

Draft outline for a revised Validation model

The EITI's Validation review working group is seeking stakeholder views on a proposed outline for a revised Validation model.

1 Introduction

This paper lays out an approach that increases the MSG's ownership of Validation, while maintaining an external assessment of progress in addressing all EITI Requirements. In the proposed approach, Validation is embedded into the implementation cycle, which helps to ensure that resources directed to Validation serve implementation goals and promote systematic disclosures. The overall cost of Validation under the proposed approach will depend largely on the format of stakeholder consultations, on the extent to which the Board chooses to draw on external expertise and on the manner of organising Validation work within the International Secretariat. The Secretariat recognises that the approach requires further refinement and consultations with broader constituencies, which are ongoing.

The paper proposes that Validation consist of three components: (1) Transparency, (2) Stakeholder engagement, and (3) Outcomes and impact. National priorities and progress in addressing them would be reflected in the third component. The country would be assigned a score on each of these components.

The MSG would have an increased role in collating documentation for Validation, but this would be integrated into the MSG's oversight functions in a way that would support the MSG in its work. Nevertheless, MSGs' capacity constraints would require attention and resources.

The International Secretariat would continue to have a dual role in providing implementation support and leading Validations. However, these functions would be more clearly separated within the Secretariat. The country team would support the MSG in collating the documentation and identifying opportunities for improvement as part of its regular implementation support. The Validation team would review the information and propose an assessment for the Board's review. The emphasis of the Secretariat's work would shift to pre-Validation and implementation support. Practices regarding in-person and virtual stakeholder consultations could be clarified in an updated Validation procedure, taking into account cost implications.

Validation would no longer involve an external Independent Validator. However, the Board could maintain the option of inviting thematic, regional or peer experts to provide views in controversial cases. Additionally, the Validation team within the EITI Secretariat would include members with requisite skill sets and backgrounds to undertake Validation, including expertise in assessing public financial management, industry engagement and civic space.

The Validation review working group has highlighted the importance of ensuring that Validation maintains its credibility and objectivity without the involvement of an Independent Validator. While details are yet to be agreed, there would need to be adequate safeguards in place to ensure the independence of the Validation process within the EITI Secretariat, both in practice and as a matter of principle and outside credibility. These could involve engaging external experts and peers.

Rather than demanding full compliance with the EITI Standard within a certain timeframe, the proposed approach to the consequences and timing of Validation emphasises encouraging continuous progress and safeguarding requirements related to stakeholder engagement. Recognising that the nature of corrective actions affects the time required for addressing them, distinct deadlines for subsequent Validations could be introduced for each component.

The Validation review working group is aware of the need to ensure the longer term sustainability of the EITI and its Validation mechanism. Integrating EITI Validation into regional peer reviews, strengthening national accountability mechanisms and exploring opportunities offered by emerging technologies should be considered in the Board's longer term strategic thinking.

The paper proposes an approach to assessing individual requirements, as well as overall progress. It lays out the proposed content, structure and procedure for assessing the three components, as well as the consequences and timing of Validation.

2 Background

The EITI Board launched a review of the EITI's Validation model in October 2019 and established a working group to support the Validation Committee in this work¹. The scope of the review covers four areas: (1) Measuring compliance and impact; (2) Resourcing and roles; (3) Structure, timing and consequences of Validation; and (4) Reviewing the Validation of the civil society protocol.

The objective of the review is to introduce a Validation model that “encourages continued progress, reflects each country’s priorities and enhances the impact of EITI implementation, while upholding the integrity of the EITI Standard”. The review is also expected to ensure “financial sustainability, the timely execution of Validations and sufficient resources for implementation support”.²

This scope of the review reflects lessons learned from Validations under the EITI Standard since 2016, concerns about the resourcing of Validation, experiences in the implementation of both disclosures and stakeholder engagement, the transition to the 2019 EITI Standard and an aspiration towards systematic disclosures and strengthened impact of EITI implementation.

EITI undertook a public consultation on the future of Validation in December 2019 – January 2020. Forty-four responses were submitted in total. All responses are available on the EITI website³. This draft outline for a Validation model has been developed to reflect findings from earlier consultations and discussions in the Validation review working group.

