakeholders consulted confirmed that mining royalties were paid directly to beneficiaries, with proof of payment provided to the MRA, and there was consensus that these should be considered subnational direct payments rather than subnational transfers. The IA conceded that the reconciliation of mining royalties was between company figures and the MRA's reporting of company self-reporting. While several MSG members consulted confirmed that the MSG had decided not to include subnational governments in the scope of EITI reporting for the time being, the MSG had not justified this by setting a materiality threshold but rather had not considered it possible to date for logistical reasons. A consultant noted anecdotal evidence based on consultations with local officials that some provincial governments appeared interested in participating in EITI reporting.

With regards to the 2016 EITI Report's statement that additional benefit flows could be defined in MoAs, the majority of government and industry representatives consulted considered that these agreements defined the sharing of statutorily-defined revenue streams (such as royalties) and included additional benefits such as social expenditures, but not fiscal payments. However, several CSOs and a consultant considered that there was a possibility that some MoAs might define additional fiscal revenues for subnational governments. All CSOs consulted, including from the media, called for the publication of MoAs (or at least their key terms) as a means of clarifying revenue flows to subnational governments and landowners.

Initial assessment

The International Secretariat's initial assessment is that PNG has made inadequate progress towards meeting this requirement. This assessment is due to the 2016 EITI Report's vague (and contradictory) explanations of the structure and materiality of subnational direct payments linked to the extractives and confusion between subnational direct payments, subnational transfers, SOE transactions with provincial governments and private-to-private transactions (with landowner groups). The lack of justification on materiality grounds for the exclusion of subnational governments from the scope of reporting, that has hindered the reconciliation of these direct payments, is also concern. While it appears that the one type of statutory subnational direct payment linked to the extractives, mining royalty, has been unilaterally reported by companies disaggregated by subnational government beneficiary, the report's ambiguity on

whether additional fiscal payments may be defined in MoAs – and differing stakeholder views on the issue – casts doubt on the comprehensiveness of subnational direct payments covered in the report. Given the complexity of the situation and the MSG’s efforts to improve stakeholders’ understanding of extractives revenue flows accruing to subnational governments through a dedicated scoping study in 2018 is particularly welcome.

In accordance with Requirement 4.6, PNG should establish whether direct subnational payments (to government entities) by extractives companies are material. Where material, PNG is required to ensure that direct subnational payments are reconciled between company payments and subnational government entities’ receipts. Given widespread confusion yet vivid interest among stakeholders from all constituencies over extractives revenue flows accruing to subnational governments, PNG should consider mapping out subnational revenue flows associated with each individual extractives project, drawing on results from the scoping study on subnational revenue flows being prepared in 2018.

Level of disaggregation (#4.7)

Documentation of progress

The 2016 EITI Report presented reconciled data disaggregated by individual company, government entity and revenue stream. Payments that are disclosed in the aggregate by IRC only pertain to those that are not deemed material by the MSG and thus unilaterally disclosed as other taxes by IRC. All payments that are deemed material are disclosed to the levels required by the Standard.

Stakeholder views

The stakeholders did not raise any concern regarding the level of disaggregation of revenues in the EITI Report.

Initial assessment

The International Secretariat’s initial assessment is that PNG has made satisfactory progress in meeting this requirement. In accordance with Requirement 4.7, the data is disaggregated by individual company, revenue stream and government entity for all revenue streams.

To strengthen implementation, PNG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of sector-specific levies and taxes 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.

Data timeliness (#4.8)

Documentation of progress

The 2016 EITI Report was approved by the MSG and published on the PNG website on 30 December 2017. As it covers fiscal year 2016, PNG is ahead of the two-year period prescribed by Requirement 4.8. PNG published a separate PNG EITI Report covering fiscal year 2015 also on 30 December 2017.

The report confirms the reporting period as 1 January – 31 December 2016 (p.ix).

Stakeholder views

Companies expressed that the 2016 EITI Report which includes more recent data is more useful to them when giving presentations on the performance of the sector. Journalists expressed that they need more recent data, but a one-year lag is good enough. Other stakeholder said that despite the one-year lag, they could use the data from EITI Reports for trend analysis.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress towards meeting this requirement. In accordance with Requirement 4.8, PNG has published EITI Reports on an annual basis and the data has not been older than the second to the last complete accounting period. There is evidence of PNG EITI making efforts to go beyond the minimum requirement by exploring opportunities to disclose data as soon as practically possible through timelier EITI Reports, published within one year of the end of the period under review.

To strengthen implementation, PNG EITI is encouraged to strengthen its efforts to publish more up-to-date EITI data to ensure even greater relevance and usefulness to public debate.

Data quality (#4.9)

Documentation of progress

Terms of Reference for the Independent Administrator (IA): The ToR for the IA approved by the MSG conforms to the standard ToR agreed by the EITI Board. Given that the MSG decided to undertake procurement for the IA for the 2015 and 2016 EITI Reports in one go, the MSG approved two sets of ToR covering the two reports. The MSG approved the ToR for the 2015 and 2016 EITI Reports at its meeting on 6 March 2017.

Appointment of the IA: Following approval of the ToR for the IA, the MSG issued a call for expressions of interest in March 2017. While the procurement for the first two EITI Reports (covering 2013 and 2014) was based on a selective tender, where the "big four" auditing firms¹⁴² were invited to submit bids, the procurement for the 2015 and 2016 EITI Reports was undertaken as a public tender without pre-selection. The MSG had decided to undertake procurement via selective tender for its first two EITI Reports as they wished to attract bids below PGK 0.5m, the threshold for undertaking a longer procurement process via the Central Supply and Tenders Board (CSTB). The MSG's Technical Working Group reviewed the ten bids received for the 2015-2016 EITI Reports and submitted summary assessments to the MSG in April 2017, before finalising selection of the preferred bid the same month. The MSG approved the selection of the Ernst & Young as the IA for the 2015 and 2016 EITI Reports via circular in May 2017 and concluded the

¹⁴² Deloitte, PwC, KPMG and EY.

contract with the IA on 9 June 2017.

Agreement on the reporting templates: The MSG originally approved reporting templates for its first EITI Report (covering 2013) at its 22 September 2015 meeting.¹⁴³ For the 2016 EITI Report, the MSG revised the reporting templates to reflect the agreed recommendations from the scoping study and the inception report in late June 2017.¹⁴⁴ The MSG also agreed separate reporting templates for the contextual information of the report, as well as for SOEs to ask for specific information regarding the transfer of funds between SOEs and the State and changes in ownership during the reporting period.¹⁴⁵ The 2016 EITI Report confirms that the IA conducted a training workshop on templates for reporting entities on 5 July 2017 (p.118).

Review of audit practices: In terms of *government* audit and assurance, the 2016 EITI Report describes the statutory procedures of the Auditor-General of PNG in line with the PNG Constitution (p.58). While the report does not specifically highlight any deviations from international audit standards, it provides an overview of the Auditor-General's responsibilities (pp.58-59). The report also describes the practice of government audits, noting that the latest available Auditor General reports were not up to date¹⁴⁶ and did not yet cover 2016 at the time of preparation of the 2016 EITI Report (pp.59,120,137-140). In terms of its description of audit practice, the report highlights significant weaknesses in the government's accounting and financing systems, including within material government entities and SOEs, and notes that an audit opinion could not be provided in most instances (p.59). Table 46 provides details of the latest audited financial statements for SOEs, which reveals that only one of the five SOEs (Ok Tedi) had audited financial statements for 2016 at the time of the EITI Report's preparation (pp.134-137).

In terms of *companies'* audit and assurance, while the 2016 EITI Report does not provide a description of extractives companies' statutory audit procedures, it confirms that all but one¹⁴⁷ (material) producing companies had audited financial statements in line with international standards for 2016 (pp.9,134-137). The report provides links to relevant audit reports for all material entities, including for entities for which 2016 audited financial statements were not available (pp.134-140).

Assurance methodology: The 2016 EITI Report clearly describes the quality assurances agreed for company reporting, which consisted of sign-off by a company representative that information in reporting templates was consistent with the company's audited financial statements (pp.9,120). For government reporting, the report describes assurances as sign-off from an authorised officer (p.7), although the content of the government's sign-off is unclear given the report's statement that none of the reporting government entities had audited 2016 financial statements (pp.9,120). The report confirms that EITI reporting was undertaken on a cash-accounting basis (pp.ix,143).

Confidentiality: The report provides an overview of the IA's work and implies that the IA liaised directly with reporting entities (p.118), but does not explicitly state whether any specific confidentiality measures

¹⁴³ PNG EITI, Minutes of the MSG meeting (22 September 2015), accessed [here](#) in April 2018.

¹⁴⁴ PNG EITI, Minutes of the MSG technical working group meeting (26 June 2017), available at International Secretariat, p.4.

¹⁴⁵ Ibid.

¹⁴⁶ The 2016 EITI Report states that the latest Auditor General reports available covered 2012 (for Public Accounts), 2013-14 (for national government departments and agencies), and 2015 (for both subnational governments as well as for public bodies and their subsidiaries, government owned companies, national government shareholdings in other companies).

¹⁴⁷ The only material company for which no audited 2016 financial statements were available was New Guinea Gold.

were put in place to ensure the confidentiality of financial information pre-reconciliation.

Reconciliation coverage: The report provides the target for reconciliation coverage (approximately 95% of government extractives revenues) based on materiality definitions for both revenue streams and companies (p.119). However, given the lack of assessment of the materiality of omissions from non-reporting material entities, there is insufficient information in the 2016 EITI Report to calculate the final reconciliation coverage of government extractives revenues.

Assurance omissions: The report states that only 58% of reporting entities provided the agreed quality assurances (pp.9,120), but does not provide an assessment of the materiality of payments from reporting entities that did not provide the requested quality assurances. From the lists of reporting entities that provided the agreed sign-off, it appears that three of the six reporting mining companies, one of the four reporting oil and gas companies and two of the six reporting government entities did not provide the requested quality assurances (pp.119-120). All four material SOEs that reported provided the agreed sign-off (p.120).

Data reliability assessment: The report does not provide a clear assessment of the comprehensiveness or reliability of reconciled financial data in the 2016 EITI Report. It only confirms that material companies had audited financial statements, notes the number of reporting entities that provided the agreed quality assurances and highlights that “that previous audit statements [of government and SOEs] indicate serious flaws” (pp.9,120). It also notes consistent recommendations from previous EITI Reports related to improved quality assurances (pp.9,120).

Sourcing of information: All information in the 2016 EITI Report appears clearly sourced. The report clearly identifies the source of comments from stakeholders other than the IA.

Summary tables: The IA appears to have prepared summary tables of EITI data for all four EITI Reports (2013-2016) produced in line with provisions of the IA’s ToR, available both on the PNG EITI national website¹⁴⁸ and on the PNG page of the global EITI website.¹⁴⁹

Recommendations: The report provides an overview of progress in following up on previous recommendations (pp.145-148) as well as a set of recommendations based on the 2016 EITI Report, both pertaining to improving the reporting process and improving government systems (pp.141-143).

Stakeholder views

Procurement of the IA: All stakeholders consulted expressed confidence in the IA for the 2016 EITI Report. However, despite the use of EY as the IA for the four EITI Reports published to date, several stakeholders from all constituencies expressed concern at the turnover in staffing at the IA, at times during the preparation of the EITI Report. Secretariat staff explained that the lead consultant on the report had been recruited to another firm during the finalisation of the 2016 EITI Report in late 2017. Several industry and government representatives considered that the IA could have been more proactive in following up with reporting entities. Several government and SOE representatives presented information that had been

¹⁴⁸ PNG EITI website, Data section, accessed [here](#) in May 2018.

¹⁴⁹ EITI International website, PNG country page, accessed [here](#) in May 2018.

submitted to the IA, but that did not seem to have been included in the final EITI Report. For instance, there was concern that the report stated that KPH had not submitted reporting templates, despite evidence to the contrary.

All MSG members consulted expressed satisfaction at the IA procurement process, highlighting the involvement of all constituencies in evaluating bids. Secretariat staff explained that each constituency on the MSG submitted their own ranking of bids to the TWG and National Secretariat, which ensured that there was strong multi-stakeholder oversight of the procurement process. There was consensus among all consulted that the MSG had approved both the procurement of the IA and the final 2016 EITI Report. However, there was some confusion regarding the eligibility of domestic companies in bidding for the IA tender, with several industry representatives explaining that they thought the EITI Board-approved ToR for the IA included provisions for the reconciliation to be undertaken by a foreign firm. Several stakeholders from all constituencies expressed concern over the low number of bids in the procurement for the first two EITI Reports, which explained why the MSG had transitioned to an open tender for the 2015-2016 EITI Reports.

Prevailing audit practices: In terms of audit procedures for *companies*, an industry representative confirmed that the 1997 Companies Act required companies to prepare accounts in line with International Financial Reporting Standards (IFRS) and to undertake audits in line with International Standards on Auditing (ISA).

In terms of audit procedures for *government*, a senior government official explained that the Auditor General did not undertake a financial audit of government revenues, but rather focused on expenditure in the audit of public accounts. The official noted that audit standards in PNG were aligned with international audit standards in the Pacific, in line with the Pacific Association of Supreme Audit Institutions (PASAI), and that the Auditor General was constitutionally independent from the executive given that it reported directly to Parliament. While the official noted that the latest available audit of public accounts was for 2014, he considered that the timeliness of government audits was slowly improving despite delays in reporting by some government entities like the Department of Finance. Several officials also explained that the Auditor General relied on provincial governments' submission of their financial statements in their audit, but did not verify supporting documentation. For SOEs, officials confirmed that these companies contracted private external auditors and submitted their audit reports to the Auditor General. The senior official noted plans to transition towards an automated audit system using TeamMate's Internal Audit Management Software, although the previous support from the Australian Audit Office had ended two years prior. Several officials noted the irregularities identified in past audits of government accounts. However, a government representative noted that the Auditor General usually did not have concerns over tax revenues collected by the IRC, given that the SIGTAS (Standard Integrated Government Tax Administration System) system provided internal reconciliation of payments against invoices in near real-time. A government official and a development partner noted planned reforms to roll out an Integrated Financial Management System (IFMS), which would cover subnational governments and be integrated into the PNG Government Accounting System (PGAS). The project was supported by the PNG-Australia Partnership. There were significant concerns from several representatives from industry, civil society and development partners over the current Auditor General

Reporting templates: Secretariat staff explained that there had been robust discussions about draft reporting templates for the first (2013) EITI Report, but that the MSG had approved reporting templates

for subsequent reports that were only slightly revised, with little debate. The IA highlighted revisions in the 2015-2016 reporting templates, that included for instance more detail on the ownership of material companies. Several reporting entities consulted considered that many discrepancies in the reconciliation were due to entities reporting on an accrual, rather than cash, accounting basis. Review of the reporting templates indicated that they did not specify that reporting was to be in line with cash-based accounting. The IA and secretariat staff confirmed that the same quality assurances for EITI reporting were carried over from previous years without explicit approval, although the IA considered that the MSG had oversight of the quality assurances in its approval of draft reporting templates. The IA confirmed that management sign-off from companies and SOEs included explicit reference to their audited financial statements, despite the fact that four of the five SOEs did not have audited financial statements for 2016 at the time of data collection. The IA confirmed that the sign-off for government reporting only stated that the information was “a true and accurate record of receipts”, without explicit reference to audited financial statements. Finally, the IA confirmed that appropriate confidentiality measures had been established to ensure the confidentiality of financial data pre-reconciliation, even if this had not been explicitly stated in the report.

Reliability of EITI reporting: All reporting entities consulted confirmed their satisfaction at the quality assurances requested for their EITI reporting. Reporting companies, including SOEs, confirmed that the IA had requested copies of their audited financial statements as part of data collection. Reporting entities confirmed that the signatory of the template sign-off was the head of the entity. None of the companies consulted or the IA could explain the reasons for the failure of some reporting entities to provide the requested quality assurances, although one industry representative explained that this might have been due to the lack of sanctions for non-compliance. Although the IA conceded that the 2016 EITI Report did not explicitly assess the materiality of payments and revenues from reporting entities that had not provided the requested quality assurance, he explained that this could be calculated based on data that the IA had collected.

There were differing views about the reliability of financial data in the 2016 EITI Report. Several government officials expressed confidence in the reliability of the data. However, none of the industry and civil society representatives consulted expressed any confidence in the reliability of data collected from government entities. All industry representatives consulted considered the financial data from companies to be reliable, given the existence of underlying audits for the data reported. Upon discussion of the specific statements included in the 2016 EITI Report, there was consensus among MSG members consulted that the IA’s assessment of the reliability of data in the report was not categorical. The IA did not wish to comment on the overall reliability of reconciled financial data in the 2016 EITI Report, only highlighting gaps in government reporting.

Recommendations: All MSG members consulted confirmed that they considered recommendations in PNG’s EITI Reports to be pertinent. However, secretariat staff noted the lack of substantive input from MSG members in the formulation of EITI recommendations and considered that greater involvement would be welcome. They also confirmed that the MSG had discussed and followed up on EITI recommendations (see Requirement 7.3).

