

Vanessa A. Countryman
Secretary, Securities and Exchange Commission
100 F Street NE, Washington, DC 20549-1090

EITI Comments on Proposed Rule: Disclosure of Payments by Resource Extraction Issuers Release No. 34-87783; File No. S7-24-19

Dear Secretary Countryman,

The Extractive Industries Transparency Initiative (EITI) International Secretariat welcomes the opportunity to comment on the Commission's proposed rule implementing Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Release No. 34-87783; File No. S7-24-19).

The disclosure of payments by resource extraction issuers in the United States will have a significant impact on international transparency promotion efforts, including the EITI. It is important that the SEC's rules are aligned with and share the ambition of the efforts of the EITI community and others to improve natural resource governance globally and encourage more timely and detailed reporting in EITI countries. A SEC rule that is well aligned with the EITI will send a strong signal to the 53 EITI implementing countries to accelerate their work on EITI implementation. It will also encourage more countries to join the EITI. Inconsistency between the SEC rule and other global reporting standards such as the EITI would likely lead to increased compliance costs for companies.

In furtherance of the Federal Government's long-standing support for the EITI, we call on the SEC to adopt the EITI Standard's definition of project-level reporting, which is well aligned with reporting requirements in European Union member states, the UK, Norway and Canada.

Background

The EITI is the global standard for the good governance of oil, gas, and mineral resources.¹ Based on the principle that a country's natural resources belong to its citizens, the EITI Standard² promotes the open and accountable management of oil, gas and mineral resources. EITI works to build trust between its stakeholders: governments, industry, and civil society organisations.

¹ <https://eiti.org/>

² <https://eiti.org/document/eiti-standard-2019>

A founding principle of the EITI is that “a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.”³ In resource rich countries, transparency of natural resource revenues is critical to ensuring that citizens can hold their governments and the industry to account. Empowering citizens with detailed information about resource revenues can enable them to guard against corruption and successfully press governments for policy changes that improve government spending and outcomes.

The EITI Board is the EITI's main governing body. It consists of 20 members representing implementing countries, supporting countries, civil society organisations, industry, and institutional investors.⁴ It is responsible for determining broad policy direction and endorsed the 2019 Standard, which includes an agreed definition of project level reporting.

The United States has been extensively involved in the establishment and development of the EITI. As a supporting country, the United States has provided substantial support to EITI implementing countries.⁵ It also provides financial support to the EITI International Secretariat and is represented on the EITI Board. United States companies and civil society organisations have also been strong supporters of the EITI, and have played a key role in the development of the EITI Standard and the EITI's approach to project level reporting.

The EITI is currently implemented in 53 countries.⁶ These countries have committed to disclose information along the extractive industry value chain, from licensing to extraction, covering production data, project-level information on company tax payments and government revenues, commodity trading, social payments and a range of other issues. This work strengthens public financial management and corporate governance, promotes transparent and accountable natural resource management, and provides data that informs debate and reform in the extractive industries.

From 2014 -2017, the United States implemented the EITI. The USEITI multi-stakeholder group (MSG) was a valuable platform for dialogue between government, industry and civil society. Good progress was being made in encouraging state and tribal participation. Under the auspices of the EITI, the Department of Interior made significant improvements in the disclosure of bonuses, rent and royalties.⁷ The USEITI MSG developed a simple procedure for companies. Regrettably, the majority of companies declined to participate in the first two USEITI Reports with respect to corporate income tax payments.. A lack of clarity regarding the SEC's rules on disclosure of payments by resource extraction issuers was cited as a key factor in the US government's decision to withdraw from the EITI as an implementing country in November 2017.⁸ When the SEC rule has been finalised, it is our hope that the United States will reapply to implement the EITI.

³ <https://eiti.org/document/eiti-principles>

⁴ <https://eiti.org/about/board>

⁵ <https://eiti.org/supporter/united-states>

⁶ <https://eiti.org/countries>

⁷ <https://revenue.data.doi.gov/>

⁸. See <https://eiti.org/news/eiti-chair-statement-on-united-states-withdrawal-from-eiti> and <https://eiti.org/blog/us-withdraws-while-others-persist>.

Extractive companies operating in countries implementing the EITI benefit from enhanced relations with stakeholders and local communities, better risk management, improved company reputation and the opportunity to demonstrate industry leadership. Many of the world's largest oil, gas and mining companies are therefore EITI Supporting Companies, including a number of public companies that report to the SEC.⁹

In June 2018, the EITI Board agreed a paper on *Expectations for EITI supporting companies*.¹⁰ As a guiding principle, supporting companies are expected to disclose taxes and payments publicly, along with upholding the provisions of the 2019 Standard. Where companies choose not to, they should state why.

Comments on the proposed rule

The EITI International Secretariat recognises that several EITI implementing countries, supporting companies, supporting investors and supporting civil society organisations are likely to comment on the proposed rule. The EITI International Secretariat's comments focus on two issues:

1. Aligning international transparency promotion efforts and reporting standards, and
2. The definition of project level reporting.

The EITI International Secretariat stands ready to provide additional information on these matters, and EITI implementation more generally, as the Commission works to finalise the rule.

1. Aligning international transparency promotion efforts and reporting standards

The EITI International Secretariat welcomes Section 13(q) of the Exchange Act (as amended by Section 1504 of the Dodd-Frank Act) which specifies that “[t]o the extent practicable, the rules... shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.” The EITI is widely recognised as the pre-eminent international transparency promotion effort in the extractives sector. The continued growth in the EITI's membership, and the country-level ownership that this provides, underlines the importance of ensuring that the proposed rule complements and reinforces the EITI.

The EITI has in recent years frequently clarified the ways in which disclosure requirements like Dodd Frank 1504 and the EITI complement each other. See, for example, *the EITI Statement on the SEC's regulation on mandatory company disclosure*.¹¹ It is important that the SEC's rules are aligned with the efforts of the EITI community and others to improve natural resource governance globally, and also encourage more timely and detailed reporting in EITI countries. A SEC rule that is well aligned with the EITI will encourage more resource-rich countries to join the EITI. A weaker rule risks undermining the EITI's outreach efforts, and the stated goal of supporting the commitment of the Federal Government to international transparency promotion.¹²

⁹ AMG, AngloGold, Arcelor Mittal, Barrick Gold, BHP Billiton, BP, Chevron, ConocoPhillips, Equinor, ExxonMobil, Freeport-McMoRan, Gold Fields, Hess, Kinross Gold Corporation, Kosmos, Newmont, Noble Energy, Rio Tinto, Total SA, Vale SA

¹⁰ <https://eiti.org/document/expectations-for-eiti-supporting-companies>

¹¹ <https://eiti.org/news/eiti-statement-on-secs-regulation-on-mandatory-company-disclosure>

¹² <https://eiti.org/document/eiti-20202022-outreach-strategy>

To date, EITI implementing countries have produced EITI Reports covering 423 years and some 2.62 trillion USD in company payments and government revenues.¹³ This work has involved disclosures by tens of thousands oil, gas and mining companies operating under a wide array of legislative, regulatory and contractual arrangements. While there are often challenges in establishing the EITI reporting process, our experience is that the vast majority of companies participate fully in the process. Our experience is that the cost of providing such information is not onerous,¹⁴ and is far exceeded by the benefits associated with greater transparency. The costs to industry can be further reduced by the establishment of consistent global standards.

2. The definition of project-level reporting

In furtherance of the Federal Government's long-standing support for the EITI, we call on the SEC to adopt the EITI Standard's definition of project-level reporting, which is well aligned with reporting requirements in European Union member states, UK, Norway and Canada.

Public disclosure of payments and revenues by project (also called "project-level" or "project-by-project" reporting) enables the public to assess the extent to which the government receives what it ought to from each individual extractive project, because actual payments can be compared with the terms set out in the laws or contracts governing the project.

Company payments to governments are often levied on a project-level basis, i.e. per individual legal agreement giving rights to an extractive deposit. Government entities collecting such payments also record the receipts by project in their internal systems, often with the exception of general taxes such as corporate income tax, which are typically (but not always) levied and recorded by legal entity.

