



**COMMENTS BY THE EITI
MADAGASCAR NATIONAL
COMMITTEE ON THE
VALIDATION REPORT**

National Committee – 27 April 2018

1. INTRODUCTION

In 2007, the Government of Madagascar announced its commitment to implementing the international EITI Standard and the country was accepted as an EITI candidate country in February 2008. After the EITI Board decided in October 2011 to suspend the country due to political instability, resulting in interruption of the country's validation under the EITI's rules, the Prime Minister, Jean Omer Beriziky, issued a government resolution in March 2013 reactivating the EITI in Madagascar and establishing a permanent EITI National Committee. The EITI Board lifted Madagascar's suspension in June 2014 and in August 2017 the Government issued Decree 2017/736, institutionalizing the EITI in Madagascar under the supervision of the Prime Minister. The National Committee, which is the deliberative body of EITI Madagascar, is chaired by the Minister for Mines and Petroleum, SEM. ZAFILAHY Ying Vah. The National Committee comprises eight representatives from each of the three colleges (government, civil society and the extractive industries).

On October 24, 2016, the EITI Board decided that validation of Madagascar to the EITI Standard would begin on September 1, 2017.

As foreseen in the Validation Guide, the International Secretariat has completed the first phase of validation, i.e. initial data collection, stakeholder consultations and the preparation of its initial assessment of progress in respect of the EITI requirements. The company Adam Smith International (ASI) has been appointed as Independent Validator to evaluate work carried out by the International Secretariat in compliance with the Validation Guide.

The National Committee would like to thank the International Secretariat and ASI for their objective assessments, and believes that the following comments will contribute to a better appreciation of the efforts and progress made by Madagascar in implementing the EITI global standard for transparency in the extractive industries.

The principal responsibility of ASI as validator is to review the initial assessment, modify it as needed, and provide a summary of its independent review in a validation report for submission to the Board via the Validation Committee. So the draft validation report followed a quality assurance review of the initial assessment by the International Secretariat. The validator confirmed the Secretariat's initial assessment that Requirements 1.1, 1.3, 1.4, 2.2, 2.4, 2.6, 4.1, 4.4, 4.6, 4.7, 4.9, 5.1, 5.2, 6.2 and 7.4 of the EITI Standard have not been met. The validator believes that the progress made with respect to Requirement 2.2 is inadequate and not meaningful.

The National Committee has therefore consolidated its comments on the validation report in the present document.

2. REMARKS ON THE INITIAL ASSESSMENT BY THE INTERNATIONAL SECRETARIAT AND THE ASSESSMENT BY THE INDEPENDENT VALIDATOR

Having read the initial assessment report prepared by the International Secretariat and the validation report produced by the Independent Validator, the National Committee notes that the Independent Validator is in agreement with the initial assessment of the International Secretariat except as regards Requirement 2.2, which the Validator wants to downgrade to "inadequate progress" instead of the "meaningful progress" initially noted by the International Secretariat.

The National Committee notes that misunderstandings remain in the analysis of the

Malagasy context, both as regards legislation and as regards the efforts undertaken by the National Committee to improve the implementation of transparency in the extractive sector through, inter alia, the publication of EITI reports and implementation of the Standard. The members of the National Committee have therefore decided to provide the following clarifications on the issues raised in respect of the following Requirements:

- Requirements 1.1, 1.3 on government engagement and civil society engagement and also Requirement 1.4 sur on governance of the multi-stakeholder group
- Requirement 2.2 on license allocations
- Requirement 2.4 on the disclosure of contracts
- Requirements 4.1 and 4.9 on the comprehensiveness and quality of data
- Requirement 4.6 on subnational payments
- Requirement 6.2 on quasi-fiscal expenditures

3. RESPONSES BY THE NATIONAL COMMITTEE

The National Committee therefore presents in what follows all of the measures that have been carried out and that are planned in order to respond to the assessments and recommendations made in the validation report concerning, in particular, the nine Requirements, with which it disagrees and which are listed above:

