

COMMENTS OF THE EITI-DRC EXECUTIVE COMMITTEE ON THE DRAFT INDEPENDENT VALIDATOR'S REPORT

Background

As required under the EITI Standard and the Validation Guide, countries under evaluation are invited to put forward, if necessary, their comments on the initial evaluation report of the International Secretariat and independent validation report within a maximum of three weeks of receipt of said reports.

DRC, for which the validation process commenced on 01/10/2018, received both reports on 20/05/2019, with a recommendation to make its comments by 12/06/2019 at the latest.

In order to comply with the Standard and the Validation Guide, the Technical Secretariat proceeded as follows:

- Sharing the initial evaluation report of the International Secretariat and the draft Independent Validator's report with Stakeholders;
- Preparation of draft Multi-Stakeholder Group (MSG) comments, to be submitted for approval to the Technical Working Group (TWG);
- Approval and ownership of the draft by the TWG as a document issued by the Executive Committee and the forwarding of the document to the Executive Committee for its "non-objection" and adoption on line;
- Assembly and compilation of comments received from Stakeholders;
- Forwarding of Executive Committee and Stakeholder comments to the Independent Validator.

Thus, this document contains:

- 1) General observations;
- 2) A table containing the comments and opinions of the Executive Committee in relation to each requirement that has made meaningful or inadequate progress, and the views of Stakeholders;
- 3) A table compiling comments made by Stakeholders;
- 4) All eight documents as received from Stakeholders. In fact, only comments by civil society organisations were received by the Technical Secretariat for compilation and forwarding.

I. General observations

1. It is true that achievement of meaningful progress is set by the Standard, but the Standard does not give the performance criteria for meaningful and inadequate progress, and practice is not codified anywhere. This poses a problem for the objective assessment of meaningful and inadequate progress.

From time to time, the International Secretariat cites, on a case by case basis, their main aspects and the overall objectives of the Requirements as the basis for its opinion.

The Executive Committee would have liked the International Secretariat to have given, as far as this is possible, an idea for each Requirement, of what could be considered to be the main aspect and overall objective (achieved, in progress or far from being achieved).

2. The Executive Committee noted that the International Secretariat has sometimes issued its opinion on the basis of presumption, understood as opinion through which it considers as true or very likely that which is only probable or, moreover, as a judgement based on indications rather than evidence.

The Executive Committee would have wished that in cases of doubt or presumption, the International Secretariat considered the known facts.

3. One of the key Stakeholders to be consulted by the International Secretariat during the country visit is the Independent Administrator of the Report used as the basis for evaluation. Looking through the list of those consulted, the Executive Committee notes that Moore Stephens, which prepared the 2015 EITI-DRC Report, was not consulted. Doing so would have helped to dispel doubts and presumptions.

II. COMMENTS OF THE EXECUTIVE COMMITTEE ON THE INITIAL EVALUATION REPORT AND DRAFT VALIDATOR'S REPORT

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
<p>MSG governance (1.4)</p>	<p>Procedure for the appointment of members</p> <p>The Multi-Stakeholder Group has appropriate representation of each constituency, but we still do not know exactly by what process industry appointed its representatives. The ToR of the MSG define the roles and responsibilities of its members and meeting records show that, overall, the members of the MSG take on their roles and responsibilities. There is evidence of awareness-raising and coordination in all three constituencies represented in the MSG, in broad terms. The rules on quorum and decision making consider the three constituencies as equal partners and appear to be followed in practice.</p> <p>The updating of governance texts</p> <p>However, pending enactment of the new EITI decree written in 2018, the governance documents of EITI-DRD (namely, the decree of 2009 and the Rules of Operation of 2011) have not yet been updated in the transition to the EITI Standard in 2013. In practice, there are deviations from these governance documents, for example in the composition of the MSG.</p> <p>Conflict of interest</p> <p>While the ToR give the MSG the mandate to approve work plans, to appoint the IA and approve the IA's ToR, EITI Reports and Annual Activity Reports, they only comprise summary internal governance procedures that do not extend to clear rules on conflict of interest or to a more general code of conduct.</p> <p>Per diems</p> <p>The lack of clarity on practice in relation to per diems is a concern</p>	<p>The Validator approved the conclusions of the IS and the level of inadequate progress.</p>	<p>In accordance with Requirement 1.4, the Industry group should (1) approve the public appointments procedures before selection of members of the MSG; (2) DRC should renew the composition of the MSG in accordance with legal procedures; (3) DRC should update its internal governance rules to cover all the provisions of Requirement 1.4.b and ensure that any deviation from the Terms of Reference (ToR) is correctly codified; (4) According to Requirement 1.4.b-vi, DRC needs to clarify its practice with regard to per diems for attending meetings of the EITI and all other payments to members of the MSG, to ensure that this does not affect governance of EITI implementation and does not create conflicts of interest.</p>	<p>Dissenting opinions:</p> <ul style="list-style-type: none"> - MMKI: Meaningful progress - DESC: Inadequate progress - RRN: Inadequate progress - DYFEM: Satisfactory progress - Haut-Katanga CSO: Inadequate progress - Lualaba CSO: Inadequate progress 	<p>Efforts by the MSG to meet Requirement 1.4</p> <p>1. Approve public appointment procedures before selection of members of the MSG</p> <p>Article 6 of the EITI internal rules (Internal Rules of Procedure of the NC/EITI-DRD of 16 September 2011) describes the process for the appointment to the Executive Committee of the delegates of all Stakeholders, including those of the extractive industries. Similarly, a document¹ specifying the appointment procedure signed by the constituency's spokesperson, Mr Simon Tumawaku, is included in the documentation collected by the International Secretariat. Thus, on the basis of the practice described, Mr José Minga's had been appointed by the Fédération Industrielle du Bois (Industrial Wood Federation) to replace Ms Van de Ven (Letter No. 017/FIB/GMM/GG/2015). Similarly, Mr Robert Munganga, of the public mining companies (Gécamines) replaced Mr Cyrille Komanda. The process is also laid out in a document posted on the EITI-DRD website, which describes the process for the revision of governance texts and the practices followed in the appointment and replacement of</p>

¹ Procedure for the appointment, replacement and period of appointment of members of the companies constituency, [document signed by Simon Tumawaku on 27/09/2018](#)

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	<p>that could potentially lead to conflicts of interest.</p> <p>The precariousness of internal governance</p> <p>The ambiguity related to internal governance grew during the EITI-DRC internal governance crisis in 2016-2017, which could be interpreted as a breach of the EITI Global Code of Conduct. While oversight of the National Secretariat by the MSG led to a temporary solution allowing the recovery of EITI implementation before the validation, including the recruitment of an interim National Coordinator and stricter oversight by the MSG of the financial management of EITI-DRC, the internal governance of EITI-DRC remains precarious. Fears about the fact that the recruitment of the interim National Coordinator did not comply with the applicable rules, uncertainty about the management of day-to-day implementation and the risk of conflict of interest could harm the credibility of the EITI.</p>				<p>members of the MSG.²</p> <p>The documentation supplied to the International Secretariat is available here: https://wp.me/P7ywo4-2en</p> <p>2. Updating of governance texts</p> <p>The Executive Committee specifically set up two ad hoc committees: the Prof. Donat Kampata Committee and the Firmin Nkoto Committee (see minutes of EC meeting of 27/04/2016). These efforts by all Stakeholders resulted in the adoption of the draft decree on the organisation and operation of the EITI-DRC National Committee. The EC is, however, aware that other efforts need to be made to secure the decree's publication by the Prime Minister.</p> <p>3. Composition of MSG: No objections.</p> <p>4. Conflicts of interest</p> <p>It is true that the ToR of the current Executive Committee do not expressly provide for this case, but under national law, all public officials of the State are subject to the Code of Conduct for Public Officials of the State (Decree-Law 017/2002 of 3 October 2002). Moreover, the legal instruments governing the EITI-DRC include the EITI Standard and article 9 of the Code of Conduct of the EITI Association proscribes conflicts of interest. In addition, article 24 of the draft amending decree requires all EITI members to simultaneously observe Ethics, the aforementioned Code of Conduct and the Code of Conduct for Public Officials of the State.</p> <p>5. Clarification of per diem practice</p> <p>In order to come into compliance with the 2013 Standard, the Executive Committee addressed and clarified the issue of attendance fees allocated to members of the MSG, taking into account legislation in force³ and practice observed in implementing countries in the Africa zone. The essence of the EC's discussions and deliberations is recorded in the minutes of 15 January and 5 March 2014. In accordance with these minutes and those of 01/03/2017,⁴ the extent of attendance allowances for each type of meeting was established as follows: \$300 for ordinary meetings of the EC, \$100 for extraordinary meetings of the EC and \$50 for ad hoc committees and working groups. Consequently, the statement that there is a lack of clarity should be removed.</p> <p>The Committee considers that the resolution of the governance crisis that occurred between 2016 and 2017 was a very important piece of work that made it possible to save the endangered process.</p> <p>It would be helpful if the Validator were to provide clarifications on the relative importance of aspects of the Standard's Requirement, so that we are able to know which aspects of implementation of the EITI Requirements are more important and which less important.</p>

² Description of the process for the revision of governance texts and practices followed in the appointment and replacement of delegates of the constituencies to the EC, document adopted by the TWG on 28/09/2018 pursuant to the [minutes of the EC of 26/09/2018](#).

³ Minister of Budget circulars containing instructions on the preparation and execution of Finance Laws.

⁴ <https://drive.google.com/file/d/0B1C1Aj5TqAgvYnJidjBMTXRSM0k/view>.