Project data can help tax administrations address possible tax evasion or avoidance by shedding light on pricing arrangements and identifying risks of transfer pricing manipulation. For host communities, it can help show the benefits that each extractive project generates and can enable subnational government entities to calculate their share of project-level income thus improving accountability in the use of revenues and deterring corruption. It can also assist governments in making more accurate forecasts for future changes in revenues.

The 2019 EITI Standard requires that financial disclosures must be disaggregated by project for reporting covering fiscal years ending on, or after, 31 December 2018. EITI Requirement 4.7 states:

¹³ <https://eiti.org/explore-data-portal>

¹⁴ In most cases, the EITI reporting process is not time consuming or costly for companies. This is because the vast majority of companies already have easy access to the requisite data, which is needed in order to reliably calculate their tax liabilities. The minimal cost of EITI reporting can be further reduced when reporting is aligned with the completion and auditing of annual financial statements. For this reason, the 2019 EITI Standard puts a greater emphasis on systematic disclosure by government agencies and companies. The 2019 EITI Standard states that "The expectation is that implementing countries will disclose the requisite information through routine government and corporate reporting (websites, annual reports, etc.), with EITI Reports used to collate this information and address any concerns about gaps and data quality" (Requirement 4.1).

Requirement 4.7 Level of disaggregation

It is required that EITI data is disaggregated by each individual project, company, government entity and revenue stream.

A project is defined as operational activities that are governed by a single contract, license, lease, concession or similar legal agreement, and form the basis for payment liabilities with a government. Nonetheless, if multiple such agreements are substantially interconnected, the multi-stakeholder group must clearly identify and document which instances are considered a single project.

Substantially interconnected agreements are a set of operationally and geographically integrated contracts, licenses, leases or concessions or related agreements with substantially similar terms that are signed with a government, giving rise to payment liabilities. Such agreements can be governed by a single contract, joint venture, production sharing agreement or other overarching legal agreement.

Where a payment covered by the scope of EITI disclosures is levied at entity level rather than at project level, the company may disclose the payment at the entity level.

Several other EITI Requirements reference this level of disaggregation, such as the EITI's requirements on the sale of the state's share of production (4.2), infrastructure and barter arrangements (4.3) and transportation revenues (4.4).

The EITI's approach is aligned with, but not equivalent to reporting requirements in European Union member states, UK, Norway and Canada. The EITI requires financial disclosures by both government and companies. These must be "disaggregated by each individual project, company, government entity and revenue stream". The reporting requirements in European Union member states, UK, Norway and Canada allow companies to aggregate different types of payments. For example, under EU, UK, Norwegian and Canadian reporting requirements, if a company makes material payments to five different local government authorities, these can be reported in aggregate. The EITI does not allow for payments to be aggregated by category, i.e. taxes, fees, production entitlements, and others. The EITI requires disaggregation by individual payment type or revenue stream, i.e. corporate income tax, capital gains tax, taxes on trade, royalties, dividends and others.

In terms of costs and benefits of project-level reporting in the EITI, companies and government agencies have highlighted that such reporting is often consistent with how governments levy and record payments or revenues. This reduces the time and cost of, and discrepancies in, EITI reporting. The investor community has also been supportive of project-level reporting, noting how such reporting can contribute to a more stable investment climate and improve investors' ability to manage risk.

A review of the EITI's experience with project level reporting to date is attached at Annex A. The EITI's *Guidance note on project-level reporting* is attached at Annex B.

Based on our experience with current reporting practices, project-level reporting does not impose a substantial administrative burden on reporting companies. Most EITI supporting companies are already doing so by default (as they have only one project in a country) or can do so quickly with minimal adjustments to existing reporting procedures.

The extractives transparency landscape has changed significantly in the last decade, moving beyond revenue disclosures and now covering contracts and fiscal terms, company ownership, project-level payment disclosures and payments to government for purchases of oil, gas and minerals. The United States Government and industry have played a key role in contributing to and shaping the EITI Standard. We welcome the long-standing support of the United States Government for the EITI and hope to see alignment and complementarity between the SEC rule and the EITI Standard.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Robinson', with a long horizontal line extending to the right.

Mark Robinson

Executive Director

Extractive Industries Transparency Initiative (EITI) International Secretariat

Annex A - Update on project-level reporting practices in EITI countries

This is an edited summary of a paper presented to the Implementation Committee of the EITI Board in May 2019. Note that this summary was completed prior to the adoption of the EITI's project definition in June 2019. No EITI reports were assessed relating to 2018 which is the first year in which the EITI's new project-level requirement applies.

Summary

The International Secretariat has prepared an updated review of project-level practices in EITI implementing countries and challenges identified. Ten countries have made considerable progress on project-level reporting ahead of the enforcement of EITI Requirement 4.7. These are Albania, Armenia, Germany, Indonesia, Mongolia, Philippines, Timor-Leste, Trinidad and Tobago, United Kingdom and Zambia, which have all made deliberate efforts and/or concrete progress on disaggregating financial disclosures by project. The majority of implementing countries, 30 of the ones reviewed, have partial disclosures by project, while for seven countries there was no evidence of project-level reporting.

The review highlights a set of opportunities to build on existing systems to implement reporting by project. It also identified challenges and the need for more targeted guidance and efforts will be required to support MSGs in disclosing project-level payment data.

In response to these findings, the International Secretariat has proposed a set of next steps, including updating the guidance note to reflect the revisions to the EITI Standard, strengthening support to implementing countries and further disseminating EITI guidance, publishing an overview of country progress with project-level reporting, and propose a transition schedule for validating Requirement 4.7.

Background

Company taxes and payments related to oil, gas and minerals exploitation are often levied by project. Government entities also frequently monitor revenues by project in their systems. Public disclosure of payments by project may enable the public to assess the extent to which the government receives what it ought to from each individual extractive project, comparing the terms governing a project with data on actual payments.

Over the past few years, several jurisdictions have made efforts to adopt regulations which require companies engaged in natural resource extraction to disclose the payments they make to governments at the project level. Several countries, including the 28 European Union member states and Canada, have introduced legislation requiring oil, gas and mining companies based in their jurisdictions to disclose project-level payments to each government entity in the countries where they operate.

In March 2017, the EITI Board reaffirmed its commitment to project-level reporting,¹⁵ calling for more guidance on the issue as well as project-level reporting for all fiscal years covering 31

¹⁵ EITI (2017), 'BD-2017/14: The Board reaffirmed that project-level reporting is required'. <https://eiti.org/BD/2017-14>

December 2018 and beyond. A review undertaken by the International Secretariat of project level reporting practices in EITI countries identified that, of 45 reporting EITI countries, 25 countries partially reported by project, while three countries were found to fully report by project (Indonesia, Philippines and Trinidad and Tobago).¹⁶ Following the review, Guidance note 29 on project-level reporting was published, including model reporting templates to guide multi-stakeholder groups.¹⁷ The Board also clarified its approach to project-level reporting when agreeing a set of changes to the EITI Standard in principle in February 2019, which included providing a definition of 'project' aligned with emerging global practices.¹⁸

Methodology

In preparation for project-level reporting, EITI guidance advises multi-stakeholder groups (MSGs) to consider how the requirement applies to their specific context. This includes looking into which legal instruments impose payment liabilities and which payments are imposed on a project level. MSGs are also advised to take into account whether there are instances of multiple participants in a single project and how state-owned enterprises are involved in the sector. This form of scoping, defining or applying definitions of projects and project-level payments, has been used for this review to understand the approach undertaken by EITI countries to project-level reporting. To ensure a comprehensive review of project-level reporting in EITI countries the following questions were asked for each EITI country's latest EITI Report:

- (i) Does the report provide a definition of projects and/or identify project-level payments?
- (ii) Does the report disclose financial data by project?
- (iii) What does the initial assessment from their latest Validation say about project-level reporting?
- (iv) What does the latest summary data say about project-level reporting?
- (v) Are there projects with multiple participants such as joint ventures, production sharing contracts or similar? If so, who effectuates payments?
- (vi) Are there state-owned enterprises in the sector? Do they also report by project?