3.1 REQUIREMENTS 1.1, 1.3 ON GOVERNMENT ENGAGEMENT AND CIVIL SOCIETY ENGAGEMENT AND REQUIREMENT 1.4 SUR ON GOVERNANCE OF THE MULTI-STAKEHOLDER GROUP

The engagement of the three parties that make up the National Committee are of paramount importance for the successful implementation of the EITI. Since the reactivation of the National Committee in 2013, its members have worked to implement the commitments of the constituencies, which they represent. The National Committee is gratified to note that the assessments of the International Secretariat and the Independent Validator recognize the engagement of the extractive industries as "progress beyond". The National Committee would also draw attention to the level of solidarity and scale of the work carried out on a tripartite basis, particularly during the relevant period (from 2014 to 2017). The National Committee wishes to point out that the three constituencies have always been represented in the course of work by the Committee. The quality of the work carried out and of the published reports, led alternately by the representatives of the different colleges, testify to the efforts that have been made by the representatives of government, civil society and the extractive industries. For example, during the last semester of 2016, in the absence of an executive secretary, preparation of the annual progress report for 2016 was led by the civil society representative, preparation of the roadmap was led by a government representative, etc. These engagements might be viewed as personal engagements by each member, but the National Committee would like to recognize in them the engagement of the entities, which the members represent.

In addition, the National Committee recognizes that the Committee's functioning has not always been easy, especially during difficult periods when there has been a lack of funding and staff numbers of the National Secretariat were reduced. The members have all contributed actively to the good conduct of work by EITI Madagascar in order to make progress and pursue implementation of the Standard in our country. The members of the National Committee may have been criticized for holding meetings at short notice or for holding too many meetings in a given period; but these meetings and the activities carried out at the time justified the voluntary and spontaneous engagement by the members of the National Committee, who were keen to

show their commitment to continuing implementation of the EITI Standard in Madagascar and to pursuing implementation despite difficulties along the way. The persistence of the members has even led to the conduct of a study to identify and correct shortcomings in the governance of the National Committee. This study, "Strengthening governance of the multi-stakeholder group" was entrusted to Ernst & Young and was made public in March 2017 (www.eitimadagascar.org/publication).

The recommendations of the study have already been put into force by publication of the decree, which institutionalizes the EITI in Madagascar, and they are being further implemented. The National Committee is certainly aware that resolution of the financing problem at the level of the National Secretariat is one of the keys to achieving further improvement in functioning of the National Committee. Indeed, the recruitment of more staff to the National Secretariat would greatly alleviate the work of members of the National Committee and the Executive Secretary. Lobbying efforts are continuing, targeted at the Prime Minister's office and the government, to ensure sustained funding for the operation of EITI Madagascar in accordance with the decree on institutionalization. The National Committee believes that "satisfactory progress", which the assessments recognize in the implementation of work plans and compliance with recommendations, is a telling result of fruitful collaboration between the three constituent parts of EITI Madagascar.

The National Committee therefore proposes reconsidering Requirements 1.1 and 1.3 on government and civil society engagement in implementation of the EITI Madagascar as well as compliance with Requirement 1.4 concerning the multi-stakeholder group and that they should be revised to "satisfactory progress" and not "meaningful progress".

3.2 REQUIREMENT 2.2 ON LICENSE ISSUE

As stated in the annual work plans, the National Committee has always been focused on implementing transparency, particularly in the key areas of extractive sector management, which are the management of mining licenses and of geo-scientific data.

Description of the process for the transfer or issue of licenses, as provided for in current legislation, is publicly available and was presented in the EITI report for 2014. It should be noted that, based on the principle of license allocation on a "first come, first served" basis, technical and financial assessment of applications is made according to the criteria of admissibility and handling that are established by current legislation. Since the transition period, when there was a moratorium on the issue of mining licenses, the National Committee has always campaigned for transparency in the management of mining entitlements by the Mining Cadastre Office of Madagascar. A diagnostic study of the situation was entrusted to an independent consultant, which was asked to review pending applications and analyze the terms, effectiveness and efficiency of licensing procedures in Madagascar, and to do so in the context of trends and good practice at international level. Follow-up reports on recommendations that were prepared and issued by EITI Madagascar to increase transparency in the management of mining licenses have been regularly presented to the stakeholders. This has been done, inter alia, in order to track how the management of mining licenses has evolved since the moratorium of 2011 on the granting of new licenses. The National Committee therefore considers that it has met the Requirement on license allocation by the disclosure of a complete list of licenses in force and license movements in the fiscal year concerned by the EITI Report.

