

# Second Validation of Côte d'Ivoire:

## Final assessment by the EITI International Secretariat

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## 1. Summary

Côte d'Ivoire's second Validation commenced on 8 November 2019. The EITI International Secretariat has assessed the progress made in addressing the 12 corrective actions established by the EITI Board following Côte d'Ivoire's first Validation in 2017.<sup>1</sup> The 12 corrective actions relate to:

1. MSG governance (*Requirement 1.4*)
2. Work plan (*Requirement 1.5*)
3. License allocation (*Requirement 2.2*)
4. License register (*Requirement 2.3*)
5. State-participation (*Requirement 2.6*)
6. In-kind revenues (*Requirement 4.2*)
7. Barters and infrastructure arrangements (*Requirement 4.3*)
8. SOE transactions (*Requirement 4.5*)
9. Distribution of revenues (*Requirement 5.1*)
10. Subnational transfers (*Requirement 5.2*)
11. SOE quasi-fiscal expenditures (*Requirement 6.2*)
12. Documentation of outcomes and impact (*Requirement 7.4*).

The Secretariat's preliminary assessment is that Côte d'Ivoire has fully addressed three of the 12 corrective actions and has made "meaningful progress" in addressing the other nine corrective actions. The Secretariat's assessment is that corrective actions related to SOE transactions (*Requirement 4.5*), subnational transfers (*Requirement 5.2*) and outcomes and impact of EITI implementation (*Requirement 7.4*) have been fully addressed. **In addition, the Secretariat's assessment is that there has been back-sliding on Requirement 6.1 on mandatory social expenditures.** The outstanding gaps relate to MSG governance (*Requirement 1.4*), work plan (*Requirement 1.5*), license allocation (*Requirement 2.2*), License register (*Requirement 2.3*), State-participation (*Requirement 2.6*), in-kind revenues (*Requirement 4.2*), barters and infrastructure arrangements (*Requirement 4.3*), distribution of revenues (*Requirement 5.1*), social expenditures (*Requirement 6.1*) and SOE quasi-fiscal expenditures (*Requirement 6.2*).








The draft assessment was sent to the multi-stakeholder group (MSG) on 14 February 2020. Following comments from the MSG expected on 10 March 2020, the assessment will be finalised for consideration by the EITI Board.

<sup>1</sup> EITI (May 2018), 'Board Decision 2018-22/BC-249: The Board agreed that Côte d'Ivoire has made meaningful progress in implementing the 2016 Standard', accessed [here](#) in November 2019.

## 2. Scorecard

EITI Requirements		Level of progress					Direction of Progress
Categories	Requirements	No progress	Inadequate	Meaningful	Satisfactory	Beyond	
Côte d'Ivoire second Validation scorecard							
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 & expenditures (#5.3)						
Socio-economic contribution	Social expenditures (#6.1)			■			←
	SOE quasi-fiscal expenditures (#6.2)			■			→
	Economic contribution (#6.3)				■		=
Outcomes and impact	Public debate (#7.1)				■		=
	Data accessibility and open data (#7.2)						
	Recommendations from EITI (#7.3)				■		=
	Outcomes & impact (#7.4)				■		→

### Legend to the assessment card

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

Côte d'Ivoire joined the EITI in 2008 and became compliant with the EITI Rules in May 2013. Côte d'Ivoire's first Validation under the 2016 EITI Standard concluded in May 2018. The EITI Board found that Côte d'Ivoire had made 'meaningful progress' overall in implementing the EITI Standard.<sup>2</sup> Twelve corrective actions were identified by the Board, to be assessed in a second Validation commencing on 8 November 2019.

Côte d'Ivoire has undertaken a number of activities to address the corrective actions:

- In July 2018, EITI Côte d'Ivoire published its 2017 annual progress report.<sup>3</sup>
- In December 2018, EITI Côte d'Ivoire published its 2016 EITI Report.<sup>4</sup>
- On 13 September 2019, Antoine Kocounseu M imba was appointed as MSG Chair, replacing Mr Koffi Ndri, in accordance with Inter-Ministerial Order 0345/MEF/MMG/MPEER/SEPMPBE on 16 August 2019.<sup>5</sup>
- On 19 September 2019, the mining association GPMCI (Groupement Professionnel des Miniers de Côte d'Ivoire) held a meeting of its members' focal points to agree nominations and coordination procedures for its representatives on the EITI Côte d'Ivoire MSG.
- The EITI Côte d'Ivoire MSG held meetings on 23 August and 22 November 2018 and on 20 March, 6 June and 2 and 29 October 2019.<sup>6</sup>

<sup>2</sup> EITI (2016), '2016 EITI Standard', available at: <https://eiti.org/document/eiti-standard-requirements-2016>

<sup>3</sup> EITI Côte d'Ivoire, '2017 annual progress report', accessed [here](#) in November 2019.

<sup>4</sup> EITI Côte d'Ivoire (December 2018), '2016 EITI Report', accessed [here](#) in November 2019.

<sup>5</sup> Cabinet du Premier Ministre (September 2019), 'Procès-verbal de passation de service au Conseil National pour la mise en œuvre de l'Initiative pour la Transparence des Industries Extractives (CN-ITIE)', accessed [here](#) in November 2019.

<sup>6</sup> EITI Côte d'Ivoire website, MSG meetings webpage, accessed [here](#) in November 2019.

- From 10 to 12 October 2019, EITI Côte d'Ivoire carried out its self-evaluation workshop and produced a report on consultations on the workplan, follow-up on recommendations and the impact study.<sup>7</sup>
- In November 2019, EITI Côte d'Ivoire published an impact assessment study of EITI implementation in the country prepared by PWYP Côte d'Ivoire and EITI Côte d'Ivoire.<sup>8</sup>
- In October 2019, EITI Côte d'Ivoire published the Decree fixing per diem rates for MSG meetings.<sup>9</sup>
- On 7 November 2019, EITI Côte d'Ivoire published its 2017 EITI Report.<sup>10</sup> Associated documentation, including the reconciliation tables disaggregated by company, were published ahead of the commencement of Validation.<sup>11</sup>

The following section addresses progress on each of the corrective actions. The assessment covers the corrective actions established by the Board and the associated requirements in the EITI Standard. The assessment follows the guidance outlined in the Validation Guide.<sup>12</sup>

In the course of undertaking this assessment, the International Secretariat has also considered whether there is a need to review additional requirements, i.e. those assessed as “satisfactory progress” or “beyond” in the 2016 Validation. While these requirements have not been comprehensively assessed, the Secretariat’s view is that there has been back-sliding on Requirement 6.1 related to license allocations and that the assessment of this requirement warrants consideration by the EITI Board for downgrading to “meaningful progress”.

## 4. Review of corrective actions

The Secretariat’s assessment below discusses whether the twelve corrective actions have been sufficiently addressed. The assessment is based on the 2019 work plan, the 2017 EITI Report, the 2018 annual progress report and, minutes of the MSG meetings from May 2018 to December 2019, alongside various documents submitted by the national secretariat to the International Secretariat, e-mail correspondence, and stakeholder consultations (in-person and via skype).

### 4.1 Corrective action 1: MSG oversight (#1.4)

In accordance with Requirement 1.4, the MSG should update its TOR, renew its membership in line with statutory procedures and the industry and civil society constituencies are encouraged to agree public nominations procedures ahead of MSG member selection. EITI Côte d'Ivoire should formalise its per diem policy to be in line with national practice. The government should ensure that the MSG has adequate financial oversight of the management of funds allocated to EITI implementation.

### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made inadequate progress towards meeting this requirement. The MSG did not seem to be comprised of the appropriate stakeholders and the process by which each stakeholder group nominated their representatives remains unclear. Most government representatives were no longer serving in the government positions for which they were nominated on

<sup>7</sup> 2019 Self-Evaluation Report, EITI Côte d'Ivoire, accessed [here](#) in November 2019

<sup>8</sup> EITI Côte d'Ivoire (November 2019), 'Evaluation de l'impact et des résultats de la mise en œuvre de l'ITIE en Côte d'Ivoire: RAPPORT', accessed [here](#) in November 2019.

<sup>9</sup> Decree on MSG per diem policy, accessed [here](#) in November 2019

<sup>10</sup> EITI Côte d'Ivoire (November 2019), '2017 EITI Report', accessed [here](#) in November 2019.

<sup>11</sup> EITI Côte d'Ivoire website, 'Publications' page, accessed [here](#) in November 2019.

<sup>12</sup> EITI (2019), 'EITI Validation Guide', available at: <https://eiti.org/document/eiti-validation-guide>

the MSG yet continued to serve on the MSG and receive per diems. There was no evidence that civil society and company have appointed their own representatives. The MSG's ToR did not include clear procedures on how MSG members were nominated and replaced.

The MSG's ToR outlined the roles and responsibilities of MSG members and meeting records showed that MSG members were generally carrying out their duties and responsibilities. However, outreach activities and coordination within constituency groups remained limited. The ToR gave the MSG a mandate to approve work plans, to appoint the Independent Administrator including approval of the IA's ToR, EITI Reports and annual activity reports. The MSG's Internal Rules were publicly available but did not appear to be followed in practice. There were some concerns by stakeholders that their views were not taken into account during decision-making.

Moreover, the MSG's per diem policy remained ad-hoc and opaque, which led to resentment between EITI focal points, who did substantial work in EITI reporting, but did not receive per diems. This was emphasized by the payment of per diems to MSG members who were no longer with their respective government organizations. There was no verifiable written document showing the per diem policy in practice. According to stakeholders' comments, ordinary MSG members received XOF 550,000 (about USD 1000) per meeting while the Chair of the MSG receives XOF 800,000 (about USD 1500) per meeting. The MSG held typically four meetings per year. Staff at the permanent Secretariat were paid a monthly salary at the discretion of the Chair of the MSG who was also the Head of the Permanent Secretariat. There was no financial oversight of the secretariat's budget or actual expenditure by members of the MSG.

## Progress since Validation

The Government of Côte d'Ivoire has made efforts to clarify the MSG's internal nominations and representation procedures. In accordance with Inter-Ministerial Decree 2008-25 of 21 February 2008 establishing the EITI in Côte d'Ivoire, the MSG membership was renewed on 13 September 2019,<sup>13</sup> two months before the start of Validation, codified with Arrêté 0345/MEF/MMG/MPEER/SEPMBPE. Although the government has developed a draft new Decree for EITI implementation, it was not enacted at the start of Côte d'Ivoire's second Validation. Thus, the MSG's ToR continues to be Decree 2008-25, as in the first Validation.