Based on the responses to these questions, the International Secretariat has proposed a set of categories of reporting practices. In addition to indicating whether there is no, partial or full project-level reporting, as was done in 2017, the assessment further distinguishes between countries that reports *intentionally* and those that report *incidentally* by project. *Intentional* project-level reporting means that the MSG has agreed a definition of 'project' and defined which revenues streams to report at the project level. In cases where there is little evidence of the MSG having agreed an approach, but revenues have still been reported by project, the country has

¹⁶ EITI (2017), 'Project-level reporting practices in the EITI'. <https://eiti.org/document/projectlevel-reporting-practices-in-eiti>

¹⁷ EITI (2017), 'Guidance note 29 on project-level reporting'. <https://eiti.org/GN29>

¹⁸ EITI (2019), 'Overview of proposed changes to EITI Requirements'. <https://eiti.org/document/overview-of-proposed-changes-to-eiti-requirements>

been assessed as reporting *incidentally* by project. The aim of this more detailed categorisation is to further understand the extent to which multi-stakeholder groups have adapted their reporting frameworks to ensure comprehensive reporting of payments by project.

	Not applicable: No EITI reporting to date, or it was otherwise not possible to assess whether there is project-level reporting
	No project-level reporting: No evidence of a definition or reporting by project.
	Partial and incidental reporting: No evidence of definition of project, however there has been at least partial reporting by project.
	Partial and intentional reporting: Explicit evidence of a project definition and at least partial reporting by project.
	Full incidental project-level reporting: No evidence of a project definition, however there has been full reporting by project.
	Full project-level reporting: Explicit evidence of a project definition and there has been full project-level reporting.

These assessments have been made for the 47 implementing countries that have published EITI Reports,¹⁹ and have been shared with national secretariats for comment. As of April 2019, seven countries had provided feedback or clarifications to the assessments, while four additional countries provided feedback on opportunities and challenges.²⁰ The Secretariat will continue to compile feedback from national secretariats and maintain a live overview of project-level reporting practices based on responses and latest EITI reporting.

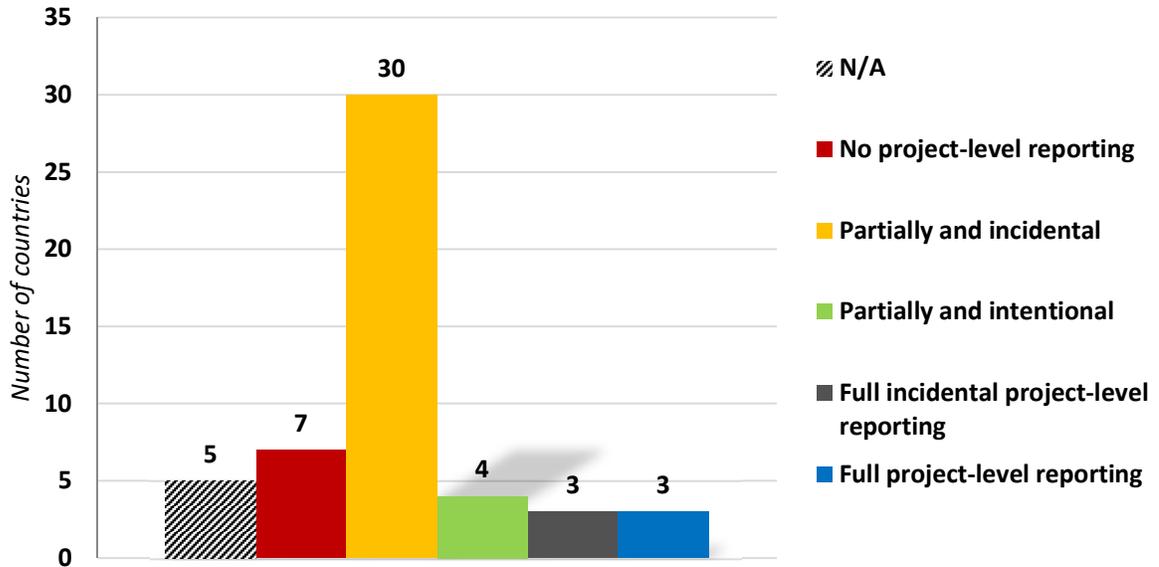
Findings

This section highlights some of the key findings of the assessment, including some of the key opportunities and challenges identified. An overview of the assessments by country is available in the **Error! Reference source not found.**

¹⁹ The remaining five implementing countries were listed as *not applicable*: one due to suspension resulting from political instability (Central African Republic) and four that have not yet produced an EITI Report (Argentina, Guyana, The Netherlands, and Suriname).

²⁰ Countries in bold also sent clarifications for their assessments: Albania, Armenia, Chad, **Colombia**, Democratic Republic of the Congo, **Dominican Republic**, **Guatemala**, **Mexico**, **Trinidad and Tobago**, **Ukraine** and the **United Kingdom**.

Figure 1: Project-level reporting in EITI countries as of April 2019



- **Ten countries have made considerable progress on project-level reporting ahead of the enforcement of EITI Requirement 4.7.** These are Albania, Armenia, Germany, Indonesia, Mongolia, Philippines, Timor-Leste, Trinidad and Tobago, United Kingdom and Zambia, which have all made deliberate efforts and/or concrete progress on disaggregating financial disclosures by project.²¹ Armenia and Germany started preparing for project-level reporting for their first EITI Reports.
- **Of these countries, six fully disaggregate their financial data by individual projects,** namely Armenia, Indonesia, Philippines, Timor-Leste, Trinidad and Tobago and United Kingdom. Of these countries, Armenia, Trinidad and Tobago and United Kingdom intentionally reported by project (i.e. had agreed definitions of projects and applicable revenue streams to be disaggregated).
- **Four countries were found to have made progress on project-level reporting,** although not all companies reported their payments by project. Albania, Germany, Mongolia and Zambia all included project definitions and identified which payments were relevant for disaggregation.
- **The majority of implementing countries, 30 of the ones reviewed, have partial disclosures by project** as a result of EITI reporting without having adopted a systematic approach to project-level reporting. Publication at project level has largely been due to so-called single-asset companies, or companies that only operate a single license, mine, or contract. Of these countries, the assessment found no improvement since 2017 for 18 of these countries.

²¹ Indonesia, Philippines and Trinidad and Tobago were already reporting by project in 2017, while Trinidad and Tobago has since agreed a definition of project and reports revenues accordingly.

- In addition, **there were seven countries where there was no evidence of project-level reporting.** This number has reduced compared to the assessment in 2017, where 17 countries were found to have no project-level reporting. This has been a result of as countries' license registries and disclosures having improved, making it easier to identify single-asset companies and match with EITI reporting. As more and more countries have begun to publish license registries and associated information online it has become much easier to identify and confirm which companies and instances correspond to the project definition.

Opportunities and challenges

The review identified potential opportunities for improving project-level reporting and recurring challenges.

Opportunities

Several countries have **laws and regulations conducive to reporting of payments by individual project.** Aside from countries that have enacted or transposed one of the mandatory disclosure laws such as ESTMA or the EU Directives, **Ukraine** recently adopted legislation which requires project-level reporting.²² The legislation is said to define the same parameters as needed for project-level reporting and requires disclosures at this level. Also, certain countries already require equivalent reporting as part of government reporting requirements. **Sierra Leone's** National Minerals Agency, through ring-fencing²³ requirements of corporate accounts, requires companies to report their finances by individual license, forming a strong mandate for both government and corporate reporting by project.²⁴ In **Mozambique**, each mining title is required to be registered with a unique tax identification number.²⁵ EITI reporting has identified inconsistent application of this provision in practice, and the mining regulator, INAMI, is currently working with the tax authorities to ensure that all licenses have unique tax identification numbers.