Initial assessment

The International Secretariat’s initial assessment is that PNG has made inadequate progress towards meeting this requirement. In accordance with Requirement 4.9, the reconciliation of payments and

revenues has been undertaken by an IA, appointed by the MSG, and applying international professional standards. The MSG agreed ToR for the production of the 2016 EITI Report consistent with the standard ToR and agreed upon procedures issued by the EITI Board. Although the MSG and IA do not appear to have considered different options for quality assurances for the 2016 EITI Report, the MSG agreed reporting templates for EITI reporting prior to data collection that included the same quality assurances as for previous reports. The 2016 EITI Report provides an informative summary of the work performed by the IA. However, the final report does not provide a clear statement from the IA on the comprehensiveness and reliability of the (financial) data presented, a final coverage of the reconciliation exercise, nor the materiality of payments and revenues from reporting entities that did not provide the required quality assurances. There is insufficient information in the final report to calculate such figures and there are stakeholder concerns over the reliability of reconciled financial data in the 2016 EITI Report. There is evidence that the IA prepared summary tables of EITI data for all four reports. The 2016 EITI Report provides an overview of follow-up on past EITI recommendations and sets out a list of new recommendations based on 2016 reporting.

In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:

- Ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided
- Ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.

In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in the reliability of reporting documented in the initial assessment.

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)	<p>The MSG has agreed materiality thresholds for selecting companies and revenue streams. Despite the setting of a qualitative threshold for selecting material companies, there is no evidence that non-producing companies that were excluded from reporting are required to make any material payments. The 2016 EITI Report lists and describes all material companies and revenue streams. While the report lists the non-reporting material companies and government entities, it does not provide an assessment of the materiality of non-reporting companies' payments to government. The high value of final unreconciled discrepancies is a concern, particularly given stakeholders' lack of confidence in the explanations provided for discrepancies in the report. There appear to have been gaps in government reporting and there is no evidence of full unilateral disclosure of government revenues, including from non-material companies, for each of the revenue streams included in the scope of reconciliation. In view of these weaknesses, it can reasonably be concluded that significant aspects of the requirement have not been implemented and that the broader objective is far from fulfilled.</p>	Inadequate progress
In-kind revenues (#4.2)	<p>Although the 2016 EITI Report does not explicitly state that the government is not entitled to in-kind revenues as fiscal payments, there was consensus among stakeholders consulted that Requirement 4.2 was not applicable to PNG under the current fiscal regime.</p>	Not applicable
Barter and infrastructure transactions (#4.3)	<p>While the 2016 EITI Report categorises expenditures under the infrastructure tax credit (ITC) mechanism as a form of barter arrangement, there was consensus among stakeholders consulted that extractives companies were not required to undertake expenditures under the ITC scheme in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities.</p>	Not applicable

Transport revenues (#4.4)	The 2016 EITI Report confirms that according to Treasury, transport revenues do not exist in PNG except for pipeline fees which are not material	Not applicable
Transactions between SOEs and government (#4.5)	The 2016 EITI Report discloses, but does not reconcile, some revenues collected by SOEs from mining, oil and gas companies they hold interests in. While two SOEs' dividends to Treasury are disclosed and reconciled, it is unclear whether reporting of SOE transactions with other government entities is comprehensive.	Meaningful progress
Subnational direct payments (#4.6)	PNG has made inadequate progress in meeting this requirement due to the 2016 EITI Report's vague (and contradictory) explanations of the structure and materiality of subnational direct payments linked to the extractives and confusion between subnational direct payments, subnational transfers, SOE transactions with provincial governments and private-to-private transactions (with landowner groups).. The lack of justification on materiality grounds for the exclusion of subnational governments from the scope of reporting, that has hindered the reconciliation of these direct payments, is a concern. While it appears that the one type of statutory subnational direct payment linked to the extractives, mining royalty, has been unilaterally reported by companies disaggregated by subnational government beneficiary, the report's ambiguity on whether additional fiscal payments may be defined in MoAs – and differing stakeholder views on the issue – casts doubt on the comprehensiveness of subnational direct payments covered in the report. Given the complexity of the situation and the MSG's efforts to improve stakeholders' understanding of extractives revenue flows accruing to subnational governments through a dedicated scoping study in 2018 is particularly welcome. Thus, on balance, it can reasonably be concluded that significant aspects of the requirement are being implemented and that the broader objective is in the process of being fulfilled.	Inadequate progress
Level of disaggregation (#4.7)	In accordance with Requirement 4.7, the data is disaggregated by individual company, revenue stream and government entity for all revenue streams.	Satisfactory progress

Data timeliness (#4.8)	PNG is ahead of its reporting cycle, having published 2016 data on 30 December 2017. The 2015 data was also published on 30 December 2017.	Satisfactory progress
Data quality (#4.9)	In accordance with Requirement 4.9, the reconciliation of payments and revenues has been undertaken by an IA, appointed by the MSG, and applying international professional standards. The MSG agreed ToR for the production of the 2016 EITI Report consistent with the standard ToR and agreed upon procedures issued by the EITI Board. Although the MSG and IA do not appear to have considered different options for quality assurances for the 2016 EITI Report, the MSG agreed reporting templates for EITI reporting prior to data collection that included the same quality assurances as for previous reports. The 2016 EITI Report provides an informative summary of the work performed by the IA. However, the final report does not provide a clear statement from the IA on the comprehensiveness and reliability of the (financial) data presented, a final coverage of the reconciliation exercise, nor the materiality of payments and revenues from reporting entities that did not provided the required quality assurances. There is insufficient information in the final report to calculate such figures and there are stakeholder concerns over the reliability of reconciled financial data in the 2016 EITI Report. There is evidence that the IA prepared summary tables of EITI data for all four reports. The 2016 EITI Report provides an overview of follow-up on past EITI recommendations and sets out a list of new recommendations based on 2016 reporting.	Inadequate progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In accordance with Requirement 4.1, PNG should ensure that the materiality threshold for selecting companies ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The MSG should ensure that PNG's next EITI Report includes the IA's assessment of the materiality of omissions from non-reporting entities, an assessment of the comprehensiveness of the EITI Report and that full unilateral government disclosure of total revenues, including from non-material companies, is provided for each of the material revenue streams. 2. In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in comprehensiveness of reporting documented in the initial assessment. 3. In accordance with Requirement 4.5, PNG should undertake a comprehensive assessment of 		

transactions between extractives SOEs (and their subsidiaries) and mining, oil and gas companies, as well as between the extractives SOEs (including their subsidiaries) and government in its scoping for future EITI Reports. All SOEs collecting material revenues or making material payments to government should be included in future EITI reporting.

4. In accordance with Requirement 4.6, PNG should establish whether direct subnational payments (to government entities) by extractives companies are material. Where material, PNG is required to ensure that direct subnational payments are reconciled between company payments and subnational government entities' receipts. Given widespread confusion yet vivid interest among stakeholders from all constituencies over extractives revenue flows accruing to subnational governments, PNG should consider mapping out subnational revenue flows associated with each individual extractives project, drawing on results from the scoping study on subnational revenue flows being prepared in 2018.
5. To strengthen implementation, PNG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of sector-specific levies and taxes 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, PNG EITI is encouraged to strengthen its efforts to publish more up-to-date EITI data to ensure even greater relevance and usefulness to public debate.
7. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:
 - Ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided
 - Ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.

In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in the reliability of reporting documented in the initial assessment.

5. 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

Extractive revenues in the national budget: PNG's EITI reports have consistently noted the absence of a system for managing government revenues, which leaves the system vulnerable to fraud and corruption. The 2016 EITI Report states that the only extractives revenues that are recorded in the national budget revenue consist of income taxes and dividends (p.52). It suggests that all other extractives revenues are recorded solely in the reports or accounts of the collecting agencies, including DPE, MRA, CEPA, IRC, Customs and the relevant SOEs. This implies that only 18% of extractives revenues were recorded in the national budget in 2016 (p.3). The report states that information on several revenue streams¹⁵⁰ are publicly accessible online and provides links¹⁵¹ for some of these payments (p.52-53) although some of these links are not working. It lists which revenues do not have available information online.¹⁵² (Id). The report (p.55) further states that royalties, development levies and equity shares of State (held by SOEs) are not recorded in the budget. Specifically for oil and gas, they are held in trust accounts. However, the category, number and balance of trust accounts in use could not be reliably identified even by the Auditor General. The state budget expenditure indicates evidence of trust account spending. The report mentions that the lack of governance on trust accounts leaves significant scope for abuse.

The PNG Sovereign Wealth Fund (SWF): The 2016 EITI Report states that a Sovereign Wealth Fund was created in 2015 and was supposed to be operational in 2016, through the enactment of the Organic Law on the Sovereign Wealth Fund (p.50). The aim was for all mining and petroleum taxes to be transferred to the Sovereign Wealth Fund starting in 2016, replacing the system of transfer of fund directly to the

¹⁵⁰ Public Investment Project funds, additional profits tax, shares of sales, import taxes goods and services tax, dividends, royalties and dividends paid to provincial governments, group taxes (taxes withheld on employees' salaries), corporate income tax (mining and petroleum tax), infrastructure tax credits, business payments tax, dividend withholding tax, IRC annual report, interest withholding tax, management fee withholding, royalty withholding tax, and foreign contractor withholding tax.

¹⁵¹ 2010 Annual Report, Customs,

http://www.customs.gov.pg/06_legislation_and_publications/4_Publications/01_PNG_Customs_Annual_Report_2010.pdf

2013 Annual Report, Internal Revenue Commission <http://irc.gov.pg/wp-content/uploads/2017/01/2013-AnnualReport.pdf>; 2017 National Budget, Vol 1,

http://www.treasury.gov.pg/html/national_budget/files/2017/2017%20Budget%20Volume%201%20Economic%20and%20Development%20Policies.pdf; National Economic and Fiscal Commission 2017 Annual Budget Fiscal Report,

http://www.nefc.gov.pg/documents/publications/fiscalReports/2017Fiscal_Report.pdf

Summary of annual values included in Appendix 1 – Revenue Tables of 2017 Budget, 2017 National Budget, Vol 1,

http://www.treasury.gov.pg/html/national_budget/files/2017/2017%20Budget%20Volume%201%20Economic%20and%20Development%20Policies.pdf; <http://irc.gov.pg/wpcontent/uploads/2017/01/2013-Annual-Report.pdf>

¹⁵² Mine closure bond, production levy, alluvial levies, mine security deposits, exploration security deposits, mining lease rentals, exploration license rentals, data sale receipts, exploration applications, extensions, extension late fees, transfer and dealing fees (related to exploration), mining applications, extensions, extension late fees, transfer and dealing fees (related to mining), royalties for mining, decommissioning bonds, development levy, royalties for petroleum, equity distributions, license/tenement fees, and environment permit fees.

government's consolidated revenue fund (CRF). However, a report from the International Monetary Fund (IMF) cited in the report stated that the SWF was not yet in operation as at the end of 2016 (p.50).

The EITI Report (pp. 50-51) explains that the SWF will comprise of two funds: the Stabilisation Fund and the Savings Fund. The Stabilisation Fund will contain tax revenues received from mining and petroleum projects, including the PNG LNG project. The Savings Fund will contain proceeds of state-owned assets that the government agrees to sell and any excess in the stabilisation fund when revenues are large. Both funds will receive a proportion of the mining and petroleum dividends paid by state-owned enterprises. A board will oversee the investment of these funds offshore. The Treasury estimates that 50% of mining and petroleum tax revenues will be channelled to the SWF Stabilisation Fund, while the other 50% will flow directly to the CRF to finance government operations.

Revenue classification: The report confirms that state budget and public accounts are prepared according to GFSM 2014 classifications (p.50). It notes that non-payable infrastructure tax credits, revenue on asset sales and GST transfers to WPA and Trust Accounts were not classified as revenues under GFS-2014 (footnote 58, p.28).

Stakeholder views

Stakeholders have varying understanding of what is recorded in the national budget. While it is clear that taxes collected by IRC are recorded in the budget according to all stakeholders consulted, there appears to be less certainty when it comes to whether dividends, trust accounts and non-tax revenues are so recorded. A government official explained that MRA retained revenues for its operations and expressed uncertainty over whether these revenues would be disclosed in the national budget. Other government officials confirmed that MRA's revenues were off-budget. Several government representatives highlighted the extensive use of trust accounts by different government agencies, many of which were not necessarily recorded in the national budget. According to some company representatives, all non-tax revenues was off-budget, with total government extractives revenues calculated based only on on-budget tax revenues. Another government official confirmed that autonomous agencies like CEPA did not transfer funds to the national budget and retained all earnings. A civil society representative and several journalists expressed scepticism that budget documents reflected actual dividend payments from SOEs, although a development partner considered that all SOE dividends were on-budget. Most development partners considered that there were significant off-budget extractives revenues in PNG. A government official explained that all revenues collected by the DPE were collected and then transferred to the Treasury account (Consolidated Revenue Fund) at the Bank of PNG. The official confirmed that, as a government department rather than independent agency like MRA, the DPE did not retain any portion of such revenues. For royalties and development levies, the DPE maintained separate trust accounts per project in order to transfer shares to subnational governments and landowners via the Department of Finance. Many stakeholders from all constituencies highlighted the Public Funds Management Regularization Bill¹⁵³ enacted in November 2017, which required all public-sector funds, including from independent agencies like the MRA, to be swept into the Consolidated Revenue Fund. The aim of the centralisation of all revenues to the single Treasury account was to bring all expenditures on budgets, through budgeted transfers to each government entity. Several government and industry representatives highlighted the disruption this was causing in government operations, while several CSOs welcomed the reform to

¹⁵³ Public Money Management Regularisation Bill, accessed [here](#) in May 2018.

improve oversight of revenue management.

Initial assessment

The International Secretariat's initial assessment is that PNG has made inadequate progress in meeting this requirement. The 2016 EITI Report lists extractives revenues that are not recorded in the national budget, although it appears to present misleading information as to which extractives revenues are off-budget. There is a lack of clarity among stakeholders in PNG over the specific extractives revenues, such as dividends, that are recorded in the national budget, including from government officials. The budgetary oversight of trust accounts is also not adequately explained in the 2016 EITI Report. Nonetheless, the report refers to publicly-accessible reports on the allocation of some off-budget revenues even though guidance on how to access them is missing.

In accordance with Requirement 5.1, PNG should clarify which extractive revenues are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of revenues should be explained, with links provided to relevant financial reports. PNG is encouraged to publicly clarify the equivalence of revenue classifications in EITI reporting with those used in its national budget (e.g. group tax and corporate income tax) to strengthen citizen oversight of the budgetary process.

Sub-national transfers (#5.2)

Documentation of progress

The 2016 EITI Report presents a list of revenues ("royalties, dividends, compensation payments, development levies, Special Support Grants, and other benefits as agreed") accruing to subnational governments, albeit without clearly differentiating between subnational direct payments, subnational transfers and payments to private entities such as landowners (pp.7,57-58).

For *mining*, while the report lists three types of revenue flows accruing to subnational governments (royalty, dividends associated with equity in extractives companies and special support grants), it appears that none of these represent statutory subnational transfers of extractives revenues (p.57). Despite inconsistent descriptions of the flow of mining royalty revenues (pp.57,128), it appears that this is paid directly to subnational governments, with payments reported to the MRA. Meanwhile special support grants are funded from the Consolidated Revenue Fund and are thus not linked to extractives revenues (see Requirement 4.6). Although dividends associated with subnational government equity in extractives projects (such as Ok Tedi and Porgera) are described as subnational payments and transfers (p.57), these constitute a form of SOE transaction involving subnational governments. Although the report lists company compensation payments for landowners as forms of subnational payments or transfers (p.57), these appear to be private-to-private transactions.

For *oil and gas*, the report similarly presents four types of revenue flows accruing to subnational governments under a common heading (pp.57-58), although only two of these appear to be subnational transfers. The first, oil and gas royalty, is described as being paid to the government (either DPE for Oil Search or BPNG for ExxonMobil) before being transferred to relevant landowners, provincial and local governments (p.37). The second, development levy, is described both as paid directly by companies to provincial and local governments (p.37) and as paid to the national government (either DPE for Oil Search

or BPNG for ExxonMobil), transferred to a Department of Finance trust account and subsequently transferred to the trust accounts of relevant provincial and local governments (pp.19,131). The results of reconciliation of oil and gas royalties and development levies between reporting from the two oil and gas operators and the DPE confirm that these revenue flows represent subnational transfers (p.131). The report lists project grants as a form of subnational transfers (p.58), although the source of revenues for such grants is not clarified. The fourth type of revenues, dividends associated with subnational government equity in oil and gas projects (p.58), represent SOE transactions involving subnational governments rather than a form of subnational transfers.

While the report describes expenditures over two five-year periods from 2010 mandated under the PNG LNG project's Umbrella Benefits Sharing Agreement (UBSA), it explains that these are funds from the national government earmarked for infrastructure development and maintenance of affected project areas and provinces (p.58). The report confirms that PGK 1.2 bn has been allocated equally for each of the two five-year periods (p.58), it is unclear from the report whether these funds are transferred by the state to the relevant provincial and local governments or whether the earmarked funds are paid directly either by the company or the national government to the contractors.