***MSG composition and membership:*** In a bid to clarify nominations procedures, the MSG published a note on the designation and appointment of members in September 2019.<sup>14</sup> According to the note, neither the government nor the MSG unilaterally select MSG members, although the institutions selected to designate MSG members are named in Decree 2008-25. The note states that the current procedure for appointment of members is based on the ad hoc committee set up when the EITI Côte d'Ivoire was created in 2008. According to Article 6 of the ToR, MSG members are appointed by a joint Ministerial Decree of the Minister for Mines and the Minister of Economy and Finance, after being formally nominated by the respective institutions named in Decree 2008-25 (the MSG's ToR). There is no reference to term limits in the MSG's ToR or in the Arrêté nominating MSG members, nor provisions for replacement of MSG members (e.g. for repeated absence).

Article 5 of the MSG's ToR confirms that the MSG is composed of 26 members in total. This provision was implemented in practice and reflected in the MSG's note on the nomination of its members. The position of the MSG Chair is assigned to the Minister of Economy and Finance, the position of Vice Chair to the Minister of Hydrocarbons and the Technical Secretariat is hosted by the Minister of Mines and Geology. Pursuant to the decree nominating the President, Vice President, Technical Secretariat and members of the MSG adopted on 16 August 2019, about 85% of the MSG has been renewed as

<sup>13</sup> Handover ceremony EITI Côte d'Ivoire website, accessed [here](#) in December 2019

<sup>14</sup> Note on the Nomination of MSG members, accessed [here](#) in November 2019



of the start of the second Validation, with four previous members out of 26 reinstated (one from the company constituency, one from government and two from civil society). The civil society and industry constituencies on the MSG have not yet developed their respective constituency guidelines. There is some evidence of consultations within the civil society constituency before nominations were carried out, but there is little evidence of such consultations within the company constituency aside from a September 2019 meeting of mining companies not represented on the MSG convened by the mining industry association GPMCI (Groupement Professionnel des Miniers de Côte d'Ivoire) following a letter from the EITI MSG on 18 September 2019 on the establishment of a process for nomination of MSG members through the GPMCI.

*Civil society representation:* The civil society constituency includes seven representatives, split between three sub-constituencies. For the unions sub-constituency, the three trade unions that existed in 2008 were nominated to select MSG members. For the non-government organisation (NGO) sub-constituency, the Publish What You Pay (PWYP) Coalition (which led advocacy for Côte d'Ivoire's accession to the EITI) is responsible for appointing two representatives. Representatives from the National Union of Journalists of Côte d'Ivoire (UNJCI) and GEPCI were designated by the sub-committee of journalists and press publishers.

In the September 2019 MSG renewal, the trade union sub-constituency was completely renewed, with representatives from the general Workers' Union (UGTCI), the Federation of Autonomous Trade Unions in Côte d'Ivoire (FESACI) and the Ivorian Confederation of Free Trade Unions. The two-member NGO sub-constituency was renewed, with one representative of the PWYP Coalition reinstated and one new representative from the NGO 'Social Justice'. The media sub-constituency was partly renewed, with one new representative of the UNJCI and the renewal of one old MSG member from the GEPCI. Although there is evidence to show that civil society met on a quarterly basis to discuss EITI implementation, there is no evidence to suggest that civil society representatives on the MSG convened meetings with CSOs not represented on the MSG to report on the MSG's activities and seek views on the preparation of key documents of EITI reporting such as the annual progress report, workplan and the EITI Report.

*Industry representation:* For the industry constituency, the largest oil and gas producers and the largest gold producers were selected to nominate MSG representatives in the September 2019 renewal. The industry constituency is comprised of five members, split between the two sub-constituencies: three representatives for the petroleum sector and two representatives for the mining sector. The petroleum sub-constituency is composed of representatives from the same companies as in the previous MSG, albeit with new individuals representing FOXTROT International and PETROCI Holding, and the same member from CNR International as in the previous MSG. The mining sub-constituency is comprised of two new representatives from SODEMI and RANGOLD Resources. During the September 2019 renewal, the representative from Société des Mines d'Ity (SMI) was replaced by one from RANGOLD Resources. However, there is no documentation on the process of this replacement, and stakeholders consulted confirmed that the government made this decision based on the production potential of RANGOLD. The latter had received a letter from the Ministers of Economy, Mines and Petroleum to nominate a representative. Consultations for this Validation revealed that there is limited communication between the members of the industry constituency on the MSG and their broader constituency. The mining industry association GPMCI had expressed its desire to join the MSG and had undertaken consultations on constituency guidelines for nominating their MSG representatives, although they were not included in the September 2019 renewal of the MSG. Stakeholders consulted considered that MSG representatives from the oil and gas industry did not adequately represent petroleum sector engagement, with companies with investments in the sector like KOSMOS, BP, TOTAL, Tullow and ENI not included in the constituency's nominations process for the MSG.



*Government representation:* According to the MSG's ToR, the government constituency is made up of 14 members, including representatives of the Office of the Prime Minister, relevant Ministries (Ministers of Budget, Commerce and Industry, Justice and Human Rights, Urban Planning and Development, Environment and Sustainable Development, Interior and Security), Parliament (the National Assembly), the Assembly of Regions and Districts and the Supreme Audit Institution (*Cour des Comptes*). Nominations procedures have not changed since the first Validation, and still consist of the head of each named government entity nominating their MSG representative. The ToR appears to have been followed in practice in the government's renewal of its MSG representation in September 2019.

*Terms of Reference:* The Ministry of Economy and Finance, in consultation with the MSG, has developed a draft new EITI Decree, updating the legal status of the EITI and the roles and responsibilities of the key bodies of EITI Côte d'Ivoire. The MSG approved the draft decree on 6 June 2019, and this was subsequently submitted to the government for its consideration and eventual adoption. Draft internal rules for the MSG were shared with the International Secretariat in the lead up to Côte d'Ivoire's second Validation but had not yet been adopted or published at the start of Validation. The MSG's ToR thus remain the 2008 Decree.

*Attendance:* A review of meeting minutes shows that the MSG has met regularly to discuss EITI implementation. Article 7 of the ToR requires the MSG to hold four ordinary meetings a year. A review of MSG meeting minutes indicates that the MSG held four ordinary meetings in 2018 and six times in 2019 (four ordinary and two extraordinary).<sup>15</sup> A final ordinary session of the MSG is planned before the end of 2019. A majority of the discussions centred around governance issues, corrective measures, the publication of the 2017 EITI Report and the 2020 work plan.

Analysis of MSG meeting attendance (via MSG meeting minutes and attendance lists) shows attendance remained above 50% in 2019, with a quorum (defined as half of MSG members present in Article 7 of the MSG's ToR) reached at all meetings. The MSG's ToR do not provide for sanctions for repeated absences at MSG meetings.

*Decision-making:* The MSG's decision-making procedures have not changed since the first Validation. According to Article 7 of the MSG's ToR, the MSG's decisions are taken by consensus. In cases where consensus cannot be achieved, decisions can be taken by a simple majority vote. In the case of a tied vote, the MSG Chair's vote is the deciding one. Government, industry and civil society stakeholders consulted as part of Validation confirmed that the MSG's decision-making process was inclusive and that no single constituency was over-ruled in any decision in the 2018-2019 period.

*Record-keeping:* Details of MSG discussions are reflected in meeting minutes and are available on the EITI Côte d'Ivoire website.<sup>16</sup> As required by the ToR (Article 7 of the Decree), the technical secretariat prepares draft minutes of all meetings, which are subsequently approved by the MSG.

*Capacity of the MSG:* The MSG's ToR do not explicitly require that MSG members should have the capacity to undertake their duties on the MSG. The nominations procedures for professional NGOs on the MSG require that representatives have a proven experience in the sector. Article 8 of the MSG's ToR confirm that the MSG Chair has the right to invite resource persons with relevant competencies to MSG meetings. MSG meeting minutes confirm the presence of resource persons at some meetings.

*Per diems:* Inter-Ministerial Order 756/MEF/MME of 10 August 2009<sup>17</sup> set the rate of session allowances (per diems) for members of the MSG, reflecting the government's policy on per diems for

<sup>15</sup> Handover 13 September 2019, MSG Induction 2 October 2019, Self-evaluation workshop 10-12 October 2019 and first ordinary session of the new MSG 29 October 2019.

<sup>16</sup> Minutes of MSG meetings, accessed [here](#) in December 2019

<sup>17</sup> Decree on MSG per diem policy, accessed [here](#) in November 2019

EITI meetings. It confirms that the MSG Chair is entitled to XOF 850 000 (USD 1 500) per meeting, ordinary members are entitled to XOF 550 000 (USD 1 000) while Technical Secretariat staff receive XOF 700 000 (USD 1 250) per meeting. There is no publicly-available documentation on the actual per diems paid to EITI office-holders in the 2018-2019 period, although stakeholder consultations confirmed that these rates have effectively been paid in practice. Some stakeholders consulted raised concerns about the potential for per diems to cause conflicts of interest, although other disagreed. There was consensus among stakeholders consulted however that the EITI per diem rates were in line with prevailing per diem rates in other public-sector institutions.

*Technical Secretariat:* Article 3 of the ToR confirms the creation of the Technical Secretariat. The role of the Technical Secretariat is to support the MSG in preparing technical documents, while the role of the EITI secretariat is to manage all operational aspects of EITI implementation. Article 9 of the ToR notes that the Technical Secretariat is made up of one representative from the Ministry of Mines and Geology, two CSO representatives, two government representatives aside from the representatives from the Ministry of Mines and Geology and two representatives from the industry constituency. However, there is no published procedure on the nomination procedure for members. In practice, the Technical Secretariat appears to have effectively supported the MSG's oversight of EITI implementation in practice in the 2018-2019 period.

## Secretariat's Assessment

The International Secretariat considers that the corrective action on MSG oversight has been partly addressed and that Côte d'Ivoire has made meaningful progress on Requirement 1.4. The government of Côte d'Ivoire and the MSG have made significant efforts to ensure a renewal of the MSG, confirmed through an Inter-Ministerial Order (Arrêté) nominating new MSG members. However, there is no evidence that the renewal of MSG members in September 2019 was on the basis of clear constituency nomination guidelines for either industry or half of the civil society constituency. Stakeholder consultations highlighted the lack of consultations within the industry constituency in the renewal of MSG members in late 2019. The MSG has published its per diem policy and meeting minutes confirm that the MSG respected the elements of its ToR in practice. However, while the MSG has worked with government on developing a new Decree covering EITI implementation, this was not yet enacted at the start of Validation. While the MSG's efforts to develop draft internal procedures are encouraging, enactment of a new EITI Decree in line with Requirement 1.4.b and formalisation of constituency guidelines for nomination and coordination were still pending at the start of Validation.

In accordance with Requirement 1.4, Côte d'Ivoire should ensure that the procedures for nominating and replacing multi-stakeholder group representatives are public and implemented in a fair, open and transparent way. In particular, the industry constituency should ensure that it establishes clear nominations and representation guidelines that ensure that the broader constituency is well-represented and actively consulted. The MSG should elaborate robust internal governance documents that cover all aspects of Requirement 1.4.b, update its TOR to include term limits, and ensure that each constituency develops constituency guidelines establishing their nominations and coordination mechanisms. Given the critical role that civil society plays in Côte d'Ivoire, the MSG may also wish to build capacities of civil society groups and broaden the reach of the EITI in Côte d'Ivoire, and ensure that relevant MSG meetings are open to observers in practice in accordance with the MSG's ToR.