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<p>License allocations (2.2)</p>	<p>Disclosure of financial and technical criteria The 2015 EITI Report addressed important aspects of the Requirement without, however, specifying the technical and financial criteria applied to the oil sector. The 2016 EITI Contextual Report presented a description of the statutory process for the allocation or transfer of licenses, focusing particularly on the mining sector and including technical and financial criteria. It provides information on licenses allocated or transferred in 2016 and 2017.</p> <p>Comprehensiveness Even so, concerns were raised during the reporting and in the opinions of Stakeholders on the comprehensiveness of disclosures, around non-trivial deviations from the legal and regulatory framework in force.</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 2.2:</p> <ul style="list-style-type: none"> • DRC is required to publicly disclose information on licenses allocated and transferred, including any non-trivial deviation from the legal and regulatory framework applicable and from the technical and financial criteria that were detailed and evaluated. • DRC is encouraged to ensure that the EITI works in close collaboration with relevant ministries to also disclose information on pending applications. • With regard to invitations to tender, DRC is required to disclose the submission criteria and the complete list of bidders, and the country is encouraged to document the results of the process. 	<p>Dissenting opinions:</p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress - DESC: Meaningful progress 	<p>Actions to meet the requirements of Recommendation 7 of the International Secretariat will be conducted by the MSG.</p> <p>Clarifications by EC:</p> <ul style="list-style-type: none"> - Allocation and transfer of oil licenses in 2015: The situation mentioned by the General Secretariat of Hydrocarbons (SGH) and published on the EITI-DRC website at http://www.itierdc.net/contrats-ressources-naturelles/ shows that no allocation or transfer was made in 2015. - Exploration license extensions: According to article 52 of Law 15/012 of 1 August 2015 laying down the Hydrocarbons Code,⁵ provision is made for the extension of licenses (other than renewal) and only concerns exploration licenses. - Disclosure of non-trivial deviations: the particular cases of TOTAL E&P and PERENCO REP (p70, initial Report) The case of PERENCO REP is explained in the 2016 Contextual Report. For TOTAL E&P, in accordance with article 50 of the Hydrocarbons Code, the right of exploration is exclusive. It is granted for an initial term of 3 years, twice renewable for a period of 3 years. Thus, the TOTAL E&P license, renewed for the first time in 2012 was renewed for the second time in 2015 pursuant to the aforementioned article. The 2016 Contextual Report provided specific information on the extension of the TOTAL E&P license: "TOTAL has conducted exploration activities up to seismic, which demonstrated the existence of three prospects at a depth of 4 km. But, given the very difficult climatic, geographical and accessibility conditions in the exploration area, TOTAL has judged that the project would be very costly and may not be profitable. These difficult conditions required additional work in order for the programme to be continued. It was for this reason that TOTAL applied for an extension of its license and asked the Congolese Government for a renegotiation of the terms of the contract, particularly to benefit from certain exemptions before undertaking drilling. A one-year extension to the license was granted to TOTAL. Regarding the renegotiation of the terms of the contract, the Government considered it appropriate to deal with this issue after drilling. That is the level of the discussions. The order issued by the Minister of Hydrocarbons granting TOTAL an extension to its license may be viewed on the EITI-DRC website here.
<p>Register of licenses (2.3)</p>	<p>Keeping the register of mining licenses The Ministry of Mines maintains a register of mining licenses, which is accessible to the public and which the majority of Stakeholders regard as an essential tool. The 2016 EITI Contextual Report mentions the online cadastre and comments on it, particularly with regard to minor data inconsistencies and the absence of dates of application, award and expiry for all licenses. The EITI-DRC</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 2.3:</p> <ul style="list-style-type: none"> • DRC must keep a register or public cadastre system containing up-to-date and comprehensive information on all licenses held by extractive companies. • DRC must work in close collaboration with the 	<p>Dissenting opinions:</p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress 	<p>Actions to meet the requirements of Recommendation 8 of the International Secretariat will be conducted by the MSG.</p> <p>Clarifications by EC:</p> <ul style="list-style-type: none"> - Accessibility of Mining Cadastre data: The database can be searched by title number and company name. It can be viewed for each mining title: 1) Owner 2) Area 3) Mineral substances

⁵ <https://drive.google.com/file/d/1h8CA07P1hOZ1goVrKL-HMYSYN29rbLWW/view>

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	<p>website also provides a list of all mining rights valid as of 31 December 2016 and in 2017, including licensees, their tax identification numbers, types of license, license number, status, province, locality, dates of application, award and expiry, the raw materials covered, the exact delineation of the allocated areas and potential transfers.</p> <p>Coordinates of licensees and comprehensiveness of licenses</p> <p>Although the coordinates are not available in the online cadastre or on the EITI-DRC website, they are included in individual ministerial orders approving the grant or transfer of licenses published by the Ministry of Mines. No concerns have been raised about the overall comprehensiveness of the licenses covered. DRC holds no similar publicly-accessible register for licenses in the hydrocarbons sector. However, the EITI-DRC website does publish a summary of the register held by the General Secretariat of Hydrocarbons (SGH). The 2016 EITI Contextual Report states that certain data items were missing for some licenses, including the coordinates and the dates of application.</p>		<p>Ministry of Hydrocarbons, the SGH and partners to ensure that a register of oil and gas licenses is publicly accessible.</p> <ul style="list-style-type: none"> The Mining Cadastre (CAMI) is encouraged to improve the timeliness and completeness of the data in its online cadastre by adding geographic coordinates, to the extent possible. It could also consider making its data available in an open data format. 		<p>4) Geological map and location on the map 5) Date of application and date of award 6) Duration of license</p>

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<p>State participation (2.6)</p>	<p>State participation The 2015 EITI Report and the 2016 Supplementary EITI Report provide an assessment of the materiality of state participation in the mining, oil and gas sectors, and a complete list of state-owned enterprises, for the purposes of EITI reporting. Although the reports describe the types of payments, both those required by law and those actually made by state-owned enterprises to the Government, they do not provide a complete description of the statutory rights of state-owned enterprises with regard to retained earnings, reinvestment in their businesses and third-party financing (debt and expectations).</p> <p>Prevailing rules and practices governing financial relationships The 2016 EITI Supplementary Report contains extensive information on prevailing financial relationships between nine state-owned enterprises with material revenues and the State in 2016, although some of the Stakeholders consulted raised concerns about the comprehensiveness and reliability of the unaudited financial statements of some state-owned enterprises used as the basis for this review. The reports provide a complete list of enterprises in which the State and state-owned enterprises have interests, despite the lack of clarity as to the comprehensiveness of the holdings of state-owned enterprises in the mining sector. The reports do not present a clear description of the conditions associated with the participations of the State and state-owned enterprises in extractive companies, including with regard to the level of responsibility of the Government and state-owned enterprises for covering expenditure in the different phases of the project cycle, such as fully-paid equity, free equity and deferred interest. The reports indicate changes in direct Governmental participation in extractive companies in the years under review, but they do not always mention changes in relation</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 2.6:</p> <ul style="list-style-type: none"> DRC should be sure to draw up a comprehensive public list of the extractive companies in which the Government or any state-owned enterprise has participation, to disclose all changes occurring during the year under review, and to provide a description of the conditions associated with the participation of the Government or state-owned enterprises. DRC should ensure that the rules and prevailing practices governing financial relationships between the Government and state-owned enterprises, such as those governing the transfer of funds between state-owned enterprises and the State itself, retained earnings, reinvestment and third-party financing are publicly accessible. DRC should ensure that the conditions of loans and guarantees granted by the State and state-owned enterprises to extractive companies are disclosed to the public in their entirety. 	<p>Dissenting opinions:</p> <ul style="list-style-type: none"> Haut-Katanga CSO: Meaningful progress Lualaba CSO: Meaningful progress RRN: Satisfactory progress 	<p>Actions to meet the requirements of Recommendation 8 of the International Secretariat will be conducted by the MSG.</p> <p>Clarifications by EC:</p> <p>Regarding the status of SIMCO, the contextual report comprehensively documents the fact that the SIMCO company cannot be considered a state-owned company (EP) under the definition of an EP contained in article 2 of Law 08/010 of 7 July 2008 The report does however state that due to its investments in extractive companies (KCC and SICOMINES), SIMCO has been kept within the scope of the reconciliation. Let us recall that SIMCO has been included within the scope of the reconciliation since the 2011 EITI Report, where it was listed as an EP but, in consideration of the definition of an EP as laid down in the legal text mentioned above, SIMCO was no longer considered as an EP in the strict sense of the article mentioned. Note that SIMCO, as a joint company of two EPs has always been approached, during the determination of the various scoping exercises, to provide information on any contractual revenues from partnerships in which it has holdings. Consequently, SIMCO has always stated that it has received nothing from the companies in which it has holdings. It must be said, however, that following the collection of data for the scoping exercises of 2017 and 2018, SIMCO reported that it had received the sum of \$13,226,340.22 in May 2018 as dividends from Sicomines for 2016 and 2017, which SIMCO states it directly redistributed to GCM. Regarding presentation of prevailing rules and practices in respect of retained earnings, reinvestments and third-party financing, we support the analysis that as EPs are governed by the OHADA Uniform Act on Commercial Companies, as stated in the Supplementary Report, they have the right to retain profits, to reinvest profits and to obtain financing of their debt by third parties according to the decisions of their general meetings. Regarding reporting changes in EP holdings in extractive companies, the report clearly notes that there were no changes to holdings between 2015 and 2016 in the oil sector. In the mining sector, analysis of holdings in the 2015 Report and 2016 Report indicates changes in holdings. For example: GCM in BOSS MINING: 30% in 2015 and 20% in 2016; COMINIÈRE in SOMIMI: 32% in 2015 and 28% in 2016. However, the EC agrees that in future reports, it will clarify changes in the holdings of EPs in extractive companies.</p> <p>The contextual report and 2016 Supplementary Report describe the financial relationships between EPs and the State.</p> <p>Section 4.3.5 of the 2015 Report presents chronologically:</p> <ol style="list-style-type: none"> The situation of EP holdings in the extractive sector; The regulations governing the sale of assets and shares in state-owned enterprises; Cases of sales of identified titles and shares (Section 7.2: "Recommendation").