The EITI Report provides some commentary on the administration of subnational revenues. It explains that Treasury is not responsible for administering subnational transfers of extractives revenues to provincial and local governments or landowners (p.55). The report highlights "serious gaps and inconsistencies" in the most recent government audits available, with respect to provincial and local governments (p.55). The report observes that accountability mechanisms vary significantly depending on the entity receiving the allocation. While ideally, audits of provincial, local government and landowner groups should occur on an annual basis, this does not happen in practice due to capacity constraints both on the part of the local and provincial governments and the Auditor General (p.55).

With regards to disclosure of the two types of revenue flows that appear (based on information in the 2016 EITI Report) to constitute subnational transfers in the sense of Requirement 5.2 (oil and gas royalties and development levies), the report presents only the reconciliation of royalty and development levy payments between company and DPE reporting (pp.131-132). However, the report does not disclose the revenue-sharing split for calculating transfers to different provincial and local governments, nor the value of executed transfers in 2016. The report does not highlight discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.

Stakeholder views

Several government officials confirmed that all grants, including special support grants and project grants, were funded from the Consolidated Revenue Fund and thus did not represent subnational transfers of extractives revenues, but rather CRF funds earmarked for extractives regions.

In terms of *mining*, all stakeholders consulted confirmed that while the 1992 Mining Act required companies to pay royalties to the MRA, which would then redistribute this revenue to provincial and local governments (and affected landowners), the practice since the late 1990s had been for companies to make these payments directly to beneficiaries and subsequently provide proof of payment to the MRA. Mining royalties were thus unanimously considered subnational direct payments rather than subnational

Commented [AL20]: Not sure if this is correct. Roger to clarify.

transfers (*see Requirement 4.6*). Stakeholders confirmed that there was no form of mining tax or non-tax payment made to the national government and redistributed through transfers to subnational governments.

In terms of *oil and gas*, all stakeholders consulted confirmed that the only subnational transfers related to royalty and development levy. However, there were differences of opinion over the precise flows of revenue and beneficiaries for the two types of transfers.

There was consensus that development levies were collected by DPE (in the case of Oil Search) and BPNG (for ExxonMobil), before being transferred to the Department of Finance for redistribution to subnational governments. However, while several government and industry representatives considered that the DoF transferred each subnational government's share of development levies to their respective companies managed by MRDC, representatives from MRDC stated that development levies were transferred to trust accounts of the relevant subnational governments directly without transiting through MRDC-managed entities. Another government official explained that subnational governments' share of development levies was first transferred to provincial governments, who were then expected to redistribute each of their local governments' shares.

There were similar differences of opinion on the flows of revenue and beneficiaries of royalties. Some government officials considered that royalties were entirely transferred to landowner groups, not subnational governments. However, DPE representatives confirmed that provincial governments received 30% each of royalties and development levies. Industry representatives considered that royalties were paid to DPE/BPNG, transferred by DoF to entities managed by MRDC on behalf of subnational governments and landowners groups. Representatives of MRDC stated that the share of royalties for landowner groups was transferred to MRDC-managed entities while the share of royalties for subnational governments was deposited directly in their trust accounts without involving MRDC.

While all stakeholders confirmed that royalties and development levies were transferred to subnational entities in their entirety, without DPE or DoF retaining any share for the national government, they explained that the revenue-sharing split between provincial governments, local governments and landowner groups was set in the benefit sharing agreement (BSA), which was the equivalent of MoAs in the mining sector. All stakeholders confirmed that the MoAs had not been published to date and that there had never been a concerted effort to collect and summarise key benefit-sharing terms of BSAs and MoAs to date (*see Requirement 2.4*).

Initial assessment

The International Secretariat's initial assessment is that PNG has made inadequate progress towards meeting this requirement. The 2016 EITI Report provides a list of revenues accruing to subnational (and non-state) entities, although it does not clearly distinguish between subnational direct payments (4.6), subnational transfers (5.2), SOE dividends (4.5), earmarked revenues from the Consolidated Revenue Fund (5.3), social expenditures (6.1) and private-to-private transactions not strictly covered by the EITI Standard. The value of subnational transfers of extractives revenues in 2016 is not disclosed, disaggregated by subnational government. While company payments of the two revenue streams that are transferred to subnational governments are reconciled with national government revenues, the report does not disclose the revenue sharing formula nor any discrepancies between the transfer amount

calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant province and local government in 2016.

In accordance with Requirement 5.2, PNG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism such as benefit-sharing agreements. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity on an annual basis. PNG is encouraged to reconcile these transfers.

Additional information on revenue management and expenditures (#5.3)

Documentation of progress

Extractive revenues earmarked for specific programmes or regions: The PNG Sovereign Wealth Fund was recently established to ensure that some of the wealth generated by the extractive industries is saved for the benefit of future generations (p.3). It is envisioned to fund priority areas such as education, health and infrastructure (p.50). This fund is not yet operational. Some revenue from the extractive industries is earmarked for specific purposes, such as the Public Investment Program (p.3) but the EITI Report does not further elaborate on this. The Oil and Gas Act 1998 sets out the process for benefits sharing, including payments earmarked for specific regions. Section 174 of the Act states that the total benefits to provincial governments, local-level governments, and landowners shall not exceed 20% of the total net benefit to the State from a petroleum project. (p. 57)

Budget process: The 2016 EITI Report explains the budget process in PNG (p.46) and makes reference to rules that govern the budget processes, namely the Medium Term Fiscal Strategy 2013–2017 (MTFS), the Medium Term Debt Strategy, the Papua New Guinea Fiscal Responsibility Act, the Public Finances (Management) Act of 1999 (amended in 2016), the Vision 2050 report, the PNG Development Strategic Plan 2010–2030, the Medium Term Development Plan 2016–2017 and the recent establishment of the Sovereign Wealth Fund. The MTFS sets fiscal rules regarding the size of the deficit and debt, while the Fiscal Responsibility Act of 2006 legislates a debt limit of 35% of GDP for the years 2013, 2014 and 2015 (increased from 30% via an amendment in 2013) which returned to a limit of 30% of GDP in 2016. The Combined Budget Operational Rules were introduced in 2015, providing for a budget criteria and budget processes for government departments, statutory authorities and provinces. The 2016 Budget also introduced the Budget Management Framework for agencies.

Budget process and role of agencies: The 2016 EITI Report (pp.48-49) outlines the budget process which includes the following stages: 1. Call for policy submissions and forecasting of revenues; 2. Issuance of Budget Circular; 3. Release of the Mid-year Economic and Fiscal Outlook (MYEFO) which provides an update on the medium-term budget and economic forecast; 4. Issuance of the Budget Strategy Paper; 5. Consultation with agencies and cabinet meetings; 6. Proposal of final budget to the NEC; and 7. Budget approval by parliament.

Based on the IMF's assessment, PNG scores relatively well on credibility of fiscal strategy and budget; policy based planning and budgeting; and comprehensiveness and transparency. However, it found considerable scope for improvement in accountability; the management of public assets, liabilities and

associated fiscal risks; and the quality, availability, comprehensiveness and timeliness of fiscal accounts (p. 50)

Stakeholder views

Stakeholders consulted did not express any particular views on the EITI Reports' coverage of revenue management and budget process. A government representative clarified that budget projections were made on a cash basis similar to the recording of tax payments. Several CSOs called for the broader civil society constituency to improve its understanding of the budgetary process in order to keep the government accountable.

Initial assessment

Implementing countries are not yet required to address revenue management, and progress with this requirement does not yet have any implications for a country's EITI status.

It is encouraging that the MSG has made some attempt to including information on the budget-making process and some information on revenue management in the 2016 EITI Report. To strengthen implementation, PNG may wish to include further information on production and revenue projections, commodity prices and budget scenario planning in future EITI reporting. PNG could also consider using EITI reporting as a monitoring mechanism for the sovereign wealth fund once it starts operation.

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 (to be completed for 'required' provisions)
Distribution of revenues (#5.1)	The report explains how EI revenues are recorded in the budget but there are concerns regarding the accuracy of the information. Where revenues are not recorded, the allocation of revenues were not explained. The report does not provide links to financial reports.	Inadequate progress
Sub-national transfers (#5.2)	The 2016 EITI Report provides a list of revenues accruing to subnational (and non-state) entities, although it does not clearly distinguish between subnational direct payments (4.6), subnational transfers (5.2), SOE dividends (4.5), earmarked revenues from the Consolidated Revenue Fund (5.3), social expenditures (6.1) and private-to-private transactions not strictly covered by the EITI Standard. The value of subnational transfers of extractives revenues in 2016 is not disclosed, disaggregated by subnational government. While company payments of the two revenue streams that are transferred to subnational governments are reconciled with national government revenues, the report does not disclose the revenue sharing formula nor any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant province and local government in 2016.	Inadequate progress
Information on revenue management and expenditures (#5.3)	It is encouraging that the MSG has made some attempt to including information on the budget-making process and some information on revenue management in the 2016 EITI Report.	Encouraged
Secretariat's recommendations: <ol style="list-style-type: none"> 1. In accordance with Requirement 5.1, PNG should clarify which extractive revenues are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation 		

of revenues should be explained, with links provided to relevant financial reports. PNG is encouraged to publicly clarify the equivalence of revenue classifications in EITI reporting with those used in its national budget (e.g. group tax and corporate income tax) to strengthen citizen oversight of the budgetary process.

2. In accordance with Requirement 5.2, PNG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism such as benefit-sharing agreements. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity on an annual basis. PNG is encouraged to reconcile these transfers.
3. To strengthen implementation, PNG may wish to include further information on production and revenue projections, commodity prices and budget scenario planning in future EITI reporting. PNG could also consider using EITI reporting as a monitoring mechanism for the sovereign wealth fund once it starts operation.

6. Social and economic spending

6.1 Overview

This section provides details on the implementation of the EITI requirements related 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

Materiality: The 2016 EITI Report (p.60) explains that in determining the scope of social expenditures for purposes of EITI reporting, the MSG referred back to the categories suggested in the original scoping study for the PNG EITI which included the following:

- Compensation to landowners including general compensation, environmental compensation, community Asset and Relocation Compensation, lease Fees
- Education including scholarship, university sponsorship and other training costs
- Infrastructure development programs under MOA
- Community Development Programs
- Business Development Programs
- Health Programs
- Township Development.

Infrastructure tax credits: The MSG agreed to consider approved infrastructure tax credits (ITCs) as a type of mandatory social expenditure, despite the lack of legal or contractual provisions requiring companies to undertake a set minimum of expenditures under the ITC scheme. The 2016 EITI Report describes the ITC scheme as a public/private partnership model to promote the development of infrastructure in areas where mining and petroleum resource projects or agricultural companies are operating (p.37). Under the scheme, companies are allowed to claim expenditure on prescribed infrastructure projects as a credit against tax. Unspent amounts can be carried forward and utilised within the next two years, while unused credits can be carried forward to succeeding years of income until fully utilised. Examples of infrastructure projects undertaken under the ITC scheme are roads, power supplies, government services (administration, policing, courts, education and health) and community facilities. Expenditures on prescribed infrastructure must first be approved by the Department of National Planning and Monitoring (p.61).

At the MSG meeting on 21 October 2016, the MSG discussed its definition of mandatory social expenditures in the context of PNG. The MSG confirmed that the definition of social expenditures laid down by the EITI Standard could apply to PNG but recognized that there was a need to discuss whether expenditures under Infrastructure Tax Credits should be considered mandatory or voluntary. The MSG noted that an expenditure only becomes 'mandatory' when the State (through the ITC Committee)

approves a project to be implemented under the ITC using the government's prescribed ITC rates. The MSG Chair highlighted that the ITC needed to be defined in terms of how it was applied (e.g. roads, bridges, hotels and hospitals) and that ITC spending represented tax revenue forgone by the government that would have otherwise been transferred to the Consolidated Revenue Fund. The MSG took up the matter again on 24 November 2017 where it was reported that the Department of Treasury sometimes found it difficult to report or reconcile ITC expenditures in the budget accounts. Further, it was noted that the manner in which projects were approved by the ITC Scheme Committee and the ITC Guidelines were not transparent.

ITCs of mining companies are disclosed in the 2016 EITI Report and reconciled against disclosures of DNPM, which approves the infrastructure projects, and of IRC, which assesses the tax credits that should be applied (p.125).

Mandatory social expenditures: The 2016 EITI Report explains that mandatory social expenditures are agreed between the state, landowners and operators on a case-by-case basis through agreements that “are typically confidential” (p.61). The report thus explains that some reporting entities were either unwilling or unable to disclose information regarding specific payments and receiving entities. However, the report notes that some entities chose to disclose aggregate amounts of social spending, arguing that disclosure of specific organisations and amounts could expose those organisations to pressure or extortion. Nevertheless, it appears that some companies have disclosed their social expenditures through the EITI process or through company reports. The report seems to indicate that reporting companies were given the latitude to categorise social expenditures themselves, as it provides the example of OTML's reporting of compensation payments, land lease payments and infrastructure payments as social expenditures (p.61).

The 2016 EITI Report discloses the aggregate amount of mandatory and voluntary social expenditures in 2016 for each company (p.62). Appendix B provides a description of the project and the corresponding amount for each project, although there is no distinction between cash and in-kind payments. The reporting provides inconsistent information on the identity of beneficiaries of social expenditures, with some companies disclosing both beneficiaries and nature of expenditure, while others disclosed either one or the other. Mandatory social expenditures are not reconciled.

Voluntary social expenditures: Both the 2015 scoping study (p.15) and the 2016 EITI Report explain that some education, infrastructure and health payments are undertaken on a voluntary basis. The MSG agreed to unilateral disclosure of these payments. Voluntary social expenditures are disclosed but not reconciled in the 2016 EITI Report (pp.62,151-152), albeit not systematically disaggregated by project and beneficiary.

Stakeholder views

There was considerable debate during stakeholder consultations over the definition of mandatory social expenditures for mining companies. There was consensus among stakeholders consulted that OTML was required to undertake mandatory social expenditures as part of its community mine continuation agreement (CMCA). The case of OTML was considered unique given that Ok Tedi was covered by a standalone Act of Parliament, given that it predated PNG's dedicated mining legislation. With regards to other mining companies' social expenditures codified in MoAs, several industry representatives confirmed

that mining companies were not explicitly required to conclude MoAs under the Mining Act or their operating contracts, which only required the holding of a Development Forum that invariably led to the conclusion of a MoA, but that it was always necessary for mining companies to conclude such agreements in practice. As a result, several industry representatives considered that social expenditures defined in MoAs were not strictly mandatory by law, but that in practice it was not possible for mining companies not to conclude such MoAs. Several development partners noted that social expenditures defined in MoAs were essential for companies' social license to operate, but conceded that there was no strict legal requirement to conclude such MoAs. A government official noted plans to include mandatory requirements to conclude MoAs in planned revisions to the Mining Act.

With regards to mandatory social expenditures in oil and gas, several industry and government representatives considered that provisions in the Oil and Gas Act requiring additional benefits to be defined for host communities implied that social expenditures defined in benefit-sharing agreements (BSAs) could be considered mandatory. It was a requirement for all companies holding a Petroleum Development License to conclude a BSA with host communities. Several industry representatives confirmed that mandatory social expenditures in oil and gas could be provided in cash or in-kind, and to various beneficiaries including non-government entities.

There was consensus among stakeholders of all constituencies consulted that expenditures covered by ITCs were not forms of social expenditures and that there were no legal or contractual obligations for extractives companies to undertake a set minimum ITC expenditures. Stakeholders consulted could not explain the reasons for the 2016 EITI Report's categorisation of ITC expenditures both as forms of infrastructure barter and as social expenditures.

With regards to the level of detail in company reporting of social expenditures, the IA confirmed that companies like Barrick Gold had reported the detail of their social expenditures, but that these had been aggregated in the final version of the 2016 EITI Report. However, the IA also noted gaps in reporting by material companies in terms of whether some expenditures had been provided in cash or in kind, as well as the details of beneficiaries of social expenditures. Several industry and government representatives noted that companies appeared to have been given flexibility in categorising their own social expenditures, but noted that they did not consider compensation payments to be forms of social expenditures, but rather forms of private-to-private transactions. However, the IA stated that adequate guidance had been included in the reporting templates to clearly distinguish social expenditures that were mandatory and voluntary, cash and in-kind and between non-government beneficiaries.

Initial assessment

The International Secretariat's initial assessment is that PNG has made meaningful progress towards meeting this requirement. Although the MSG adopted a rather loose guidance on what should be considered as mandatory and social expenditures, the 2016 EITI Report includes some figures for both types of expenditures to provide an overview of the nature, amount and beneficiaries of these expenditures. The report does not distinguish between mandatory cash and in-kind social expenditures. Comprehensive information as to the nature, value and beneficiaries of mandatory social expenditure projects is missing from the report. Considering constraints linked to the practice of keeping agreements defining social expenditures confidential, the International Secretariat takes note of the efforts made by the MSG in disclosing information on mandatory social expenditures. It can thus be concluded that the significant aspects of the requirement are being implemented and that the broader objective of the

requirement is being fulfilled.