Another opportunity uncovered during the review, is the **complementarity of public license registries and contracts to the scoping required for project-level reporting.** EITI guidance calls for identifying which legal instruments can be defined as projects and identifying which specific payments are associated with those legal instruments. One of the initial steps for assessing project-level definitions is understanding which types of legal instruments exist, and to *comprehensively* list these for each material company. When such information is available for all material companies in EITI reporting through public license registries and contracts, countries were deemed to report *partially and incidentally* by project. This information also enabled the

²² EITI (2018), 'Law 2545 – VIII on "Ensuring Transparency in Extractive Industries (translation)'".

<https://eiti.org/document/law-of-ukraine-2545viii-on-ensuring-transparency-in-extractive-industries-translation>

²³ Ring-fencing refers to practices of separating financial accounts by certain activities or operations, either by creation of separate legal entities or merely for reporting purposes.

²⁴ National Minerals Agency (2018), 'C-23: Form to accompany submission of a financial transparency report'.

https://gims.nma.gov.sl/sites/default/files/downloads/C23%20Third%20Schedule_financial_transparency_report_form.pdf

²⁵ Law no. 28/2014 of September – Specific Taxation Regime and Tax Benefits of the Mining Activity.

International Secretariat to identify single-asset companies on the one hand and the companies holding multiple licenses on the other.

With regards to project definitions, **seven countries were identified as providing both a definition of a project, and associated payments: Albania, Armenia, Germany, Mongolia, Trinidad and Tobago, United Kingdom and Zambia.** Two of these countries partially or wholly relied on the mandatory disclosure rules of the EU Directives or national legislation, namely **Germany** and the **United Kingdom.**²⁶ The remaining countries all applied the step-by-step approach recommended in the guidance, including model language for the definition to be tailored to each country. The guidance note on project-level reporting advises that for the purposes of EITI reporting, MSGs should follow the guiding principle that *project level payments should be reported in relation to the legal agreement which forms the basis for payment liabilities with the government.* This appears to have been useful, although only one third of these fully succeeded with reporting payments by project.

Challenges

One of the reasons for countries not having fully reported by project was that **neither the MSG nor the Independent Administrator included project definitions in final EITI Reports,** despite having included this in the Terms of Reference for the Independent Administrator, as was the case for **Albania** and **Mongolia.**²⁷ **Colombia** for instance undertook substantive scoping work to develop a project definitions and relevant revenue streams which was not reflected in the final report. In addition, some countries identified challenges in providing adequate guidance and training for reporting entities, as many of these have been used to reporting payments by revenue stream in several reporting cycles. Other countries did not fully review *post-hoc* whether companies held more than one mineral right. Some countries struggled to identify **substantially interconnected agreements,** which should be documented and agreed by MSGs. These challenges in scoping and data collection suggest that further attention to these phases of the reporting cycle by the MSG will be important to make progress on project-level reporting.

While some countries have made efforts to map which payments were actually made per project, most countries did not further disaggregate the relevant payments to this level. One of the recurring challenges appears to be the **misconception that company- or entity-wide taxes and payments are required to be disaggregated by project.** During consultations with implementing countries, several countries referred to challenges resulting from their legal and fiscal frameworks, as certain would not be possible to disaggregate by project according to.²⁸ Further guidance and support to countries on project-level will be needed to help clarify that only project-type payments should be disaggregated by project. This could help communicate that payment liabilities levied on a company basis, which for instance is the case for corporate income taxes and value added taxes in many fiscal regime, are not required to be further disaggregated and can continue to be reported by company only.

²⁶ The United Kingdom also went further in their clarification of project-level reporting from the government side, which led to an improved assessment compared to Germany's results.

²⁷ Some countries include Colombia, Malawi, Mexico, Philippines, and Timor-Leste.

²⁸ Examples include Albania, Chad, Ukraine and many others, as documented through Validation.

For some countries, performing the initial mapping of how to report by project can also ensure a greater level of understanding of certain payments companies make to governments. **Defining which payments arise from legal instruments is not straightforward.** During the assessment of which payment are imposed on a project level in Armenia, it was unclear whether royalties were levied only on extractive companies. Article 198 of the Tax code on Royalties clarified that royalties are not only imposed on subsoil use holders, but also on companies that manufacture certain minerals, irrespective of whether they extract said minerals. In such cases, it may be necessary for MSGs to consider distinguishing between extractive and manufacturing operations – i.e. the extractive-project-specific and non-project-specific types of payments and appropriate level of disaggregation taking the fiscal framework into account.

Next steps

With the above findings in mind, and based on the individual country assessments listed in the Annex, the International Secretariat proposes the following steps to ensure that further progress is made on project-level reporting in EITI countries:

1. **Update the current guidance on project-level reporting once the final changes to Requirement 4.7 has been formally agreed by the Board.** Given the extensive work that went into developing the guidance note, updates would be limited to reflecting the new wording of Requirement 4.7 and providing illustrative examples from implementing countries;
2. **Strengthen support to implementing countries and further disseminating EITI guidance.** This could include targeting implementation support to countries where the MSG has identified progressing on project-level reporting as a priority, the 37 countries that do not intentionally report by project, countries that are currently preparing their 2018 reports. The Secretariat could also consider dissemination efforts including organising webinars and providing training on project-level reporting as part of in-country and regional implementation support;
3. **Publish an overview of country progress with project-level reporting using countries summary data submissions.** The International Secretariat will also consider how the revised summary data template recently approved by the EITI Board²⁹ could help track progress with project-level reporting;
4. **Propose a transition schedule for how the requirement will be validated for the Committee's consideration.** Such a transition could follow the agreed Validation schedule.

²⁹ EITI (2019), 'Board decision 2019-33/BC-271'. Available at: <http://eiti.org/BD/2019-33>

Project-level reporting

Guidance note 29 - Requirement 4.7

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Summary

Company payments to governments related to oil, gas and minerals are often levied on a project-level basis, i.e. per individual legal agreement giving rights to an extractive deposit. Government entities collecting such payments also record the receipts by project in their internal systems, often with the exception of general taxes such as corporate income tax, which is typically (but not always) levied and recorded by legal entity.

Public disclosure of payments and revenues by project (also called “project-level” or “project-by-project” reporting) enables the public to assess the extent to which the government receives what it ought to from each individual extractive project, because actual payments can be compared with the terms set out in the laws or contracts governing the project.. Project data can help tax administrations address possible tax evasion or avoidance by shedding light on pricing arrangements and identifying risks of transfer pricing manipulation.

For host communities, it can contribute to show the benefits that each extractive project generates and can enable subnational government entities to calculate their share of project-level income. It can also assist governments in making more accurate forecasts for future changes in revenues. In terms of costs and benefits of project-level reporting in the EITI, it has been pointed out by government agencies in particular that reporting by project would be easier than current reporting of aggregates, as it would be more consistent with how governments levy and record payments or revenues. This could reduce time, costs and discrepancies in EITI Reporting. The investor community has also been supportive of project-level reporting, noting how such reporting can contribute to a more stable investment climate and improve investors’ ability to manage risk.³⁰

The EITI Standard requires that financial disclosures must be disaggregated by project for reporting covering fiscal years ending on, or after, 31 December 2018.³¹ This guidance provides a step-by-step guide on how to report “project-by-project”, including how to apply the definition of a project, how to identify the level of disaggregation for each revenue stream, as well as who should report.

³⁰ EITI (2018), ‘Project-level reporting in the extractive industries’. Available at: <https://eiti.org/document/projectlevel-reporting-in-extractive-industries>

³¹ EITI (2017), ‘The EITI Board reaffirmed that project-level reporting is required.’ Available at: <https://eiti.org/BD/2017-14>

EITI Requirement covering project-level reporting

Requirement 4.7 Level of disaggregation

It is required that EITI data is disaggregated by each individual project, company, government entity and revenue stream.

A project is defined as operational activities that are governed by a single contract, license, lease, concession or similar legal agreement, and form the basis for payment liabilities with a government. Nonetheless, if multiple such agreements are substantially interconnected, the multi-stakeholder group must clearly identify and document which instances are considered a single project.

Substantially interconnected agreements are a set of operationally and geographically integrated contracts, licenses, leases or concessions or related agreements with substantially similar terms that are signed with a government, giving rise to payment liabilities. Such agreements can be governed by a single contract, joint venture, production sharing agreement or other overarching legal agreement.