## 4.2 Corrective action 2: Work plan (#1.5)

In accordance with Requirement 1.5, the MSG should maintain a current work plan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board. The MSG is also encouraged to publish its budget and its financial accounts.

### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made inadequate progress towards meeting this requirement. Work plans included objectives that reflected national priorities, such as the extension of the scope of EITI reporting to artisanal mining. Work plan activities were measurable, but not always time-bound, and not fully costed. The work plans also included activities aimed at addressing capacity constraints and activities aimed at implementing the new beneficial ownership roadmap and the government open policy.

### Progress since Validation

The MSG has prepared a costed, time-bound work plan, with objectives and activities linked indirectly or insufficiently to national priorities. The work plan includes activities linked to clarifying governance procedures as well as disclosure requirements such as publication of SOE financial statements, review of the BO roadmap, contract transparency and mainstreaming. However, the work plan focuses on outputs rather than outcomes or impact and does not contain activities aimed at addressing legal and regulatory barriers.

*Publicly accessible workplan:* The MSG undertook its work in the first three quarters of 2019 on the basis of its 2017-2019 triannual workplan.<sup>18</sup> It published an updated 2019 work plan on 12 October 2019. This work plan is publicly accessible on Côte d'Ivoire's EITI website.<sup>19</sup>

*Objectives and consultations:* The 2019 work plan notes that its objectives are aligned with the 2016 EITI Standard, as well as to the 2016-2020 National Socio-Economic Development Plan (PNDES), Côte d'Ivoire's Open Government Partnership national action plan and the government's general policy document on the extractive sector. However, the seven objectives of the 2019 work plan relate narrowly to the EITI process<sup>20</sup> rather than any broader national priorities for the sector.

The draft 2019 work plan was prepared and elaborated in June 2019 by the outgoing MSG and adopted by the new MSG on 12 October 2019 as part of its pre-Validation self-assessment workshop. A brief description of the consultations process for the preparation of the workplan is available in the MSG's self-evaluation report<sup>21</sup>, which lists the tasks undertaken to elaborate the workplan, the members of the ad-hoc working group tasked with elaborating the work plan, as well as a list of civil society, industry, and government representatives that consulted on the work plan. Stakeholders from all constituencies consulted confirmed that the consultation process had been broad and transparent, and that organisations that were not members of the MSG such as the GMPCI, representatives of oil and gas companies and resource persons had an opportunity to provide feedback on the draft work plan.

<sup>18</sup> 2017-2019 Triannual workplan, accessed [here](#) in December 2019

<sup>19</sup> 2019 Work plan EITI Cote d'Ivoire, accessed [here](#) in November 2019

<sup>20</sup> including strengthening MSG governance, communication and outreach activities, strengthening the participation of state-owned enterprises (SOEs) in the EITI process, implementing the beneficial ownership workplan, follow up on the recommendations from EITI reporting and enhancing results and impact of EITI implementation.

<sup>21</sup> 2019 Self-Evaluation Report, EITI Cote d'Ivoire, accessed [here](#) in November 2019

**Measurable and time-bound activities:** The 2019 work plan includes measurable and time-bound activities related to seven key objectives. Most activities in the 2019 work plan are scheduled for the last quarter, which appears aligned with EITI reporting and Validation deadlines.

**Activities aimed at addressing any capacity constraints:** The 2019 work plan includes capacity-building activities on revenue reporting and management for local community development funds (CDLMs), as well as workshops for civil society organisations and local-level stakeholders on the EITI and the extractive sector. It does not address technical capacity constraints within the MSG nor related to the EITI secretariat staff.

**Activities related to the scope of EITI reporting:** The work plan enumerates some technical aspects of EITI reporting including mainstreaming, contract transparency and disclosures on the socio-economic contributions of the extractive sector, with plans to hold broad consultations on these aspects but without specific activities to address them.

**Activities aimed at addressing any legal or regulatory obstacles identified:** The work plan contains plans to address contract disclosure, but no plans to address any broader legal or regulatory obstacles, nor to include beneficial ownership in the legal and regulatory framework. The work plan does not review key achievements to date, or potential obstacles and risks to EITI implementation.

**Plans for implementing the recommendations from Validation and EITI reporting:** The work plan outlines plans for follow up to recommendations from the previous Validation. The MSG's pre-Validation self-assessment report<sup>22</sup> identifies implementation gaps for each requirement and detailed activities to be carried out to fill these gaps, identifying a timeline to accomplish these activities.

**Costings and funding sources:** The work plan is fully costed, and funding gaps are identified. Funding for the 2019 work plan is covered by the government (53.14%), the World Bank (16.14%), German development cooperation GIZ (16.93%), and WAEMU (UEMOA) (1.30%). Funding gaps (11.72%) are also highlighted in the work plan.

## Secretariat's Assessment

**The International Secretariat considers that the corrective action on work plan has been partly addressed and considers that Côte d'Ivoire has made meaningful progress on Requirement 1.5.** The MSG approved the 2019 work plan, albeit only in the fourth quarter of 2019. The work plan is publicly accessible and fully costed, with timelines aligned with EITI reporting and Validation deadlines. While the work plan's introduction notes its alignment with national priorities for the extractive industries and open government, its seven objectives are narrowly related to the EITI process. Overall, the EITI's contribution to national priorities for the extractive industries is insufficiently articulated in the work plan. The work plan addresses the scope of EITI reporting, highlights funding gaps and outlines the MSG's plans for following up on recommendations from EITI reporting and Validation. There is evidence that the process for developing the workplan was transparent and inclusive of the views of members of the broader industry and civil society constituencies. The work plan includes activities related to overcoming capacity constraints on issues related to revenue disclosures and social expenditures, but none related to MSG members' capacity constraints. However, the work plan does not include any activities related to overcoming legal and regulatory obstacles to EITI implementation.

In accordance with Requirement 1.5.a, Côte d'Ivoire should set EITI implementation objectives that are linked to the EITI Principles and directly reflect national priorities for the extractive industries. The

<sup>22</sup> 2019 Self-Evaluation Report, EITI Cote d'Ivoire, accessed [here](#) in November 2019, pp.83-107.

work plan should address the steps needed to mainstream EITI implementation in company and government systems. In accordance with Requirement 1.5.c, Côte d'Ivoire should identify and further outline plans to address legal or regulatory obstacles to EITI implementation. This could include plans to incorporate contract transparency and beneficial ownership disclosure within national legislation. Côte d'Ivoire may also wish to build on key achievements to date in developing future EITI work plans, while using the work plan as a live document to track implementation of activities during the year.

### 4.3 Corrective action 3: License allocations (#2.2)

In accordance with Requirement 2.2, the MSG is required to ensure that the relevant authorities, DGMG and DGH disclose the technical and financial criteria for all license awards and transfers taking place during the accounting year covered by the EITI Report, including license allocations pertaining to companies that are not included in the EITI Report. The MSG may wish to seek clarity from the relevant authorities on the conditions under which direct negotiations are used instead of competitive bidding for issuing licenses.

#### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made inadequate progress towards meeting this requirement. The process for awarding or transferring the licenses had not been comprehensively disclosed for the mining sector and for the production sharing agreement with ANADARKO, signed in September 2015. Similarly, the report did not disclose technical and financial criteria used in the license transfer from Total to ENI in 2015. The 2015 Report included information about the recipients of the licenses but not the members of the consortium. The report did not identify any legal or practical barriers for these disclosures. There was no evidence of any bidding processes for licenses in 2015. The report did not highlight significant deviations in the license allocation process and did not comment on the efficiency and effectiveness of the license allocation systems. The report did not include any information related the allocation of licenses outside of the financial year covered by the EITI Report.

#### Progress since Validation

*Awards/transfers:* For *oil and gas*, the 2017 EITI Report lists 13 PSC awards in 2017 (p.30), which it confirms were awarded through direct negotiations. In terms of transfers, the report lists 7 blocks in which there was a transfer of participating interests in 2017, namely a relinquishment of the licenses by the respective consortiums and operators (p.32). The report lists an eighth license (CI-502), although there do not appear to have been transfers of participating interests in this block in 2017 (p.32).

For *mining*, the report lists the 29 new mining exploration licenses awarded in 2017 (pp.53,161-167). While the report does not refer to any new mining production license awards in 2017, the list of mining production licenses in annex 8.2 does not list any production license awards whose dates of related decrees are marked as 2017 (p.168). The MSG's comments on the draft assessment confirmed that there were no awards of new production licenses in 2017. The report refers to the Geology and Mining Directorate's (DGMG) assurances that no mining license was transferred in 2017 (p.53).

*Award/transfer process:* For *oil and gas*, the report describes the general process for awarding (pp.29-32) and for transferring (p.32) oil and gas blocks.



For *mining*, the report describes the general process for awarding mining licenses for each of the seven different types of mining and quarrying licenses and permits (pp.49-53), as well as the general process for transferring mining licenses (p.53). According to the DGMG, all mining licences are awarded on a "first come, first served" basis, subject to the applicants' compliance with the technical and financial criteria specified. Consultations with government officials noted plans to migrate the mining license application process online, building on the new mining cadastre launched in July 2017.

Technical and financial criteria: For *oil and gas*, the report does not appear to describe any technical or financial criteria for awards of oil and gas blocks, aside from referring to the assessment of applicants' technical and financial capacities (p.30) and referring to the fact that the same criteria are assessed for transfers as for awards (p.32). The report only refers to the need for applicants to demonstrate past experience as an operator in zones with similar conditions (p.30), without further detailing the specific technical and financial criteria assessed.

For *mining*, the report describes the specific technical and financial criteria for awarding the seven different types of mining licenses (pp.49-52) and confirms that the same criteria apply for mining license transfers as for awards (p.53).

License awardee information: For *oil and gas*, the report lists the identity of beneficiaries of the 13 PSCs awarded in 2017 (p.30) and the names of companies relinquishing seven blocks in 2017 (p.32).

For *mining*, annex 8.1 lists the license awardees for all active mining licenses, including the 29 exploration licenses awarded in 2017 (pp.161-167).

Non-trivial deviations: For *oil and gas*, the report only notes that all 13 oil and gas blocks awarded in 2017 were granted through direct negotiations rather than competitive tender (p.30) and that the practice of oil and gas license awards is "in line with practices of transparency" (p.32), but does not specifically refer to the MSG's assessment of any non-trivial deviations in the oil and gas license awards in 2017. Rather, the report recommends that the reasons for the block awards being undertaken on the basis of direct negotiations rather than competitive tender be clarified, as well as the conditions for these awards in practice (p.32). While the report does not refer to the MSG's assessment of any non-trivial deviations in transfers of participating interests in oil and gas licenses, these consisted of license relinquishments in 2017.