In accordance with Requirement 6.1, PNG should ensure that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. To strengthen implementation, PNG may also wish to consider the feasibility of reconciling mandatory social expenditures.

SOE quasi fiscal expenditures (#6.2)

Documentation of progress

The 2016 EITI Report states that no SOE reported any quasi-fiscal expenditures for 2016 (p.21,62,100,105,107). While the report provides details of OTML's social expenditures through the Ok Tedi Development Foundation (OTDF), it only states that OTML did not report any quasi-fiscal expenditures for 2016 (pp.110-111). While MRDC did not disclose any quasi-fiscal expenditures for 2016 beyond voluntary social expenditures reported, previous EITI Reports are highlighted as stating that MRDC manages social infrastructure projects as a direct contribution to its communities (p.117). However, the report also notes views of Treasury that there were quasi-fiscal expenditures by SOEs, despite the lack of information provided to the IA. The report refers to Treasury comments on ongoing work to update the reporting of government finance to GFS2014 standards that were expected to extend coverage to transactions of extra-budgetary units and SOEs in the medium- to long-term (p.61-62,142).

Stakeholder views

There was a prevailing lack of clarity among stakeholders consulted over the definition of quasi-fiscal expenditures in the PNG context. Treasury representatives consulted did not provide any additional comments on the existence of quasi-fiscal expenditures by extractives SOEs. Upon discussion of the expenditures undertaken by the Ok Tedi Development Foundation, several industry representatives considered that these did not represent quasi-fiscal expenditures, since all mining companies usually undertook social expenditures such as operating clinics and police stations. While several CSOs called for additional clarity about MRDC's management of funds on behalf of landowners and provincial governments, noting that MRDC was one of the largest investors in Fiji, none of the stakeholders consulted had any concrete examples of quasi-fiscal expenditures undertaken by MRDC. Several CSOs and analysts considered that recent spending by SOEs like OTML and KPH on earthquake relief in 2018 could be considered quasi-fiscal, although there were differences of opinion over whether such emergency spending was deductible against the SOEs' future liabilities to government.

There was considerably more debate over the alleged transfer of sovereign debt to extractives SOEs that did not have a sovereign guarantee for their liabilities. Several CSOs and development partners noted that the AUD 1.2bn sovereign loan from UBS had been novated to KPH in February 2016 (*see Requirement 2.6*). Given that KPH did not have a sovereign guarantee for this liability, several stakeholders considered that interest payments on this loan by KPH after February 2016 could be considered a form of quasi-fiscal

expenditures. The news section of the KPH website¹⁵⁴ provides details of investments with social benefits, including a January 2018 agreement to build a second gas-fired power plant in Port Moresby in an equal joint-venture with MRDC (through a special-purpose company).¹⁵⁵ However, several government and industry representatives did not consider that these represented quasi-fiscal expenditures by KPH, but rather commercial investments that happened to yield social benefits.

Initial assessment

The International Secretariat's initial assessment is that PNG has made inadequate progress towards meeting this requirement. While the 2016 EITI Report notes that no SOE reported any quasi-fiscal expenditures for 2016, there are stakeholder views (including from Treasury) that such expenditures exist and should be disclosed as material. It is unclear whether the MSG's approach to assessing the existence and materiality of quasi-fiscal expenditures was comprehensive of all types of expenditures that could be considered quasi-fiscal, such as extractives SOEs' off-budget repayment of sovereign debt.

In accordance with Requirement 6.2, PNG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs (and their subsidiaries) that could be considered quasi-fiscal. PNG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.

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

Documentation of progress

Share of GDP: The 2016 EITI Report provides the extractive industries' contribution to GDP in relative terms, 28% (pp.2,26), but not in absolute terms. However, Figure 13 (p.26) provides a graph of GDP over the 2013-16 period (albeit estimated values for 2015-16), from which it is possible to estimate the absolute value of the extractives' contribution to GDP in general terms. The report provides an overview of alluvial mining, including the number of persons employed (pp.5,73), but no estimate of the value of informal activity or production.

Government revenues: The report includes the contribution of mining and petroleum tax and dividends to government revenues in absolute terms and relative to total revenues (excluding grants), sourced from the 2017 budget (pp.27-28). However, the report also highlights discrepancies between figures from the 2017 budget and those reported by the Treasury and IRC for the 2016 EITI Report, with Table 13 providing a comparison of the two sets of figures without explanation for the discrepancies (p.28).

Exports: The report provides, in absolute and relative terms, the contribution of extractives to total exports (p.28), as well as mineral exports in absolute terms disaggregated by project (p.5).

Employment: The report emphasises the limited employment data in PNG and provides sharply different estimates of the number of employees in the extractive industries, in absolute terms and relative to total

¹⁵⁴ See News section of Kumul Petroleum Holdings Ltd website, accessed [here](#) in February 2018.

¹⁵⁵ Kumul Petroleum (January 2018), 'Kumul Petroleum signs MoA with MRDC', accessed [here](#) in February 2018.

employment, from the 2011 census, a 2015 study by the PNG Chamber of Mines and Petroleum, a 2014 UNDP report and 2016 company reports from Ok Tedi and PNG LNG (pp.29-32). While the report does not provide comprehensive figures for the contribution of extractives to total employment in 2016, it is transparent about the constraints on accurate employment data and provides available estimates.

Location: The report provides maps of the major areas of activity for mining (pp.65-72,75) and oil and gas (p.85).

Stakeholder views

Stakeholders consulted both on and off the MSG did not express any particular views about the 2016 EITI Report's coverage of the extractive industries' contribution to the national economy. Several representatives from all three constituencies considered BPNG quarterly data¹⁵⁶ to be the most reliable in relation to the economic impact of the extractives, but could not explain differences between data on commodity exports between EITI and BPNG data.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress towards meeting this requirement. The 2016 EITI Report provides, in absolute and relative terms, estimates of the extractive industries' contribution to GDP, government revenues, exports, employment and the location of major extractives activities. While employment data provided for 2016 is not comprehensive, the report is transparent about the constraints in sourcing reliable employment data for PNG.

To strengthen implementation, PNG may wish to assess the extent to which it could provide updated macro-economic information on the contribution of the extractive industries in a timelier manner through the PNG EITI (or other relevant government) website.

¹⁵⁶ Bank of Papua New Guinea (December 2016), 'December 2016 Quarterly Economic Bulletin (QEB)', accessed [here](#) in May 2018, p.14.

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)	Although the MSG adopted a rather loose guidance on what should be considered as mandatory and social expenditures, the 2016 EITI Report includes some figures for both types of expenditures to provide an overview of the nature, amount and beneficiaries of these expenditures. The report does not distinguish between mandatory cash and in-kind social expenditures. Comprehensive information as to the nature, value and beneficiaries of mandatory social expenditure projects is missing from the report. Considering constraints linked to the practice of keeping agreements defining social expenditures confidential, the International Secretariat takes note of the efforts made by the MSG in disclosing information on mandatory social expenditures. It can thus be concluded that the significant aspects of the requirement are being implemented and that the broader objective of the requirement is being fulfilled.	Meaningful progress
SOE quasi fiscal expenditures (#6.2)	While the 2016 EITI Report notes that no SOE reported any quasi-fiscal expenditures for 2016, there are stakeholder views (including from Treasury) that such expenditures exist and should be disclosed as material. It is unclear whether the MSG's approach to assessing the existence and materiality of quasi-fiscal expenditures was comprehensive of all types of expenditures that could be considered quasi-fiscal, such as extractives SOEs' off-budget repayment of sovereign debt.	Inadequate progress
Contribution of the extractive sector to the economy (#6.3)	The 2016 EITI Report provides, in absolute and relative terms, estimates of the extractive industries' contribution to GDP, government revenues, exports, employment and the location of major extractives activities. While employment	Satisfactory progress

	data provided for 2016 is not comprehensive, the report is transparent about the constraints in sourcing reliable employment data for PNG.	
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Secretariat's recommendations:

1. In accordance with Requirement 6.1, PNG should ensure that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. To strengthen implementation, PNG may also wish to consider the feasibility of reconciling mandatory social expenditures.
2. In accordance with Requirement 6.2, PNG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs (and their subsidiaries) that could be considered quasi-fiscal. PNG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.
3. To strengthen implementation, PNG may wish to assess the extent to which it could provide updated macro-economic information on the contribution of the extractive industries in a timelier manner through the PNG EITI (or other relevant government) website. The government is encouraged to consider generating official employment data for the extractive sector.

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

Comprehensibility: The MSG's policy to make EITI Reports comprehensible is reflected in its communications policy¹⁵⁷, that declares its commitment to ensure that PNG EITI activities and reports are communicated effectively to a wider audience. The policy emphasises the need to share complete and timely information. The MSG also developed a communications strategy¹⁵⁸ that details the content, channels, approach and target audiences for PNG EITI communications.

PNG has published four EITI Reports to date, all of which are written in highly technical language in English. Reports are printed physically and distributed to stakeholders during outreach activities. Soft copies are made available at the PNG EITI website. For the 2016 EITI Report, the executive summary was published separately, and a three-page brochure was printed listing all payments collected from the extractive companies as disclosed in the 2016 EITI Report. PNG's EITI Reports have not been translated in any of the major languages in PNG. Although it should be noted that English is the language used by the country for official transactions, PNG is also known to have about 800 languages dispersed across subnational units, thus underscoring the need to translate EITI Reports to make it more comprehensible.

Promotion: The MSG and national secretariat regularly conduct outreach activities and subnational roadshows to discuss the EITI process. The 2016 Annual Progress Report (pp.11-16) documents these outreach activities, mentioning the MSG's participation in forums, the regional roadshows conducted by the national secretariat, media trainings in PNG and in provinces, discussions in radio talk shows, and activities independently conducted by companies and CSOs to promote EITI. Outreach activities also heavily figure in the 2018 work plan. The national secretariat regularly publishes newsletters that are circulated to stakeholders, mainly policy and interest groups dealing with the extractive sector to give them an update on EITI progress.

While the APR provides a list of outcomes from the outreach activities, the descriptions of these

¹⁵⁷ PNG EITI, 'PNGEITI Communications Policy', accessed [here](#) in April 2018.

¹⁵⁸ PNG EITI, 'PNGEITI Communications Strategy', accessed [here](#) in April 2018.

outcomes and activities are quite general, so it is difficult to ascertain whether these are general awareness-raising activities and the extent to which findings and recommendations of EITI Reports are discussed. It appears, however, that these activities are able to reach a wide audience, particularly through the regular subnational roadshows.

PNG also staged a national conference to launch its first EITI Report. The conference was held in parliament, which was particularly helpful in creating awareness at high levels of government and in raising the profile of the EITI in PNG. Civil society also issued press releases of the publication of the report. One civil society representative actively blogs¹⁵⁹ about EITI in PNG.

Public accessibility: PNG EITI maintains a website¹⁶⁰ where EITI Reports, annual progress reports and other relevant documents are made publicly accessible. The website is updated on an ad hoc basis, although additional documents were uploaded in preparation for Validation. Summary data templates are found in the website and are up-to-date.¹⁶¹

In 2016, the MSG formulated an open data policy¹⁶², which states that the MSG will endeavour to ensure that all data are made available in an open manner, easily accessible for use and re-use by the public. Data will be published in excel spreadsheets, and shall be machine readable (p.9). Notably, the open data policy recognizes that publication of data could be made not only through EITI Reports but also through government agencies. It also recognizes the need to build the capacity of individuals and institutions tasked to implement this policy (p.10).

Contribution to public debate: PNG EITI's contribution to public debate appears to be pronounced both at the subnational and national levels. In one of the roadshows conducted in the Highlands, for example, the participants raised the issue of not knowing the exact local benefits they were entitled to from the PNG LNG Umbrella Benefit Sharing Agreements, and of lack of access to local land access agreements. This sparked a conversation about the need to disclose contracts executed by companies with the region.¹⁶³ Other roadshows conducted in New Ireland-Simberi and Lihir opened up discussions on landowner issues, including the definition of beneficial owners.¹⁶⁴

At the national level, news articles and blogs published after the publication of the PNG's EITI reports indicate that there is some level of public debate, particularly on the gaps in government systems that the reports reveal and the need for government to act on EITI's recommendations.¹⁶⁵ There are also stakeholders from civil society that monitor the impact of EITI implementation in PNG.¹⁶⁶ There is also

¹⁵⁹ PNGexposed Blog, accessed [here](#) in April 2018.

¹⁶⁰ PNG EITI website can be accessed [here](#).

¹⁶¹ Summary data templates can be accessed [here](#).

¹⁶² PNG EITI, 'Papua New Guinea Open Data Policy and Framework', accessed [here](#) in April 2018.

¹⁶³ PNG EITI, Minutes of the MSG meeting (23 March 2016), accessed [here](#) in April 2018.

¹⁶⁴ PNG EITI, 'PNGEITI 2016 Annual Progress Report', accessed [here](#) in April 2018, p.7.

¹⁶⁵ See for example, ABC (April 2016), 'PNG's first EITI report reveals resource record keeping problems', accessed [here](#) in April 2018. Also, Papua New Guinea Mine Watch (April 2018), 'Transparency Initiative report calls for improved systems in extractive sector in Papua New Guinea', accessed [here](#) in April 2018, and Medium (March 2017), 'PNG Resource Governance Coalition calls for implementation of EITI recommendations', accessed [here](#) in April 2018.

¹⁶⁶ Policy Forum Guyana (November 2016), 'EITI in Papua New Guinea: pros and cons', accessed [here](#) in April 2018, and Papua New Guinea Mine

evidence that EITI process and information is referred to when discussing issues in the sector, such as the LNG project's contribution to the economy,¹⁶⁷ discussions on the sovereign wealth fund¹⁶⁸ and revenue expenditures.¹⁶⁹ The PNG Institute of National Affairs (INA)¹⁷⁰ uses information from the EITI in some of its publications. Jubilee, a civil society organisation based in Australia recently published a report on the performance of the PNG LNG project using EITI data. These indicate that EITI Reports are contributing to public debate.

Stakeholder views

There were several outreach activities conducted since 2015, both at the national and subnational level. The national secretariat usually organises these activities but invite MSG members to participate. Stakeholders consulted consider media engagements as one of their key strengths because of their visibility in TV broadcasts, consistent radio coverage, and weekly features in newspapers. EITI's social media presence is also strong, mainly due to their Facebook page. Industry has been a key player in promoting EITI through their CSR projects, particularly Oil Search and ExxonMobil. Engagement with relevant government departments and the academe is consistent. The PNG University of Technology and University of PNG have been using EITI data in their academic research. Civil society has given presentations on EITI in various forums. Politicians, particularly the opposition, have quoted EITI information during interviews.

Many stakeholders explained that EITI Reports are distributed during roadshows and sent to relevant agencies. Although EITI Reports have not yet been translated into Pidgin, presentations during roadshows are made in Pidgin. Nevertheless, some civil society representatives noted that EITI Reports were highly technical and should be further simplified considering the 36% literacy rate in PNG.

One industry representative commented that there was still minimal use of EITI data to influence legislation but that this was slowly starting to happen. Several mining representatives noted their use of EITI data during business forums to show the industry's contribution to the economy.

Other stakeholders expressed appreciation for how the EITI data was enabling meaningful discussions on benefit sharing agreements, social projects and infrastructure tax credits. Government representatives, including SOEs commented that the EITI has been helpful in providing access even to data that they cannot access from other agencies or joint venture partners. The Treasury Department noted that the EITI process was helpful in preparing sovereign bonds, knowing that credit rating agencies consider EITI implementation in their evaluation. EITI data was also considered helpful in verifying information disclosed by companies to the government.

Stakeholders from media recognized that the EITI helped in their work, amidst speculations that some payments to government were missing. There were some who thought, however, that information in EITI

Watch (June 2015), 'The Extractive Industry Transparency Initiative in Papua New Guinea: Just more corporate greenwashing?', accessed [here](#) in April 2018.

¹⁶⁷ The National (July 2017), 'Govt to get K60bil from LNG project', accessed [here](#) in May 2018.

¹⁶⁸ Post-Courier (July 2017), 'Fund to Feature in PNGEITI Report', accessed [here](#) in May 2018.

¹⁶⁹ <http://www.opposition.gov.pg/2018/03/05/increased-eiti-transparency-very-welcome-but-where-did-all-the-money-go/>

¹⁷⁰ Website of Papua New Guinea Institute of National Affairs can be accessed [here](#).

Reports did not present any new information.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress in meeting this requirement. The documentation of outreach activities suggests that there is considerable amount of public dissemination of information. While these documentations do not entirely illustrate the actual effectiveness of such activities, it can be seen from online articles and publications that PNG is part of discussion of extractive sector issues at the national and local level and that EITI data is referred to in understanding the issues in the sector. The national secretariat and MSG members have also undertaken efforts to engage the media and seek various platforms to promote EITI and contribute to public debate. Measures have been taken to make EITI Reports more comprehensible, both through simplified materials and presentations.

To strengthen implementation, PNG may wish to ensure that EITI Reports are written in a more comprehensible language or are summarized in a simpler way, and are translated to popular languages. PNG could also consider publishing analysis of key report findings to influence public debate.