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	<p>to the stakes held by state-owned enterprises in extractive companies. Although the reports, particularly the 2016 EITI Supplementary Report, contain information on loans and guarantees granted to extractive companies by state-owned enterprises, albeit not by the State, they are not sufficient to clearly determine the level of comprehensiveness of these disclosures. Despite major efforts by DRC to improve the transparency of financial relationships between state-owned enterprises and the Government, the Secretariat judges that the overall objective of transparency of State participation is not yet fully realised.</p>				

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<p>Production data (3.2)</p>	<p>The value of production Production volumes are disclosed in aggregated form and by commodity in the 2015 and 2016 EITI declaration, and some data available were disaggregated by company. The Ministry of Mines website presents ad hoc disclosure of production volumes for minerals, in aggregated form, by commodity and per month up to the first half of 2018, providing additional quality assurance for the reconciliation of companies' and the Government's figures. Data compiled by the Provincial Division of Mines of the former province of Katanga also provide disclosures on mining product by company and per month up to October 2018. Production volumes in the oil sector are available via the EITI declaration for 2015 and 2016. None of the information on the assessment of production in the mining, oil and gas sectors is publicly available. However, Stakeholders have taken measures under EITI to agree on a method of calculating the value of production in the mining sector. Moreover, encouraging regulatory changes were introduced in 2018, as were plans by the Ministry of Mines to improve the reporting on the basis of international prices.</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 3.2:</p> <ul style="list-style-type: none"> • DRC is required to publicly disclose the production values by commodity and, as required, by State/region, for all extractive commodities produced during the year under review. • DRC is encouraged to seek ways of using the EITI to have all mining companies deploy the new evaluation methodology agreed in May 2018 for extractive production. • DRC could consider working closely with the Ministry of Mines to ensure that production data compiled by the Technical Mining Planning and Coordination Unit (CTCPM) are widely disseminated and compared with the data that the mining companies have disclosed. • DRC is encouraged to ensure that the EITI works in close collaboration with the SGH and the MIOC/TEIKOKU/CHEVRON-ODS consortium for the latter to be able to publicly disclose oil production values in future. 	<p><u>Dissenting opinions:</u></p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress 	<p>Actions to meet the requirements of Recommendation 13 of the International Secretariat will be conducted by the MSG.</p> <p><u>Clarifications by EC:</u></p> <p>Production value data Requirement 3.2 states that implementing countries must disclose production data, including volume and value and, to some extent, the method used to calculate the value of the production. In the 2012 Report, the Independent Administrator noted the diversity of methods used by companies to calculate production values. Some calculate the value of production on the basis of an assessment of direct ongoing production costs, that is, cost price. Others, conversely, determine this value by multiplying the quantities produced by the market price; this is what Gécamines does. Also, this lack of a standardised method of calculating production value limits the comparability of associated data. In order to achieve a harmonised method, to be able to compare company data with State data, Stakeholders carried out the following work:</p> <ol style="list-style-type: none"> 1) The organisation, on 31/05/2018, of a workshop for the top five extractive companies (MUTANDA MINING, FFM, BOSS MINING, RUASHI MINING, MMG AND GÉCAMINES) with civil society organisations in attendance, the outcome of which was that the parties agreed that "Production will be valued at total ex-works production cost"; 2) The formalisation of the method mentioned above in the Mining Regulations (Article 25f);⁶ 3) Publication, via the EITI-DRC data portal, of the values of production by some large companies that fall within the scope of EITI, such as CDM, FRONTIER, KIBALI, MUMI, RUMI, MMG, etc. We should also note that the EITI data portal forms an integral part of EITI Reports. <p>Thus, the statement that production values are not provided in DRC EITI Reports should be put in perspective.</p>

⁶ https://drive.google.com/file/d/16VAkR4oFVE-FvCZ6Nhm2wODWI-_8G8S/view

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<p>Materiality and comprehensiveness (4.1)</p>	<p>The definition of materiality The 2015 EITI Report includes the MSG's definition of materiality thresholds for payments and companies to be included in the reconciliation, on the basis of payments made to the Government, including a justification for the specific thresholds. However, while the MSG has adopted a quantitative approach, assessing the materiality of companies and earnings, the fragmented nature of the tax regime for the mining sector and the existence of significant ad hoc payments (particularly by state-owned enterprises and their joint ventures) raises concerns about the comprehensiveness of the scope of reconciled revenue streams. It seems that all State entities with material earnings declared all their income, despite the difficulties encountered in data collection, and it also seems that the Government disclosed all extractive revenues, including those from companies with non-material income.</p> <p>The comprehensiveness of data and the retention by the State of supporting documents Companies that did not report are identified, and the Report provides a comparison between the value of the payments that they have made to the Government and the revenues declared by the Government. Despite the classification of payments by non-reporting companies as material in the 2015 EITI Report, difficulties in collecting data and concerns around Government record keeping did not allow the Independent Administrator to guarantee the comprehensiveness of the financial data reconciled. In essence, it is difficult to show satisfactory progress with regard to Requirement 4.1 in DRC in light of the weakness of Governmental record keeping. It would not be reasonable to conclude that the MSG should be required to resolve these problems before making decisions on materiality. The International Secretariat considers</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 4.1:</p> <ul style="list-style-type: none"> DRC should ensure that all companies within the scope of the declaration fully disclose all material revenue streams and that decisions on the materiality of revenue streams are based on unilateral disclosure by the Government of the total of extractive revenues, including those that are not required by law but are, nevertheless, collected. DRC should also ensure that the comprehensive unilateral disclosure by the Government of material revenues, including those paid by companies with non-material revenues, is presented as disaggregated revenue streams rather than by company. DRC could consider reviewing its decision around scoping and materiality, possibly by adopting a two-tiered approach for medium and large companies, with a view to finding a balance between the comprehensiveness of disclosure and the quality of reporting. To strengthen implementation, DRC is encouraged to reassess the existence of Governmental receipts in kind every year, in order to publicly disclose the volumes received, volumes sold and the product of the sales per buyer, once production 	<p>Dissenting opinions:</p> <ul style="list-style-type: none"> Haut-Katanga CSO: Meaningful progress Lualaba CSO: Meaningful progress RRN: Meaningful progress 	<p>Clarifications by EC:</p> <p>Regarding the materiality threshold:</p> <p>The option exercised by the MSG and Stakeholders for all EITI-DRC Reports published to date is to set a single materiality threshold for all payments under common, national and subnational law and for all companies. No threshold has been set for streams specific to the extractive sector.</p> <p>They have never been criticised for this being contrary to the Standard.</p> <p>Moreover, for reasons of comprehensiveness, Stakeholders added other criteria for the selection of companies and streams.</p> <p>The combined application of all these cumulative criteria has enabled the maximum of extractive sector revenues to be covered and to prevent any omissions, this being to the satisfaction of all Stakeholders and the MSG.</p> <p>Any other approach would have surely been the subject of a recommendation, and not a challenge to the option exercised by the MSG which, moreover has responsibility for this under the Standard.</p> <p>The complexity and fragmentation of the tax system:</p> <p>As described in the 2016 contextual report, the Congolese tax system is sufficiently clear that its fragmentation has never been the basis for a lack of comprehensiveness in the collection of data for EITI reports.</p> <p>It was on the basis of this fragmentation that the 2015 Report disclosed the payments received by state-owned enterprises.</p> <p>It is also important to highlight that comprehensiveness, notwithstanding this complexity, is assessed by reference to the benchmark set by the MSG, in agreement with the Independent Administrator.</p> <p>The Executive Committee notes that the initial report does not demonstrate the existence of any revenues received by state-owned enterprises and not disclosed by EITI-DRC and which may affect comprehensiveness.</p> <p>The Executive Committee observes that the conclusion of the initial report (pp126 and 151) remains mixed in respect of the assessment of the level of progress achieved by EITI-DRC.</p> <p>To this end, it reiterates its wish for clarifications on the relative value or weight of criteria in the objective evaluation of aspects of the Standard.</p>

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	<p>that, given these limitations, the MSG and the Independent Administrator have sought to follow a process to achieve a high degree of certainty in the circumstances. Meanwhile, the Independent Administrator expressed concern that some extractive revenues collected by state-owned enterprises were excluded from the reconciliation due to a lack of clarity in the documents and the absence of a statutory basis for these revenues (see Requirement 2.6). Although the share of extractive revenues of the 15 non-reporting companies seems to be negligible, it would be helpful to improve the monitoring by the MSG of non-reporting entities, in order to ensure that all companies with material revenues participate in EITI reporting. In its initial assessment, <i>the International Secretariat concludes therefore that important aspects of the Requirement were implemented and the broader purpose of the Requirement is fulfilled.</i></p>		<p>starts in areas covered by oil and gas PSAs.</p>		

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
<p>Transactions by state-owned enterprises (4.5)</p>	<p>The comprehensiveness of information on the financial transactions of EPs The 2015 EITI Report discloses and reconciles payments by companies to state-owned enterprises and the statutory transfers of these to the Government, while raising some major concerns, however, both in the report and during consultations with Stakeholders regarding the comprehensiveness of the reconciliation of payments by companies to state-owned enterprises. The report does not include the disclosure or reconciliation of transfers from the Government to state-owned enterprises and neither does it mention ad hoc transfers from the State to state entities outside the Treasury. In the absence of a materiality threshold for the selection of transactions by state-owned enterprises for reconciliation, all these payments and transfers should have been disclosed and reconciled in full.</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 4.5:</p> <ul style="list-style-type: none"> • DRC should ensure that the role of state-owned enterprises, including payments from companies to state-owned enterprises and transfers between state-owned enterprises and state entities, is publicly disclosed in its entirety. This declaration must include the disclosure and reconciliation of all material transactions involving state-owned enterprises. 	<p><u>Dissenting opinions:</u></p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Inadequate progress 	<p>Actions to meet the requirements of Recommendation 18 of the International Secretariat will be conducted by the MSG.</p> <p><u>Clarifications by EC:</u></p> <p>The Executive Committee is not aware of the existence of any transfer from the Government to state-owned enterprises, nor of any transfer from state-owned enterprises to state entities, outside the Treasury.</p> <p>Regarding the materiality threshold, see comment to Requirement 4.1.</p>
<p>Subnational payments (4.6)</p>	<p>The materiality and existence of other subnational payments that are specific to the sector or received by other provinces The DRC EITI Report disclosed and reconciled direct subnational payments in the mining sector paid to the Revenue Department of Katanga (DRKAT) in 2015. There is no sufficiently clear information on the materiality of these payments or on the existence of other types of direct subnational payments that are not revenues received by provincial authorities other than DRKAT. The 2016 scoping study covers some aspects related to the materiality of direct subnational payments, noting that no materiality threshold was applied to the extractive revenue streams and presenting unilateral disclosures of direct extractive payments for nine of the 26 provinces.</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 4.6:</p> <ul style="list-style-type: none"> • DRC is encouraged to establish whether direct subnational payments are material. DRC should clearly document the method used for the selection and reconciliation of revenue streams, basing this on the improvements to the 2016 scoping study. Following changes of June 2018 to mining legislation, • DRC is encouraged to work closely with provincial Governments to systematically disclose to the relevant subnational Governments timely and comprehensive information on payments of shared mineral royalties. 	<p><u>Dissenting opinions:</u></p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress 	<p><u>Clarifications by EC:</u></p> <p>In respect of the selection of mining companies on the basis of materiality, the 2015 Report notes that, based on the results of the materiality analysis for the mining sector, the Executive Committee decided to include within the scope of the reconciliation all mining companies whose total payment reported by the financial authorities was equal to or greater than</p>