3 Overall assessment

It is proposed that Validation consists of three components: (1) Transparency, (2) Stakeholder engagement, and (3) Outcomes and impact. In the proposed approach, innovations in implementation and progress in addressing national priorities is integrated into the third component. Additionally, the Board could consider introducing a fourth component that highlights disclosures beyond the scope of the EITI Standard. This would incentivise efforts to address

¹ <https://eiti.org/board-decision/2019-48>

² ToR of the Validation review working group:

https://eiti.org/files/documents/tor_for_the_validation_review_working_group.docx.

³ Consultation: The future of Validation: <https://eiti.org/document/consultation-future-of-validation>.

context-specific data needs and facilitate exchange of innovations. This approach would provide a more nuanced overview of implementation than the current levels of overall progress.

Each EITI Requirement would be assessed under one of the three components. The Validation review working group has expressed support for assessing each requirement individually, with a focus on the objective of the requirement.⁴ An updated Validation guide –produced, reviewed, and agreed by the EITI Board– could provide clarity on the objective of each requirement. It is important to ensure that the objective of each requirement is sufficiently clearly defined and linked to the elements of the requirement to enable an objective assessment.

Working group members have noted that the nomenclature of current levels of progress is misleading. The terms “satisfactory” and “meaningful” have been found to be confusing, especially to external parties. The term “progress” does not adequately reflect the fact that subsequent Validations assess the current status of implementation, rather than progress compared to the previous Validation.

To address this, Validation could assess whether the country has (1) “exceeded”, (2) “fully met”, (3) “mostly met”, (4) “partly met”, or (5) “not met” an individual requirement. These categories would broadly correspond to the current levels of progress, with the difference that the assessment would focus on whether the objective of the requirement has been met.

In a similar fashion, the nomenclature for overall assessments could be simplified. Each component (transparency, stakeholder engagement, outcomes and impact) could be assigned a progress marker of (1) “Very high”, (2) “High”, (3) “Moderate”, (4) “Fairly low”, or (5) “Low”. Other options for nomenclature could be considered, including differing progress markers for the three components.

Several stakeholders have expressed support to adopting a numerical scoring system. If numerical scoring is adopted, it could follow, for example, the scale below for individual requirements:

Exceeded	100 points
Fully met	90 points
Mostly met	60 points
Partly met	30 points
Not met	0 points

If in a subsequent Validation a country is found to have made progress on a requirement but not sufficiently to reach the next category, it could be assigned an extra 15 points. For example, “mostly met” with improvements would be assigned 75 points. Continuing to assess each requirement by these categories, rather than directly assigning any value between zero and 100, would allow maintaining consistency and facilitate the Board’s decision-making. Alternative scales could also be considered, such as assigning 100 points if the requirement is fully met and over 100 when it has been exceeded.

If a numerical score is assigned to each requirement, the overall assessment of each component could reflect an average of these. The scale could be as follows, for example:




Very high	Average of 90 points or over
High	Average of 80 to 89 points

⁴ Option 1.B of the working group paper “Draft options for a revised Validation model”.

Moderate	Average of 65 to 79 points
Fairly Low	Average of 45 to 64 points
Low	Below 45 points

The proposed scale seeks to reflect that improvements are easier to make when the level of implementation is lower. Progress from “mostly meeting” to “fully meeting” a requirement is likely to be more challenging than progress from “partly met” to “mostly met”. The scale also reflects the Validation results of implementing countries to date, seeking to capture sufficient nuances in progress made across countries.

The assessments of each of the three components could indicate the overall level of implementation, the average score if numerical scoring is adopted, and the direction of progress since the previous Validation, as indicated in the following example:

Transparency	Stakeholder engagement	Outcomes and impact
Very high (92) High Moderate Fairly Low Low 	Very high High (85) Moderate Fairly Low Low 	Very high High Moderate (72) Fairly Low Low 

In addition to the scores per component, it is possible to present an overall score. The overall score could be composed of an average score of either each component or each individual requirement. The selected approach would affect how different components are weighed, as the transparency component includes more requirements than the two others. The proposed structure and procedure for assessing each of the components is presented in the following sections.