Data Accessibility (#7.2)

Documentation of progress

PNG's 2016 EITI Report is accompanied by a summary data template published on PNG EITI's website. The report also notes that classifications of the State budget and public accounts have been updated to conform with the Government Financial Statistics Manual 2014 (p.50). However, there is no explanation of how the revenue streams in the report correspond to the referencing system followed by government. An executive summary of the 2016 EITI Report was published separately, although it is the same as the executive summary in the full report. It appears that the MSG or the national secretariat has not done any data analysis or any simplified and shorter version of the report to improve public understanding of the data aside from a three-page brochure¹⁷¹ listing all payments received from companies.

Stakeholder views

Stakeholders consulted considered that there should be more capacity-building efforts to increase understanding and use of EITI data. Secretariat staff explained that workshops with media on data use had been conducted by the national secretariat.

Initial assessment

Requirement 7.2 encourages the MSGs to make EITI reports accessible to public in open data formats. Such efforts are encouraged but not required and are not assessed in determining compliance with the EITI Standard.

¹⁷¹ PNG EITI, 'PNG Extractives Mining and Oil & Gas Payments, accessed [here](#) in April 2018.

To strengthen implementation, PNG is encouraged to analyse and simplify data to improve the public's understanding of such data. PNG could also assess the equivalence between revenues in EITI Reports and the government's reference system and other publicly-available data.

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

Documentation of progress

MSG input: All PNG EITI Reports contain useful recommendations to improve both the reporting process and the governance of the sector. The 2016 EITI Report (pp.141-143) lists substantive recommendations such as related to disclosing information on subnational payments to increase understanding of subnational revenues, improving the transparency of quasi-fiscal expenditures, explaining the process for approving infrastructure tax credit schemes, establishing a criterion for transferring oil and gas licenses, comprehensively reporting social expenditures through publication of relevant agreements. Other recommendations pertain to improving the reporting process and the participation of reporting entities.

It appears that a majority, if not all, of these recommendations are proposed by the IA, although the MSG discusses and approves them in connection with the approval of the EITI Report. It is unclear from MSG meeting minutes the extent to which the MSG actually discusses these recommendations ahead of publication.

Follow-up: To implement the recommendations of EITI Reports, the MSG sought the intervention of the National Executive Committee through the issuance of a policy directive¹⁷² mandating all relevant agencies to act on the recommendations of the EITI Report. The directive was issued on 6 April 2017 and includes actions to improve government systems¹⁷³, increase transparency of SOEs¹⁷⁴, and enable easier participation in the EITI process.¹⁷⁵

The MSG is monitoring progress of implementation of these recommendations through the national secretariat. At MSG meetings on 29 September 2017 and 24 November 2017, the National Coordinator, Lucas Aklan, reported to the MSG that some government entities had implemented the NEC's directives. The DPE had committed to set up an electronic register to replace the current manual license ledger. The head of secretariat also stated that all government entities had been requested to include the implementation of these directives in their respective work plans. However, some agencies expressed that some recommendations were vague and thus difficult to implement. In the same meeting, MSG Acting Chair Philip Samar asked whether the NEC directive had any deadline. The national secretariat explained that some directives require long term reforms while there were others that could be implemented in the short term such as the engagement of SOEs in the MSG which was already implemented. Further, there were a number of other recommendations that could be implemented in the

¹⁷² PNG EITI, 'PNGEITI First Report Recommendations for Endorsement' accessed [here](#) in April 2018.

¹⁷³ These include digitization of the license register by DPE, disclosure of information on budget processes, data standardization, amendment of budget reports to reflect subnational payments, creation of databases to monitor trust accounts, modernization of payment systems to minimize corruption risks, timely audit of government accounts, building the capacity of the Auditor General's Office.

¹⁷⁴ MRDC and KCH were tasked to disclose all information required by EITI. MRDC was directed to disclose MOAs with communities.

¹⁷⁵ Institutionalize EITI reporting requirements through legislation.

medium term such as reporting on sub-national payments and transfers.

The 2016 EITI Report contains a detailed summary of progress against previous recommendations. Three recommendations have been acted upon, including the engagement of SOEs in the EITI process, setting up of database to monitor trust accounts, and modernization of payment systems. It should be noted that the recommendation to create a database for trust accounts triggered further revisions to the Public Financial Management Act and the review of all trust accounts, including those not related to the extractive sector.

It also appears that all recommendations have been relayed to the agencies concerned, and there have been developments in all but one recommendation, at least in terms of agreeing on next steps to make the recommendations implementable through revisions of regulations, review of current reporting systems, and discussions of how to conform with EITI requirements.

Discrepancies: The 2016 EITI Report explains the reasons for discrepancies, most of which have to do with inconsistency in the exchange rates used, timing differences in the recording of payments, incomplete reporting templates, and non-filing of tax returns by some companies. There is no documentation of how the MSG is addressing these reasons to minimize discrepancies in future EITI reports.

Reforms: As noted above, discussions are ongoing with agencies regarding the implementation of recommendations that could lead to reforms. The most notable reform so far is the review of trust accounts and the modernization of payment systems. Other major reforms underway stemming from these recommendations are the digitization of DPE license register, the amendment of reporting system to capture subnational revenues, and availability of information on budget processes. Confidentiality provisions in the Tax code have been amended to enable disclosure of company tax payments without the need to execute waivers.

Stakeholder views

Stakeholders consulted confirmed that the recommendations in EITI Reports were drafted by the IA and adopted by the MSG because they fully agreed with the recommendations. Secretariat staff noted that they were tasked by the MSG to monitor progress on the recommendations and to regularly report updates to the MSG during MSG meetings. Some industry and civil society stakeholders stated that the MSG was facilitating implementation of the recommendations but that the government should further act on them beyond the issuance of the NEC directive. While there were some industry and civil society stakeholders who considered the implementation of recommendations to be slow, others were satisfied with the response from agencies and the EITI's role in improving government systems through these recommendations. A government official welcomed the improvement of reforms in its license register and recognised the value of the EITI in highlighting gaps in government systems.

The stakeholders did not mention any particular action taken to investigate discrepancies post-publication of the EITI Reports.

Initial assessment

The International Secretariat's initial assessment is that PNG has made satisfactory progress in meeting

this requirement. The quality of the recommendations from PNG EITI Reports is remarkable, as these pertain to improvements in government systems and link to broader sector issues such as gaps in information to support evidence-based reforms. There has also been progress on some significant recommendations such as the improvement of the license register, digitization of payment systems to minimize corruption risks, review of trust accounts and engagement of SOEs. The rest of the recommendations have also been discussed with agencies. Despite questions from some stakeholders over whether government was taking sufficient actions on the recommendations, the MSG has adopted a formal mechanism to follow up on EITI recommendations and hold agencies accountable to the NEC.

To strengthen implementation, the MSG may consider providing a detailed action plan for the implementation of the recommendations and propose this to the relevant government agencies.

Outcomes and impact of implementation (#7.4)

Documentation of progress

The outcomes and impact of EITI implementation in PNG are regularly reviewed through annual progress reports that are publicly available in PNG's website¹⁷⁶.

A detailed narrative of all activities is included in the 2016 annual progress report (pp. 4-16), covering activities such as preparations for the EITI Report, outreach activities, MSG meetings, and awareness raising activities on beneficial ownership which they already included in their roadshows. It should be noted, however, that the 2016 annual progress report made an assessment based on the requirements under the 2013 Standard (pp.19-25), so the discussion of progress on the technical requirements was general and unhelpful in assessing whether their level of disclosures had improved. In addition, most of the MSG's decisions that were mentioned in the annual progress report in relation to the EITI requirements were procedural ones, such as the approval of the hiring of the IA, reporting schedules, administrative arrangements for data collection. Overall, the report's discussion of progress against each EITI requirement under the 2016 Standard is insufficient to describe the level of compliance with each requirement.

As for the overview of the MSG's response and progress made in addressing the recommendations (pp.25-30), there is a detailed discussion of how the MSG acted on each recommendation, and the progress made so far. In general, most recommendations were acted upon through the Policy Paper submitted to the NEC. Other recommendations were addressed by commissioning further studies and seeking technical assistance from partners.

In terms of the assessment of progress with achieving workplan objectives, including the impact and outcomes of the objectives (pp.17-19), there is a discussion of each objective and what the MSG has done to achieve a particular objective. The annual progress report also provides a good picture of the MSG's perception of how each activity supports the objectives. It should be noted, however, that some activities listed do not seem to have a direct link to the identified objectives. Moreover, the details in the annual

¹⁷⁶ PNGEITI annual progress reports can be accessed [here](#).

progress report on the impact and outcomes are limited. Although some details are discussed in other parts of the report, i.e. in the summary of activities where they discussed the outcomes for some of the outreach activities, this is insufficient for readers to appreciate the impact of the EITI in PNG. Based on the limited discussion in the report, it appears that the most visible impact is the increased understanding of the extractives sector, and the opportunity for stakeholders to engage the government in policy discussions.

The MSG has not commissioned any impact study, although the work plan includes as a seventh objective in the adoption of monitoring mechanisms to evaluate the performance of the MSG in implementing the EITI. The minutes of MSG meetings do not mention any plan to evaluate impact nor of any actual evaluation of such.

There is no documentation of whether the MSG seeks feedback from other stakeholders regarding the EITI process or have their views reflected in the annual progress report. The civil society constituency however has conducted workshops with its own constituency to agree on priority recommendations and to evaluate the effectiveness of EITI in PNG. There is no evidence of any similar activity being conducted by the MSG as a whole or by the other constituencies.

Stakeholder views

Stakeholders consulted agreed in general that the EITI has created outcomes in PNG mostly in terms of disclosing information to identify weaknesses in government systems and recommend measures to improve these systems. A government official recognized that EITI implementation enabled the IRC to identify gaps in their revenue collection. Several company representatives recognized that participating in the EITI had helped them convince government of the need to conform to international standards and of their own adherence to such standards. Several civil society representatives considered that the EITI had probably created more impact in PNG than anywhere in the world considering the total absence of publicly accessible data prior to EITI implementation. Moreover, both civil society and government mentioned that EITI data had provided them with a rational basis to argue and rely on information that could be considered independent. However, some mining representatives considered that there had been still little impact in terms of the public's understanding of the mining industry's contribution to the economy. One mining representative noted that their company's comments had not been solicited in drafting the 2016 annual progress report. Other constituencies admitted providing minimal inputs to the drafting of the annual progress report. There appears to be no current MSG plans to conduct an impact study.

Initial assessment

The International Secretariat's initial assessment is that PNG has made meaningful progress in meeting this requirement. The MSG's efforts to review outcomes and impact of EITI implementation are limited as can be seen from the missing details in the annual progress reports and the lack of discussion of this subject matter in the minutes of the MSG meetings. It also appears that no steps are being undertaken to seek feedback from other stakeholders outside of the MSG. The annual progress report could be improved by providing details on the progress against meeting each EITI requirement, especially on the technical aspects, and in veering away from general description of activities and outcomes. Nonetheless, there is substantial information on progress against recommendations and against work plan objectives as well as a good narrative of activities. In view of this, it can be said that significant aspects of the

requirement are being implemented and that the broader objective of the requirement is being fulfilled.

In accordance with Requirement 7.4, the MSG is required to review the outcomes and impact of EITI implementation on natural resource governance in PNG by ensuring that all the prescribed details of the annual progress report are mentioned in the next APR. The MSG should ensure that all stakeholders, including those outside of the MSG, are given an opportunity to participate in the production of, and have their view reflected in, the annual progress report.

Table 7 – Summary initial assessment table: Outcomes and impact

EITI provisions	Summary of main findings	Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions)
Public debate (#7.1)	There is public dissemination of information and it can be seen from online articles and publications that PNG is part of discussion of extractive sector issues at the national and local level and that EITI data is referred to in understanding the issues in the sector. The national secretariat and CSO representatives have also exerted efforts to engage the media and seek various platforms to promote EITI and contribute to public debate.	Satisfactory progress
Data accessibility (#7.2)	While EITI summary data templates are regularly published, there are no efforts to analyse and simplify data. It is not clear how revenues in the report correspond to the reference system adopted by government	Encouraged
Lessons learned and follow up on recommendations (#7.3)	The quality of the recommendations from PNG EITI Reports are remarkable. There is progress in some significant recommendations while the rest of the recommendations have been discussed with agencies. The MSG has adopted a formal mechanism to follow up on these recommendations.	Satisfactory progress
Outcomes and impact of implementation	The MSG's efforts to review outcomes and impact of EITI implementation are limited and there are no steps are	Meaningful progress

(#7.4)	being undertaken to seek feedback from other stakeholders outside of the MSG. Details on the progress against meeting each EITI requirement are general. Nonetheless, there is substantial information on progress against recommendations and against work plan objectives as well as a good narrative of activities.	
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. To strengthen implementation, PNG may wish to ensure that EITI Reports are written in a more comprehensible language or are summarized in a simpler way, and are translated to popular languages. The MSG could also consider publishing analysis of findings of the report to influence public debate. 2. PNG is encouraged to analyse and simplify data to improve the public's understanding of such data. PNG could also assess the equivalence between revenues in EITI Reports and the government's reference system and other publicly-available data. 3. The MSG may consider providing a detailed action plan for the implementation of the recommendations and propose this to the relevant government agencies. 4. In accordance with Requirement 7.4, the MSG is required to review the outcomes and impact of EITI implementation on natural resource governance in PNG by ensuring that all the prescribed details of the annual progress report are mentioned in the next report. The MSG should ensure that all stakeholders, including those outside of the MSG, are able to participate in the production of, and have their views reflected, in the annual progress report. 		

8. Impact analysis (not to be considered in assessing compliance with the EITI provisions)

Impact

Based on the objectives in PNG EITI work plans, PNG's EITI implementation has brought tangible impacts in the four years of implementation to date.

Constructive engagement: The EITI has helped create opportunities for dialogue and constructive engagement on issues of extractive industries management, helping to start building trust and reduce conflict between the three constituencies. Although no agreement has been reached regarding some contentious issues such as contract disclosure, the continuous dialogue that takes place in the MSG is helping to crystallize this issue. There is now a growing willingness of companies and government to disclose key information to meet demands of civil society, particularly demand for information on social expenditures, licensing, and revenue flows. The subnational outreach activities have also provided a platform for local communities to put forward their grievances on the way natural resources are managed. EITI serves as channel for these grievances to be heard at the national level. For instance, the issue on the timely distribution of landowner compensation is a recurring topic for discussion during these subnational activities.

The EITI process also serves as a venue for civil society and company to discuss recommendations with government on how to improve governance of the sector. After the publication of the first EITI Report, the MSG endorsed its recommendations to the National Executive Council, an inter-ministerial body that approves policies in PNG. The NEC thereafter turned these recommendations into a directive that agencies are mandated to implement. The MSG has since started to monitor progress in the implementation of these recommendations by asking for regular updates from the relevant agencies. Since a number of these agencies are represented in the MSG, other constituencies are able to shepherd the process of implementing these recommendations, inquiring into the challenges and support needed to achieve the desired outcome. Agencies, in turn, are able to gather inputs from other stakeholders and discuss obstacles in the implementation of the recommendations. An outcome of this constructive engagement is that agencies committed to include the implementation of these recommendations in their five-year work plans.

Economic contributions: There was consensus amongst stakeholders consulted from the three constituencies that the EITI has started to help clarify the direct and indirect contributions of the extractive industries to the economy. EITI data is being used by civil society in evaluating whether extractive operations such as the PNG LNG project is generating the projected revenues that led the government to approve the project. Questions have been raised about actual production values from the project and the contractual stipulation that makes this information confidential. Through EITI Reports, stakeholders have a better sense of whether extractive revenues are properly recorded in the national budget and whether there is a need to ensure consistency with the nomenclature of these revenue streams to ensure they are properly referred to in other official documents vis-à-vis the national budget.

The EITI has likewise provided an opportunity to inform discussions about foregone revenues in view of companies' availment of the Infrastructure Tax Credit scheme (ITC). The ITC has long been a contentious issue in PNG as it is widely regarded by stakeholders as a way of unduly minimizing government revenues if abused by companies. The EITI has opened up this discussion by clarifying in EITI Reports the amount involved when speaking of ITCs. More importantly, MSG meetings are used to discuss whether there is a need to reform the rules governing ITCs.

The EITI process informs the public about company social expenditures and the benefits actually received by communities. Since these are not recorded in the budget and not accounted for in the computation of the company's contribution to economy, companies are able to use the EITI to disclose their indirect contribution to the economy through means other than tax payments. The public, on the other hand, could use this information to make a comparison between committed and actual social expenditures, and could also compare benefits received across different mining communities.

The EITI plays a role in deconstructing the complicated structures and rules governing the operations of SOEs in PNG. EITI Reports have provided opportunities to further open up the financial relations, and transactions, between the various extractives SOEs and their subsidiaries. SOE information that were not previously accessible to the public, such as loans obtained and loan guarantees extended by SOEs are disclosed in EITI Report, along with changes in ownerships, retained earnings, and quasi-fiscal expenditures. All this information enables the public to assess how SOEs are managed, and how much government earns through these SOEs. Although the use of SOE information in EITI Reports has not yet taken place, the disclosure of this information for the first time is informing discussions within the MSG.