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
					<p>\$200,000 (pp14 and 27 of the 2015 Report).⁷</p> <p>It is understandable that this threshold, global moreover, is applied not only nationally, but also for payments received by the provinces, as long as they are material, their full disclosure is effective and the MSG is satisfied with the result.</p> <p>The 2015 scoping report indicates in its introduction (p21)⁸ that in the 2015 configuration, the provinces included in its field of investigation are those where most extractive operations take place, that is, the provinces of Kasai Oriental, Katanga, Bas Congo, Nord Kivu, Sud Kivu, Maniema and Province Orientale.</p> <p>Like Concentrates Export Tax (TC), Roads and Drainage Tax (TVD), Mining and Hydrocarbons Concessions Tax (ICMH) and Development Tax, the 2016 scoping report analysed the existence of any other types of subnational payments that are not specific to the sector, that is, are under common law. After analysis, it was found that some of the payments were material but arose from artisanal mining or forestry, sectors outside the scope of the reconciliation, while others were not material and therefore should not be selected.</p> <p>Regarding the selection of the Mining and Hydrocarbons Concessions Tax, when it accounted for only 0.01% of the total of mining sector revenues, it is worth recalling that it was selected as a specific stream without application of materiality and also under the provisions of 4.1 b) vii.</p>
<p>Data quality (4.9)</p>	<p>The process for the recruitment of the IA The MSG supervised the recruitment of the Independent Administrator, the approval of the Independent Administrator's ToR, which conformed to the standard ToR, and the approval of the reporting forms. Stakeholders raised no concerns regarding the recruitment process for the Independent Administrator or about the latter's professionalism.</p> <p>The assurance process The 2015 EITI Report outlines the legal audit procedures and actual auditing practices for 2015. It also describes the quality assurance methodology agreed by the MSG for the 2015 EITI Report.</p> <p>Follow-up on recommendations The EITI Report clearly stated the data sources and gave an overview of the follow-up on past recommendations and a new set of</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 4.9:</p> <ul style="list-style-type: none"> • DRC should review the quality assurance safeguards required of companies and state-owned enterprises and state entities agreed for the EITI reporting. • DRC may wish to ensure that deadlines are set for data collection, in order to guarantee full compliance with the quality assurance safeguards agreed for EITI reporting. 	<p>Dissenting opinions:</p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress 	<p>Reminder of the quality assurance mechanism adopted by the MSG and agreed with the Independent Administrator:</p> <p>Companies:</p> <p>(a) For extractive companies obliged to appoint a statutory auditor, the reporting form must:</p> <ul style="list-style-type: none"> - Be signed by a senior official or person authorised to represent the company, and must be accompanied by the company's certified financial statements for 2015 or by any other document signed by the statutory auditor attesting certification of the 2015 financial statements; or - Be signed by a senior official or person authorised to represent the company and be certified by an external auditor (who may be the statutory auditor). <p>(b) For limited liability companies not obliged to appoint a statutory auditor, the reporting form must be signed by a senior official or person authorised to represent the company.</p> <p>Financial authorities:</p> <p>The reporting form must:</p> <ul style="list-style-type: none"> - Be signed by a senior official or a person authorised to represent the financial authority; and - Be signed by the Inspectorate-General of Finances (IGF). The IGF must produce a note describing the working methodology used to prepare financial authorities' EITI reports. <p>Understanding the reliability mechanism summarised above leads to the conclusion that this is not solely based on the production of financial statements by companies, but also on</p>

⁷ https://drive.google.com/file/d/1VMolHv8pzmrc6kMt8POJl81LU9Y_raw/view

⁸ <https://drive.google.com/open?id=1BwuKotf8X2MkMb50b88zmyV977tBFF-P>

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
	<p>recommendations for 2016. The summary data files for the year under review were publicly available.</p> <p>The opinion of the IA on the reliability of data in the 2015 Report However, even though the report includes the Independent Administrator's evaluation that the EITI data reconciled were comprehensive and reliable, it is not clear on what this conclusion was based, given the substantial differences by companies and the Government in respect of compliance with the quality assurance safeguards agreed for EITI reporting. Several Stakeholders consulted said that they had concerns about the reliability of data.</p> <p>Nevertheless, the 2015 EITI Report gives the names of the reporting companies and state entities that had not met the quality assurance safeguards used, and it is possible to evaluate the materiality of their payments on the basis of the data contained in the report.</p> <p>Despite meeting important aspects of Requirement 4.9, the Secretariat believes that the general objective of data reliability has not yet been fully achieved.</p>				<p>certification by an independent auditor of companies' EITI declarations. It should be recalled that the Independent Administrator, moreover, declared itself to be more favourable to certification of EITI declarations by independent auditors than to companies simply producing financial statements (Finding No. 6 of the Independent Administrator: Section 7 of the 2015 EITI Report: p100).</p> <p>Analysis of the basis for the opinion of the Independent Administrator by the International Secretariat:</p> <p>In its analysis, the International Secretariat seeks to ascertain the basis upon which the Independent Administrator made conclusions about the reliability of data, in light of substantial differences in compliance by companies and the Government with the quality assurance safeguards agreed for EITI reporting. It should be recalled that according to the statement produced by the Independent Administrator on page 22 of the 2015 EITI Report, 11 of the 128 companies included in the scope of reconciliation did not fully comply with the assurance mechanism. The total revenues of these companies accounted for 6.3% of the total of reconciled extractive revenues. Since no threshold had been previously set to determine the overall reliability of the report, the Independent Administrator judged that this percentage did not affect the overall reliability of the 2015 EITI Report.</p> <p>Regarding the deviations highlighted by the Independent Administrator in connection with the reliability documents produced by state financial agencies (AFEs), it should be noted that, as explained by the Independent Administrator itself (Annex 16 of the 2015 EITI Report, p177), the differences found in these documents were essentially due either to technical issues related in particular to incorrect use of TSL (in the case of the Directorate General of Taxation, DGI) or to the Inspectorate-General of Finances (IGF) signing off the declarations of certain AFEs well before the reconciliation process (in the case of the Directorate-General of Customs and Excise, DGDA, and the Revenue Office of Katanga, DRKAT). This is why the Independent Administrator, in order to avoid such deviations in future, issued a recommendation in Section 7.1 of the 2015 EITI Report, that the summaries should be signed and certified after the completion of reconciliation.</p> <p>Also, beyond the assurance mechanism adopted by the MSG, we cannot neglect another degree of reliability provided by the reconciliation process through the comparison of the parties' declarations. This work covered 100% of returns for the oil sector and 99.53% of those for the mining sector.</p> <p>Given all these considerations, the Independent Administrator has, in full responsibility, concluded that the data contained in the 2015 EITI Reports are reliable.</p> <p>Regarding the analysis of the International Secretariat on the basis of the 2016 Supplementary Report, indicating that five state-owned enterprises did not have independently-audited financial statements, one of these had financial statements adopted by its general meeting, another one had financial statements audited by an external auditor and two had independently-audited financial statements. It should be noted that the representatives of state-owned enterprises maintained that the financial statements of state-owned enterprises had always been audited and that EITI-DRC had not had access to the appropriate versions of the relevant financial statements. Note also that, with the exception of SONAHYDROC, all state-owned enterprises complied with the reliability mechanism for the 2015 EITI Report.</p>

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
					<p>However, taking account of the recommendations of CSOs to strengthen the assurance system for the declarations of state-owned enterprises, Stakeholders asked the CSOs to propose a draft assurance mechanism to be discussed in the context of preparation of the 2017 EITI Report. Note also that taking into account the oft-repeated request of Stakeholders for the certification of state-owned enterprises' declarations to be entrusted to the Court of Auditors, EITI-DRC conducted working sessions with magistrates of the Court of Auditors in March-April 2019 to study the possibility of certification by the Court of Auditors of the EITI declarations of state-owned bodies.</p> <p>Thus, in consideration of all the foregoing, the Executive Committee is confident that all aspects of the Requirement have been met. Consequently, it considers that satisfactory progress has been made for this requirement.</p>
<p>Distribution of revenues (5.1)</p>	<p>The allocation of revenues accruing to state-owned enterprises and EPs The 2015 EITI Report indicates the specific extractive revenues which were recorded in the national budget and those retained by state entities and state-owned enterprises. Although the report explains that no material extractive revenues were transferred to the Treasury or recorded in the State budget, it does not specify the allocation of revenues retained by state entities and state-owned enterprises, despite the large volume of additional material in the 2016 EITI Supplementary Report on retained earnings by state-owned enterprises.</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 5.1:</p> <ul style="list-style-type: none"> • DRC is required to explain the allocation of extractive revenues not recorded in the national budget, including revenues retained by taxing authorities and state-owned enterprises. • DRC is encouraged to work with the Ministry of Finance, the Budget Ministry and state-owned enterprises to disclose the allocations of these revenues and to provide references to financial reporting, when such information is relevant. • EITI-DRC is also encouraged to provide more information on the "special accounts" to which the Mining Cadastre (CAMI) contributes. 	<p>Dissenting opinions:</p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress 	<p>Clarifications by EC:</p> <p>The EITI-DRC reports show the distribution of revenues between the Treasury and the different taxing authorities on their behalf. For further information, visit: https://drive.google.com/file/d/18XmGsV90yDqCda6g3aD3rmFivPDnlMqV/view, which refers to an annex to the 2016 Contextual Report, an Excel file with three sheets. This annex provides an explanation of the allocation of certain own source revenues to taxing authorities by providing information on:</p> <ul style="list-style-type: none"> - The taxing authority - The name and description of the stream - The legal source - The base and rate of tax - The subject enterprises - The basis or reason for selection of each within the reference framework (flows retained or not, material and/or specific in accordance with Requirement 4.1 (b)). <p>These entities' own earning are considered to be the products of operation like all others and are used, in the case of Type-B Assessment Notices (AMRB) and penalties, to motivate members of staff who find and report cases of fraud and other offences.</p>