For *mining*, the report quotes the DGMG's assurances that all license awards in 2017 followed the statutory procedures (p.53).

Bidding process: The report confirms that all license awards in 2017 were through direct negotiations in *oil and gas* (p.30) and through "first come first served" in *mining* (p.53).

## Secretariat's Assessment

The International Secretariat considers that the corrective action on license allocations has been partly addressed and considers that Côte d'Ivoire has made meaningful progress on Requirement 2.2. The 2017 EITI Report lists the licenses awarded and transferred in the year under review in both mining and oil and gas, including an overview of the statutory procedures for license awards and transfers in both sectors. The lack of license awards through competitive bidding is confirmed. While the report clearly describes the technical and financial criteria assessed for license awards and transfers in the mining sector, it does not detail the criteria assessed in the oil and gas sector aside from referring to applicants' capacities. While the report provides the names of companies receiving licenses in 2017 in both mining and oil and gas, it only provides a summary of the MSG's assessment of non-trivial deviations from statutory procedures for license awards in mining, not in oil and gas.

In accordance with Requirement 2.2, Côte d'Ivoire should ensure that the statutory procedures for awarding and transferring oil and gas licenses (or participating interests therein) be publicly disclosed, including the specific technical and financial criteria assessed. Côte d'Ivoire should ensure that EITI reporting provides an annual diagnostic of any non-trivial deviations from the applicable legal and regulatory framework governing license awards and transfers in the oil and gas sector. To strengthen implementation, Côte d'Ivoire is encouraged to use EITI reporting as a means for assessing the efficiency of license allocations and transfers in the mining, oil and gas sectors.

#### 4.4 Corrective action 4: License register(s) (#2.3)

In accordance with the EITI Requirement 2.3, the Government of Côte d'Ivoire is required to maintain a publicly accessible register. Similar to the mining sector, efforts should be made to ensure comprehensive disclosure of the information required under 2.3.a for the hydrocarbon sector.

#### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made meaningful progress towards meeting this requirement. Côte d'Ivoire did not have a publicly available register or cadastre system for its oil, gas and mining industry, but the EITI Report included comprehensive information on mining licenses in accordance with EITI Requirement 2.3.a, including names of license holders, location, size and coordinates for each mining license. The EITI Report also included the dates of application award and expiration, allowing the reader to determine the validity period. It was noted the EITI Report went beyond the minimum requirements, and provided this information for all license holders, including artisanal miners of diamond and coltan and those involved in the semi-industrial production of gold. However, the EITI Report did not comprehensively disclose this information for the oil and gas sector. The International Secretariat took note of the ongoing reforms to modernise the mining and hydrocarbon cadastre and concludes that Côte d'Ivoire had made meaningful progress.

#### Progress since Validation

For *oil and gas*, the 2017 EITI Report confirms the lack of a publicly-available oil and gas license register but notes the public accessibility of all decrees awarding licenses through the official gazette (*journal officiel*) (p.29). Annex 9 of the report (pp.181-184) provides license name, operator name, date of award and expiry, commodities covered as well as the geographical coordinates for 20 of the 28 oil and gas blocks, but not the dates of application nor geographical coordinates (for eight of the 28 blocks). The date of expiry for 7 exploration licences (6 licences to Tullow and 1 licence to BP and Kosmos) awarded in 2017 are not provided (p. 181). The names and participating interests of the operator and non-operator partners are provided (pp.35-36). The report confirms that dates of application are available from the decrees granting each license published in the official gazette and provides a general link to the official gazette (p.29). In practice, the website of the Secretary-General of the Government<sup>23</sup> only provides access to the official gazette to registered users, with login credentials available upon request. Digital copies of the official gazette are also available for purchase at a cost of XOF 1000 (USD 1.7) a copy from local media websites such as Abidjan.net.<sup>24</sup>

<sup>23</sup> Secrétariat Général du Gouvernement, Site Internet du Journal officiel, accessed [here](#) in December 2019.

<sup>24</sup> Abidjan.net website, "Journal officiel", accessed [here](#) in December 2019.



For *mining*, the report notes the lack of a publicly-accessible mining license register but notes that the decrees awarding each license are accessible through the official gazette, with a link provided, and notes that the mining cadastre is now accessible online, with a link provided (p.29). The online cadastral portal<sup>25</sup> provides license name, license-holder name, dates of application, award and expiry, commodities covered, and geographical coordinates. However, consultations with government officials confirmed that the mining cadastral portal, first launched in July 2017, was still being populated at the commencement of Validation, with around 30% of all active mining licenses uploaded to the cadastre as of September 2019. Annex 8 provides information on 160 exploration licenses, 16 production licenses, 52 semi-industrial gold licenses, nine semi-industrial diamond licenses, five semi-industrial coltan licenses, five artisanal diamond licenses and 11 artisanal gold licenses (pp.161-174). Information provided includes license name, license-holder name, dates of award and expiry, commodity(ies) covered and geographic coordinates for production licenses, although there are gaps. Information gaps include missing dates of application for 70 of the 160 exploration licenses and for all production licenses.

## Secretariat's Assessment

The International Secretariat considers that the corrective action on license register(s) has been partly addressed and considers that Côte d'Ivoire has made meaningful progress with considerable improvements on Requirement 2.3. The 2017 EITI Report provides all information listed under Requirement 2.3.b aside from dates of application, dates of expiry for 7 exploration licences awarded in 2017 and some geographical coordinates (for eight of the 28 blocks) in oil and gas, and aside from dates of application for 70 of the 160 exploration licenses and all 16 production licenses in mining. While the online mining cadastral portal provides dates of application, only around 30% of active mining licenses had been uploaded as of the commencement of Validation. Côte d'Ivoire's efforts to establish an online mining cadastral portal are commendable, although the uploading of all mining licenses was still ongoing at the commencement of Validation.

In accordance with Requirement 2.3, Côte d'Ivoire is required to maintain a publicly accessible register of licenses in both the mining and oil and gas sectors, providing access to all information listed under Requirement 2.3.b. In the interim, Côte d'Ivoire should ensure that all information listed under Requirement 2.3.b is publicly accessible for all licenses held by mining, oil and gas companies included in the scope of EITI reporting. To strengthen implementation, Côte d'Ivoire is encouraged to use EITI reporting as an annual diagnostic of the implementation of cadastral reforms in both the mining and oil and gas sectors.

### 4.5 Corrective action 5: State participation (#2.6)

In accordance with Requirement 2.6, Côte d'Ivoire must disclose an explanation of the prevailing rules and practices regarding the financial relationship between the government and PETROCI. This could include the publication of PETROCI's audited financial statement, its annual budget and an explanation of allocation of retained earnings for investments.

## Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made meaningful progress in meeting this requirement. The 2015 EITI Report described the role of the two SOEs operating in the extractive

<sup>25</sup> Portal du cadastre minier de la Côte d'Ivoire, accessed [here](#) in November 2019.

sector (SODEMI (pp. 49-50) and PETROCI (pp. 25, 32)). The EITI Report included detailed information on the state's direct participation and indirect participation through SODEMI in the mining sector. The report also provided detailed information on the state's level of ownership in oil and gas companies through PETROCI, including PETROCI subsidiaries and joint ventures. While the report clearly described the prevailing rules and practices regarding the financial relationship between the government and SODEMI, the descriptions of the financial relationship between state and PETROCI remained unclear and not fully comprehensive. The rules and practices governing transfers of funds between PETROCI and the state, retained earnings, reinvestment and third-party financing could not be fully assessed without PETROCI's financial statement. The report did not highlight any loans or loan guarantees from the state to oil, gas and mining companies. Similarly, the report did not highlight changes in ownership in 2015.

## Progress since Validation

***Materiality:*** The 2017 EITI Report confirms the materiality of state participation in both the mining and oil and gas sectors. For *oil and gas*, the report confirms that PETROCI collected 35.6% of oil and gas revenues in 2017 on behalf of government (p.8). For *mining*, the report confirms that SODEMI collected 10.9% of mining revenues on behalf of government in 2017 (p.8).

***Financial relationship with government:*** For *oil and gas*, the report describes PETROCI's statutory right to decide on its own dividends, retain earnings and reinvest in its operations (p.37), but does not clarify whether PETROCI has the statutory right to seek third-party financing. The report describes PETROCI's mandate on behalf of the state, including domestic market obligations collected from operators (p.35). The swap arrangements involving the substitution of Profit Gas for Profit Oil collected by PETROCI is described (p.60-61), including details on the volumes involved in the swaps with three oil and gas companies in practice in 2017 (pp.96-97,205). Consultations with government and SOE officials confirmed that PETROCI's Board of Directors, comprising government officials, decides the value of dividends, retained earnings and reinvestment in operations annually, as per the company statutes. Officials explained that there was no explicit reference to PETROCI's ability to raise third-party debt (both bank loans and bonds), but that it was not possible for PETROCI to issue equity as it was established as a wholly government-owned company.

The report describes the practice in 2017 that PETROCI paid dividends of a total of XOF 2.55bn to the state (p.37), but does not clarify whether PETROCI retained earnings, reinvested in its operations or secured third-party financing in 2017. However, the report provides a link to PETROCI's audited 2017 financial statements (p.37). The value of PETROCI's net profits, dividend payments and retained earnings can be found in these financial statements<sup>26</sup>, although not the details of PETROCI's third-party (debt) financing, if any. Consultations with government and SOE officials confirmed that PETROCI had returned to profitability and paid a dividend in 2017. They noted that four of PETROCI's joint ventures had paid dividends to the PETROCI group in 2017, although these companies operated in the mid- and downstream sector (TOTAL CI, VIVO ENERGY/Shell, SIFAL, and GESTOCI), not upstream. In consultations, a government official explained that there was an ongoing policy discussion over the future of SODEMI, with options ranging from a purely research and prospection SOE to a model of joint ventures with private investors for production.

For *mining*, while the report describes SODEMI's role and highlights the lack of statutory rules regarding SODEMI's financial relations with the state, it describes the practice of SODEMI's financing through interest revenues on XOF 27bn in government Treasury bills (p.55). The financial relations

<sup>26</sup> PETROCI website, 'Financial statements' section, accessed [here](#) in November 2019.

between SODEMI and the state are described in practice in 2017. The report notes that SODEMI was operating at a deficit and depended on budget subsidy transfers and provides the value of revenues from two of its joint ventures (p.55). A link to a summary of SODEMI's audited 2017 financial statements is provided.<sup>27</sup> In terms of SODEMI's revenues of 8% royalties from the ASM cooperatives (SCOOPS), government and SOE officials explained that these were very small revenues (of around EUR 1000 in total annually). The 2017 EITI Report provides the value of SCOOPS revenues collected by SODEMI and annex 15 provides the value (totalling XOF 1.242m) of these SCOOPS revenues, from the Worodougou region (p.204).