Public understanding: There is evidence that public understanding of the management of natural resources had gradually improved. Stakeholders are now able to assess gaps in licensing processes and license registers using the EITI requirements as guide. The EITI is helping to clarify the distinctions between revenue flows to landowner groups and to subnational governments. EITI Reports also clarify fiscal regimes at the national and local level, enabling a more intelligent assessment of how much beneficiaries should receive from extractive operations in their area. Lastly, the EITI provides evidence for a robust public debate on the impact of large extractives projects on the economy and government revenues. Outreach and dissemination activities conducted by the EITI has enabled local communities to understand the fiscal regime for mining and has raised awareness on the importance of disclosing beneficial ownership disclosure.

Strengthening government systems: PNG's EITI Reports have served as a diagnostic tool for government systems related to oversight of the mining, oil and gas sectors as well as broader public finance management. Through recommendations from EITI Reports, the following reforms have been implemented: (1) Removal of confidentiality provisions in the tax code for EITI reporting purposes, as part of the 2017 budget; (2) Mandating increased transparency in the operations of SOEs; (3) improvement of oil and gas license management systems. The EITI process has also surfaced gaps in the management of trust accounts for funds coming from the extractive sector. In 2017, the MSG recommended in its EITI Report that fiscal and budget reports of Treasury should be revised to collect information on subnational payments and transfers. They also recommended that the Mineral Resources Authority disclose the agreements executed by companies with landowners and local governments. These recommendations are supported by a directive from government through the National Executive Council which triggered amendments to the Public Finance Management Act (PFMA). As a result, the Ministry of Finance started

reviewing all government trust accounts including extractives trust accounts so that they can be migrated to the Integrated Financial Management System (IFMS) for effective monitoring.

Recognition: More broadly, there is also evidence of additional impacts beyond those planned as part of PNG's EITI work plan objectives. Participation in the EITI is contributing to the analysis of PNG's standing in the international community. Credit rating agencies and the investment community are starting to factor in PNG's participation in the EITI in their analysis. Lessons learned from EITI are informing PNG's preparations to become a member of OGP

Sustainability

Funding: A key strength of PNG's EITI implementation has been the strong country ownership demonstrated, among other ways, in the government's provision of complete funding for EITI implementation. The government has allocated USD 1.7 million for 2018 and USD 1.2 million for 2019. Other partners such as JICA and the Australian government are providing additional funding to support the improvement of the license register and the study on subnational payments, respectively.

Institutionalisation: The MSG has discussed the drafting of legislation institutionalising the EITI in PNG on several occasions. The drafting of the EITI law is among the priorities of the MSG in the current work plan. The draft mining law also refers to the institutionalisation of the EITI. As part of its efforts to institutionalise EITI, the MSG launched its first EITI Report in Parliament in order to secure the support of parliamentarians to the EITI process.

Pending enactment of dedicated EITI legislation, the MSG has worked with key government agencies, like IRC, to remove constraints on EITI reporting. As part of the 2017 budget, Parliament agreed to lift confidentiality provisions of the tax code for EITI reporting purposes.

Annexes

Annex A – List of MSG members and contact details

PNGEITI MSG				
Type	Name	Position	Organisation	Contact details
Primary	Hon. Charles Abel, MP	Deputy Prime Minister, Treasurer & PNGEITI MSG Chairman	Ministry of Treasury	Charles_Abel@treasury.gov.pg
Alternate 1	Dairi Vele	Secretary	Department of Treasury	Dairi_Vele@treasury.gov.pg
Alternate 2	Manu Momo	Deputy Secretary, Economic Policy	Department of Treasury	Manu_Momo@treasury.gov.pg
Primary	Betty Palaso	Commissioner General	Internal Revenue Commission (IRC)	palasob@irc.gov.pg
Alternate 1	Dr. Alois Daton	Commissioner Taxation	Internal Revenue Commission (IRC)	-
Alternate 2	Ketty Masu	Director - Resource Policy & Advice	Internal Revenue Commission (IRC)	masuk@irc.gov.pg
Observer/alternate	Maggy Bug	Analyst	Internal Revenue Commission (IRC)	bufm@irc.gov.pg
Primary	Nathan Mosusu	Acting Managing Director	Mineral Resources Authority (MRA)	psam@nmosusu@mra.gov.pg
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Alternate 2	Arnold Lakamanga	Manager - GIS Mineral Information	Mineral Resources Authority (MRA)	alakamanga@mra.gov.pg
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Alternate 1	Herry Howard Manda	Manager - Petroleum Division	Department of Petroleum	howardhet76@gmail.com
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Primary	Dr. Ken Ngangan	Secretary	Department of Finance (DoF)	
Alternate 1	Samuel Penias	Deputy Secretary Operations	Department of Finance (DoF)	
Alternate 2	Margaret Tenakanai	First Assistant Secretary - Non- Tax Revenue Division	Department of Finance (DoF)	margaret.tanakanai@finance.gov.pg
Observer/alternate	Dominic Ira	Deputy Secretary Policy	Department of Finance (DoF)	dominic.ira@finance.gov.pg
Primary	Harry Hakaua	Secretary	Department of National Planning &	

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			Monitoring	
Alternate 1	Sanja Pepae	Assistant Secretary - Economic Policy Division	Department of National Planning & Monitoring	sanjapepaejar@gmail.com
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Alternate 2	Brad Mitchell	General Manager - Corporate Services	Kumul Petroleum Holdings Limited	Bmitchell@kumulpetroleum.com
Observer/alternate	Esther Yuyuge		Kumul Petroleum Holdings Limited	Eyuyuge@kumulpetroleum.com
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Alternate 2	Asavi Kendua	Assistant Director - Policy Advisory Branch	Department of Mineral Policy & Geohazards Management	asavi_kendua@mineral.gov.pg
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Primary	Phillippe Blanchard	Managing Director	Total E & P Limited	philippe.blanchard@total.com
Alternate 1	Richard E Kassman, OBE	Director Corporate Affairs	Total E & P PNG Limited	richard.kassman@total.com
Primary	Anthony Smare	Director	Barrick Niugini Limited	anthonymsmare@gmail.com
Alternate 1	Ila Temu	Country Manager	Barrick Niugini Limited	Phone: 322 4800 Postal Address: P.O Box 851, Port Moresby
Primary	Andrew Barry	Lead Country Manager	Exxon Mobil PNG Limited	andrew.barry@exxonmobil.com
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Primary	Peter Aitsi (resigned, awaiting replacement)	Country Manager	Newcrest Mining Limited	peter.aitisi@newcrest.com.au
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Alternate 1	Emily George Taule	Executive Director	Transparency International PNG (TIPNG)	exectipng@gmail.com
Primary	Paul Barker	Executive Director	Institute of National Affairs (INA)	Paul.Barker@cimc.org / paul.barkerinapng@gmail.com
Alternate 1	Douveri Henao	Research Officer	Institute of National Affairs (INA)	Phone: 325 2293 Postal Address: P.O Box 705, Port Moresby
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Alternate 1	Henry Yamo	Deputy Executive Officer	Consultative Implementation & Monitoring Council (CIMC)	Henry.Yamo@cimc.org
Alternate 2	Elizabeth Avaisa	Snr. Project Officer - Public Budgets & Expenditure	Consultative Implementation & Monitoring Council (CIMC)	Elizabeth.Avaisa@cimc.org
Primary	Senson Mark	Manager - Lobby, Advocacy & Networking	EcoForestry Forum	Phone: 7186 1101 / 7589 8642 / 7671 4588
Alternate 1	Marry Boni (resigned, awaiting replacement advice)	Manager - Programs, Governance & Research	EcoForestry Forum	-
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Primary	Father Denny Guka	Priest	PNG Council of Churches	dennyguka@gmail.com
Primary	Martyn Namorong	National Coordinator	PNG Resource Governance Coalition	martyn.namorong@cimc.org / martyn.namorong@gmail.com
Observer/alternate	Jeffrey Murley	Policy Officer	Dept. of Prime Minister & National Executive Council	jeffrey.murley@gmail.com

Annex B – Cost of EITI Reports

EITI Report	Consultant (IA) fees	IA cost overruns	Total
2013 EITI Report	PGK 530,643.17	PGK 156,250.00	PGK 686,893.17
2014 EITI Report	PGK 498,000.00	PGK 49,800.00	PGK 547,800.00
2015 EITI Report	PGK 498,000.00	PGK 49,259.50	PGK 547,259.50
2016 EITI Report	PGK 498,000.00	PGK 49,259.50	PGK 547,259.50

Source: PNG EITI National Secretariat

Annex C – List of stakeholders consulted

Government

ANDY VUI, Acting Deputy Auditor General, National Government Audit Division, AGO

JAMES K. BIRE, Commissioner for Trade and Corporate Service, PNG Customs

YOSHIHIKO CHUJO, Senior Representative, Papua New Guinea Office, Japan International Cooperation Agency

VICKY COLEMAN, Department of Petroleum and Energy

ABHIMANYU DADU, Economist, Office of Commissioners, IRC

ADAM DORIBAE, Acting Deputy Registrar of Companies, IPA

MICHAEL GEORGE, Manager Research, IPA

STANLEY GOTAHA, Analyst, KCH

ROGER GUNSON, Executive Manager, MRA

NOREEN GUGUMI, Sup. Reporting, KMHL

LEMEKI ILA, Deputy Auditor General, Statutory Bodies Audit Division, AGO

SAMUEL JAMES, Economic Officer, IPA

HARRIET KOKIVA, Acting Registrar of Companies, IPA

DUANGCHAY KEOMIXAY, Deputy Director of Finance and Statistic Division, Ministry of Finance

ARRNOLD LAKAMANGA, Manager, MRA

RONALD MARU, Executive Officer to MD, IPA

KETTY MASU, Resource Policy and Advice Director, IRC

JOY MATAENGE, Acting Registrar, Department of Petroleum

MALIS MININGI, Acting Deputy Registrar of Companies, Legal and Compliance Unit, IPA

TATSUJI NAKASONE, Assistant Representative (Project formulation), Papua New Guinea Office, Japan International Cooperation Agency

ANDREW OAEKE, First Assistant Secretary, Macro Economic Policy Division, Department of Treasury

RAY PAUL OBE, Chief Commissioner, PNG Customs Service

GILES PIRIRI, Executive Director, KCH

KINI RENAGI, Senior External Affairs Coordinator, MRDC

ISMAEL SUNGA, Economist, Department of Treasury

FREDA TABARI, SPM Property, KCH

GANI VARO, Engineering Manager, KCH

KAMIS YALAKUN, Acting Manager Investment Promotion, IPA

Industry

ROBERT AISI, Public Government Affairs Manager, ExxonMobil PNG

RICHARD AUPAE, Company Secretary, MRDC

SALLY DAWKINS, Manager, Social Investment National Engagement, Newcrest

GRAEME HANCOCK, General Manager, Social Performance, Newcrest

VALENTINA KAMAN, Government Relations Advisor, ExxonMobil PNG

FRANCIS LOLA, Officer in Charge, KMHL

IAN MARRU, General Manager, Stakeholder Relations, KPHL

ALBERT MELLAM, Executive Director, PNG Chamber of Mines and Petroleum

LEAH MORLIN, Project Manager, PNG Chamber of Mines and Petroleum

MATHILDA NAMORONG, Senior Legal Officer, Commercial, Projects and Finance, KPHL

JOHN PAT NUMA, MRDC

CORNELIUS SOAGAI, Government Affairs Team Lead, Oil Search Limited

MUSJE WERROR, Government and External Relations, OTML

ESTHER YUYUGE, KPHL

Civil Society

PAUL BARKER, Executive Director, INA

YUAMBARI HAIHUIE, Institutions and Campaigns Coordinator, Transparency International PNG

GUNTHER JOKU, Managing Director, Conservation and Environment Protection Authority (CEPA)

Commented [AL21]: Government

ARIANNE KASSMAN, Executive Director, Transparency International PNG

DILU MUGUWA, Deputy Managing Director, Conservation and Environment Protection Authority (CEPA)

Commented [AL22]: Government

MARTYN NAMURONG, National Coordinator, PNG RGC

KALI SETE, Director at PNG Civil Society Forum, Development Secretary at United Church of PNG

Independent administrators

LEONARD CATALON, Assurance Manager, Ernst & Young

Development partners

BRAD COLEY, Economic Officer, US Embassy

BEATRICE KAPIGENO, Economic Specialist, US Embassy

WILFRED LUS, Senior Mining Specialist, Energy and Extractives Global Practice, World Bank

JULIAN STORM, Second Secretary (Economic), Australian High Commission

Media

GEVOKILA ALFRED, The National

ABEL GABARURA, EMTV

LUKE KAMA, The National

EMMANUEL MAIPE, PNG FM Ltd

CEDRIC PATJOLE, Loop Media / TVWan - Cedric

MERIBA TULO, EMTV

MATTHEW VARI, Post Courier

Others

IOAN AIRI, Acting Director – Fiscal Policy/Admin, NFFC

ELISABETH AVAISA, Senior Project Officer (Governance), Consultative Implementation Monitoring Council (CIMC)

MARY BONI, SNR Program Officer, Consultative Implementation Monitoring Council (CIMC)

BRIAN BRO, Director, Alotan Environment

MATTHEW CIRCOSTA, Sovereign Risk Group Analyst, Moody's Investors Service

LOI D'SOUZA, Strategic Management Admin, NFFC

CHRISTIAN DE GUZMAN, Moody's Investors Service

ELLY KINKIN, Lecturer, NPNG

COLLETTE TSIPERAU, Director, CO Tsiperau Geoservices Consultancy

Annex D – List of reference documents

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- MSG meeting minutes for 2012, accessed on <https://www.pngeiti.org.pg/2012-msg-meeting-minutes/> in April 2018.

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- MSG meeting minutes for 2013, accessed on <https://www.pngeiti.org.pg/2013-msg-meeting-minutes/> in April 2018.
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External websites:

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Draft Validation Report
CowaterSogema Independent Validator
17th September 2018

1. EXECUTIVE SUMMARY

The government of the Independent State of Papua New Guinea (PNG) committed to implement the EITI on 14 March 2013 by ~~through enacting~~ National Executive Council (NEC) Decision 90/2013 ~~on EITI implementation~~. An interim Multi-Stakeholder Group (MSG) was formed in 2012 and a permanent MSG was appointed in November 2013. The country was accepted as an EITI Candidate on 19 March 2014 at the EITI Board's meeting in Oslo.

On 25 October 2016, the Board agreed that PNG's Validation under the 2016 EITI Standard would commence on 1 April 2018. This report presented the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures and applied the Validation Guide in assessing PNG's progress with the EITI Standard.

The Secretariat's preliminary assessment is that 14 of the requirements of the EITI Standard have not been fully addressed in PNG. Nine of these are assessed as unmet with inadequate progress. The recommendations and suggested corrective actions identified through this process relate in particular to license allocations (#2.2), license register (#2.3), state participation (#2.6), production data (#3.2), export data (#3.3), comprehensiveness (#4.1), SOE transactions (#4.5), direct subnational payments (#4.6), data quality (#4.9), distribution of revenues (#5.1), subnational transfers (#5.2), mandatory social expenditures (#6.1), SOE quasi-fiscal expenditures (#6.2), outcomes and impact of implementations (#7.4).

This draft validation report follows on from a quality assurance review of the International Secretariat's initial assessment. The Validator agrees with the Secretariat that Papua New Guinea has not yet reached EITI standard, with 14 requirements failing to be met satisfactorily.

There are no scoring changes recommended.

2. BACKGROUND

Papua New Guinea (PNG) is a significant producer of gold, copper, nickel, silver, cobalt and oil and gas¹, ranking as the world's 13th largest gold producer² and 10th largest LNG exporter³ in 2016. With extractives accounting for about 55% of exports and 24% of GDP in 2016, PNG's economy is one of the most reliant on extractives in the Asia Pacific.⁴ The country has traditionally been reliant on mining, with minimal crude oil production starting in 1992, although the start of significant liquefied natural gas (LNG) production and exports from 2014 has radically ~~changed affected~~ the structure of extractive industry revenues.

¹ US Geological Survey (July 2017), 'The mineral industry of Papua New Guinea 2014', accessed [here](#) in April 2018, p.2.

² World Gold Council (2017), Gold mining map, accessed [here](#) in April 2018.

³ International Gas Union (2017), 2017 World LNG Report, accessed [here](#) in April 2018, p.9.

⁴ NRGi (2017) 'Resource Governance Index 2017: Papua New Guinea', accessed [here](#) in April 2018.