4 Transparency

4.1 Content and structure

An approach is proposed that combines the individual assessment of EITI Requirements 2 to 6 with a presentation of findings by module. The assessment would review each required and encouraged element of the requirement. The outcome of the assessment would focus on whether the country has met the objective of the requirement. An updated Validation guide could define the objectives in a manner that is clear enough to guide implementation efforts, yet sufficiently broad to adapt to different contexts.

A focus on the objective of the requirement would mean that a country could be considered to have met the requirement despite some required aspects not being fully met, as long as the overall objective has been achieved and the Board does not consider the gaps to be material.

This is largely consistent with the approach introduced in the 2019 Validation Guide.⁵ A focus on the objective of the requirement would not necessarily entail lowering the bar. For example, if disclosures are technically comprehensive but in practice not sufficiently accessible or are clearly unreliable, Validation could conclude that the overall objective has not been met.

The benefit of the proposed approach is that focus is shifted to the underlying objective, and Validation becomes less of a “tick-the-box” exercise. This could encourage countries to find means of disclosure that are best suited for achieving the desired objective in their context. The challenge is the increased subjectivity of assessments. Stakeholders’ views on whether certain disclosures are sufficient for meeting the objective may vary country-to-country. This could lead to inconsistent treatment of countries. This can be partly countered by ensuring that all local constituencies have equal opportunities to present their views to the Board when providing feedback on the assessment.

However, the assessment of whether the objective has been met should maintain with the EITI Board. Validation would also continue to assess whether all required elements of the requirements have been addressed and weigh the materiality of possible gaps on a case-by-case basis. The Validation review working group has stressed that the expectation continues to be that countries fully implement all EITI Requirements.

To ensure that Validation assessments are approachable and provide a clear overview of progress in the country, it is proposed that the results of the Validation are presented by modules of interconnected requirements. A brief narrative would summarise progress in each of the following areas and provide recommendations:

- Overview of the extractive sector (Requirements 3.1, 6.3)
- Legal and fiscal framework (Requirements 2.1, 2.4, 6.4)
- Licenses (Requirements 2.2, 2.3)
- Beneficial ownership (Requirements 2.5)
- State participation & SOEs (Requirements 2.6, 4.2, 4.5, 6.2)
- Production and exports (Requirements 3.2, 3.3)
- Revenue collection (Requirements 4.1, 4.3, 4.4, 4.6-4.9)
- Revenue management (Requirements 5.1, 5.3)
- Subnational contribution (Requirements 5.2, 6.1)

Presenting results by modules would also help track outcomes of EITI implementation in specific areas, including across countries. It would be easier to identify common challenges and areas where countries have improved over time. The transparency component could also highlight disclosures that go beyond the scope of the EITI Standard, where these have been prioritised by the MSG.

⁵ The 2019 Validation Guide states: “The EITI Board has the discretion to weigh minor gaps against progress in achieving the broader objective, and may conclude that progress is satisfactory.”

4.2 Procedure

The MSG would be responsible for collating documentation for Validation based on a standard template. The template would indicate the objective of each requirement and the required and encouraged disclosure elements. The MSG would be expected to provide the source where relevant information is disclosed, for example, a ministry web page, the section of an EITI Report or a corporate report.

This approach is complementary with the pursuit towards systematic disclosures. The template could build on the current summary data template⁶ and serve as a tool for the MSG to exercise oversight of systematic disclosures. The MSG could task a consultant to support the work or integrate it into the mandate of the Independent Administrator. The International Secretariat's country team would support the MSG in this as part of regular implementation support.

The MSG's submission would be reviewed by the International Secretariat's Validation team. To address concerns about the same staff members providing implementation support to a country and assessing its progress, the review would be undertaken by a staff member who has not been involved in implementation support to the country. The Validation team would draw up a set of questions and comments for the MSG to address, with support from the Secretariat's country team. Following the MSG's responses and stakeholder consultations, the Validation team would propose an assessment of each individual requirement and draft summaries of each module. The assessment would then be submitted to the Board for its review.