Government ownership: For *oil and gas*, the report provides a list of companies in which PETROCI owns equity (p.34) and of oil and gas blocks in which PETROCI holds participating interests (pp.35-36). While the terms associated with PETROCI's equity in its 18 subsidiaries and joint ventures are not provided (p.34), the report does list the details of PETROCI's participation in the 28 oil and gas blocks, distinguishing the "paying interest" (share of profit oil) and "working interest" (share of costs), and confirming that PETROCI holds this equity on its own behalf (pp.35-36). Consultations with government officials confirmed that PETROCI's equity in its subsidiaries and joint ventures was always on a purely commercial basis, with the SOE required to cover costs and receive dividends in line with its equity interest.

For *mining*, the report provides a list of the mining companies in which the government holds equity directly (p.54) and a list of mining companies in which SODEMI holds equity (p.54). However, the terms associated with state and SODEMI equity are not clearly described, aside from a reference to the state's statutory entitlement to 10% free (*non-contributive*) equity and 15% additional (*contributive*) equity in mining production companies (p.54). Consultations with government and SOE officials confirmed that the state's 10% equity interests in 14 mining companies (p.54) was 'free equity'.

Ownership changes: For *oil and gas*, the report implies that there was no change in PETROCI's equity interests in upstream oil and gas companies in 2017 (p.35), although the description of the relinquishment of seven oil and gas licenses in 2017 (p.32) implies a *de facto* change in PETROCI's participating interests. Given that these were license relinquishments, it can be inferred that no consideration was paid in these changes in state participation.

For *mining*, the report describes one change in state participation in mining in 2017 (pp.54-55), the sale of SODEMI's 25% interest in SMI to Endeavour Mining Corp in March 2017 (leaving only 5% to SODEMI). The terms of the transaction are described, including the two-tier structure of payment with one XOF 5bn payment to SODEMI and XOF 27bn in Treasury bills yielding interest (pp.54-55). Consultations with government officials confirmed that CMMK had been closed in 2016 but considered that SODEMI's 30% interest in SAMA NICKEL and 25% in EPC CI were still effective in 2017, in contradiction to the information in Table 14 (p.54).

Loans and guarantees: For *oil and gas*, the report notes that the state and PETROCI did not provide any loans or guarantees to any extractive companies (p.34). Consultations with government officials confirmed that PETROCI did not have a sovereign guarantee on its debt, although the SOE's management had been lobbying the government to consider guarantees on its debt for financing exploration work on marginal fields.

For *mining*, the report notes that neither the government nor SODEMI provided any loans or guarantees to extractives companies (p.55). Development partners confirmed that the government did not provide sovereign guarantees to the two SOEs (PETROCI and SODEMI) and described plans to

<sup>27</sup> SODEMI website, 'Synthèses des états financiers', accessed [here](#) in November 2019.

consolidate all SOEs' balance sheets in the national budget in future extensions of the IMF's extended credit facility.

## Secretariat's Assessment

The International Secretariat considers that the corrective action on state participation has been partly addressed and considers that Côte d'Ivoire has made meaningful progress with considerable improvements on Requirement 2.6. The 2017 EITI Report establishes the materiality of state participation in the extractive industries through two SOEs (PETROCI and SODEMI) and provides an explanation of the prevailing rules and practices regarding the financial relationship between the government and SOEs. The mandate of PETROCI on behalf of the state is described, including its swap arrangements with two oil and gas companies (for natural gas against crude oil). Links to publicly-accessible summaries of the two SOEs' financial statements are provided. The state and the SOEs' interests in mining, oil and gas companies and projects are listed comprehensively, although the terms associated with each state or SOE participation are not consistently provided. Stakeholder consultations conflicted with information in the EITI Report indicating that PETROCI's equity interests in two companies (SAMA NICKEL and EPC CI) were no longer effective in 2017. The report confirms the lack of loan or guarantee from the state or SOEs to any extractive companies.

In accordance with Requirement 2.6, Côte d'Ivoire should ensure that descriptions of the terms associated with the government and SOEs' level of ownership in mining, oil and gas companies and projects are publicly accessible. To strengthen implementation, Côte d'Ivoire is encouraged to use EITI reporting as a more effective platform of debate on complex issues such as swap arrangements and prospects for SOE financing.

### 4.6 Corrective action 6: In-kind revenues (#4.2)

In accordance with EITI Requirement 4.2, the government, including PETROCI and its subsidiaries, are required to disclose the volumes of crude oil and natural gas sold and revenues received. The published data must be disaggregated by individual buying company and to levels commensurate with the reporting of other payments and revenue streams. The MSG may wish to publish the volumes of oil and natural gas delivered, volumes sold, unit price by individual buyer that PETROCI is required to submit to DGI, in accordance with article 1066:10 of the tax code.

### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made meaningful progress in meeting this requirement. The MSG agreed that all in-kind revenues were material and the EITI Report fully disclosed the volumes and values of in-kind revenues of crude oil and natural gas received by PETROCI on behalf of the state. The volumes of oil and gas received by PETROCI were disaggregated by oil bloc. However, the quantities of oil sold, and revenues received were not disaggregated by buyer, except in the case of the domestic national refinery (SIR) and Côte d'Ivoire Energy. Validation concluded that the report was not sufficiently clear on the sales of in-kind revenues by PETROCI, especially as it related to SWAPs of crude oil for natural gas. This exchange required the valorisation of both products at market prices in order for the swap to take place. Similarly, stakeholders agreed that more information was needed for a good understanding by the average citizen of the complex operations of offsetting costs and clearing of invoices between PETROCI, Côte d'Ivoire Energy, DGI and DGTCP.

## Progress since Validation

**Materiality:** For oil and gas, the 2017 EITI Report discloses and reconciles in-kind revenues collected by PETROCI on behalf of the state, including figures for pre- and post-swap of natural gas for crude oil (pp.17,96-97).

For mining, the report confirms that there are no in-kind payments to government in the mining sector (p.58).

**Volumes collected:** The report provides the volumes of crude oil and natural gas collected as in-kind payments to government in aggregate (pp.17,75-76,96-97). The volumes collected (notionally) pre-swap and (in reality) post-swap are disclosed, disaggregated by each of the four producing oil and gas blocks operated by the three companies (p.96).

**Volumes sold:** The report provides volumes of in-kind crude oil and natural gas revenues that were sold, disaggregated by buyer for all except for the 519 726 barrels of crude oil sold in 2017 (p.97). While the report provides the detail of the 519 726 barrels of the state's in-kind oil revenues sold in 2017 broken down by each of the three fields (p.103), it does not provide this figure broken down by individual buyer of sales contract – indeed the identity of buyers of this crude oil is unclear.

**Sales proceeds:** The report provides proceeds of sales of in-kind crude oil and natural gas revenues that were sold, disaggregated by buyer for all except for the 519 726 barrels of crude oil sold in 2017 (p.97). The buyers include the CIE (Côte d'Ivoire Energies) electricity generation company for natural gas (see Requirement 4.3) and the SIR (Société Ivoirienne de Raffinage) refinery for crude oil. With regards to the 519 726 barrels of the state's in-kind oil revenue that was exported, SOE officials consulted confirmed that the detail of these sales had been submitted to the IA disaggregated by cargo and expressed surprise that these had not been included in the 2017 EITI Report.

## Secretariat's Assessment

The International Secretariat considers that the corrective action on in-kind revenues has partly been addressed and considers that Côte d'Ivoire has made meaningful progress with considerable improvements on Requirement 4.2. The 2017 EITI Report confirms the materiality of in-kind revenues in the oil and gas sector and not in mining. The report comprehensively discloses the volumes of in-kind revenues collected by PETROCI on behalf of the state. While it disaggregates the volumes of oil and gas sold and the proceeds of those sales for the SIR refinery and the CIE electricity generation company, it does not disclose and disaggregate the sales of 519 726 barrels of government in-kind oil revenue exported in 2017, despite the lack of objections of government and SOE stakeholders consulted to the publication of cargo-level data on these sales.

In accordance with Requirement 4.2, Côte d'Ivoire should ensure that information on the volumes of government in-kind oil and gas revenues sold and the proceeds of those sales be disaggregated by buyer and contract. Côte d'Ivoire should ensure its expanded coverage of the electricity-for-natural gas barter arrangement between CIE and the government through PETROCI under Requirement 4.3 is integrated into its disclosures on the sale of the government's in-kind revenues.

### 4.7 Corrective action 7: Barter arrangements (#4.3)

In accordance with Requirement 4.3, the MSG and the IA need to gain full understanding of the terms of the swap agreements, the parties involved, the resources which have been pledged by the state in the forms of crude oil, the value of the balancing benefit stream (natural gas, then electricity delivered). The MSG and the IA are required to ensure that the EITI Report addresses these



agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams.

## Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made inadequate progress in meeting this requirement. The IA, together with the MSG, had concluded that barter agreements were not material despite the existence of significant swap operations of oil and gas between the government and private operators. While the EITI Reports provided the quantity of oil and natural gas exchanged between the state and the private operator, they did not provide sufficient information on the terms of relevant swap agreements, and value of the balancing benefit (electricity) for the MSG to gain a full understanding of these barter agreements. Validation concluded that barter arrangements existed in Côte d'Ivoire, but the associated revenue flows had not been fully disclosed in accordance with provision 4.3.

## Progress since Validation

The commercialisation of the state's in-kind revenues in Côte d'Ivoire is geared towards catering to the country's robust domestic electricity market rather than crude oil sales through spot market or term contracts. Consultations with government and SOE officials confirmed that two arrangements in the oil and gas sector related to the electricity sector can be categorised as barter arrangements in the sense of consisting of a non-monetary settlement of certain transactions. The first consists a swap arrangement whereby PETROCI collects part of the government's in-kind revenues as Profit Gas rather than Profit Oil from the three companies operating producing oil and gas fields. The second type consists of the settlement of CIE's payment for supplies of natural gas from the state's in-kind Profit Gas revenues through deliveries of electricity by CIE to the government.

Gas-oil swaps: The 2017 EITI Report describes the swap of "all or a share" of Profit Oil for Profit Gas in line with the government's priority on electricity generation (pp.60-61). The report explains that the swap arrangements are not reflected ('materialised') in the national budget as such but receives projections from PETROCI and the two oil and gas operators involved (p.61). Annex 16 presents the detail of a swap calculation from PETROCI as an illustrative example of the valuations of each counter-vailing benefit stream (crude oil and natural gas) (p.205). The volumes of both benefit stream (oil and gas) involved in the swaps is presented, disaggregated by the three companies involved in the swap (p.96).