PNG had eight producing large-scale industrial mines in 2016⁵, alongside an extensive artisanal and small-scale mining (ASM) sector employing an estimated 80,000 small-scale miners directly as of November 2016 according to the regulator, the Mineral Resources Authority (MRA).⁶ Most producing mines are joint ventures between the government and foreign mining companies, alongside some wholly-foreign owned mines (e.g. Lihir) and the Ok Tedi copper mine, state-owned since 2013.⁷ The country's industrial copper and gold production is concentrated in three large mines (Poregera, Lihir and, whilst declining, Ok Tedi), alongside smaller and developing mines in Simberi, Hidden Valley and Tolukuma.⁸ The Toronto-listed Nautilus Minerals and the government have been piloting underwater deep seabed mining in the Bismarck Sea west of central New Ireland in 2017-2018.⁹

Having acquired Chevron Niugini Ltd's operations in 2003, Australia-listed Oil Search operates the five oil-producing fields in PNG¹⁰, having been involved in the country since 1929.¹¹ While PNG's oil production has contracted by around a third between 2007 and 2014¹², its natural gas production and exports have expanded dramatically since the ramping up of PNG LNG's production in early 2014, ahead of schedule.¹³ The project is operated by ExxonMobil (holding a 33.2% stake in the project), alongside joint venture partners Oil Search (29%), state-owned Kumul Petroleum Holdings (KPH, 16.8%), Australia's Santos (13.5%), Japan's JX Nippon Oil and Gas Exploration Corporation (4.7%), and local governments and landowners through the Mineral Resources Development Company (2.8%).¹⁴ With an initial 6.9m tons per annum (tpa) production capacity over two LNG trains, the USD 18.8bn project relies on a network of 700km of pipelines connecting it to gas fields spread across the Central, Gulf, Hela, Southern Highlands and Western Provinces. While PNG LNG had committed around 95% of its projected 6.9m tpa capacity to Asian customers¹⁵ in contracts signed in 2009-2010, production reached 20% above planned production (8.3m tpa) by the first quarter of 2017.¹⁶ The PNG LNG partners are planning an expansion, drawing on the existing Hides fields and new gas fields in P'nyang and Elk-Antelope.¹⁷ The Elk-Antelope field in Gulf Province, operated by Total (40.1%) alongside partners InterOil (acquired by ExxonMobil in 2017¹⁸) (36.5%) and Oil Search (22.8%), is the largest, with estimated reserves of 9.9 standard cubic ft (scf) of gas.¹⁹ In February 2018, ExxonMobil and Total announced an agreement to invest an additional USD 13bn to expand PNG LNG's capacity to 16m tpa through three new LNG trains (two from Elk-Antelope and one from P'nyang).²⁰

The extractive industries have been associated with social tensions in PNG.²¹ There has been a history of protests by customary landowners against activities of mining companies, with a particularly notable

⁵ PNG EITI (December 2017), 'PNG 2016 EITI Report', accessed [here](#) in April 2018, pp.65-73.

⁶ Ibid, p.73.

⁷ US Geological Survey (July 2017), 'The mineral industry of Papua New Guinea 2014', accessed [here](#) in April 2018, p.2.

⁸ US Geological Survey (February 2015), 'The mineral industry of Papua New Guinea 2012', accessed [here](#) in April 2018, p.2.

⁹ Nautilus Minerals (February 2018), 'Nautilus Completes Successful Trials in PNG', accessed [here](#) in April 2018.

¹⁰ PNG EITI (December 2017), 'PNG 2016 EITI Report', op. cit., p.86.

¹¹ Wood MacKenzie (January 2018), 'Papua New Guinea upstream summary', accessed [here](#) in April 2018.

¹² Platts (July 2014), 'Papua New Guinea's Kutubu crude gets lighter on production boost from PNG LNG', accessed [here](#) in April 2018.

¹³ PNG EITI (December 2017), 'PNG 2016 EITI Report', op. cit., p.85.

¹⁴ Platts (February 2018), 'PNG LNG facility shutdown after earthquake: Oil Search', accessed [here](#) in April 2018.

¹⁵ These long-term customers include China's Sinopec with a commitment for 2m tpa, Tokyo Electric Power Company with 1.8m, Japan's Osaka Gas at 1.5m and Taiwan-based Chinese Petroleum Corporation for 1.2m. See Reuters (April 2017), 'ExxonMobil markets mid-term Papua New Guinea LNG supplies', accessed [here](#) in April 2018.

¹⁶ Platts (April 2017), 'PNG LNG production surges 20% above nameplate capacity in Jan-Mar: Oil Search', accessed [here](#) in April 2018.

¹⁷ Platts (April 2018), 'Key gas field for PNG LNG expansion gets huge resource upgrade', accessed [here](#) in April 2018.

¹⁸ Hydrocarbons Technology (February 2017), 'ExxonMobil completes InterOil acquisition for \$2.5bn', accessed [here](#) in April 2018.

¹⁹ PNG EITI (December 2017), 'PNG 2016 EITI Report', op. cit., p.92.

²⁰ Reuters (February 2018), 'Papua New Guinea LNG partners set plans for big expansion', accessed [here](#) in April 2018.

²¹ Lowy Institute (August 2017), 'Internal security in Papua New Guinea: trends and prospects', accessed [here](#) in April 2018, p.1.

example in the Bougainville civil war in the 1990s. The focus of host communities' concerns related to mining has been on the environmental and social impacts of extractives activities.

In the 2017 Resource Governance Index produced by NRGi, PNG received an overall score of 47/100 ("weak") ranking 46th of 89.²² In particular, PNG was ranked as "poor" (40/100) on the enabling environment and weak rankings for value realisation and revenue management (both 50/100). The country's best score is in taxation ("satisfactory" – 60/100), mainly due to the transparency in its production and exports, while its worst is in licensing (39/100) and control of corruption (27/100).

In line with the Validation Guide, the International Secretariat carried out the first phase of validation—initial data collection, stakeholder consultations, and preparation of their initial evaluation of progress against the EITI requirements (the "Initial Assessment"). CowaterSogema was appointed as the independent Validator to evaluate whether the Secretariat's work was carried out in accordance with the Validation Guide. CowaterSogema's principal responsibilities as Validator are to review and amend the Initial Assessment, as needed, and to summarize its independent review in this Validation Report for submission to the Board through the Validation Committee.

1. Work Performed by the Independent Validator

The Secretariat's Initial Assessment was transmitted to CowaterSogema on August 31st 2018. Our Validation Team undertook this phase of the Validation process through: (1) In-depth review and marking up of the EITI Assessment by each team member; (2) Detailed review and comments by the Multi-Stakeholder Specialist of Requirements 1 and the Civil Society Protocol; (3) Detailed review and comments by the Financial Specialist of Requirements 4, 5 and 6; (4) Consolidation of reviews and the production of this draft Validation Report, sent to the International Secretariat on the 14th September 2018.

2. Comments on the Limitations of the Validation

The Validator carefully reviewed the Secretariat's Initial Assessment and at this stage has no comments on the limitation of the validation process.

3. Comments on the International Secretariat's Initial Assessment

The initial data collection, stakeholder consultations, and drafting of the Initial Assessment were generally undertaken by the International Secretariat in accordance with the 2016 Validation Guide. The data collection took place across three phases. Firstly, a 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;

²² NRGi (2017) 'Resource Governance Index 2017: Papua New Guinea', accessed [here](#) in April 2018.

- 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.

A country visit took place on 3-10 May 2018. All meetings took place in Port Moresby. The International Secretariat 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 International Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders are able to freely express their views and that requests for confidentiality are respected.

Finally, the International Secretariat prepared a report making an initial assessment of progress against requirements in accordance with the Validation Guide. The initial assessment did not include an overall assessment of compliance. The report was submitted to the Validator, with the National Coordinator (NC) also receiving a copy.

2. GENERAL COMMENTS

- **Progress in EITI Implementation**

PNG is relatively new to EITI, being accepted as an EITI Candidate on 19 March 2014 at the EITI Board’s meeting in Oslo. On 25 October 2016, the Board agreed that PNG’s first validation under the 2016 EITI Standard would commence on 1 April 2018.

Since the start of implementation, PNG has annually published four EITI Reports covering four fiscal years, namely, 2013-16. The last two reports were published simultaneously on 30 December 2017, ensuring PNG is well ahead of its reporting deadlines. PNG’s EITI Reports have always been candid in describing and examining gaps in government systems, providing factual basis for institutional reforms.

Permanent members of the MSG were selected on 1 November 2013, following a nationwide selection process and a series of workshops with different constituencies. The current MSG is composed of 30 representatives, with 15 members representing government, eight members representing civil society, and seven members representing industry. Each constituency has seven voting members. Industry is engaged through the PNG Chamber of Mines and Petroleum²³. The CSOs are represented by an umbrella organisation, the PNG Resource Governance Coalition²⁴.

²³ Companies represented in the MSG include: Total E&P Ltd, Barrick Niugini Ltd, ExxonMobil PNG Ltd, Harmony Gold Ltd, Newcrest Mining Ltd, Oil Search (PNG) Ltd, PNG Chamber of Mines & Petroleum.

²⁴ Organisations represented in the MSG include: Transparency International PNG, Institute of National Affairs, Consultative Implementation and Monitoring Council, Eco-Forestry Forum, Business Against Corruption Alliance, PNG Mining Watch Association Inc., PNG Council of Churches, PNG Resource Governance Coalition.

Over the years the number of MSG representatives has changed, although the timing of changes in the composition of the MSG are difficult to discern through available documentation, aside from the inclusion of SOEs as part of government representatives on the MSG decided in 2017, as an outcome of the recommendations from the first EITI Report. The MSG members are due for renewal in 2018. There had been changes to memberships over the years, but mostly with regard to individuals, not to agencies, companies or organisations represented in the MSG.

- **Impact of EITI Implementation**

The EITI Standard is uniquely relevant to PNG, a country that has oscillated between commodity-driven booms and busts since independence in 1975. Requirements related to license management, state participation, traceability of revenues to the national budget, subnational revenue flows and social expenditures hold the key to providing much-needed transparency in issues of contention between host communities, companies and (local and national) government. In some ways, the minimum requirements of the EITI Standard are particularly demanding given the complex flows of extractives revenues to non-state actors like landowner groups.

The transparency achieved through the EITI reporting to date has had a remarkable impact in and of itself. Disaggregated data on per-company extractives revenues were provided for the first time ever – and immediately used in detailed civil society analysis questioning the benefits to government and host communities of some of the country's largest investment projects. Addressing areas of concern for government, industry and civil society, PNG EITI has led to the first public disclosures related to oil and gas license management, tax-deductible infrastructure spending, social expenditures and the flow of revenues between extractives state-owned enterprises and the government.

The civil society constituency and MSG have made extensive efforts to bridge gaps in civil society's (technical and financial) capacity. These challenges are compounded in a country the size of California with only 700km of paved roads. Despite financial constraints, civil society has held roadshows in extractives communities and sought to maintain regular communications with a constituency of interested stakeholders. While unable to regularly undertake its own studies, PNG's civil society has been a regular contributor to research by CSOs in the Pacific, drawing on EITI data.

Industry and government have been regular users of EITI data in public presentations and have leveraged EITI reporting and recommendations as diagnostic tools to support reforms, for instance in oil and gas license management. There is growing scope for government agencies to draw on the lengthening time series of open-format extractives revenue and non-financial data to strengthen its fiscal modelling capacities and improve its oversight of the extractive industries.








As PNG nears investment decisions on two LNG projects and several large new mines, the commercial impetus is matching the social justice imperative of strengthening key disclosures along the value chain while translating this newfound transparency into accountability in PNG's natural resource governance.

The Independent Validator's Assessment of Compliance

Figure 1 – Validator's assessment

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

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 is compliant with the EITI 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.

3. DETAILED FINDINGS

This section highlights areas where the Validator disagrees with the findings of the Initial Assessment or requires further clarification.

Although no disagreements with the scores, we have augmented the recommendations below (with additions highlighted for clarity).

Although not strictly a requirement under 2.4, serious consideration should be given to publishing contracts, possibly via a Freedom of Information Act or other legal instruments. It appears that for mining at least, there is strong potential for such contracts to be published. Such a step would increase the value and impact of EITI in PNG

4. RECOMMENDATIONS

1. In accordance with requirement 1.1, PNG is recommended to ensure a process by which representatives of a specified seniority are involved at pre-agreed intervals if their schedules prevent regular MSG participation.
 - *There is an existing Memorandum of Agreement in place for the MSG which guides operation of the MSG, its roles and responsibilities including designation MSG members from the tripartite constituents. Each constituent's appointment to the MSG is guided by their respective coordinating body or agency. The MOU can be reinforced in the 2017 report recommendations which would potentially go to the NEC to effect it from that level.*
2. In accordance with Requirement 1.2, PNG is recommended to develop a strategy to engage with the virtually unchanged number of non-reporting companies in order to resolve their failure to report.
 - *Improvements in the outline of reporting templates as well a targeted approach to disseminating these templates to senior management levels of concerned reporting entities has led to enhanced responses to provision of data in some instances.*
3. In accordance with Requirement 2.2, PNG is required to publicly disclose information related to the award or transfer of mining tenements and oil and gas licenses pertaining to companies covered in the EITI Report. This information should include the number of mining tenements and oil and gas licenses awarded and transferred in the year under review, a description of the award and transfer procedures, including specific technical and financial criteria assessed, and any non-trivial deviations from statutory procedures in practice.
 - *The non-financial data request templates for MRA and DPE have now been updated for the 2017 Report to specifically request, for each tenement/licence awarded, extended, or transferred, extended, surrendered, cancelled during the reporting period - ID, ownership and date of award/transfer/extension. For MRA a request was also made to: "Please extract a list of all active tenements and tenement holders from the MRA cadastre system for end of 2017 and supply to IA in excel or table format. Alternatively, this information can be made available on the MRA website." For DPE: "Please also provide a list of all active licence IDs and owners for 2017 to the IA for*

Commented [GT1]: This effort must continue in making sure that material companies to participate in the EITI process

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Commented [LA2]: Work has already commenced this month under the JICA Technical Cooperation Program. JICA dispatched 5 consultants from Tokyo led by the Team Leader and Public Financial Expert for "The Project on Improving Resource Related Revenue Management in PNG to support DPE and MRA to address this requirement. We feel this should be ranked as 'meaningful' to reflect the efforts made from 2017 to provide support, especially to DPE to improve capacity and this has finally kicked in.

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inclusion in appendix of EITI report. This data can also be provided in a separate spreadsheet and sent to the IA at:png.eiti@pg.ey.com"

4. In accordance with Requirement 2.3, PNG should maintain a publicly-accessible register(s) or cadastre system(s), including comprehensive information on licenses for all oil, gas and mining companies. In the interim PNG should ensure that information set out under EITI Requirement 2.3.b is publicly accessible for all mining, oil and gas companies.

- *Where data is made available, this will be made accessible on the PNG EITI website if not already available (e.g. in the MRA cadastre). Efforts already underway through JICA technical support to make public such information. DP and EITI NS to benefit from this.*

5. In accordance with Requirement 2.6, PNG should clearly establish its definition of SOEs to delineate the SOEs within the scope of EITI reporting. It should also ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. PNG must also clarify the rules and practices governing financial relations between all SOEs, including their subsidiaries, and the state, including the existence of any loans or guarantees extended by the state, or SOEs, to extractives companies or projects.

- *Terminology has been updated to refer to MRDC as 'trustees' rather than 'SOEs'. Reporting Templates for the 2017 Report have been updated to clarify that information is requested for each project and subsidiary that the SOE is involved in for the extractive industry.*

- *It's critical to look the legislations governing SOE's to be able to develop accurate templates that can record equities, rules and practices governing financial relations between all SOE's; Kumul Legislations, MRDC Act, PFMA, PMMR, Procurement Act, etc.*

6. In accordance with Requirement 3.2, PNG should ensure that the complete production volume for oil and gas, and production values for each of the extractives commodities produced during the year under review be publicly accessible, disaggregated by commodity. To strengthen implementation, PNG may also wish to consider disclosing the methodology adopted for calculating production volumes and values, not least given the robust public debate surrounding these figures. Public disclosure would likely also help the government in tax administration and monitoring responsibilities.

- *The Independent Administrator (IA) has requested for this information via the reporting templates. Using the information provided, and IA's understanding of percentage of ownership in PNG LNG projects, attempts will be made to estimate these values if not supplied by the reporting entities as requested. IA will also seek alternatives such as obtaining information from Bank of PNG.*

7. In accordance with Requirement 3.3, PNG should ensure that export volumes and values are publicly disclosed for each mineral commodity (including oil, condensate and gas) exported in the year under review. Given the high public interest in export data, PNG may wish to consider disclosing additional information on the mechanisms for tracking mining, oil and gas exports and the methodology for calculating export values. Public disclosure would likely also help the

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Commented [LA3]: Same as above. Work has already commenced this month under the JICA Technical Cooperation Program. We feel this should be ranked as 'meaningful' to reflect the efforts made well in advance from 2017 to support, DPE and MRA to improve capacity and this already underway and will be going on for the next 3 years.

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government in tax administration and monitoring responsibilities.