The granting of mining licenses and the handling of all outstanding applications by the Mining Cadastre Office to meet the expectations of one or more stakeholders remains a

political decision for the government. The duty of the National Committee in its implementation of transparency in the extractive sector and the application of the EITI standard is to insist on the full disclosure of licensing procedures and of the list of licenses granted and to ensure efficient follow-up through, inter alia, EITI reports and publications on the studies, which the Committee has commissioned.

In addition, planned reforms to the Mining and Petroleum Code have been reported in order to give the general public an understanding of coming changes in the management of mining licenses. The National Committee believes that Madagascar has made satisfactory progress, despite the complexity and sensitivity of this issue, since it has disclosed the information required in the 2014 EITI Report and the information gaps on mining licenses in the 2014 EITI Report have been filled by the new online cadastre of the Mining Cadastre Office and by the provision of access on request to the Mining Cadastre Office.

The National Committee is of the opinion that Madagascar has made “satisfactory progress” in respect of Requirement 2 regarding license allocations.

3.3 REQUIREMENT 2.4 ON THE DISCLOSURE OF CONTRACTS

This requirement encourages implementing countries to publicly disclose all contracts and licenses that lay down conditions for the extraction of oil, gas and minerals. The recommendations suggest that Madagascar needs to clarify and document the government's policy regarding the disclosure of contracts and licenses, as well as actual practice, including any reform that is planned or ongoing.

The National Committee wishes, as part of the self-assessment, to clarify and maintain the opinion that, as regards the mining sector, the relative importance of contracts is practically non-existent. The terms governing mining operations in Madagascar are set out in the Constitution, the Mining Code, the law on large mining investments and their implementing regulations as well as in legislation related to mining activities. The QMM establishment conventions, which were approved by the National Assembly, represent an exception.

Standard plans and specifications that are accessible for consultation by the general public at relevant entities, such as the Mining Cadastre Office and the Interregional Mining Directorates, as well as the environmental specifications, which are available on request from the National Environment Office and decentralized territorial administrations, are provisions that have been created under current legislation.

As regards the petroleum sector, EITI reports show that model contract templates are publicly available via the link www.omnis.mg. Press cuttings on this matter are appended to the present document.

The National Committee is therefore of the opinion that current legislation clarifies the specific situation of Madagascar as regards management of all the operators and all the industries that function in the mining and petroleum sectors. Mining contracts and mining agreements as understood in other countries are not applicable in Madagascar.

As a consequence, the National Committee considers that Madagascar has fully met Requirement 2.6 of the EITI Standard on contract disclosure. The Committee therefore requests amendment of the assessment to "satisfactory progress" instead of "meaningful progress".

3.4 REQUIREMENTS 4.1 AND 4.9 ON COMPREHENSIVE DISCLOSURE OF TAXES AND REVENUES AND DATA QUALITY

"Under Requirement 4.1.a, the multi-stakeholder group should ensure that its materiality decisions in selecting companies and revenue streams in the reconciliation process are clearly documented. In its approach to the materiality of revenue streams, the multi-stakeholder group is encouraged to strike a balance between comprehensiveness and relevance for stakeholders, to ensure that a feasible approach to reconciliation is adopted and to facilitate the integration of revenue transparency into government and company systems. Under Requirement 4.1.c, the multi-stakeholder group should ensure that the materiality of the payments made by each non-reporting entity is subject to a clear assessment in order to support overall assessment by the independent administrator of the completeness of the reconciliation. In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds."