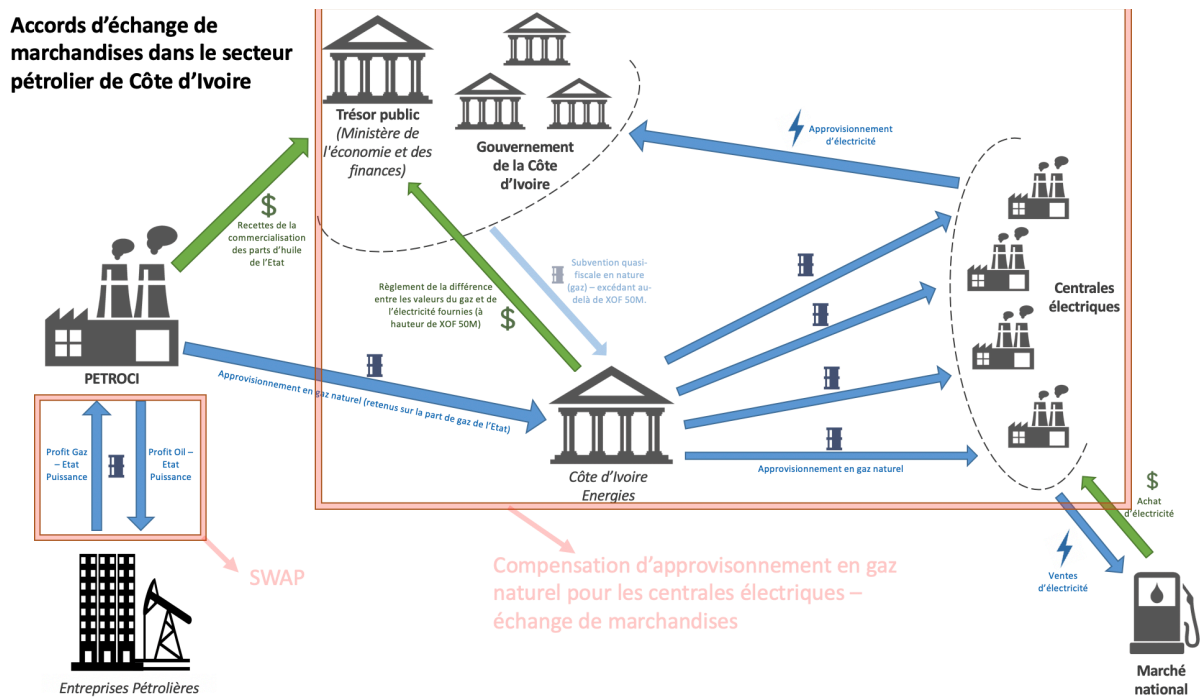
Gas-electricity settlement: The report describes Côte d'Ivoire Energies (CI Energies) and the transfer of all of the state's in-kind natural gas revenue to the company for electricity generation purposes (pp.25-26). The volumes and values of natural gas supplied by PETROCI to CI Energies are provided (p.97), de facto disaggregated by buyer given that CIE is the off-taker of all of the state's in-kind gas revenue. There is no evidence (e.g. in meeting minutes) that the MSG has sought to disaggregate disclosures further, such as by individual power plant to whom CI Energies supplies natural gas.

The Côte d'Ivoire EITI website published a note<sup>28</sup> from CI Energies management with the detail of the calculations of the settlement of natural gas supplies to CI Energies in exchange for supplies of electricity to the government. The excel spreadsheet provides the valuation of natural gas deliveries and related taxes but provides no explanation of the context for these numbers. The result is

<sup>28</sup> CN-ITIE website, 'CN-ITIE Documents' section, document 'Mode de Calcul-POINT DES COMPENSATIONS 2017 des infos demandées', accessed [here](#) in November 2019.

confusing for an average reader to understand the value of counter-balancing benefit streams involved in the settlement.

Based on consultations with government and SOE stakeholders, the International Secretariat's understanding of the settlement structure for Profit Gas deliveries to CI Energies is the following:



**Source:** International Secretariat based on stakeholder consultations and the 2017 EITI Report.

Government and SOE officials consulted confirmed that the settlement for natural gas deliveries to CI Energies was in-kind in electricity. They noted that, by statute, CI Energies had to pay in cash the difference between the value of natural gas supplied by PETROCI and the lower value of electricity it delivered to government. However, CI Energies settles the difference to the Treasury (DGTCP) up to a threshold of XOF 50bn annually. The value of natural gas supplied beyond the XOF 50bn a year threshold was converted by the Ministry of Finance into a *de facto* government subsidy according to several stakeholders consulted. Several officials consulted highlighted the regular (monthly) reconciliation meetings between PETROCI, CI Energies, Ministry of Finance (DPE) to agree on the valuations of counter-balancing benefit streams of natural gas and electricity. There were differences of opinion over the categorisation of the XOF 50bn ceiling as a form of quasi-fiscal extractives subsidy (see Requirement 6.2). However, none of this discussion is reflected in the 2017 EITI Report.

## Secretariat's Assessment

The International Secretariat considers that the corrective action on barter arrangements has been partly addressed and considers that Côte d'Ivoire has made meaningful progress on Requirement 4.3. The 2017 EITI Report describes two types of (related) barter-type arrangements: Profit Gas for Profit Oil and gas for electricity exchanges of goods in-kind. The report provides a brief overview of the gas for oil swap, albeit without reference to the statutory regulations governing the arrangement and provides the volumes and estimated values of the two counter-balancing benefit streams (oil and gas). While the report alludes to the delivery of electricity in settlement for supplies of natural gas and the CN-ITIE website provides the valuations of the two counter-balancing benefit streams (gas and electricity) in 2017, the report does not provide an explanation of the key terms of the arrangement that would be necessary to understand the figures provided. While key aspects of this requirement are



being addressed, the broader objective of transparency in barter-type arrangements has yet to be fulfilled.

In accordance with Requirement 4.3, Côte d'Ivoire is required to disclose the key terms of the swap agreement and barter-type settlement, the parties involved, the resources which have been pledged by the state, and the value of the balancing benefit stream. Côte d'Ivoire is required to ensure that its public disclosures address these agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Côte d'Ivoire is encouraged to use EITI reporting as an annual diagnostic of the performance of the gas to power barter-type arrangements to support broader electricity sector reforms and the IMF's extended credit facility.

## 4.8 Corrective action 8: SOE transactions (#4.5)

In accordance with EITI Requirement 4.5, the MSG should undertake a comprehensive assessment of transactions between PETROCI and its subsidiaries and oil and gas companies, as well as between PETROCI subsidiaries and government entities including Côte d'Ivoire Energy, DGI and the treasury. The MSG may wish to publish the information submitted to DGI by PETROCI and Côte d'Ivoire Energy

### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made meaningful progress in meeting this requirement. The 2015 EITI Report disclosed SODEMI's transactions with the government and showed that SODEMI did not collect revenues from mining companies. However, despite significant disclosures by PETROCI of its transactions with the state, several transactions involving PETROCI and Côte d'Ivoire Energy remained unreported and unclear to many MSG members.

### Progress since Validation

Company payments to SOEs: For *oil and gas*, the report provides the volumes of crude oil and natural gas collected as in-kind payments to government in aggregate (pp.17,75-76,96-97). The volumes collected (notionally) pre-swap and (in reality) post-swap are disclosed, disaggregated by each of the four producing oil and gas blocks (p.96). In addition, the results of reconciliation of domestic market obligations paid in-kind (in oil and gas) by companies to PETROCI are presented in aggregate (p.81) and disaggregated by company in the results of reconciliation for oil and gas companies published as a standalone spreadsheet on the EITI Côte d'Ivoire website.<sup>29</sup>

The report confirms that PETROCI is entitled to collect dividends from companies that it holds equity in and that these were included in the scope of reconciliation (p.71). The results of reconciliation for oil and gas companies, published as a standalone spreadsheet on the EITI Côte d'Ivoire website<sup>30</sup>, show that PETROCI did not collect any material dividends from petroleum companies in the year under review.

For *mining*, the report states that SCOOPS' payments of royalties to SODEMI totalled an aggregate XOF 1,242,000 in 2017 (pp.8,41). The report confirms that the SCOOPS payments to SODEMI were included in the scope of reconciliation (p.71). It provides the value of SCOOPS revenues collected by SODEMI and annex 15 provides the value (totalling XOF 1.242m) of these SCOOPS revenues, from the Worodougou region (p.204).

<sup>29</sup> EITI Côte d'Ivoire (November 2019), 'Oil and gas reconciliation results for the 2017 EITI Report', accessed [here](#) in December 2019.

<sup>30</sup> *Ibid.*

Dividends collected by SODEMI from companies in which it holds equity are reconciled, with the results presented in aggregate (pp.82,102), which the report confirms comes from just one company (pp.55,82,102).

SOE transfers to government: For *oil and gas*, the report discloses and reconciles PETROCI dividend payments to government in 2017 (pp.83,99, oil and gas reconciliation results<sup>31</sup>). For *mining*, it notes that SODEMI was deficit-making in 2017 and depended on government subsidies (p.55), implying that SODEMI paid no dividends in 2017. Stakeholders consulted confirmed the lack of dividend payment by SODEMI to the state in 2017. Links to summaries of the two SOEs' audited 2017 financial statements are provided in the EITI Report (see *Requirement 2.6*).

Government transfers to SOEs: For *oil and gas*, the report implies that PETROCI did not receive any government transfer or subsidy in 2017 (p.37). Stakeholders consulted confirmed that PETROCI did not receive any financial transfer from the state in 2017.

For *mining*, the report confirms that SODEMI relies on government subsidies as it is deficit-making (p.55) but does not disclose or reconcile the value of budget transfers to SODEMI in 2017. However, it describes the SODEMI's funding model from the government (pp.54-55). Stakeholders consulted confirmed that SODEMI did not receive budget transfers from government in 2017, but rather relied on income from its holdings of government debt described in the EITI Report (p.55).

Ad-hoc transfers between SOEs and government: The report does not refer to any other ad hoc transfers between SOEs and government in the mining, oil and gas sectors.

## Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on SOE transactions has been addressed and considers that Côte d'Ivoire has made satisfactory progress on Requirement 4.5. The 2017 EITI Report provides the results of reconciliation of company payments to SOEs. Dividend payments from PETROCI to the Treasury (DGTCP) were disclosed and reconciled. The level of budget support for SODEMI in 2017 remains unclear from the EITI Report, although stakeholders consulted confirmed that SODEMI did not receive budget transfers in 2017 but rather relied on a funding model described in the EITI Report.

To strengthen implementation, Côte d'Ivoire is encouraged to explore means of systematically disclosing reliable information on company payments to SOEs (including PETROCI and SODEMI) and financial transfers between the SOEs and the state. Côte d'Ivoire may wish to use EITI reporting as an annual diagnostic and means of public communication of SOE reforms under the IMF's extended credit facility.