Where a payment covered by the scope of EITI disclosures is levied at entity level rather than at project level, the company may disclose the payment at the entity level.

Note: Several other requirements reference this level of disaggregation, such as requirements on the sale of the state's share of production (4.2), infrastructure and barter arrangements (4.3), transportation revenues (4.4), and is encouraged for production (3.2) and export data (3.3).

Guidance

Step 1 – Identifying legal agreements under the definition of ‘project’

The EITI requires that implementing countries report financial data by project, applying a definition based on emerging practices in different jurisdictions to ensure consistency with globally applicable mandatory payment disclosure rules. A project is defined as “operational activities that are governed by a single contract, license, lease, concession or similar legal agreement, and form the basis for payment liabilities with a government.” In practice, what constitutes a project is often linked to the forms of legal agreement(s) governing extractive activities between the government and companies. In other words, in a production-sharing regime, a project is typically the contract that gives rise to payment liabilities. In a tax/royalty regime, a project is typically the license that gives rise to payments.

In order to apply the definition while taking relevant national laws into account, the multi-stakeholder group (MSG) is advised to explore the following questions

(1) What are the types of legal instruments governing the extractive activities in the country?

To ensure that the definition of the term ‘project’ is consistent with national laws and systems, the MSG is advised to gain an understanding of the types of legal instruments that govern extractive activities in their country. Legal instruments can take many forms, and EITI Requirement 4.7 makes explicit reference to contracts, licenses, leases, concessions or similar legal agreements governing rights to develop oil, gas and minerals. Legal instruments may have other names depending on the country: Armenia has both mineral extraction permits and subsoil use contracts; in Nigeria there are licenses, production sharing agreements, joint venture agreements and other form of contracts; in Papua New Guinea there are legal instruments called ‘tenements’; while in Chad and Dominican Republic there are, amongst other instruments, concessions.³² **It is recommended that the MSG produces a list of the types of instruments that exist and should therefore fall under the definition of ‘project’.**

(2) Are substantially interconnected legal agreements an issue in the country?

The definition of “project” in Requirement 4.7 makes reference to “substantially interconnected” legal agreements which may be grouped together to form one project in cases where such legal agreements (which may sometimes be governed by an overarching agreement) are both:

- i. operationally and geographically integrated
- ii. and have substantially similar terms.

The definition of project was designed to apply in various jurisdictions and therefore allows some flexibility. While the wording relating to ‘substantially interconnected agreements’ is open to different interpretations³³, for the purposes of EITI reporting MSGs should follow the guiding principle that project level payments should be reported in relation to the legal agreement which forms the basis for payment liabilities with the government.

(3) Documenting the relevant legal instruments

Once the MSG has considered the points above and applied the definition of a project in their country, it is recommended that the legal instruments identified as projects are documented in MSG meeting minutes. A practical approach could be for the MSG to adapt the following “definition template”:

“In [country], a [mining]/[oil and gas] project is defined as operational activities that are governed by a single [contract, agreement, concession, license, lease, permit, or title] and form the basis for payment liabilities with a government.”³⁴

³² Often legal instruments are covered by EITI Requirements concerning legal framework (2.1), license allocations (2.2), as well as contract and license disclosures (2.4).

³³ See the International Association of Oil & Gas Producers’ (IOGP) Report 535: The Reports on Payments to Governments Regulations 2014 Industry Guidance, page 35: <http://www.iogp.org/bookstore/product/the-reports-on-payments-to-governments-regulations-2014-industry-guidance/>

³⁴ Most countries that have begun to design project-level reporting have adopted this or similar applications of the definition, including **Albania, Armenia, Germany, Mongolia, Trinidad and Tobago, Ukraine, the United Kingdom and Zambia.**

The MSG could also identify any substantially interconnected agreements and overarching agreements (see question 2 above).

Step 2 – Identifying which revenue streams should be reported by project

The EITI requires that only payments that are levied on a project level be disaggregated: “Where a payment covered by the scope of EITI disclosures is levied at entity level rather than at project level, the company may disclose the payment at the entity level” (Requirement 4.7).

Understanding the fiscal regime, and distinguishing between payment liabilities levied on a entity (company) and those levied on licenses or other legal agreements, will help clarify which revenue streams should be disaggregated by project and those that are only subject to be disaggregated by company. The MSG is therefore advised to explore the following questions:

(1) Which extractive sector payment types are levied or imposed on a project basis, and which are levied on a company basis?

Extractive-specific revenue flows like production entitlements, profit oil, royalties, bonuses and license fees are typically levied by project, meaning that a company (or other legal entity) owes a certain payment to government because it holds mining rights through a license or contract. Other payments like corporate income tax are levied in relation to the legal entity or entities holding the license, in most cases.³⁵

The MSG is advised to review the identified agreements, to consult applicable laws and model contracts and generally to gain an understanding of what taxes, fees and other payments extractive companies are required to make to the government.³⁶ Typical revenue streams include royalties, corporate income tax, production share, dividends, bonuses and fees. The MSG may wish to consult relevant ministries, tax collecting entities, and extractive companies in order to gather a complete picture of all existing revenue flows.

Some revenue streams, such as corporate income tax, that must be included in EITI reporting are usually levied or imposed on a company as a whole and not project by project. The EITI Standard recognises that such payments may be disclosed at entity level without artificially allocating them among particular projects:

Example

As an example of future EITI reporting, a fictitious company, EITI Petroleum Ltd, could report its payments for three projects as presented in the table below. Royalties, license fees and production entitlements are all attributable to the specific projects, while general taxes and

³⁵ Some exceptions to this rule may occur; some countries require financial accounts for certain activities or operations to be ringfenced, and in such cases even general taxes tend to be levied by project.

³⁶ Requirements on legal and fiscal framework (2.1) and comprehensiveness (4.1) also apply. Please consult Guidance note 13: EITI (2016), ‘Guidance note 13 on defining materiality, reporting thresholds and reporting entities. <https://eiti.org/GN13>

fees are imposed on the companies overall activities. The table below illustrates how a country could ensure that revenues are disclosed by individual project, where applicable:

Figure 2: Example of project-level payment disclosures by an extractive company

Company: EITI Petroleum Ltd							
	TAXES	FEEES	ROYALTIES	LICENSE FEES	BONUSES	PRODUCTION ENTITLEMENTS	TOTALS
NON-PROJECT PAYMENTS							
Non-project payments	12 849 000	990 000					13 839 000
PROJECT-LEVEL PAYMENTS							
Project 1			5 000 000		200 000		5 200 000
Project 2			304 000	50 000			354 000
Project 3			15 200 000	500 000		100 000	15 800 000
TOTALS	12 849 000	990 000	20 504 000	550 000	200 000	100 000	35 193 000

Source: Example of project-level payment disclosure by an extractive company, taken from EITI's fact sheet on project-level reporting. <https://eiti.org/document/projectlevel-reporting-in-extractive-industries>

Sometimes, the definition of a revenue stream can help determine whether a particular payment is levied on a project or an entity basis. For example, in Burkina Faso there are so-called area/surface taxes (Taxes Superficiaries). As this payment obligation is named a tax, it could suggest that it is a payment which is not levied on the basis of licenses. However, by examining the definition of the payment obligation it is clear it is levied on a project level. These are annual payments every holder of a mining title is obliged to make based on the area-size covered by a license. The liability of rights-holders in this case is mandated by law, through Burkina Faso's Mining Code and two additional decrees³⁷.

Other payments levied on projects include production shares/entitlements (sometimes also known as profit oil), a common feature of production sharing agreements and contracts (PSAs/PSCs). In these instances, the agreements between companies and the state gives rise to payment obligations of companies, less allowable expenditures or "cost oil". As the agreements give rise to the production entitlements of the government, these payments are therefore levied on a contractual or project basis. As a company may have multiple agreements or contractual arrangements, they are levied by project and should be reported as such.

(2) Are there any obstacles to disclosing payments levied at a project level?