One of the challenges facing EITI Madagascar was to explain to the general public the existence of several revenue streams in the extractive sector, other than mining royalties. This is why EITI reports have always strived to integrate all payment flows from the extractive sector through a very comprehensive list of taxes related to the mining and oil sectors, as reported in the 2014 EITI report. There are about sixty types of payments that constitute material revenues from the extractive sector and that have different relative importance. The balance between completeness and relevance could only be taken into account after statistics were obtained in recent years on the evolution of these different flows. Also, this analysis was integrated in the 2015 and 2016 EITI reports through an in-depth analysis of payment flows in the scoping study for these reports. The same was true when preparing the 2014 EITI report with a preliminary analysis documented in the report's materiality and framing report.

Complying with the audit procedures applied by the independent administrator to ensure the quality of data, the National Committee validated a clear and transparent process and procedures which are also documented in the scoping study.

The National Board therefore believes that the published EITI reports have largely met Requirement 4.1 regarding the comprehensiveness of taxes and revenues, and requests a reconsideration of the Requirement at the level of "satisfactory progress". The same applies to Requirement 4.9 regarding data quality.

3.5 REQUIREMENT 4.6 ON SUBNATIONAL PAYMENTS

The National Committee wishes to give the following clarifications regarding rebates and mining royalties. Two separate procedures exist, since the regulations initially provide for the possibility of collecting rebates and mining royalties at source. This would be a direct payment made by the operator to the local public treasury, which then transfers the quotas to the various beneficiaries.

However, it is the responsibility of the General Directorate of Mines, in the context of the export procedures that it carries out, to verify efficiency in the payment of rebates and mining royalties. In a case where the exporter has not yet made these payments, the General Directorate of Mines then establishes the order of payment of rebates and royalties together with quotas of the various beneficiaries and the operator must make these payments to the Central Treasury in Antananarivo. The public treasury then redistributes the revenues to the various intended beneficiaries.

From the end of 2014 mining administration fees at the level of the Mining Cadastre Office also switched to this system of payment at the level of the public treasury with subsequent transfer to beneficiaries.

Commented [BH1]: The French sentence begins "Depuis..." ("Since"), so the meaning could be that these sixty payment have been introduced since 2014, but the grammar of the sentence does not suggest that, and I think "depuis" here is just a badly chosen word and the intended meaning is "So..." or "Now..."

Dysfunctions have been found in EITI reports as to the regularity and efficiency of the redistributions. Regularizations and improvements have been noted following the recommendations that were made in previous EITI reports. However, the National Committee has decided to initiate the preparation of a report on international payments and transfers in order to identify possible obstacles and offer recommendations to improve the management of these revenue flows.

In addition, the recommendation, which was made in the validation report was taken into account in preparation of the 2015 and 2016 EITI reports.

As regards the specific case of Ambatovy, the resolutions on redistribution of mining rebates were recently published and are available as annexes to the present document. EITI Madagascar undertakes to monitor implementation of the provisions of these resolutions in future EITI reports.

As a consequence, the National Committee considers that Madagascar has made efforts to meet Requirement 4.6 of the EITI Standard on subnational payments and that results have been achieved, even though some recommendations have yet to be implemented. The Committee therefore requests an amendment of the assessment for sub-national transfers to "meaningful progress" instead of "inadequate progress".

3.6 REQUIREMENT 6.2 QUASI-FISCAL EXPENDITURES

As described in the recommendations of the 2014 EITI report, quasi-fiscal expenditures include agreements through which state-owned enterprises undertake social expenditures, such as payments for social services, for public infrastructure, fuel subsidies or servicing of the national debt, etc., outside the national budget process. The multi-stakeholder group is required to develop a reporting process to achieve a level of transparency equal to that which exists for other payments and revenue streams and to include subsidiaries of state-owned enterprises and associated operations.

The 2014 EITI Report mentions the need to clarify the existence of quasi-fiscal expenditures related to extractive sector revenues. The understanding of the National Committee is that the only state-owned company, which was taken into account, was KRAOMA. The company has in fact provided a declaration of its social spending. The National Committee held discussions during the self-assessment process to establish whether these represented mandatory social spending relating to environmental specifications or whether they were voluntary donations made to communities. It was concluded that these were mandatory and voluntary social expenditures, the list of which is disclosed in the 2014 EITI report. Based on this, no other expenditure was considered to represent a quasi-fiscal expenditure.