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
<p>Subnational transfers (5.2)</p>	<p>DRC has taken steps, particularly after 2015, to improve the EITI reporting of subnational transfers in the mining sector by providing a diagnostic tool and a discussion platform for Stakeholders. The 2015 EITI Report presents a description of the statutory rules on sharing extractive revenues with local governments, discrepancies disclosed between the amount calculated under the revenue-sharing formula and the amount actually transferred to the provincial government of the former Katanga, and a reconciliation of Ministry of Finance data with those of the provincial government of the former Katanga. However, it provides no information on subnational transfers in the hydrocarbons sector or on the status of transfers to other subnational State entities (such as decentralised territorial entities or provincial governments apart from the former Katanga). The 2016 EITI Contextual Report discloses data on subnational transfers actually made in 2016, comparing them with the theoretical value of subnational transfers according to the revenue-sharing formula, without, however, disaggregating them by province. It also clarifies the status of subnational transfers in the oil and gas sectors.</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 5.2.a:</p> <ul style="list-style-type: none"> • DRC should ensure that material subnational transfers in the extractive sector are publicly disclosed and should highlight discrepancies between actual subnational transfers and the calculation using the revenue-sharing formula, disaggregated by province, and • RDC is encouraged to work closely with the provincial mining divisions, the Finance Ministry and the General Directorate of Licence, Judicial, and Administrative and Share Revenues (DGRAD) to publicly disclose up-to-date and comprehensive data on subnational transfers of mining royalties up to the change in revenue sharing in June 2018. In compliance with Requirement 5.2 b, • DRC is expected to ensure that all discretionary or ad hoc material subnational transfers are also disclosed and, wherever possible, reconciled. 	<p><u>Dissenting opinions:</u></p> <ul style="list-style-type: none"> - DYFEM: Meaningful progress - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress - MMKI: Meaningful progress 	<p>Actions to meet the requirement of Recommendations 24 and 25 of the International Secretariat will be taken by the MSG.</p>

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
<p>Social expenditures (6.1)</p>	<p>The comprehensiveness of social expenditures The DRC EITI declaration provided unilateral disclosures on mandatory and discretionary social expenditures by 22 enterprises in 2016, disaggregated between spending in cash and in kind, with online detailed information on beneficiaries, the nature, value and dates of payments, as well as the legal basis when applicable. Even so, Stakeholders expressed significant concerns about the comprehensiveness of the disclosures of mandatory social expenditures, given the low number of reporting companies. The reports covering 2015 and 2016 contain no comment on the comprehensiveness of the disclosures. According to the evaluation of the International Secretariat, the underlying objective has not been achieved, while recognising that EITI-DRC took significant steps to improve disclosures in 2017 and 2018, which led to the publication of an agreed definition of mandatory social expenditures and to an update to the EITI reporting forms for social expenditures. Stakeholder agreed to reconcile mandatory social expenditures in future EITI reporting. The new Mining Code should improve the tracking of social expenditures in the mining sector.</p>	<p>The Validator approved the conclusions of the IS and the level of meaningful progress.</p>	<p>In accordance with Requirement 6.1:</p> <ul style="list-style-type: none"> • DRC is obliged to disclose material mandatory social expenditures and, whenever possible, to reconcile these. • DRC is encouraged to continue its EITI disclosures of discretionary social expenditures. Further to legal reforms in the mining sector, the Government may wish to consider existing possibilities for the public and systematic disclosure through Governmental systems of social and environmental expenditures. 	<p><u>Dissenting opinions:</u></p> <ul style="list-style-type: none"> - Haut-Katanga CSO: Meaningful progress - Lualaba CSO: Meaningful progress - RRN: Meaningful progress 	<p>As with other income, social expenditures, whether mandatory or discretionary, are reported using a form sent to all extractive companies within the scope of reconciliation, regardless of sector, size and activity phase. Companies complete this form as they please and load it into the system where it is stored and then processed.</p> <p>No materiality threshold has been set for declaring mandatory spending. The form captures all amounts committed and contains all the details (identity and region of beneficiary, form of payment, amount paid and legal basis for payment), thus enabling transactions to be recorded. Nevertheless, it was not possible to reconcile the latter due to the lack of a suitable definition of social expenditure, of a reconciliation framework and of a monitoring mechanism. For now, they are the subject of unilateral disclosure. However, a committee composed of representatives of civil society and companies and established by Stakeholders met on 8 and 9 March 2018 and agreed on a definition, a reference framework and a monitoring mechanism. This will facilitate reconciliation in future reports. The Committee made the following agreement:</p> <p>On social expenditure: "The following shall be considered to be a social expenditure: any payment in kind or in cash, mandatory or voluntary, made by a company or other, for the improvement of the quality of life of communities affected or not by its activities and which meets the concerns of Stakeholders, except a payment made for its staff and for itself." On the frame of reference for social expenditures: The agreed frame of reference is available on the EITI-DRC website.</p> <p>The 2012 to 2015 reports contain quite detailed information on mandatory and discretionary social expenditures. As disclosure is free and unilateral, it was not the responsibility of the Independent Administrator to verify comprehensiveness regarding the number of enterprises coming into scope.</p> <p>To decide upon a level of significant progress for this requirement, the International Secretariat bases its argument on "serious concerns (on the part of Stakeholders) around the comprehensiveness of mandatory social expenditure disclosures, bearing in mind the low number of companies reporting and the lack of a comment on the comprehensiveness of disclosures in the reports covering 2015 and 2016." It concludes that the underlying objective has not been achieved.</p> <p>The MSG is of the opinion that this conclusion is based on presumptions. The fact is that neither Stakeholders, let alone the International Secretariat, provide any evidence about one or more businesses that made undisclosed declarations. Of the 128 companies within the 2015 scope, only 22 declared social spending. Of the 106 remaining companies, processing entities that are not required to make social expenditure, closed businesses, businesses that have ceased trading and non-operating businesses should be discounted. In the oil sector, note should be taken of PERENCO REP, which makes social expenditure on behalf of the On and Offshore Association, composed of five companies.</p> <p>Given all the above, the Executive Committee is confident that all aspects of the Requirement have been implemented and that the level is that of satisfactory progress.</p>

Unmet EITI Requirement	International Secretariat's initial evaluation	Validator's evaluation	Validator's recommendations	Views of Civil Society	Executive Committee's comments
<p>Quasi-fiscal expenditures (6.2)</p>	<p>The definition of quasi-fiscal expenditures There are indications from a review of financial statements of state-owned enterprises that EITI-DRC has taken steps to improve reporting of quasi-fiscal expenditures for 2016. Nonetheless, there are concerns about the possibility that the ad hoc expenditures of state-owned enterprises that are not recorded in the national budget may be classified as quasi-fiscal expenditure, as highlighted by Stakeholders consulted. <i>The initial assessment of the International Secretariat is that DRC has made inadequate progress towards meeting this Requirement.</i></p>	<p>The Validator approved the conclusions of the IS and the level of inadequate progress.</p>	<p>In accordance with Requirement 6.2:</p> <ul style="list-style-type: none"> DRC is required to disclose quasi-fiscal expenditures when the participation of the State in the extractive sector generates material revenue payments. DRC should undertake close consultation between state-owned enterprises and the Ministry of the Portfolio to ensure comprehensive EITI reporting of these expenditures and to establish a reporting process to arrive at a level of transparency comparable to that of other payments and revenue streams, including subsidiaries and joint operations. 	<p><u>Dissenting opinions:</u></p> <ul style="list-style-type: none"> DYFEM: Satisfactory progress Haut-Katanga CSO: Inadequate progress Lualaba CSO: Inadequate progress RRN: Meaningful progress MMKI: Meaningful progress 	<p>The Executive Committee has taken steps to ensure full disclosure of quasi-fiscal expenditures comparable to other streams. A reporting process has been followed since the 2014 report, using a reporting form that is regularly sent to EPs, which complete and return it with "nil" returns. EPs' reporting forms are available in the system. Upon analysis it can be easily understood that the difficult financial situation of EPs does not allow them to commit to expenditures of this nature. Indeed, for confirmation of this, the Executive Committee, with the support of the International Secretariat, engaged two independent consultants to review the financial statements of EPs. This review also considered the issue of the quasi-fiscal expenditures of nine EPs that were within scope. The result was that no EP had made this type of expenditure.</p> <p>To support its case, the International Secretariat said that it is under the impression that there are at least three categories of expenditures that could be considered as quasi-fiscal: 1) Social payments approved by the Board of Directors of the state-owned enterprise; 2) Discretionary payments for the performance of the functions of Government that were not part of the mandate of the state-owned enterprise; 3) Ad hoc requests from the Government for the spending on public goods and services with no reimbursement from the national budget. While admitting that these latter two categories would be quasi-fiscal expenditures, the EC, on the basis of the EPs declarations and the conclusions of the review of their financial statements, has no evidence to corroborate the views of the International Secretariat supported by the Validator. The Executive Committee notes that, unlike other provisions, the International Secretariat and the Validator have not provided a sufficient basis for inadequate progress. Without evidence, the concerns of the International Secretariat and Validator cannot lead to the conclusion that DRC has made inadequate progress towards fulfilling this Requirement. Regarding the lack of an appropriate definition of quasi-fiscal expenditures, considerable efforts have been made by the EC to agree an appropriate definition with Stakeholders. Although an appropriate definition is not a requirement of the Standard (since it contains one), Stakeholders held two meetings, on 26 April in Lubumbashi and 26 May 2019 in Kinshasa, to enable better understanding and agree on a definition of quasi-fiscal expenditures. Thus, in consideration of the foregoing, the Executive Committee is confident that all aspects of the Requirement have been met. Consequently, it considers that satisfactory progress has been made for this requirement.</p>