In reviewing how revenue streams are levied, the MSG should also look out for any practical obstacles to project level reporting and reform needs. As documented in the case study on **Mongolia** below, government record keeping systems might not always enable project level disclosure. In Mongolia's latest EITI Report for 2017, the MSG assessed the feasibility of disclosing financial data by project. Although there were no legal barriers, the reporting system itself was not able to disaggregate EITI-required data to a granular level. Mongolia EITI used a

³⁷ ITIE Burkina Faso (2018), '2016 Burkina Faso EITI Report', p. 158. Available at: <http://www.itie-bf.gov.bf/spip.php?article162>

simple table to compare whether revenues were levied/imposed on a company or project level, and whether the reporting system was able to disaggregate at the necessary level:

Figure 3: Excerpt of revenue streams in Mongolia

		Levied based upon			
No.	National financial streams for inclusion	Company	Licence		Amendment required to e-Reporting template
1	Fee and extra fee for exploitation and exploration of mineral resou		✓		✓
2	Corporate income tax	✓			
3	Government share of petroleum revenue under PSA		✓		✓
4	Social and health insurance contribution by companies		✓		✓
5	Value added tax (Customs Administration)	✓			
6	Value added tax (Tax Administration)	✓			
7	Customs service fee	✓			
8	Customs duty	✓			
9	Licence fee for exploitation and exploration of mineral resources		✓		✓
10	Fee for air pollution	✓			
11	Royalty		✓		✓
12	Excise tax on vehicle's gasoline and diesel fuel	✓			
13	Payment for recruiting foreign experts and workers	✓			
14	Deposit at rate of 50% to Environmental protection special accou		✓		✓
15	Donations to government entities	✓			
16	Reimbursement for deposit exploration conducted with State fund		✓		✓
17	Training bonus paid under PSA (for the year)		✓		✓
18	Licence fee for exploration and exploitation of petroleum		✓		✓
19	Tax on vehicle's gasoline and diesel fuel	✓			
20	Operational support to Representative office under PSA		✓		✓
No.	Subnational financial streams for inclusion	Company	Licence		Amendment required to e-Reporting template
1	Real estate tax		✓		✓
2	Fee for water use		✓		✓
3	Land fee		✓		✓
4	Bonus received for local development under PSA		✓		✓
5	Fee for use of mineral resources of wide spread		✓		✓
6	Penalty	✓			
7	Tax on vehicle and self-moving mechanisms		✓		✓
8	Fee for water pollution		✓		✓
9	Deposit at rate of 50% to Environmental protection special accou		✓		✓
10	Recovery	✓			
11	Dividends from locally-owned enterprises	✓			
12	Fee for recruiting foreign experts and workers	✓			

Source: Mongolia's table of payments from their 2017 EITI Report, pp. 144-145. Available at: <https://eiti.org/document/mongolia-2017-eiti-report>

(3) Documenting the findings on how revenues should be reported

The MSG is advised to document the findings of its review of how the various payments and revenue streams are levied. Building on the “definition template” suggested under step 1 above, a practical approach could be for the MSG to document the following explanation in order to clarify which payments should be disaggregated by project vs company:

“Where payments are attributed to a specific project – [list the payment types levied by project] - then the total amounts per type of payments shall be disaggregated by project. Where payments are levied at an entity level rather than at a project level – [list the payment types levied by company] – the payments will be disclosed at an entity level rather than at a project level.”

Step 3 – Identifying who should report what

In accordance with the EITI Standard, all oil, gas and mining companies that make *material* payments to a government entity, including state-owned enterprises (SOEs) are required to disclose their payments. This principle is retained also in project level reporting. However, in arrangements which involve multiple parties it might be necessary to identify what kind of payments are effectuated by the different parties to the contract. It might also be necessary to look at the payments effectuated by different companies or received by different government bodies, including SOEs. MSGs are therefore advised to consider the following questions:

(1) Are there projects involving multiple companies/participants common in your country? If so, who makes the payments to the government?

Given the risks and costs associated in particular with upstream oil and gas projects, agreements are often entered into by several companies which act together in a consortium or joint venture. These joint ventures may be incorporated as a new company, in which they report as all other companies under step 1 and 2, or remain unincorporated. Unincorporated joint ventures often share risk, costs and financing through joint venture agreements (JVA) or joint operating agreements (JOA) and typically designate an *operating company* or “operator” which manages most joint administrative and operational tasks on behalf of all the participants.

According to Requirement 4.7, it is the *legal agreement* which forms the basis for the payments that matter. Where they exist, JVAs or JOAs determine which entity(ies) is/are responsible for making payments to the government.

In most cases, the operator is responsible for making payments from a joint account on behalf of the consortium/JV as a whole, with each partner funding its pro rata share of such payments by means of “cash calls” (contributions to the joint account) managed by the operator. As an exception to this practice, taxes tend to be levied on and paid by each individual participant. If necessary, the operator may settle the individual accounts of the various participants subsequently within the consortium/JV. In such cases, for the purpose of EITI reporting, the operator should disclose the payments it makes to the government on behalf of the consortium/JV, with other parties disclosing only taxes levied directly on them.

In other countries, (francophone Africa, for example), all participants in a contract are responsible for their respective shares of payment liabilities and each make their payments to the government directly. In these cases, for the purposes of EITI reporting, each participant discloses all their payments. I.e. the operator could disclose only its own share of the payments and taxes. Other parties would each disclose both their respective pro rata shares of the payments and taxes imposed on the consortium/JV and any taxes imposed directly on themselves.

Government entities report the total revenues received for the project in accordance with how these revenues are recorded in their systems.

Examples of projects with different parties making payments

In **Indonesia**, oil and gas operators report on details for various Production Sharing Contracts (PSCs) pertaining to different fields/blocks. They also include information regarding the

different participants, each with their corresponding participating interest share. The reporting templates available on their websites provide disaggregated data by operator and by block for non-tax payments levied on projects through the respective PSCs (these non-tax revenues include production share, royalties, domestic market obligations and more). Tax payments are made by each individual participating company and are therefore reported by each party to a PSC, per PSC.³⁸ In **Trinidad and Tobago**, the operators are responsible for paying a profit share and other payments on behalf of itself and other parties in the PSC to the Ministry of Energy and Energy Industries (MEEI). However, if MEEI participates in the PSC, the ministry is ...

“[...] responsible under the PSC for payment, [...] out of the Government’s Share of Profit Petroleum, of the Contractor’s liability for Royalty, Petroleum Impost, Petroleum Profits Tax, Supplemental Petroleum Tax, Petroleum Production Levy, Green Fund Levy, Unemployment Levy and any other taxes or impositions whatsoever measured upon income or profits arising directly from the operations.”³⁹

This means that all payment liabilities levied on companies for these projects are voided, while the only payment obligation levied on projects is the Government’s Share of Profit Petroleum, less the payments made by MEEI on behalf of the companies.

In **Kazakhstan**, some PSAs are still in use as the governing instrument for petroleum projects. One of the largest is Tengizchevroil LLP, an incorporated joint venture which, according to Kazakhstan’s 2017 EITI Report,⁴⁰ is owned by Chevron, ExxonMobil, KazMunaiGas and LukArko. As it is an incorporated joint venture, operated by Tengizchevroil LLP, the operator has its own taxpayer ID number and would be treated as a single company under a PSA for the purposes of EITI reporting.

Incorporated joint ventures such as this example are treated as any other company in EITI reporting. In other instances, the government may require the parties to regulate their activities through a joint operating agreement without incorporating a specific legal entity. Such arrangements are typically considered *unincorporated joint ventures*.