Therefore, the National Committee considers that the judgment as to Madagascar's "inadequate progress" in meeting the requirement reflects lack of understanding of what is required by the Standard and is based on statements established and verified by the independent validator. The Committee requests that this Requirement be adjusted to the level of "meaningful progress".

4. REMARKS ON THE VALIDATOR'S RECOMMENDATIONS

Taking into account the answers given below, the National Committee also wishes to provide the following additional information regarding the recommendations offered by the Independent Validator:

Commented [BH2]: Probably "above" is meant ("au-dessus", not "au-dessous")

Validator's recommendation	Comments of the National Committee
<p>1. In accordance with Requirement 1.1, the government must be fully, actively and effectively engaged in the EITI process. The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation. To further strengthen implementation following the institutionalisation of EITI Madagascar through the 2017 Decree, the government is encouraged to further entrench EITI funding in government budgeting to ensure the sustainability of EITI implementation over the long term. In accordance with requirement 8.3.c.i, the government constituency should develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment.</p>	<p>Since the adoption of the decree on institutionalization of the EITI in August 2017, all stakeholders, including the government, have reiterated their engagement.</p> <p>Further efforts have been made to energize these engagements by the appointment of leaders of the three constituencies that form the National Committee:</p> <ul style="list-style-type: none"> • Mr. Pamphile RAKOTOARIMANANA, Director General of Mines, • Mrs. Lydia BOARLAZA for extractive companies, and • Mr. Herinarahinjaka Eryck RANDRIANANDRASANA for civil society <p>They were nominated by their peers.</p> <p>They will also be responsible for developing an action plan to strengthen the engagements of their respective constituencies.</p> <p>Moreover, the introduction of sustainable financing of EITI structures from 2018 will further confirm the effective engagement of the government..</p>
<p>2. In accordance with requirement 1.3.a, the civil society constituency should demonstrate that they are able fully, actively and effectively engaged in the EITI process. Specifically, civil society should ensure that they are able to fully contribute and provide input to the EITI process and that they have adequate capacity to participate in the EITI. In accordance with requirement 8.3.c.i, the civil society constituency should develop and disclose an action plan for addressing the deficiencies in civil society engagement documented in the initial assessment.</p>	<p>The engagement of civil society has always been a part of EITI Madagascar since its implementation.</p> <p>A leader has been appointed. as provided for in the new procedure rules of the National Committee, to help make participation by all constituencies within the National Committee more efficient.</p> <p>Furthermore, the National Committee is committed to continuing its capacity-building efforts for civil society in order to make participation by civil society more effective, including the encouragement of debates and assertion of claims outside. the National Committee platform. The work plan of the National Committee in this direction is continuing, and includes activities such as training for journalists, ...</p>
<p>3. In accordance with Requirement 1.4.b.vii, the MSG should ensure that there is sufficient</p>	<p>EITI Madagascar experienced serious financial difficulties after the lifting of</p>

Validator's recommendation	Comments of the National Committee
<p>advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption. The MSG is encouraged to ensure that deviations from their ToR are recorded and transparent. Government and company constituencies are encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow the MSG to take decisions and follow up on them. In accordance with Requirement 1.4.b.viii, the MSG must keep written records of its discussions and decisions.</p>	<p>suspension in June 2014, including, inter alia, the functioning of the National Secretariat. This had a knock-on effect on the effectiveness of functioning of the National Committee. After publication of the decree on institutionalization of the EITI Madagascar and procedure rules for the National Committee, efforts are being made and will continue to be made to ensure that all the provisions of these texts become effective in order to improve and strengthen the governance of the National Committee, as provided for in the study initiated for that purpose. The procedure rules and the institutionalization decree are available in French and Malagasy versions.</p>
<p>4. In accordance with Requirement 2.2, a description of the process for transferring or awarding the license and the technical and financial criteria used should be publicly available. Not least given the significant debate surrounding license movements in the mining sector, EITI Madagascar is encouraged to use EITI reporting as a diagnostic tool for non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. In cases of competitive tender for mining, oil and gas licenses, the MSG will have to disclose the list of applicants and the bid criteria for licenses awarded through a bidding process. The MSG is encouraged to consider stakeholders calls for further analysis on the efficiency and effectiveness of licensing procedures in Madagascar.</p>	<p>The National Committee has commented on this matter in its responses above regarding Requirement 2.2 on license allocation.</p>
<p>5. In accordance with Requirement 2.4, EITI Madagascar should clarify and document the government's policy on disclosure of contracts and licenses, as well as actual practice, including any reforms that are planned or underway.</p>	<p>The National Committee has tried to respond to this recommendation above, in part 3.2 of the present document, regarding the contract Requirement on page xx.</p>
<p>6. In accordance with Requirement 2.6, the MSG should ensure that a comprehensive list of state participation in the extractive industries,</p>	<p>Compared with the EITI 2014 report, progress was made during preparation of the 2015 and 2016 EITI Report reports to respond to this recommendation and to</p>