This approach would place the onus for demonstrating progress on the MSG. For example, FATF and OECD Global Forum assessments expect the country to provide information necessary for conducting the assessment. As systematic disclosures become more common, collating information from various sources in various local languages would become increasingly time-consuming for the International Secretariat. At the same time, MSGs are expected to practice oversight of disclosures, even if they are undertaken systematically. The Validation data collection template could serve as tool for MSG's to oversee disclosures, to ensure that links to data are readily available and to identify any gaps. This would support the transition to systematic disclosures and integrate Validation into the implementation cycle.

5 Stakeholder engagement

5.1 Content and structure

It is proposed that the component consists of the assessment of Requirements 1.1 (government engagement), 1.2 (industry engagement), 1.3 (civil society engagement) and 1.4 (MSG oversight). Each of the requirements would be assessed individually, with a focus on achieving the objective of the requirement.

The assessment of Requirement 1.3 on civil society engagement would include a narrative of the overall status of civic space in the country, referring to recognised indices such as Freedom in the World and Civicus Monitor, or information from recognised reports such as UN reports or ICNL's Civic Freedom Monitor. This narrative would provide context to the assessment and could indicate trends in civic space. The MSG could use it to consider how the civic space context within the

⁶ <https://eiti.org/document/eiti-summary-data-template>.

extractive sector differs from the wider context. However, it would not affect the score assigned for the requirement. Requirement 1.3 would continue to be assessed as described in the EITI Standard and clarified in the civil society protocol.

5.2 Procedure

The MSG and constituencies would be responsible for collating documentation on stakeholder engagement in the EITI process and MSG oversight following a standard template. This would include, for example, MSG minutes, attendance data, procedures for MSG nomination, MSG ToRs, public statements in support of the EITI, and evidence of MSG members liaising with their broader constituencies. The International Secretariat's country team would support the MSG in collating this information as part of regular implementation support. It would serve the MSG in monitoring progress with implementation, as expected under Requirement 7.4. The International Secretariat's Validation team would review the documentation and suggest an assessment for the Board's review, as for the transparency component.

Experience from Validations has demonstrated that assessing stakeholder engagement is often more nuanced and complex than assessing disclosures. Constituencies may have different views on the engagement of government, industry and civil society in the EITI process as well as the functioning of the MSG. Canvassing stakeholder views ahead of the commencement of Validation, as well as through targeted stakeholder consultations, can help ensure that the assessment captures all aspects of the situation.

Ahead of the Validation, a call for views on stakeholder engagement would be launched by the International Secretariat. The call for views would be an opportunity for local or international stakeholders to raise concerns about possible breaches of the civil society protocol or, for example, government engagement. In addition to analysing the documentation provided by the MSG and constituencies, the Secretariat's specialised Validation team would assess the concerns raised by stakeholders within the given timeframe. This would help ensure that Validation captures a broad range of views at an early stage. The Board could also consider ways to increase the transparency of the Validation process to ensure opportunities for feedback, while safeguarding the MSG's role and the Board's ability to undertake objective and consistent assessments in a timely manner.

In cases where stakeholders flag concerns related to possible breaches of the civil society protocol, a team of Board members from different constituencies could be involved in ensuring that all constituencies' views are taken into account in a balanced manner. It would also be an opportunity for Board members to engage directly with the government and to plan actions for supporting civil society engagement beyond the Validation. The Secretariat and the Board could also consider tapping into external expertise in these cases, in addition to involving Secretariat staff with experience in assessing civil society engagement.

Stakeholders' understanding of some aspects of the civil society protocol differ. The Validation review working group is considering whether the exact meaning of concepts such as "expressing views on natural resources" and "stakeholders substantively engaged in the EITI" should be clarified for Validation purposes.

6 Outcomes and impact

6.1 Content and structure

It is proposed that the component on outcomes and impact is designed as a tool that serves MSG's in monitoring progress and impact, in line with Requirement 7.4. The component covers Requirements 1.5 (work plan), 7.1 (public debate), 7.2 (data accessibility), 7.3 (follow-up on recommendations) and 7.4 (review of outcomes and impact).