Company reporting examples: Operator and proportionate reporting of production entitlements by BP and Equinor

BP’s 2018 Payments to governments report⁴¹ discloses government production entitlements in their entirety for all partners in the joint venture for each production-sharing agreement (PSA). Equinor’s 2018 payments to governments report⁴² includes its proportionate production

³⁸ Indonesia EITI (2018), ‘2016 Indonesia EITI Report’, annex 1 and 2. Available at:

<https://eiti.org/document/2016-eiti-indonesia-report>

³⁹ Trinidad and Tobago (2018), ‘2015-2016 Trinidad and Tobago EITI Report’, page 91. Available at:

<https://eiti.org/document/2016-trinidad-tobago-report>

⁴⁰ Kazakhstan EITI (2018), ‘2017 Kazakhstan EITI Report’, pages 71-72. Available at:

<https://eiti.org/document/2017-kazakhstan-eiti-report>

⁴¹ BP (2019), ‘Report on payments to governments 2018’. Available at:

<https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/sustainability/group-reports/bp-report-on-payments-to-governments-2018.pdf>

⁴² Equinor (2019), ‘Equinor annual report 2018’. Available at:

<https://www.equinor.com/content/dam/statoil/documents/annual-reports/2018/equinor-2018-annual-report.pdf> (p. 273)

entitlements payment when it is not the operator of the joint venture since “size of such entitlements can in some cases constitute the most significant payments to governments”.

(2) Does a state-owned enterprise operate in your country? If so, what role do they play and how do they disaggregate payments and/or receipts?

State-owned enterprises (SOEs) often represent important institutions in the extractive sector of EITI implementing countries. Although less common or dominant in the mining sector, they may still play an important role by owning and operating projects, or through their participation in joint ventures.

The EITI requires that the multi-stakeholder group ensures that the reporting process comprehensively addresses the role of SOEs, including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.⁴³ Where SOEs operate alone, they are subject to the same reporting requirements as private companies.

Where the state sells its share of production or collects other material revenues in-kind, the government, including state-owned enterprises, are required to disclose the volumes received and sold, and revenues received relating to that production and to publish data disaggregated by individual buying company ([Requirement 4.2](#)).⁴⁴ Requirement 4.2 states that “published data must be disaggregated by individual buying company and to levels commensurate with the reporting of other payments and revenue streams (4.7).” Payments and other disclosures related to the sale of the state’s share of production or other revenues collected in kind must therefore also be disaggregated by sales contract or agreement (i.e. the legal agreements that give rise to payments made by buying companies). In practice, with a long-term sales contract (i.e. over multiple years), implementing countries should disclose the volume of the commodity sold and any payments received in relation to that contract. Where there are multiple contracts (e.g. different sales contracts related to different grades of oil from different fields), this information would need to be disaggregated. The MSG is also expected to consider whether to break down the information further by individual sale, type of product and price, in consultation with buying companies.

Regardless of whether an SOE is considered a payer, a revenue collector, or both, disclosures by SOEs must be disaggregated by project if the payment type is levied by project.

Examples

Sometimes SOEs act as a fiscal agent by collecting revenue on behalf of governments. In the **Republic of the Congo**, the state-owned enterprise receives in-kind payments from private companies on behalf of the state, which it is responsible for marketing. In this instance, once companies’ payments are reported per project, the government’s share will also implicitly be disaggregated by project.

Other times, SOEs may play similar roles as private companies by making payments to governments in accordance with their participation in various projects. In **Ghana** for example,

⁴³ EITI (2019), ‘Guidance note 18 SOE participation in EITI reporting’. Available at: <https://eiti.org/GN18>

⁴⁴ EITI (2019), ‘Guidance note 26 Reporting on first trades in oil’. Available at: <https://eiti.org/GN26>

[Ghana National Petroleum Corporation](#) (GNPC) participates in multiple petroleum projects lifting barrels of oil for the payment of carried and participating interests, as well as royalties. The operator and other partners are liable the remaining cash payments (tax and non-tax payments). In Ghana's 2016 EITI Report⁴⁵, payments for carried interests, participating interests and royalties are all reported separately by GNPC for the Jubilee field, including disaggregation between oil and gas.

Consistent with project-level reporting, GNPC also discloses sales of oil liftings to buying companies from the Jubilee and TEN fields in a commodity trading pilot report.⁴⁶ The data is available in open data format, and disaggregated by oil lifting rounds in 2015-2017.

Step 4 – Agreeing a reporting framework and templates

Once the MSG has applied the definition of project (step 1), analysed which payments should be disaggregated at project vs entity level (step 2), and which reporting entities should report which payment (step 3), the MSG is advised to consider whether existing disclosures by government agencies and companies meet the EITI Requirement, and opportunities for incorporating project-level reporting through government and company disclosures (i.e. annual reports, websites and open data portals). Where systematic disclosures by governments, SOEs and companies are not sufficiently disaggregated by project based on the answers to the questions in steps 1-3, the MSG should ensure EITI reporting templates are designed to enable project-level reporting of financial data.

In April 2019, the EITI Board approved the Summary data template 2.0, to enable collection of project-level data for all EITI countries. **MSGs are advised to design reporting templates equivalent to the tables in Part 5 of summary data templates or draw on the model reporting templates in excel provided by the EITI International Secretariat.**⁴⁷

The **Philippines** uses reporting templates which they specifically ask to be filled out *per project*. This is a simple solution to ensure that existing reporting reporting templates capture project-level data. It is important that changes to reporting templates requiring project-level reporting are communicated explicitly through capacity building and training for reporting entities to avoid misunderstandings (e.g. only reporting by company).

⁴⁵ Ghana EITI (2018), '2016 GHEITI Oil and Gas Report'. Available at: http://www.gheiti.gov.gh/site/index.php?option=com_phocadownload&view=category&download=347:2016-gheiti-oil-and-gas-report&id=45:2016&Itemid=54

⁴⁶ Ghana EITI (2018), 'Ghana EITI Commodity Trading Pilot'. Available at: <https://eiti.org/document/report-on-ghana-eiti-oil-gas-commodity-trading-pilot>

⁴⁷ EITI (2019), 'Summary data template'. Available at: <https://eiti.org/summary-data-template>

Figure 4: Screenshot from Philippines' reporting templates

1. Reporting templates

COMPANY INFORMATION

NAME OF COMPANY:

NAME OF PROJECT

LOCATION OF PROJECT (PROVINCE, MUNICIPALITY, BARANGAY):

ADDRESS OF COMPANY'S PRINCIPAL OFFICE:

TIN:

A. Bureau of Internal Revenue (BIR)

Type of tax	Period covered (Cut-off date)	Amount paid	Remarks
Excise tax on minerals			
Corporate income tax			
Withholding tax			
<i>Foreign shareholder dividends</i>			
<i>Profit remittance to principal</i>			
<i>Royalties to claim owners</i>			
Improperly accumulated retained earnings tax (IAET)			

Source: Reporting templates, PH-EITI (2019). Excerpt from Oil and Gas Companies' reporting templates
<https://ph-eiti.org/Country-Reports/#/Reporting-Templates>

Table 1: Excerpt from Summary data template 2.0

Government revenues by company and project												
EITI Requirement 4.1.c: Company payments ; EITI Requirement 4.7: Project-level reporting												
Company	Government entity	Revenue stream name	Levied on project (Y/N)	Reported by project (Y/N)	Project name	Reporting currency	Revenue value	Payment made In-kind (Y/N)	In-kind volume	Unit	Comments	
EITI LLC	Tax Revenue Authority	Extractives Profit Tax	No	No	Greeny South LNG	USD	10,000,000					
EITI LLC	Tax Revenue Authority	VAT	No	No	Non-project payments	USD						
EITI LLC	Ministry of Mines	Mining royalties	Yes	Yes	Alphago Mine	USD						
EITI LLC	Ministry of Mines	Concession fees	Yes	Yes	Alphago Mine	USD						
EITI LLC	SOE	Oil/gas royalty	Yes	Yes	Greeny South LNG	USD						
EITI LLC	SOE	Gas flaring fee	Yes	Yes	Greeny South LNG	USD	75,000					
EITI LLC	SOE	License fees	Yes	Yes	Greeny South LNG	USD	2,870,000					
EITI LLC	Other Govt. Agency	Payment type A	Yes	Yes	Greeny South LNG	USD						
EITI LLC	Other Govt. Agency	Payment type B	Yes	Yes	Greeny South LNG	USD						
Totally green Ltd	Ministry of Mines	Payment type A	Yes	Yes	Deep Blue Mine	USD						
Totally green Ltd	Ministry of Mines	Payment type B	Yes	Yes	Alphago Mine	USD	1,000,000					
Totally green Ltd	SOE	License fees	Yes	Yes	Deep Blue Mine	USD						
Totally green Ltd	SOE	Gas flaring fee	Yes	Yes	Deep Blue Mine	USD						
Totally green Ltd	SOE	License fees	Yes	Yes	Deep Blue Mine	USD						
Totally green Ltd	Other Govt. Agency	Payment type A	Yes	Yes	Deep Blue Mine	USD						
Totally green Ltd	Other Govt. Agency	Payment type B	Yes	Yes	Deep Blue Mine	USD						
Commodity Trader Inc	SOE	Sale of state's share of production	Yes	Yes	Sales contract X	USD	1,000,000	Yes	20,000	Bbl	Realised at a price of USD 50/bbl	
<i>Add new rows as necessary, right click the row number to the left and select "Insert"</i>												
Total						USD	14,625,000					