### 4.9 Corrective action 9: Distribution of revenues (#5.1)

In accordance with Requirement 5.1, EITI Côte d'Ivoire should indicate extractive industry revenues, whether cash or in-kind, that are not recorded in the national budget and provide an explanation of the allocation of these revenues, with links to relevant financial reports, including from DGH, PETROCI and Côte d'Ivoire Energy. The MSG is encouraged to reference national revenue classification systems, and/or international standards such as the IMF Government Finance Statistics Manual.

<sup>31</sup> EITI Côte d'Ivoire (November 2019), 'Oil and gas reconciliation results for the 2017 EITI Report', accessed [here](#) in December 2019.

## Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made meaningful progress in meeting this requirement. The report provided a diagram of revenues recorded in the national budget, and revenues that were not systematically recorded in the national budget. However, it was unclear whether significant revenues, 33.72% through PETROCI and 6% by DGH, were recorded in the national budget. In addition, the report did not explain the allocation of revenues received in-kind by DGH for training or for the purchase of equipment and in-kind revenues of natural gas used to offset electricity bills from Côte d'Ivoire Energy, which were not systematically recorded in the national budget in the same year in which the payments took place. The report only provided link to the financial reports in the case of SODEMI, not for PETROCI and DGH that received revenues not recorded in the national budget. The report did not include reference to national revenue classification systems, and/or international standards such as the IMF Government Finance Statistics Manual as encouraged by the EITI Standard. Validation concluded that significant aspects of this requirement had been implemented but the underlining objectives had not been achieved.

## Progress since Validation

The 2017 EITI Report states that all extractives revenue flows are recorded in the national budget in line with the single Treasury account principle (pp.58-59). The report states that the only extractives payment that is not transferred to the single Treasury account consists of contributions to the community development fund (p.59). Development partners consulted highlighted the ongoing transition to a single Treasury account that had resulted in the closure of hundreds of separate accounts at commercial banks.

The report explains that the swap arrangements are not reflected ('materialised') in the national budget as such but receives projections from PETROCI and the two oil and gas operators involved (p.61). Yet the volumes of both benefit stream (oil and gas) involved in the swaps is disclosed in the EITI Report, disaggregated by the three companies involved in the swap (p.96).

The report provides guidance on accessing 2017 audited financial statements for PETROCI (p.37) and SODEMI (p.55).

The report provides a brief description of the DGH's management of payments collected for training and equipment purchases both in cash and in kind (p.60) but does not clarify the management of such revenues managed directly by the DGH (nor links to relevant financial reports).

While the report does not refer to national or international revenue classifications, consultations with government officials and development partners highlighted that the government was transitioning to Government Finance Statistics 2001 Manual in 2019.

## Secretariat's Assessment

The International Secretariat considers that the corrective action on distribution of revenues has been partly addressed and considers that Côte d'Ivoire has made meaningful progress with considerable improvements on Requirement 5.1. The 2017 EITI Report states that all extractives revenues are transferred to the single Treasury account, although there is a lack of clarity on whether extractives-related revenues such as DGH training and equipment fees are recorded in the national budget. The public accessibility of audited financial statements for several recent years for both SOEs is welcome. However, the MSG has yet to provide a clear categorisation of extractives revenues that are and are not recorded in the national budget.

In accordance with Requirement 5.1, Côte d'Ivoire must ensure that a clear categorisation of extractives revenues that are recorded in the national budget and, where relevant, links to financial reports on extractives revenues that are not recorded in the national budget. Côte d'Ivoire should clarify whether DGH training and equipment contributions should be considered off-budget extractives revenues or mandatory social expenditures.

#### 4.10 Corrective action 10: Subnational transfers (#5.2)

In accordance with Requirement 5.2, EITI Côte d'Ivoire is required to assess the materiality of subnational transfers, provide the specific formula for calculating subnational transfers of extractives revenues to individual local governments, disclose any material subnational transfers in the year(s) under review and highlight 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 subnational entity.

##### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made inadequate progress towards meeting this requirement. The 2015 EITI Report described statutory subnational transfers of revenues to municipalities but did not provide the amount paid in practice. Validation concluded that the statutory subnational transfers were material in 2015, but not reported by the treasury.

##### Progress since Validation

The 2017 EITI Report refers to "infranational transfers", although it clarifies that these are earmarked revenues to government departments rather than transfers to local governments (pp.59-60). Annex 2 (p.116) provides details on the transfers of 10% of the "droits fixes" to the Ministry of Mines (p.60).

##### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on subnational transfers has been addressed and considers that Requirement 5.2 was not applicable in Côte d'Ivoire in the year under review (2017). The 2017 EITI Report describes earmarked funds but clarifies that there are no transfers of extractives revenues to local governments in 2017.

To strengthen implementation, Côte d'Ivoire is encouraged to reconsider the existence and materiality of any subnational transfers of extractives revenues. Côte d'Ivoire's efforts to disclose information on earmarked funds are welcome and could be strengthened.

#### 4.11 Corrective action 11: Quasi-fiscal expenditures (#6.2)

In accordance with Requirement 6.2, EITI Côte d'Ivoire, should undertake a comprehensive review of all expenditures undertaken by extractives SOEs, including PETROCI and its foundation that could be considered quasi-fiscal expenditures. The MSG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include PETROCI's subsidiaries and joint ventures, PETROCI's Foundations, the DGH and possibly Côte d'Ivoire Energy.

## Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made inadequate progress towards meeting this requirement. Revenues received in-kind by DGH and allocated to training activities or for the purchase of equipment and not recorded in the national budget should have been reported as quasi-fiscal expenditures. In-kind revenues of natural gas used to offset electricity bills and not recorded on the national budget the same year, should have been reported as quasi-fiscal expenditures. The budget of the PETROCI foundation, which also makes quasi-fiscal expenditures was not published. Validation concluded that significant aspects of this requirement had not been implemented and the underlining objectives had not been achieved.

## Progress since Validation

For *oil and gas*, the 2017 EITI Report categorises the PETROCI Fondation as a vehicle for PETROCI's quasi-fiscal expenditures (to improve standards of living and health) (pp.61-62). Annex 10 presents the statutes of PETROCI Fondation, published for the first time (pp.185-190). Annex 14 provides a summary of PETROCI Fondation's budget and budget execution in 2017 (pp.202-203). The Côte d'Ivoire EITI website published a note<sup>32</sup> from the PETROCI Fondation explaining the financing process for its projects. Consultations with stakeholders highlighted a lack of consensus – indeed widely differing views – on whether all of the PETROCI Fondation expenditures could consistently be considered quasi-fiscal.

The report describes Côte d'Ivoire Energies (CI Energies) and the transfer of all of the state's in-kind natural gas revenue to the company for electricity generation purposes (pp.25-26). The volumes and values of natural gas supplied by PETROCI to CI Energies are provided (p.97). The Côte d'Ivoire EITI website published a note<sup>33</sup> from CI Energies management with the detail of the calculations of the settlement of natural gas supplies to CI Energies in exchange for supplies of electricity to the government. The excel spreadsheet provides the valuation of natural gas deliveries and related taxes but provides no explanation of the context for these numbers.

Government and SOE officials consulted confirmed that the settlement for natural gas deliveries to CI Energies was in-kind in electricity. They noted that, by statute, CI Energies settled the difference between the value of natural gas and the lower value of electricity delivered to government up to a threshold of XOF 50bn annually. The value of natural gas supplied beyond the XOF 50bn a year threshold was converted by the Ministry of Finance into a *de facto* government subsidy according to several stakeholders consulted. Several development partners noted that the subsidy on gas deliveries to CI Energies was not yet recorded in the national budget. Several officials consulted highlighted the regular (monthly) reconciliation meetings between PETROCI, CI Energies, Ministry of Finance (DPE) to agree on the valuations of counter-balancing benefit streams of natural gas and electricity. There were differences of opinion over the categorisation of the XOF 50bn ceiling as a form of quasi-fiscal extractives subsidy. None of this discussion is reflected in the 2017 EITI Report.

For *mining*, the report refers to official assurances in a letter from SODEMI management that the SOE did not undertake quasi-fiscal expenditures in 2017 (p.55). In consultations, government and SOE stakeholders welcomed for the MSG to initiate a conversation on whether some of SODEMI's activities such as poverty reduction efforts could be considered quasi-fiscal.

<sup>32</sup> CN-ITIE website, 'CN-ITIE Documents' section, document 'PROCESSUS DE FINANCEMENT DE PROJETS A PETROCI FONDATION', accessed [here](#) in November 2019.

<sup>33</sup> CN-ITIE website, 'CN-ITIE Documents' section, document 'Mode de Calcul-POINT DES COMPENSATIONS 2017 des infos demandées', accessed [here](#) in November 2019.



## Secretariat's Assessment

The International Secretariat considers that the corrective action on quasi-fiscal expenditures has been partly addressed and considers that Côte d'Ivoire has made meaningful progress on Requirement 6.2. While the 2017 EITI Report marks an improvement on the MSG's reflections on quasi-fiscal expenditures since the first Validation, the narrow focus on the PETROCI Fondation risks omitting other types of quasi-fiscal activities such as off-budget subsidies on natural gas.

In accordance with Requirement 6.2, Côte d'Ivoire is required to ensure comprehensive disclosures by SOEs on their quasi-fiscal expenditures to a level of transparency commensurate with other payments and revenue streams and include SOE subsidiaries and joint ventures.

### 4.12 Corrective action 12: Outcomes and impact of implementation (#7.4)

In accordance with requirement 7.4, Côte d'Ivoire should ensure that the next annual progress report includes an assessment of the outcomes and impact of EITI implementation, including on broader natural resource governance.

#### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made meaningful progress in meeting this requirement. The 2016 annual progress report was well structured and highlighted that the implementation of the EITI was fostering dialogue on governance and transparency between stakeholders. All the recommendations from conciliation and validation reports were listed (pp.29-36). The responsible entity, deadlines and corresponding MSG response were also indicated. However, the 2016 annual progress report provided too little detail on dissemination activities and their impact. Furthermore, it lacked a section on the assessment of performance with achieving workplan objectives and assessment of compliance with EITI disclosure requirements. Validation concluded that significant aspects of this requirement had been implemented and the underlining objectives were being achieved.

#### Progress since Validation

The MSG approved the 2018 annual progress report on 29 October 2019. While the report was only published on the EITI Côte d'Ivoire website on 3 December 2019, stakeholder consultations confirmed that the report was made publicly-accessible before the start of Validation and subsequently published on the EITI Côte d'Ivoire website. The Publish What You Pay Coalition was contracted by the MSG to undertake a standalone impact study on the EITI's impact in Côte d'Ivoire over the last ten years. The draft impact study was submitted to the MSG from comments during the pre-Validation self-assessment workshop and adopted on 29 October 2019. On the same occasion, the MSG established a committee on the follow-up and implementation of recommendations from EITI Reports.