Validator's recommendation	Comments of the National Committee
<p>including terms associated with state equity and any changes in the year under review, be publicly accessible. The MSG must also clarify the rules and practices governing financial relations between SOEs (most notably KRAOMA) and the state. The MSG may wish to liaise with relevant government entities and development partners to assess the extent to which clarification of such issues could support progress under the IMF extended credit facility. Stakeholders are encouraged to embed reporting of such information through routine government systems, for instance in publishing extractives SOEs' statutes and audited financial statements on a regular basis.</p>	<p>present a comprehensive list of the State's mining and petroleum sector holdings in the scoping study.</p>
<p>7. In accordance with Requirement 4.1.a, the MSG should ensure that its materiality decisions related to selecting companies and revenue streams for reconciliation are clearly documented. In its approach to the materiality of revenue streams, the MSG is encouraged to strike a balance between comprehensiveness and relevance for stakeholders, to ensure that a workable approach to reconciliation is adopted and to facilitate the embedding of revenue transparency in government and company systems. In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity is clearly assessed to support the IA's overall assessment of the comprehensiveness of reconciliation. In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of reconciliation, including revenues that fall below agreed materiality thresholds.</p>	<p>Please refer to the answer given regarding Requirement 4.1 for comprehensive tax and revenue disclosure. Also, significant changes to the methodology were made in order to incorporate this recommendation when preparing the EITI 2015 and 2016 reports.</p>
<p>8. In accordance with Requirement 4.4, the MSG</p>	<p>The National Committee takes note of this recommendation and the analysis carried</p>

Validator's recommendation	Comments of the National Committee
<p>should assess the materiality of government revenues from the transportation of minerals, clarifying the management of port-related fees on the transportation of minerals.</p>	<p>out by the independent administrator during implementation of the scoping study for the 2015 EITI Madagascar report showed that this payment was not significant. However, the National Committee commits to systematically verifying and disclosing payments made for the transportation of products in coming EITI reports, if such exist.</p>
<p>9. In accordance with Requirement 4.6, the MSG should establish whether direct subnational payments, within the scope of the agreed benefit streams, are material. Where material, the MSG is required to ensure that reconciled information on company payments to subnational government entities and the receipt of these payments be publicly accessible. EITI Madagascar may wish to provide more information on the disbursement of ristournes from Ambatovy to host communes built-up since the start of production in 2012 given the materiality of such delayed payments.</p>	<p>Please refer to what was stated above concerning Requirement 4.6 on direct subnational payments.</p>
<p>10. In accordance with Requirement 4.7, the MSG is required to ensure that EITI data is presented by individual company, government entity and revenue stream. To strengthen implementation, the MSG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018.</p>	<p>The National Committee will integrate this recommendation in work on future EITI reports covering the period ending on 31 December 2018 or later.</p>
<p>11. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent</p>	<p>The actions described in EITI reports are those which have been agreed upon and implemented on the advice of the independent administrator. When making its assessment the National Committee posed the question of how this result could be influenced by the proposals of the entity responsible for reconciliation, which has to guarantee the quality and the verification of data that has been submitted and validated by the National Committee.</p>