Each requirement would be assessed individually with a focus on the objective, but a narrative would summarise progress by module. The component could consist of the following modules:

- Relevance of implementation (Requirements 1.5, 7.3, 7.4). This section would include national priorities and progress in addressing them, including efforts to expand the scope of disclosures beyond the minimum requirements and informing reforms.
- Public debate (Requirements 7.1, 7.2)
- Sustainability and effectiveness

The proposed approach would capture the continuum from the EITI work plan to outcomes and impact as reviewed by the MSG. This would help encourage a results-based approach to implementation. An updated Validation guide could clarify expectations related to the quality and content of work plans (Requirement 1.5) and contribution to public debate (Requirements 7.1 and 7.2).

The module on sustainability and effectiveness could build on common indicators. The proposed indicators introduced in the working group paper "Draft options for a revised Validation model" have been adjusted following feedback from civil society to include access to information and community participation in extractive governance:

- EITI implementation addresses nationally relevant extractive sector governance challenges. This indicator could also recognise disclosures and other efforts beyond the EITI Standard.
- Extractive sector data is disclosed systematically through routine government and corporate reporting.
- There is an enabling environment for citizen participation in extractive sector governance, including participation by affected communities.
- Extractive sector data is accessible and used for analysis, research and advocacy.
- EITI has informed changes in extractive sector policies or practices.

Adopting the effectiveness and sustainability indicators would enable capturing outcomes of EITI implementation across countries and identifying areas of improvement. They would assist the MSG in structuring its review of outcomes and impact beyond assessing progress in meeting country-specific objectives included in the work plan. They could also support the MSG in designing objectives and activities for EITI implementation. The assessment would provide evidence that enables practitioners to justify EITI implementation to stakeholders and partners.

Validation could assign the country zero, one or two points for each of the five indicators. These points would be added to the average score of the component. For example, if the average score of Requirements 1.5 and 7.1 to 7.4 was 80 and the country was assigned six points on the effectiveness and sustainability indicators, the overall score for the component would be 86. If a scoring system is not adopted, the Board could consider taking the indicators into account in its qualitative overall assessment.

6.2 Procedure

The MSG would be responsible for collating the documentation as part of its regular review of progress and impact of implementation (as outlined in Requirement 7.4). A standard template could be produced to support this. The MSG would also be expected to assess the country's progress in addressing the effectiveness and sustainability indicators. The International Secretariat's country team would provide support. In some cases the MSG or partners may seek the support of an external consultant as well.

The Secretariat's Validation team would review the documentation, seek clarifications, consult stakeholders and propose an assessment for the Board's review. If the MSG is not able to reach a common view on the effectiveness and sustainability indicators, constituencies could make separate submissions to the Secretariat.

7 Consequences and timing

The proposed approach to the consequences and timing of Validation expects countries to demonstrate progress compared to the previous Validation and maintains safeguards related to stakeholder engagement.

In the first Validation, all three components (transparency, stakeholder engagement, outcomes and impact) would be assessed at once. Stakeholders have noted that the time required for corrective actions varies. While some technical disclosures can be addressed within a short timeframe, legislative changes and achieving impact require more time. To reflect this, different deadlines could be established for the next Validation of each component. For example, components with a score of "very high" could be re-validated in three years. Components with a lower score could be validated again in 12 to 24 months, depending on the complexity of corrective actions.

A country would face suspension if requirements related to government, industry or civil society engagement (1.1 to 1.3) are assessed as "partly met" or below or if the overall score of one or more components is "low". This reflects the current approach, where a country is suspended if progress in meeting any of the requirements related to stakeholder engagement is assessed as "inadequate progress" or less.⁷ In subsequent Validations, the country would face suspension if it has not been able to demonstrate progress since the previous Validation in at least one of the three components or if there has been significant backsliding on one or more components. Repeated failure to demonstrate progress could lead to delisting.

⁷ Board decision [2018-39/BM-40/BP-40-4-A](#).

In determining the consequences of Validation, the Board could also consider the complexity of the extractive sector, external factors such as state fragility and the efforts taken by the MSG to address requirements.