COMPILATION OF COMMENTS FROM THE STAKEHOLDERS OF THE INITIAL ASSESSMENT REPORT AND OF THE DRAFT REPORT FROM THE VALIDATOR

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
Government commitment (1.1)	CSOs IN HAUT KATANGA	<p>Problems: No problem. However, there are some positive developments below which deserve to be mentioned:</p> <ul style="list-style-type: none"> - The Government carries 100% of the EITI budget, estimated at US \$4 million over 3 years. - Introduction of the EITI in national laws. - Strong participation from the Government and the National Assembly in EITI activities at the national and international level. 	Satisfactory	Nothing to report (NTR)
	Natural Resources Network (NRN)	The government is engaged in the process and makes efforts to include the EITI requirements in the legal framework on the exploitation of natural resources.	Satisfactory	<p>Recommendations from the whole NRN:</p> <ul style="list-style-type: none"> - That all information relating to contracts and endorsements and other partnerships are made available to the public promptly and in full, in order to strengthen transparency; - That the legal constraints on the publication of the financial statements of SOEs are lifted so that this is accessible to the public. - Improvements must be made on this matter, this is why we recommend that the government respects what the mining legislation stipulates on this matter, and that civil society supports the Decentralized Territorial Entities (ETD) and denounces any attempt, whatever the reason, to violate this stipulation; - That each ETD shows, in their monthly report, the amount received in terms of mining levy; - That the executive committee makes the necessary provisions to contribute to improving the quality of the data in the EITI reports; - that the executive committee adopts the social payment definition recently proposed by civil society, to remove ambiguity; - that the government proceeds with the counter-assessment of the actual cost incurred to achieve them.
	Platform for the Promotion and Defence of Economic,	<ul style="list-style-type: none"> - The Government has made a commitment, in particular in financing the implementation 	Satisfactory	<ul style="list-style-type: none"> - EITI reports are generally not used for the purpose of improving sector management;

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
	Social and Cultural Rights (DESC / RDC)	- Introduction of the standards in the national legislation - participation of MPs and other members of institutions in the EITI activities		- Courts and auditors and other bodies do not pursue those responsible for the mismanagement, in particular the SOEs
Company engagement (1.2)	CSOS IN HAUT KATANGA	<p>Problems:</p> <ul style="list-style-type: none"> - Certain companies, especially SOEs hardly disclose information and when such information is provided to the EITI, it is not reliable in most cases; - There has been no replacement of Executive Committee company members in accordance with the Standard, due to a lack of a procedural mechanism to guide this replacement. 	Satisfactory	<ul style="list-style-type: none"> - The executive committee must carry out a close follow-up of SOEs, so that they begin to provide comprehensive and reliable information. - Enterprises must define the methods for the replacement of their representatives in the MSG. - Adopt and apply the procedural manual on the replacement of delegates of the company constituency to the executive committee; - Extend the representation of companies in the MSG beyond those affiliated with the Federation of Enterprises of the Congo (FEC).
	NRN	State-owned enterprises (SOE) are not very open in terms of providing reliable information.	Satisfactory	See recommendations from the whole NRN
	DESC / RDC	The industries have incorporated the process and facilitate data collection	Satisfactory	<ul style="list-style-type: none"> - The industries must define the methods of their representation and apply them, in particular in the rotation, to allow the participation of all companies in the multi-stakeholder committee. - State-owned enterprises must improve the reliability of their data
Civil society engagement (1.3)	CSOs IN HAUT KATANGA	NTR	Satisfactory	NTR
	NRN	Civil society organizations must, simultaneously, further mobilize communities with regard to the EITI process.	Satisfactory	See recommendations from the whole NRN
	DESC / RDC	<ul style="list-style-type: none"> - Several structures are working on the implementation of the process - Investigative reports on issues of transparency - No rotation or alternation of representatives from civil society and from companies, in the case of the coordinator of the "Publish What You Pay" (Publiez Ce Que Vous Payez) coalition for fourteen years and member of the Executive Committee for thirteen years, through constant manipulation of the participants to different civil society consultations. Therefore, there is no regard for the regulations when they do exist, nor for the competences of representatives. 	Inadequate	Improvement of internal governance, in particular a rotation of representatives
Governance of the multi-stakeholder group (1.4)	CSOs IN HAUT KATANGA	<p>Problems:</p> <ul style="list-style-type: none"> - The new Decree on the creation and operation of the EITI in the DRC is not yet signed, while the former one is expired. 	Inadequate	- Write a reminder memo:

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
		<ul style="list-style-type: none"> - Delay in the recruitment of the EITI National Coordinator. Instead of proceeding directly to the recruitment of a new Coordinator, the DRC has simply appointed an interim Coordinator, where interim has lasted more than a year and the actions of the interim Coordinator are limited. - Payment of the coordinator suspended; (double payment for one position). - Failure to apply the procedural manual to the existing EITI standard. - Irregularity of MSG meetings (the last meeting is dated 7 months ago, November 2018). - EITI budget excessively high in relation to the activities, operations and areas of coverage. - Poor communication mechanisms between the representatives of civil society organizations and the executive committee and their peers. 		<ul style="list-style-type: none"> ➤ To the executive committee, to ensure the implementation of the procedural manual and, if necessary, to make updates. ➤ To the prime minister: To accelerate the signature by the prime minister of the decree. ➤ To initiate the recruitment process of the EITI coordinator. - The MSG must ensure the organization of regular meetings, in line with the regulations that govern the operation of the executive committee in order to address all outstanding problems. - Reduce the operating budget of the Technical Secretariat, in line with other countries implementing the EITI. - Civil society must strengthen the communication mechanisms between CSO representatives and the Executive Committee and their peers. - The MSG/EC should hold meetings in accordance with the timing stipulated in the regulatory text.
	<p>Women and Mines Dynamic (Dynamique Femme et Mines - DYFEM)</p>	<p>The validator assessing the progress made in the implementation of this requirement and has found it to be adequate. DYFEM notes that the following elements could improve the validator's assessment:</p> <ul style="list-style-type: none"> - The existence of a duly constituted multi-stakeholder group, comprising the three stakeholders. The delegates of these stakeholders are duly designated by their peers, are legitimate and are accountable to their peers. - The composition, organization and operation of the executive committee is based on the decree 09/28 of 16 July 2009 - The stakeholders work based on an action plan adopted by all stakeholders (in accordance with requirement 1.5), - The stakeholders are engaged (in accordance with requirements 1.1., 1.2 and 1.3) - The participants know the dates of the meetings as well as the agenda in advance - With regard to the problem of attendance fees, a solution was already found as the result of a Executive Committee meeting in March 2014. - With regard to the appointment of the current management team of the national Coordination: DYFEM reviewed the context from the time of the events. Indeed, following the deadlock caused by the withdrawal of confidence in the former Coordinator, it was imperative that the government, in accordance with the stakeholders, made arrangements in order to ensure 	<p>Satisfactory</p>	<p>NTR</p>

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
		<p>smooth implementation. While waiting for the outcome of the process to replace the current interim leaders through the recruitment of new leaders, DYFEM considers the assessment of the validator to be incomplete on this matter.</p>		
	<p>Maison des Mines du Kivu (MMKi)</p>	<p>In their report, the validator assessed the progress on this requirement and considered that the level of implementation is inadequate, but we believe that, in view of the situation in the DRC, progress should change from INADEQUATE to MEANINGFUL.</p> <p>There are several reasons for this:</p> <p>-Reading the content of requirement 1.4, we believe that the DRC has made an effort in the implementation of this requirement in this sense that, as we all know, the MSG was established in the DRC in 2009 and operates based on decree No. 09/28 of 16 July 2009 on the creation, organization and function of the EITI-RDC national committee in the management of the Extractive Industries in the DRC, and meetings are organized according to the agenda that is communicated in advance. In relation to updating the decree on the operation of the Multi-Stakeholder Group, we note that the multi-stakeholder group had already debated a draft decree for updating this. During a meeting of the Executive Committee, this draft was adopted at the level of the Multi-Stakeholder Group and filed with the Prime Minister's office for signature, something which has never been done, and so the decree of 2009 still remains current, pending the signature of the updated decree.</p> <p>-With regard to requirement 1.4.b-vi, we draw the validator's attention to the fact that the issue of the attendance fees was debated in two consecutive meetings, those of 15 January 2014 and 5 March 2014 and it was during the meeting of 5 March 2014 that this issue was annulled.</p> <p>For the record, in 2017-2018, the EITI process encountered difficulties as a result of the malfunction of the Multi-Stakeholder Group (withdrawal of confidence by stakeholders relating to the position of the coordinator, prof Mack DUMBA), but thanks to the determination of the stakeholders, the country has overcome this crisis with the departure of prof Mack and the appointment of an interim coordinator.</p> <p>Having regard to the above, we call on the validator to take into account the change in the process in the DRC in relation to this requirement (1.4), bearing in mind the difficulties that the DRC has faced and to change the progress to SATISFACTORY.</p>	<p>Meaningful</p>	<ul style="list-style-type: none"> - Update the governance documents of the Multi-stakeholder Group. - Adopt the MSG procedural manual; - Follow-up the draft decree filed with the Prime Minister for adoption; - Improvement of the mechanism for communication with other stakeholders who are not serving on the Executive Committee (communication of Executive Committee meetings); - Adoption by the Executive Committee of the EITI administrative and financial procedural manual; - Adopt a determined and equal amount for all delegates to the Executive Committee meetings - Submit and follow up the draft decree to the Prime Minister for signature; - Set up a commission for the recruitment of the Coordinator and their deputy; - Nomination of the National Coordinator and their deputy by order of the President of the Republic.
	<p>NRN</p>	<p>Process management tools are not used and the legal framework must be improved.</p>	<p>Inadequate</p>	<p>See recommendations from the whole NRN</p>