Validator's recommendation	Comments of the National Committee
<p>Administrator should:</p> <ul style="list-style-type: none"> a. examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his/her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided. b. ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided. c. ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested 	

Validator's recommendation	Comments of the National Committee
<p>information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.</p>	
<p>12. In accordance with Requirement 5.1, EITI Madagascar should publicly clarify which extractive industry revenues, whether cash or in-kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable. To strengthen implementation, EITI Madagascar may wish to use EITI reporting to monitor the migration of government finances towards a single Treasury account system, providing a platform for public information on the management of off-budget extractives revenues.</p>	<p>The National Committee understands this ultimate goal of EITI implementation. By reporting integrated income allocations in the participatory budget process the EITI Madagascar reports are intended to be a precursor to the achievement of this goal.</p>
<p>13. In accordance with Requirement 5.2, the MSG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity. The MSG is encouraged to reconcile these transfers.</p>	<p>This recommendation has been taken into account, since EITI reports have indeed shown that there are discrepancies between the calculated transfer amounts and the amounts actually received by the beneficiary entities. This is why the National Committee requested the study on subnational payments and transfers. It was done in order to better understand the mechanism of transfers and distribution and to identify, through the report's recommendations, possible blockages and solutions that would help to reconcile transfers.</p>
<p>14. In accordance with Requirement 6.2, the MSG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered</p>	<p>The National Committee has commented on this matter in its responses above regarding Requirement 6.2 on quasi-fiscal expenditures.</p>

Validator's recommendation	Comments of the National Committee
quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.	
15. In accordance with Requirement 7.4, the annual progress report should be the product of consultations with all stakeholders and include a review of the impact of EITI implementation. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the MSG, should be able to provide feedback on the EITI process and have their views reflected in the APR.	The National Committee takes note of this recommendation and hopes to make significant improvements in the next annual progress Report for 2017, both as regards consultation with stakeholders other than the members of the National Committee during finalization of the annual progress report, and as regards follow-up to establish the impact of EITI implementation in Madagascar.

5. ASSESSMENT BY THE NATIONAL COMMITTEE

The National Committee has undergone a self-assessment exercise, which has been difficult and has required deep analysis. This has been done in order to identify gaps so that corrective steps can be taken prior to assessment by the International Secretariat and the Independent Validator. The result of this exercise, which emerged in July 2016, was very challenging and has certainly helped the National Committee, by remaining impartial and objective, to rectify the implementation of the requirements of the Standard through several specific and tangible activities. In order to be faithful to this exercise of self-assessment and to recognize the improvements that have been achieved by the stakeholders since publication of the corrective measures, the National Committee has reassessed the compliance of Madagascar with the EITI Standard in the table below:

Figure 1 – Validator's assessment

EITI Requirements		LEVEL OF PROGRESS				
Categories	Exigences	No progress	Inadequate	Meaningful	Satisfactory	Beyond
MSG oversight	Government engagement (#1.1)			■	→	
	Industry engagement (#1.2)					■
	Civil society engagement (#1.3)			■	→	
	MSG governance (#1.4)			■	→	

	Work plan (#1.5)						
Licenses and contracts	Legal framework (#2.1)						
	License allocations (#2.2)						
	License register (#2.3)						
	Policy on contract disclosure (#2.4)						
	Beneficial ownership (#2.5)						
	State participation (#2.6)						
Monitoring production	Exploration data (#3.1)						
	Production data (#3.2)						
	Export data (#3.3)						
Revenue collection	Comprehensiveness (#4.1)						
	In-kind revenues (#4.2)						
	Barter agreements (#4.3)						
	Transportation revenues (#4.4)						
	SOE transactions (#4.5)						
	Direct subnational payments (#4.6)						
	Disaggregation (#4.7)						
	Data timeliness (#4.8)						
Data quality (#4.9)							
Revenue allocation	Distribution of revenues (#5.1)						
	Subnational transfers (#5.2)						
	Revenue management and expenditures (#5.3)						
Socio-economic contribution	Mandatory social expenditures (#6.1)						
	SOE quasi-fiscal expenditures (#6.2)						
	Economic contribution (#6.3)						
Outcomes and impact	Public debate (#7.1)						
	Data accessibility (#7.2)						
	Follow up on recommendations (#7.3)						
	Outcomes and impact of implementation (#7.4)						

Legend to the assessment card

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI requirement.
	The country has gone beyond the requirement.