Indonesia requires operators of a project to disclose operational and financial information relevant to a project (see example under step 3). As an example of reporting, we present the reporting template below where the operator, “JOB Pertamina Talisman Jambi Merang” reports multiple payments for a project. Partners that are non-operators, such as Pacific Oil & Gas Ltd and Talisman Ltd, are only required to report on their tax obligations to the government:

Figure 5: Reporting in Indonesia

Appendix 3.1 KKKS Reconciliation Summary For 2016

60 JOB Pertamina - Talisman Jambi Merang
Jambi Merang

Table 1 - Reconciled

Revenue Stream	Before Reconciliate				After Reconciliate			
	KKKS	Government	Initial Different	Desc.	KKKS	Government	Unreconciled Different	Desc.
	(1)	(2)	(3) = (2) - (1)	(4)	(5)	(6)	(7) = (6) - (5)	(8)
KKKS:								
Government Lifting Oil (In Bare)	331.449	331.449	-		331.449	331.449	-	
Government Lifting Gas (In MSCF)	4.158.282	4.130.358	(27.924)	1	4.130.358	4.130.358	-	
Domestic Market Obligation (In Bare)	53.235	53.540	305	1	53.540	53.540	-	
Total Lifting Oil (In Thousands USD)	30.188	30.188	-		30.188	30.188	-	
Total Lifting Gas (In Thousands USD)	93.773	93.773	1	3	93.773	93.773	1	B
Domestic Market Obligation Fee (In Thousands USD)	259	259	-		259	259	-	
Over/(Under) Lifting Oil (In Thousands USD)	1.641	(1.641)	(3.282)	1	(1.641)	(1.641)	-	
Over/(Under) Lifting Gas (In Thousands USD)	51	(51)	(102)	1	(51)	(51)	-	
		D. G. Oil & Gas				D. G. Oil & Gas		
Total Lifting Oil (In Bare)	742.421	718.021	(24.400)	1	742.421	742.421	-	
Total Lifting Gas (In MMBTU)	15.748.692	15.748.692	-		15.748.692	15.748.692	-	
Signature Bonus (In Thousands USD)	-	-	-		-	-	-	
Production Bonus (In Thousands USD)	-	-	-		-	-	-	
		D. G. Tax				D. G. Tax		
Corporate and Dividend Tax (In Thousands USD)	18.314	-	(18.314)	1	18.314	-	(18.314)	A
Land and Building Tax (In Millions Rupiah)	-	-	-		-	-	-	
		D. G. Budget				D. G. Budget		
VAT Reimbursement (In Millions Rupiah)	25.916	66.773	40.857	1	25.916	107.240	81.324	A
		SKK Migas				SKK Migas		
Government Lifting Oil - Expor & Domestic (In Thousands USD)	13.748	13.748	-		13.748	13.748	-	
Government Lifting Gas - Expor & Domestic (In Thousands USD)	29.150	29.150	-		29.150	29.150	-	
		D. G. Tax				D. G. Tax		
PARTNER - Corporate and Dividend Tax (In Thousands USD)	8.772	10.197	1.426	2	9.821	9.821	-	
Talisman (Jambi Merang) Limited	9.492	9.492	-		9.492	9.492	-	

Description:

- 1 Initial reporting is incomplete or incorrect
- 2 Companies submit the report using accrual basis method
- 3 Rounding

Description:

- A Undi deadline, reporting entity doesn't provide confirmation or explain for the differences
- B Rounding

Source: Indonesia EITI (2019), '2016 Indonesia EITI Report', screenshot from Appendix 4, page 143.

Available at: <https://eiti.org/document/2016-eiti-indonesia-report>

Additional information and further readings

Mandatory disclosures under EU/EEA and Canada's ESTMA

The 27 European Union member states, Norway and Canada, have introduced legislation requiring certain oil, gas and mining entities incorporated or listed in their jurisdictions to disclose payments to governments by payee and by project in the countries where they operate. While similar, it is noteworthy that project-level reporting under EU and Canada's ESTMA is different from EITI as data are based on the operations of the entity listed or incorporated in Europe and Canada. EITI also requires that government agencies report on the revenues collected, meaning that, in order to be readily comparable, the level of disaggregation and understanding of projects must be the same for companies and government agencies. While entities' financial year may be different to those of governments, it is possible that the mandatory disclosures by such entities will satisfy the company reporting requirements under EITI, depending on the MSG's approach to project-level reporting. The alignment of the definition of "project" in the 2019 EITI Standard with the existing mandatory disclosure requirements in the EU and Canada seeks to ensure that the information is consistent and comparable across jurisdictions.

The **European Union Accounting Directive's** corporate disclosure rules were due to be transposed into national legislation by 20 July 2015 and all EU member countries and EEA signatories have

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taken various actions to do so.⁴⁸ Article 6 of the **EU Transparency Directive** extended the reporting obligations in the Accounting Directive to all relevant companies whose securities are publicly listed on EU regulated stock markets, regardless of whether they are incorporated in the EU. All countries have now transposed these reporting requirements into their national laws and present multiple examples of corporate filings under the EU Accounting and Transparency Directive.

Corporate filings for UK incorporated companies under the UK legislation are available on Companies House extractives service which are accessible here:

<https://extractives.companieshouse.gov.uk/>

Guidance for the Companies House extractives service can be found here:

<https://www.gov.uk/government/publications/filing-reports-for-the-extractives-industries/guidance-for-the-companies-house-extractives-service>

Companies listed on the main market of the London Stock Exchange, but not incorporated in the EU, must file their reports according to the Financial Conduct Authority's Disclosure Guidance and Transparency Rules (DTR) 4.3A here

<https://www.handbook.fca.org.uk/handbook/DTR/4/3A.html> and make an

announcement to the UK's National Storage Mechanism (NSM) here

<http://www.morningstar.co.uk/uk/NSM>

Canada's **Extractive Sector Transparency Measures Act (ESTMA)** has contributed significantly to global efforts to increase transparency in the extractive sector. Since the ESTMA came into force in 2015, more than 1,500 ESTMA reports with project-level disclosure have been published online. These reports, containing payments in 130 countries totalling over USD 330 billion, are a valuable source of information to view existing practices of companies reporting by project.

For more information and guidance regarding company disclosures under ESTMA, please see <https://www.nrcan.gc.ca/mining-materials/estma/18180>

Links to ESTMA filings: <https://www.nrcan.gc.ca/our-natural-resources/minerals-and-mining/mining-resources/extractive-sector-transparency-measures-act/links-estma-reports/18198>

ESTMA reporting templates (excel):

<https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/Revised%20ESTMA%20Reporting%20Template.xlsx>

UK Extractives Service (XML schema) according to EU Directive:

<http://xmlgw.companieshouse.gov.uk/extractives.shtml>

In order to improve accessibility, the Natural Resource Governance Institute maintains a database of Payments to Governments reports submitted by companies under EU/EEA and Canadian legislation. The information is converted into open data and is available at <https://resourceprojects.org/>

⁴⁸ Information about Directive 2013/43/EU, European Commission.

https://ec.europa.eu/info/law/accounting-rules-directive-2013-34-eu/law-details_en