- *The broad objectives are being fulfilled but there remains a focus on discussions surrounding the mechanisms for tracking mining, oil and gas exports and methodology for calculating export values.*
8. In accordance with Requirement 4.1, PNG should ensure that the materiality threshold for selecting companies ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The MSG should ensure that PNG's next EITI Report includes the IA's assessment of the materiality of omissions from non-reporting entities, an assessment of the comprehensiveness of the EITI Report and that full unilateral government disclosure of total revenues, including from non-material companies, is provided for each of the material revenue streams. In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in comprehensiveness of reporting documented in the initial assessment.
- *The IA recently updated the Internal Revenue Commission's (IRC) Template to clarify that total revenue stream values are requested. IA is also working with IRC to confirm unilateral disclosure of all government extractive revenue streams, specifically with regard to the revenue streams from projects that are not yet producing.*
9. In accordance with Requirement 4.5, PNG should undertake a comprehensive assessment of transactions between extractives SOEs (and their subsidiaries) and mining, oil and gas companies, as well as between the extractives SOEs (including their subsidiaries) and government in its scoping for future EITI Reports. All SOEs collecting material revenues or making material payments to government should be included in future EITI reporting.
- *Clarification have been made to reporting templates to collect information for each subsidiary of each SOE/trustee.*
10. In accordance with Requirement 4.6, PNG should establish whether direct subnational payments (to government entities) by extractives companies are material. Where material, PNG is required to ensure that direct subnational payments are reconciled between company payments and subnational government entities' receipts. Given widespread confusion yet vivid interest among stakeholders from all constituencies over extractives revenue flows accruing to subnational governments, PNG should to consider mapping out subnational revenue flows associated with each individual extractive project, drawing on results from the scoping study on subnational revenue flows being prepared in 2018.
- *A sub-national scoping study is being undertaken by consultant through the assistance of Pacific Governance Facility (PGF) under the Australian Government support program. The IA has met with this consultant to compare approach methodologies and confirm timeframes. For sub-national payments, a reference will be made in the 2017 PNGEITI report on the outcomes of the sub-national scoping study.*
11. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the

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Commented [LA5]: Work is already in advanced stage to meet this requirement. A scoping study on sub-national payments and transfers was commissioned by PGF through the Australian Government support in late 2017 and a report will be ready before end of this year. The second phase of this project will involve piloting a number of provinces for sub-national reporting and this will be included in the 2018 PNGEITI Report. We feel that PNG should be assessed as having made 'meaningful' progress, taking into account the ongoing work in its efforts to meet this particular requirement

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Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:

- Ensure that the Independent Administrator provides a clear and categorical assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
- Ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.

In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in the reliability of reporting documented in the initial assessment.

- *It is envisage that an update will be provided within the 2017 Report, subject to further consultation and clarifications being source by the IA.*

12. In accordance with Requirement 5.1, PNG should clarify which extractive revenues are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of revenues should be explained, with links provided to relevant financial reports. PNG is encouraged to publicly clarify the equivalence of revenue classifications in EITI reporting with those used in its national budget (e.g. group tax and corporate income tax) to strengthen citizen oversight of the budgetary process.

- *The IA will seek assistance from Treasury Department regarding the extractives revenues including in the budget with the aim of clearly classifying them in the reports as well as the budgetary documents.*

13. In accordance with Requirement 5.2, PNG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism such as benefit-sharing agreements. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity on an annual basis. PNG is encouraged to reconcile these transfers.

- *Subject to the outcome of the current Scoping Study in sub-national payments, it is envisaged for a reference to be made and update provided within the 2017 Report.*

14. In accordance with Requirement 6.1, PNG should ensure that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. To strengthen implementation, PNG may also wish to consider the feasibility of reconciling mandatory social expenditures.

- *The 2017 Report will report this disaggregation as and where supplied by reporting entities.*

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Commented [LA6]: Our comments in #10 above also applies to this. PNG is making an effort to meet this requirement through the sub-national study that will be concluded next month and a report with recommendation to pilot reporting for a number of provinces as the next phase of the project. We feel it is unfair for PNG to be assessed as having made 'inadequate' progress. We should be ranked as having made 'meaningful' progress to recognise efforts made in meeting this requirement

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15. In accordance with Requirement 6.2, PNG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs (and their subsidiaries) that could be considered quasi-fiscal. PNG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.

- *An expanded discussion will be included in the 2017 report including examples of expenditure that could be considered Quasi-fiscal and recommendations made regarding of reporting these expenditures in future.*

16. In accordance with Requirement 7.3, the MSG should consider introducing SMART objectives (specific, measurable, achievable, relevant and time-bound), in order to avoid recommendations which are seen by stakeholders as vague, difficult to implement or without deadlines.

- *Acknowledged this as an important initiative and the MSG is committed to ensuring this is considered in the upcoming reports.*

17. In accordance with Requirement 7.4, the MSG is required to review the outcomes and impact of EITI implementation on natural resource governance in PNG by ensuring that all the prescribed details of the annual progress report are mentioned in the next report. The MSG should ensure that all stakeholders, including those outside of the MSG, are given an opportunity to participate in the production of, and have their view reflected in, the annual progress report.

- *The MSG along with the IA commits to include a section within the annual report outlining the key aspects of the Annual Progress Reports and the various key activities and milestones that have been achieved annually in the implementation of EITI activities.*

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Commented [LA7]: The MSG had demonstrated through the PNGEITI Report it had published that this requirement is not applicable in the country because there are no known quasi-fiscal expenditures (this may become necessary to report in future, if such information becomes available). Despite this, we have been assessed and need an explanation on this.

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EITI Requirements		LEVEL OF PROGRESS					Recommendations of validation assessment of 2016 Report	EY plan for addressing in 2017 report	Additional insight from stakeholder interviews undertaken by international secretariat. - for further investigation/discussion in 2017 report
Categories	Requirements	No progress	Inadequate	Meaningful	Satisfactory	Beyond			
MSG oversight	Government engagement (#1.1)								
	Industry engagement (#1.2)								
	Civil society engagement (#1.3)								
	MSG governance (#1.4)								
	Work plan (#1.5)								
	Legal framework (#2.1)								
	License allocations (#2.2)						<p>3. In accordance with Requirement 2.2, PNG is required to publicly disclose information related to the award or transfer of mining tenements and oil and gas licenses pertaining to companies covered in the EITI Report. This information should include the number of mining tenements and oil and gas licenses awarded and transferred in the year under review, a description of the award and transfer procedures, including specific technical and financial criteria assessed, and any non-trivial deviations from statutory procedures in practice.</p>	<p>The non-financial data request templates for MRA and DPE were updated to specifically request, for each tenement/licence awarded, extended, or transferred, extended, surrendered, cancelled during the reporting period - ID, ownership and date of award/transfer/extension. For MRA a request was also made to: "Please extract a list of all active tenements and tenement holders from the MRA cadastre system for end of 2017 and supply to IA in excel or table format. Alternatively, this information can be made available on the MRA website." For DPE: "Please also provide a list of all active licence IDs and owners for 2017 to the IA for inclusion in appendix of EITI report. This data can also be provided in a separate spreadsheet and sent to the IA at:png.eiti@pg.ey.com"</p>	<p>The majority of CSOs consulted alleged abuses of the oil and gas licensing system, noting unspecified instances when oil and gas licenses had been awarded to companies affiliated to politically-exposed persons that had no prior experience in the industry. The allegation was that these licenses were subsequently sold on to bona fide oil and gas companies.</p>
	License register (#2.3)						<p>4. In accordance with Requirement 2.3, PNG should maintain a publicly-accessible register(s) or cadastre system(s), including comprehensive information on licenses for all oil, gas and mining companies. In the interim PNG should ensure that information set out under EITI Requirement 2.3.b is publicly accessible for all mining, oil and gas companies.</p>	<p>Where data is made available, this will be made accessible on the PNG EITI website if not already available (e.g. MRA cadastre)</p>	<p>Although the licenses did not explicitly specify the commodities covered, the official confirmed that all licenses covered both oil and gas. However, several stakeholders from all three constituencies highlighted the enactment of the Unconventional Hydrocarbons Act, implying that conventional oil and gas licenses did not cover unconventional hydrocarbons.</p>

Licenses and contracts	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					

5. In accordance with Requirement 2.6, PNG should clearly establish its definition of SOEs to delineate the SOEs within the scope of EITI reporting. It should also ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. PNG must also clarify the rules and practices governing financial relations between all SOEs, including their subsidiaries, and the state, including the existence of any loans or guarantees extended by the state, or SOEs, to extractives companies or projects.

desirability of publicly disclosing extractives contracts. Several mining companies stated that they were not opposed to contract disclosure, given the lack of confidentiality clauses in mining contracts, contrary to popular belief. One company representative explained that mining contracts had no bespoke fiscal terms, which were all set in legislation, implying that there were no controversial provisions in mining contracts. The representative also noted that the contract governing the Lihir mine had been approved by parliament, implying that it should thus be a public document. Several oil company representatives considered that oil and gas contracts included commercially-sensitive information, which made it important to discuss in detail the specific provisions that would be disclosed, such as social contributions and benefits to different levels of government and landowners. Several civil society representatives explained that the public had not been able to access extractives contracts given confidentiality provisions covering extractives contracts in the Mining Act and the Oil and Gas Act. They lamented that despite provisions in the Constitution assuring access to information, the government had not yet proposed a Freedom of Information Act to Parliament. Several government representatives recognized the importance of contract disclosure in the extractive industries. One official considered that mining contracts should be published to enable the identification of revenue leaks and assess the impact of tax holidays. With regards to MoAs between companies, government and landowner groups, several officials explained that landowners had copies of their MoAs, implying that public disclosure of MoAs would not pose any legal challenges, even if the logistical challenges of collecting MoAs from all relevant landowner groups were mentioned. So far, an official noted that

Stakeholder views and references for KPH subsidiaries. "While several government officials considered the list of KPH subsidiaries in the 2016 EITI Report to be comprehensive, there is evidence (including in PNG Auditor General reports) of four KPH subsidiaries that were not listed in the report. One of these subsidiaries, Kumul Petroleum Investment Ltd., is described as a wholly-owned special purpose vehicle on the KPH website and appears of material relevance to Requirement 2.6.b. Indeed, there is evidence from Oil Search's statutory reporting to the Australian Stock Exchange that the AUD 1.2bn sovereign loan from UBS, which had used the state's 10% equity interest in Oil Search as collateral when the loan was agreed in 2014, was novated (change of debtor) to Kumul Petroleum Investment Ltd. in February 2016. However, a SOE official considered that the novation of the UBS loan had taken place in 2017 and would thus be covered in the 2017 EITI Report"

Terminology has been updated to refer to MRDC as 'trustees' rather than 'SOEs'. Templates have been updated to clarify that information is requested for each project and subsidiary that the SOE is involved in for the extractive industry.

MRDC: "Several CSOs and journalists expressed concerns over MRDC's management of funds on behalf of landowner groups, highlighting that MRDC was one of the largest real estate investors in Fiji and calling for more clarity on their investments. "

Monitoring production	Exploration data (#3.1)							
	Production data (#3.2)							
	Export data (#3.3)							
	Comprehensiveness (#4.1)							
	In-kind revenues (#4.2)							
	Barter agreements (#4.3)							
	Transportation revenues (#4.4)							

6. In accordance with Requirement 3.2, PNG should ensure that the complete production volume for oil and gas, and production values for each of the extractives commodities produced during the year under review be publicly accessible, disaggregated by commodity. To strengthen implementation, PNG may also wish to consider disclosing the methodology adopted for calculating production volumes and values, not least given the robust public debate surrounding these figures. Public disclosure would likely also help the government in tax administration and monitoring responsibilities.

7. In accordance with Requirement 3.3, PNG should ensure that export volumes and values are publicly disclosed for each mineral commodity (including oil, condensate and gas) exported in the year under review. Given the high public interest in export data, PNG may wish to consider disclosing additional information on the mechanisms for tracking mining, oil and gas exports and the methodology for calculating export values. Public disclosure would likely also help the government in tax administration and monitoring responsibilities.

8. In accordance with Requirement 4.1, PNG should ensure that the materiality threshold for selecting companies ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The MSG should ensure that PNG's next EITI Report includes the IA's assessment of the materiality of omissions from non-reporting entities, an assessment of the comprehensiveness of the EITI Report and that full unilateral government disclosure of total revenues, including from non-material companies, is provided for each of the material revenue streams. In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in comprehensiveness of reporting documented in the initial assessment.

We have again requested this information in the reporting templates. Using the information provided, and our understanding of % ownership in PNG LNG projects, attempts will be made to estimate these values if not supplied by the reporting entities as requested.	
We will seek alternatives such as obtaining information from BPNG.	
Broad objectives are being fulfilled but will focus on discussion surrounding the mechanisms for tracking mining, oil and gas exports and methodology for calculating export values.	
We updated IRC template to clarify that total revenue stream value is requested and have been working with them to confirm full unilateral disclosure of all government extractive revenue streams. Specifically, with regard to the revenue streams from projects that are not yet producing.	

Stakeholders consulted did not express any particular views on the 2016 EITI Report's overview of the extractive industries and significant exploration activities. Several industry representatives considered that the report provided an accurate depiction of the major trends in the sector, even if more detail could always be added. However, some oil and gas companies considered that the narrative description of the extractive industries could be expanded. A government official noted that the DPE did not provide updates on significant oil and gas activities on its website, but highlighted plans to develop an integrated map of all oil and gas activities in PNG.

A government representative highlighted the value of the 2016 EITI Report's mining production data, noting that the MRA had not previously been aware of silver production at the Lihir mine. Several CSOs strongly criticised the lack of information on values of oil and gas production and considered it to be the right of citizens to know the value of commodities being produced in PNG.

pp.67-68 of validation report

pp.73-74 of validation report

Revenue collection	SOE transactions (#4.5)				9. In accordance with Requirement 4.5, PNG should undertake a comprehensive assessment of transactions between extractives SOEs (and their subsidiaries) and mining, oil and gas companies, as well as between the extractives SOEs (including their subsidiaries) and government in its scoping for future EITI Reports. All SOEs collecting material revenues or making material payments to government should be included in future EITI reporting.	Have made clarification to reporting templates to collect information for each subsidiary of each SOE/trustee
	Direct subnational payments (#4.6)				10. In accordance with Requirement 4.6, PNG should establish whether direct subnational payments (to government entities) by extractives companies are material. Where material, PNG is required to ensure that direct subnational payments are reconciled between company payments and subnational government entities' receipts. Given widespread confusion yet vivid interest among stakeholders from all constituencies over extractives revenue flows accruing to subnational governments, PNG should consider mapping out subnational revenue flows associated with each individual extractive project, drawing on results from the scoping study on subnational revenue flows being prepared in 2018.	The sub-national scoping study is being undertaken by another consultant. EY have met with this consultant to compare approach and confirm timeframes. For sub-national payments we will refer in the 2017 PNG EITI report to the outcomes of the Sub-national scoping study.
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)				11. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should: <ul style="list-style-type: none"> • Ensure that the Independent Administrator provides a clear and categorical assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided. • Ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report. 	EY upon consultation will update in 2017 EITI report.

Revenue allocation	Distribution of revenues (#5.1)					12. In accordance with Requirement 5.1, PNG should clarify which extractive revenues are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of revenues should be explained, with links provided to relevant financial reports. PNG is encouraged to publicly clarify the equivalence of revenue classifications in EITI reporting with those used in its national budget (e.g. group tax and corporate income tax) to strengthen citizen oversight of the budgetary process.	EY to seek assistance from Treasury regarding the extractive revenues inclusion in the budget.
	Subnational transfers (#5.2)					13. In accordance with Requirement 5.2, PNG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism such as benefit-sharing agreements. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity on an annual basis. PNG is encouraged to reconcile these transfers.	The sub-national scoping study is being undertaken by another consultant. EY have met with this consultant to compare approach and confirm timeframes. For sub-national payments we will refer in the 2017 PNG EITI report to the outcomes of the Sub-national scoping study.
	Revenue management and expenditures (#5.3)						
Socio-economic contribution	Mandatory social expenditures (#6.1)					14. In accordance with Requirement 6.1, PNG should ensure that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. To strengthen implementation, PNG may also wish to consider the feasibility of reconciling mandatory social expenditures.	Will report disaggregated as supplied by reporting entities.
	SOE quasi-fiscal expenditures (#6.2)					15. In accordance with Requirement 6.2, PNG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs (and their subsidiaries) that could be considered quasi-fiscal. PNG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.	Will include expanded discussion in report including examples of expenditure that could be considered Quasi-fiscal and make a recommendation regarding reporting these in future.
	Economic contribution (#6.3)						
Outcomes and impact	Public debate (#7.1)						
	Data accessibility (#7.2)						
	Follow up on recommendations (#7.3)					16. In accordance with Requirement 7.3, the MSG should consider introducing SMART objectives (specific, measurable, achievable, relevant and time-bound), in order to avoid recommendations which are seen by stakeholders as vague, difficult to implement or without deadlines.	

Outcomes and
impact of
implementation
(#7.4)

17. In accordance with Requirement 7.4, the MSG is required to review the outcomes and impact of EITI implementation on natural resource governance in PNG by ensuring that all the prescribed details of the annual progress report are mentioned in the next report. The MSG should ensure that all stakeholders, including those outside of the MSG, are given an opportunity to participate in the production of, and have their view reflected in, the annual progress report.