This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.

The MSG has demonstrated that this requirement is not applicable in the country.

6. CONCLUSION

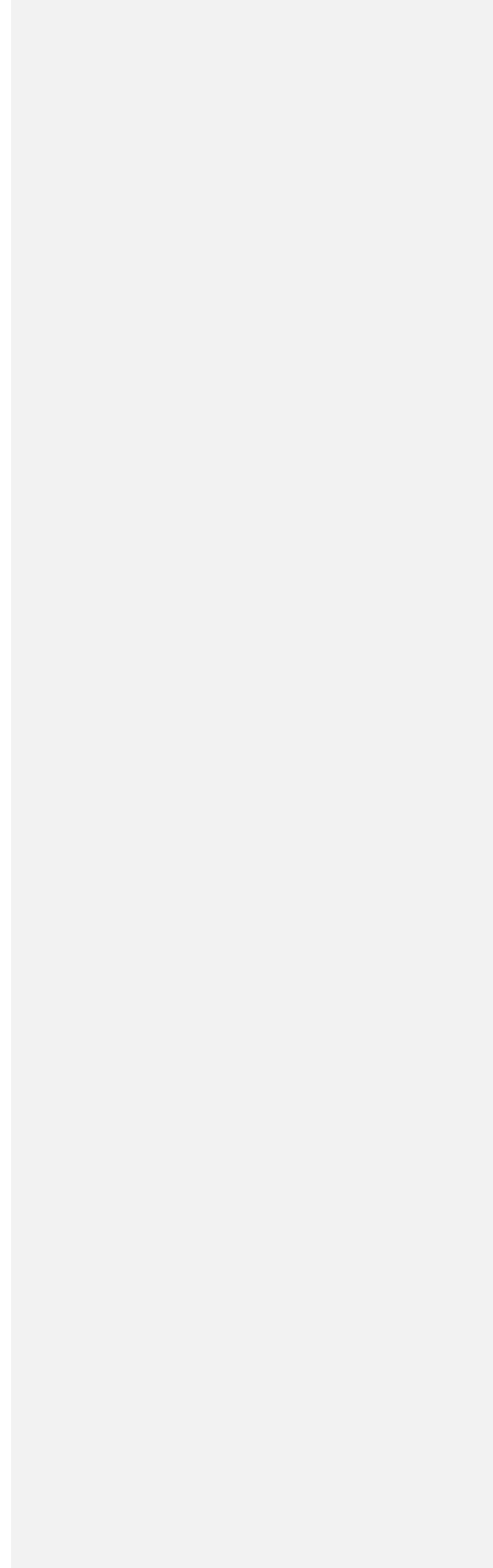
To conclude, the National Committee agrees with the assessments of the International Secretariat and the Independent Administrator that the country has failed to comply with Requirements 2.6, 4.6, 4.7, 5.1, 5.2 and 7.4 of the EITI Standard.

However, with regard to Requirements 4.1, 4.4, and 4.9, for which there was judged to be "inadequate progress", the National Committee proposes raising Madagascar's compliance level to that of "satisfactory progress", since all the provisions have been put in place to meet these Requirements as described in the EITI reports.

In addition, the National Committee considers that the level of "satisfactory progress" has also been achieved for Requirements 1.1, 1.3, 1.4, 2.2, and 2.4 of the EITI Standard.

The National Committee believes that an assessment of "meaningful progress" instead of "inadequate progress" is appropriate for Requirement 4.6 on sub-national payments and Requirement 6.2 on quasi-fiscal expenditures of state-owned enterprises, as also for the Requirement on subnational transfers.

7. ANNEX 1 : Press cuttings on the disclosure of petroleum contracts



8. ANNEX 2 : Resolutions on the redistribution of Ambatovy rebates