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
	CSOs IN LUALABA	<p>The level of progress is inadequate because, despite the EITI-RDC having a Multi-Stakeholder Group, the MSG is facing very serious governance problems. The problems are as follows:</p> <ul style="list-style-type: none"> - The new Decree on the creation and operation of the EITI in the DRC is not yet signed, while the former one is expired. - Delay in the recruitment of the EITI National Coordinator to replace Mack Ndumba. - Failure to implement the existing EITI procedural manual. - Irregularity of MSG meetings (the last meeting is dated 7 months ago, November 2018). - EITI budget excessively high in relation to the activities, operations and areas of coverage. 	Inadequate	<ul style="list-style-type: none"> - Organization of a large consultation between all companies in the sector to adopt a procedural manual with clear identification - of their delegates to the executive committee; - Renewal of the composition of the company component of the MSG/EC. - Urgently organize the recruitment of a coordinator approved by all stakeholders and the spirit of the Standard and competition and transparency rules. - The multi-stakeholder group must follow up the civil society and business component for the adoption of mechanisms to appoint and replace delegates in accordance with the procedural manual of procedure of each component. - The MSG must carry out advocacy work with the prime minister to obtain the signature of the draft decree of the law amending the Decree on the creation and organization of the EITI, and persuade the commission responsible for updating the communication mechanism to finalize it and ensure the regulations are adopted.
	CSOs in Kongo Central	None	Inadequate	The Executive Committee must make an effort to get the decree signed, while ensuring that the fact does not become a public utility company and thereby lose its mission and that the extractive companies serving on the Executive Committee produce an explanation of the method of appointment and replacement, that the Initial Report is updated and applicable to everyone, the criticism of attendance fees is expired because it is a decision of the Executive Committee (see the report from this meeting)
	DESC / RDC	The appointment of a coordinator apparently without competences in the field of the exploitation of natural resources, instead of the recruitment set out in the regulations governing the process, is a step back in terms of implementation. The complacent appointment of coordinators by the Government has blocked implementation for several years.	Inadequate	- Accelerate the uptake of the order - Update the different regulations - Clarify the rules for management
Work plan (1.5)	NRN	Although the plan is satisfactory, it must be possible to follow up on.	Satisfactory	

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
Legal framework (2.1)	CSOs IN HAUT KATANGA	NTR	Beyond expected results	NTR
	NRN	NTR	Beyond expected results	NTR
	DESC / RDC	<ul style="list-style-type: none"> - All laws have integrated the EITI standards - Adopt the law on access to information - Endorsements and other contracts signed with enterprises with effects on revenues are often confidential and not made known to the general public. They are only made known several months or years later. 	Satisfactory	NTR
License allocations (2.2)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - In the hydrocarbons sector, the data are not updated and comprehensive as they are for the mining sector. 	Meaningful	That the Hydrocarbon General Secretariat (SGH) regularly updates data about the licenses/permits granted or transferred and the methods of allocation or transfer.
	Maison des Mines du Kivu (MMKi)	NTR	NTR	<ul style="list-style-type: none"> - Publicly disclose information relating to the licenses granted and transferred. - Disclose, in the case of a call for tenders, submission criteria, the list of applicants, and document the results of the process. - Update the lists of contracts and licenses by sector on the websites of the Ministries of Hydrocarbons and Mines. - Develop clear criteria for bids and make these accessible to everyone; - Make accessible to everyone the name of the successful candidate after the files are assessed.
	NRN	<ul style="list-style-type: none"> - The legal framework provides guidance for the granting of licenses and the departments responsible seek to lead the license granting process. 	Satisfactory	NTR
	CSOs IN LUALABA	- NTR	Meaningful	NTR
	CSOs in Kongo Central	- NTR	Meaningful	NTR
	DESC / RDC	- NTR	Inadequate	NTR
Register of licenses (2.3)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - Beyond the decrees, the mining cadaster (CAMI) holds a report with comprehensive information about licenses and permits granted or transferred, which it publishes each year. This report contains the coordinates and dates of the allocation of licenses in the mining sector. 	Meaningful	<ul style="list-style-type: none"> - To the mining cadaster (CAMI), to complete the missing information on certain licenses, in particular the coordinates and dates of application;

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
		- With regard to the oil sector, the data are not updated and this register is not comprehensive (location data) and easily accessible.		- The oil sector must follow the steps of the mining industry, i.e., establish a registration system for permits and licenses, along the lines of the FlexiCadastre, which must be systematically and regularly updated.
	MMKi	NTR	NTR	<ul style="list-style-type: none"> - Hold a public and updated register containing the information on each license granted within the Extractive Industries. - Write to the Ministers of Hydrocarbons to call on their secretary-general to make public and accessible the register of licenses, and to update it; - Write to the Minister of Mines to instruct the mining cadaster (CAMI) to put comprehensive data about licenses online and to add the geographical coordinates and to make it public.
	NRN	The register of licenses must be updated, especially for the mining sector with all information possible, including information about beneficial owners.	NTR	See recommendations from the whole NRN
	CSOs IN LUALABA	We maintain a rating of Meaningful with regard to the register in the mining sector. Meanwhile, for the hydrocarbons sector, we believe that it is inadequate because the register is neither comprehensive nor up-to-date.	Meaningful (Mines) Inadequate (Oil)	<ul style="list-style-type: none"> - The Ministry of Mines as well as the mining cadaster (CAMI) must publish all necessary information about the licenses as well as all transactions that have occurred - Companies must publish the information about the license they are granted.
	CSOs in Kongo Central	We maintain a rating of Meaningful with regard to the register in the mining sector. Meanwhile, for the hydrocarbons sector, we believe that it is inadequate because the register is neither comprehensive nor up-to-date.	Meaningful (Mines) Inadequate (Oil)	<ul style="list-style-type: none"> - The Ministry of Mines as well as the mining cadaster (CAMI) must publish all necessary information about the licenses as well as all transactions that have occurred; - Companies must publish the information about the license they are granted.
	DESC / RDC	NTR	NTR	- Improve or develop the register in the hydrocarbons sector
Policy on contract disclosure (2.4)	CSOs IN HAUT KATANGA	NTR	Beyond expected results	NTR

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
	NRN	SOEs in particular must disclose and have an internal policy for doing so. Several joint-ventures are not known by the general public.	Meaningful	See recommendations from the whole NRN
Declaration of beneficial ownership (2.5)	CSOs IN HAUT KATANGA	The majority of Extractive Industries operating in the DRC have not yet provided the information on beneficial ownership as required by the EITI standard (name of the individual, address, telephone number, etc.), publicly traded companies do not disclose the direct links to the information on beneficial ownership. Although the DRC is among the first implementing countries, the EITI has published this information.	Satisfactory	- Given that the declaration of beneficial ownership will be mandatory from 2020, civil society recommends that the executive committee requires extractive enterprises to disclose the beneficial owners as provided for by the standard.
State participation (2.6)	CSOs IN HAUT KATANGA	The lack of a clear explanation of the current practices governing the financial relations between the government and SOEs, such as the rules and practices governing the transfers of funds between the SOE and the State itself, retained revenues, reinvestment and third-party financing.	Meaningful	- Clarify the financial relations between the State and SOEs.
	MMKi	NTR	NTR	- Keep a list that is comprehensive and accessible to all, of the extractive companies in which the government or SOEs hold a stake. - Clarify the financial relations between the State and SOEs and make these public; - Write to the Minister of the portfolio to make available and accessible the full list of companies in which the government or SOEs hold a stake. - Write to the Minister of the portfolio to clarify the financial relations between the State and SOEs and make this public; - Disseminate the production valorization methodology adopted in May 2018 among all companies. - The Ministry of Mines must facilitate the reconciliation of data provided by the Technical Unit for Mining Coordination and Planning (CTCPM) with data from companies, for the next EITI report.
	NRN	NTR	Satisfactory	See recommendations from the whole NRN
	CSOs IN LUALABA	The level of progress is meaningful because: - The rules exist and are disclosed but the practices pose a problem; - Some loans contracted by these SOEs, including those of GCM, have been disclosed but not the guarantees provided to the companies that have agreed these various loans See 2016 report.	Meaningful	That the executive committee ensures that the Ministry of Hydrocarbons is operational and accessible, requests that the mining cadaster (CAMI) and the Hydrocarbon General Secretariat (SGH) updates the registers of licenses, makes them