Documenting and assessing EITI impact in Côte d'Ivoire: The 2018 EITI annual progress report contains a detailed overview of the MSG's follow up on recommendations both of past EITI Reports and Validation. While the report describes activities and outputs, it does not provide a detailed assessment of the impact of EITI implementation in Côte d'Ivoire. The report provides a detailed overview of progress in meeting and maintaining compliance with each EITI Requirement, documents progress on the corrective actions since the first Validation as well as limited details on achieving objectives set out in the workplan.

However, EITI Côte d'Ivoire has published two additional reports that relate to the EITI's impact. The PWYP-led impact study provides an overview of different types of EITI impact. The impact study highlights institutional, political and legal constraints to EITI implementation in Côte d'Ivoire, such as the lack of a clear strategy, dependence on technical and financial support from development partners, the lack of an effective communication strategy and the absence of rigorous monitoring and evaluation mechanisms for MSG activities. The impact study also includes recommendations from the Publish What You Pay coalition on strengthening the impact of EITI Implementation.

With support from GIZ, EITI Côte d'Ivoire also produced a report on outreach related to local community development funds (CDLM) in the region of Bonikro<sup>34</sup>, which highlighted the impact of subnational payments and related EITI disclosures. The October 2019 impact study however highlights the limited use of CDLM data by civil society or local communities to date.

Summary of activities: The 2018 annual progress report provides a detailed account of activities undertaken including participation in the BO workshop in Dakar and documenting next steps towards BO Implementation in Côte d'Ivoire, including the revision of legal texts relating to BO, engaging with the RCCM to house data, evaluate the risk of PEPs and elaborate sanctions for failure to disclose; Co-operation with GIZ on the GRSE project on several capacity building projects for the disbursements of the Local Mining Development Fund (CDLM) and participation in the UEMOA/Kimberley process consultation session on sustainable development of mining regions, artisanal mining, civil society participation and governance of the sector.

Stakeholder engagement in developing the annual progress report: While there is no documentary evidence that the broader constituencies were consulted in the development of the 2018 annual progress report, stakeholders consulted confirmed that the draft annual progress report was made available to the respective constituencies prior to finalisation. In addition, stakeholders consulted confirmed that PWYP undertook broad consultations with representatives of the various constituencies, including those not directly represented on the MSG, in preparing the October 2019 impact study.

Progress against the requirements: The 2018 annual progress report provides a detailed diagnostic analysis of the progress against EITI requirements and follow-up on recommendations of past EITI Reports and Validation (pp.20-30).

## Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on outcomes and impact of implementation has been addressed and considers that Côte d'Ivoire has made satisfactory progress on Requirement 7.4. The 2018 annual progress report focused more on activities and outcomes than on impact. The report provided details on follow up to recommendations and progress in meeting EITI Requirements. However, the PWYP civil society coalition was contracted to prepare a standalone impact assessment on behalf of EITI Côte d'Ivoire, which documents both the EITI's impact and the limits of the MSG's outreach activities and impact. Despite the lack of evidence indicating that MSG members canvassed their respective constituencies to seek their views and feedback on the annual progress report, stakeholder consultations confirmed that the draft annual progress report was made

<sup>34</sup> EITI Cote d'Ivoire -GIZ CDLM report, accessed [here](#) in December 2019



available to the broader constituencies and that a broad cross-section of stakeholders were consulted in the development of the standalone impact study.

To further strengthen implementation, Côte d'Ivoire is encouraged to ensure that the MSG's annual review of outcomes and impact of EITI implementation systematically includes an assessment of impact and an overview of the MSG's efforts to strengthen this impact, including through its follow-up on recommendations from EITI reporting and Validation. Côte d'Ivoire may also wish to draw on the conclusions of this annual review in the development of objectives and activities of future work plans.

## 5. Requirements assessed as satisfactory in the first Validation

In the course of undertaking this assessment, the International Secretariat has also considered whether there is a need to review additional requirements, i.e. those assessed as “satisfactory progress” or “beyond” in the first Validation. In particular, the Secretariat reviewed possible backsliding in the 2017 EITI Report on the requirement related to mandatory social expenditures (Requirement 6.1). The Secretariat's view is that there is evidence to suggest progress has fallen below the required standard on this requirement and warrants consideration by the EITI Board, for a downgrade to “meaningful progress”.

### 5.1 Assessment of social expenditures (#6.1)

#### Findings from the first Validation

The first Validation concluded that Côte d'Ivoire had made satisfactory progress towards meeting this requirement. The MSG had agreed a definition of what constituted mandatory and voluntary social payments and set a materiality threshold at zero for these types of payments. The 2015 EITI Report showed detailed information on mandatory and voluntary social payments made by each company (p.93). The report also provided detailed payment of mandatory and voluntary social payments by company and by beneficiary (pp.109-110). Validation concluded that all aspect of this requirement had been implemented and the underlining objectives were being achieved.

#### Progress since Validation

The 2017 EITI Report assesses the materiality of social expenditures as 1.2% of total reconciled company payments to government (p.8) and confirms that material companies were required to report all mandatory social expenditures with a materiality threshold of zero (pp.69,71).

For *mining*, the report describes mandatory social expenditures under the Local Community Development Fund required under the Mining Code (p.46). The report provides a list of the eight Local Mining Development Committees established or operational in 2017 (p.47), although it clarifies that only six of the CDLM were operational in 2017 (p.47). However, stakeholder consultations confirmed that only five CDLM were active in 2017. While contributions to the CDLM were previously considered to be forms of direct subnational payments, extensive stakeholder consultations confirmed that these expenditures were forms of social expenditures managed through funds in which local government representatives held some oversight, but which were not managed through local government budgets. With regards to the CDLM of Tongon SA, the report confusingly states that the material social expenditures are voluntary despite being mandated by key terms of the mining convention (p.47), which would imply that they should be considered mandatory in line with the definition provided in Requirement 6.1.a. In its comments on the draft assessment, the MSG clarified that Tongon SA had

not been required to establish a CDLM given that its mining convention predated the 2014 Mining Code.

The EITI Côte d'Ivoire website published a spreadsheet<sup>35</sup> of disbursements from the five CDLM that were active in 2017, including all information listed under Requirement 6.1.a.

In addition, without confirming their legal basis, the EITI Report provides one company's unilateral disclosures of payments categorised as "mandatory social expenditures" (pp.119-120). However, these payments appear to be pension contributions for employees (to the public pension fund CNPS) by the mining company CADERAC. These appear to be miscategorised as social expenditures.

For *oil and gas*, the report describes mandatory payments to the DGH in line with the terms of the PSCs, for the purposes of training and purchases of equipment by the DGH (p.60). It confirms that these contributions to DGH were included in the scope of reconciliation (p.70). The results of reconciliation are presented (pp.80,81,83,84,99,117-119) and an explanation of discrepancies (p.90). The report marks follow-up on the past EITI recommendation on strengthening oversight of these contributions is marked as completed (p.108). While the EITI Côte d'Ivoire website presents the reconciliation tables<sup>36</sup> disaggregated by company, it appears that a majority of oil and gas companies did not report any cash or in-kind contributions to training and equipment for the DGH. There was heated debate over the nature of contributions to the DGH for training and equipment during stakeholder consultations. While civil society stakeholders called for more transparency in the use of both cash and in-kind contributions to the DGH, industry and government representatives considered that there were sufficient disclosures regarding these contributions and considered that they were neither social expenditures nor forms of government revenues. There was no consensus on the categorisation of these contributions for training and equipment among all stakeholders consulted. However, stakeholders consulted conceded that these contributions were not forms of government revenues, but rather payments for the purpose of capacity-building.

While the report does not describe the legal or contractual basis for mandatory social expenditures in oil and gas other than the contributions to the DGH, it presents unilateral disclosures of mandatory social expenditures by three (producing) oil and gas companies in Annex 3 (pp.117-119). The identity of beneficiaries of the mandatory social expenditures by Foxtrot International are not reported. The comprehensiveness of these disclosures is unclear, i.e. whether any other oil and gas companies beyond the three that reported undertook any mandatory social expenditures in 2017 or simply did not report them.

## Secretariat's Assessment

The Secretariat considers that Côte d'Ivoire has not maintained adherence to Requirement 6.1 related to social expenditures and that Côte d'Ivoire has achieved meaningful progress in addressing Requirement 6.1. The 2017 EITI Report provides a cursory explanation of the legal and contractual basis for mandatory social expenditures, although there is evidence of reporting of certain mandatory social expenditures for which the legal and contractual basis is unclear. The EITI Côte d'Ivoire website has published a spreadsheet of mandatory social expenditures in the mining sector, through local community development funds, which provides the information listed under Requirement 6.1.a. In oil and gas, the report discloses and reconciles contributions for training and equipment to the oil and gas regulator (DGH), but there is no consensus among stakeholders consulted whether these should be considered as forms of mandatory social expenditures. In addition, the comprehensiveness of

<sup>35</sup> CN-ITIE website, 'Publications' section, document 'Point CDLM ITIE', accessed [here](#) in November 2019.

<sup>36</sup> CN-ITIE website, 'Publications' section, document 'Fiches des sociétés pétrolières 2017', accessed [here](#) in November 2019.

reporting of these contributions is unclear, given the low number of oil and gas companies reporting such contributions. Additional mandatory social expenditures are reported by three oil and gas companies, although disclosures by one company do not describe the legal basis for the expenditures nor the identity of non-government beneficiaries.

In accordance with Requirement 6.1, Côte d'Ivoire should systematically categorise types of mandatory social expenditures mandated by law or contract and ensure that public disclosures of mandatory social expenditures be disaggregated between cash and in-kind expenditures, by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. Côte d'Ivoire is encouraged to establish a consensus on the proper categorisation of training and equipment contributions to the DGH and to disclose all information listed under Requirement 6.1.a should they be considered forms of mandatory social expenditures.

## 6. Conclusion

Having reviewed the steps taken by Côte d'Ivoire to address the 12 corrective actions requested by the EITI Board as of the commencement of its second Validation (8 November 2019), it can be reasonably concluded that three of the 12 corrective actions have been fully addressed. In addition, the Secretariat's assessment is that there has been back-sliding on Requirement 6.1 on mandatory social expenditures. It can thus be concluded that Côte d'Ivoire has made meaningful progress in implementing the EITI Standard, with *considerable improvements across several individual requirements*.

The outstanding gaps relate to MSG governance (*Requirement 1.4*), work plan (*Requirement 1.5*), license allocation (*Requirement 2.2*), License register (*Requirement 2.3*), State-participation (*Requirement 2.6*), in-kind revenues (*Requirement 4.2*), barter and infrastructure arrangements (*Requirement 4.3*), distribution of revenues (*Requirement 5.1*), social expenditures (*Requirement 6.1*) and SOE quasi-fiscal expenditures (*Requirement 6.2*).