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
				<p>accessible, that the Technical Secretariat of the EITI-RDC organizes a meeting with the parties concerned, Organize a working session with the heads of SOEs and from the Ministry of the portfolio, to assess the updating of the information on the website of SOEs and of the EITI</p> <p>Organize a workshop on the assessment of SOE commitments on the publication of financial statements</p> <p>Call on the Minister of the portfolio to publish the practices governing the relations between the State and SOEs. Also, call on SOEs to publish the loans, advances and guarantees</p> <p>Call on the mining cadaster (CAMI) to publish a full list of extractive companies that have transformed their Research Permits into Exploitation Permits and to request harmonization between the data from the Ministry of the Portfolio and the mining cadaster (CAMI)</p>
	CSOs in Kongo Central	In accordance with Requirement 2.6, the DRC must ensure the availability of a comprehensive list that is accessible to the public, of the extractive companies in which the government, or any SOE, holds a stake. Similarly, any change during the course of the year in question, and a description of the conditions associated with government shareholdings, or shareholdings of SOEs, must also be included. The DRC must ensure that current rules and practices on the financial relations between the Government and SOEs, such as the rules and practices governing transfers of funds between the SOE and the State itself, retained revenues, reinvestment and third-party financing, are disclosed to the public. The DRC must ensure that loan conditions and guarantees of loans granted by the State and SOEs to extractive enterprises are disclosed to the public in full.	Meaningful	That the executive committee organizes a workshop to debate the question, so that concerned parties can give explanations
	DESC / RDC	Improve information on state participation Often, behind information on State participation, there are people politically exposed.	NTR	NTR
Exploration data (3.1)	CSOs IN HAUT KATANGA	<p>Problems:</p> <ul style="list-style-type: none"> - Failure to publish the data on exploration, while these data are very important for civil society in the framework of monitoring fiscal and parafiscal obligations within the Extractive Industries. - Failure to make accessible the technical and financial criteria proposed by the Minister of hydrocarbons to the council of Ministers. 	Satisfactory	<ul style="list-style-type: none"> - Exploration data must be published systematically by the company and updated (each year). - The Minister of Hydrocarbons must make available to the public the technical and financial criteria for the allocation of exploration or production licenses. - As a member of the MSG, the Minister of Hydrocarbons must publish in the official journal,

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
		- Lack of publication, in the official journal and in the media and the website of the Ministry of hydrocarbons, of the tender process for exploration rights.		their ministry website and in local and international media, the list of all bidders as well as the final selection. This must happen in the short term.
	NRN	There is very little information about explorations and the assessed results of the data collected for the purposes of a decision on exploitation.	Meaningful	- See recommendations from the whole NRN
	DESC / RDC	Companies often publish these data on different exchanges and not at the national level. The State has very poor knowledge of the production statistics, particularly from Asian companies.	Meaningful	- That the publication of these data about exploration is systematic and regularly updated
Production data (3.2)	CSOs IN HAUT KATANGA	There is already an identical formula for calculating volumes and values.	Meaningful	- The technical secretariat should accelerate dissemination and awareness, and encourage all mining companies to apply this formula. - To civil society, to follow up to ensure this method of calculation is applicable to all EIs and that it is extended to other products. - That production statistics can be reliable.
	NRN	Production data must be updated and available in accessible formats.	Meaningful	See recommendations from the whole NRN
	CSOs IN LUALABA	The level of progress is meaningful because there is a lack of details about exploration because the standard stipulates, in point 3.1. that all exploration activities in progress should be indicated in the EITI report. We note that certain companies continue exploration on lands, but this has not been indicated in the EITI report, particularly in the case of the company KAMOA COPPER, in its KAKULA project. See the 2016 report from the mining cadaster.	Meaningful	NTR
	CSOs in Kongo Central	NTR	Meaningful	The DRC is requested to ensure that the EITI works in close collaboration with the Hydrocarbon General Secretariat (SGH) and the consortium CHEVRON ODS, MIOC and TEIKOKU, in order to make oil production values public in the future.

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
	DESC / RDC	Companies often publish these data on different exchanges and not at the national level. The State has very poor knowledge of the production statistics, particularly from Asian companies.	NTR	Production and exploration statistics should be improved and be more reliable.
Exploration data (3.3)	CSOS IN HAUT KATANGA	NTR	Satisfactory	NTR
	NRN	However, for gross data, particularly for copper and cobalt, sub-products need to be presented.	Satisfactory	See recommendations from the whole NRN
	DESC / RDC	The State has very poor knowledge of the production statistics, particularly from Asian companies.	NTR	Production and exploration statistics should be improved and be more reliable.
Materiality and comprehensiveness (4.1)	CSOs IN HAUT KATANGA	NTR	Meaningful	NTR
	MMKi	NTR	NTR	<ul style="list-style-type: none"> - Make a comprehensive declaration of the flows of significant payments made by companies in this scope. - Continue with strengthening of reporting entities in order to obtain disclosures of reliable and comprehensive data from them.
	NRN	Revenue collection is still not comprehensive due to the lack of information and the reliability of certain information.	Meaningful	See recommendations from the whole NRN
	CSOs IN LUALABA	NTR	Meaningful	NTR
	CSOs in Kongo Central	NTR	Meaningful	NTR
	DESC / RDC	Several contracts, loans and other revenues remain opaque, are not published at the time. Problems in terms of comprehensiveness remain.	NTR	NTR
	Sale of the state's share of production or other revenues collected in kind (4.2)	CSOS IN HAUT KATANGA	Not applicable (N/A)	N/A
	DESC / RDC	Annual data on the number of infrastructures completed and their real values	NTR	Set up a publication and reconciliation mechanism

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
Infrastructure provisions and barter arrangements (4.3)	CSOs IN HAUT KATANGA	NTR	Satisfactory	NTR
	NRN	NTR	Satisfactory	See recommendations from the whole NRN
	DESC / RDC	Improve the transparency of the SICOMINES barter agreement, in particular in relation to production, exports, revenues and reimbursement	NTR	The little data made available to the public are neither reliable nor comprehensive. Production and exportation data, as well as data on sales volumes of the metals, are not made public
Transportation revenues (4.4)	CSOs IN HAUT KATANGA	NTR	Satisfactory	NTR
	NRN	NTR	Satisfactory	See recommendations from the whole NRN
Transactions related to state-owned enterprises (SOEs) (4.5)	CSOs IN HAUT KATANGA	Problems: <ul style="list-style-type: none"> - SOEs disclose very little reliable information. - Dividends received by the State despite losses. - Metalkol case: business plan by GCM to transfer its shares in the Metalkol project in return for loans contracted through GETHLER for the purchase of the DEZITA project. The payment made via a subsidiary of the group ERG HIGHWIND Properties Limited and DEZITA Investments Sarl. 	Meaningful	<ul style="list-style-type: none"> - SOEs disclose information from audited accounts. - The State suspends dividends received in SOEs until they have made profit. - Recommendation To SOEs, to directly undertake various transactions with subsidiaries based in the DRC.
	MMKi	NTR	NTR	<ul style="list-style-type: none"> - Clarify the roles of SOEs and ensure that payments made through them and through government entities are processed in detail and publicly. - Write to the ministries of the portfolio, of finance and budget, for clarification on SOEs and transparency on payments made with them.
	NRN	SOEs are managed in an opaque manner and not all information about all transactions is available, and the information that is available is not reliable.	Inadequate	See recommendations from the whole NRN
	CSOs IN LUALABA	CSOs in Lualaba report that with the revision of the mining code, the issue has been 90% resolved, with the exception of the question of the sharing of this levy in the case of overlap. Certain ETDs in the province of Lualaba, particularly in the municipalities of Dilala, Secteur de Luilu, etc., have already begun to receive their share of mining levies.	Meaningful	Organize a workshop on the publication of transactions made by state-owned enterprises
	CSOs in Kongo Central	The validation was carried out based on the 2015 Report and the description of State transactions has been taken into account since 2016	Satisfactory	None

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
Subnational payments (4.6)	CSOs IN HAUT KATANGA	<p>Problems:</p> <ul style="list-style-type: none"> - Provincial taxes: there are only a few provinces which declare, while there are extractive activities in all provinces, significant payments are received by them, but not declared. - Payments received by provinces are not reconciled. - Mining levy: with the new law, the mining levy at the ETD level also falls under the heading of subnational payments - Risk of mismanagement of the income derived from subnational payments 	Meaningful	<ul style="list-style-type: none"> - That the Executive Committee increases awareness and requires that other Directorates of provincial revenues also report their subnational payments. - The Executive Committee reconciles subnational payments. - Civil society must carry out monitoring to ensure that revenues collected by ETDs are not mismanaged. - Establish management mechanisms for the revenues received by ETDs. - That there is reconciliation of the payment declarations from the mining levy paid to ETDs.
	MMKi	NTR	NTR	<ul style="list-style-type: none"> - Not be limited only to the province of Haut Katanga which receives road and drainage tax (TVD) and the incentive tax on mineral processing in Katanga (TC), also include payments received by the other provinces. - Carry out a mapping of the taxes from the extractive sector in all provinces - Increase awareness among provincial directorates about the disclosure thereof. - on audit and certification according to the international standard.
	NRN	Decentralized Territorial Entities (ETDs) do not declare the revenue flows paid at the local level.	Meaningful	See recommendations from the whole NRN
	CSOs IN LUALABA	NTR	Meaningful	Organize a workshop on the publication of transactions made by state-owned enterprises
	CSOs in Kongo Central	NTR	Satisfactory	Efforts by the central government to reassign payments despite not totally in accordance with the law, managed by provincial governments, and the provincial governments have taxes which give resources to the provinces,
	DESC / RDC	NTR	NTR	<ul style="list-style-type: none"> - Ensure that transfers are made; - Establish payment publication and conciliation procedures; - Organize elections at the local level
	CSOs IN HAUT KATANGA	NTR	Satisfactory	NTR

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
Level of Disaggregation (4.7)	NRN	NTR	Satisfactory	See recommendations from the whole NRN
Data timeliness (4.8)	CSOs IN HAUT KATANGA	NTR	Satisfactory	NTR
	NRN	NTR	Meaningful	See recommendations from the whole NRN
	DESC / RDC	NTR	NTR	Update all exploration, production and export data, up to the level of revenue and expenditure
Data quality (4.9)	CSOs IN HAUT KATANGA	The quality of the data provided by SOEs is not reliable. (E.g.: GCM has published its shareholdings in the company Kipoi, while those shares have already been transferred).	Meaningful	<ul style="list-style-type: none"> - That SOEs provide reliable data. - To the Executive Committee, to ensure that SOEs provide reliable data. - The Executive Committee must ensure that data provided by the SOEs have been certified by the IGF. - For civil society to initiate works on data reliability mechanisms.
	NRN	The issue of reliability is permanent	Meaningful	See recommendations from the whole NRN
	CSOs IN LUALABA	NTR	Meaningful	NTR
	CSOs in Kongo Central	The quality of the data is difficult to sustain because the company that is operating is the one that declares. The government is not able to certify this data but it accepts the declarations.	Meaningful	NTR
	DESC / RDC	NTR	NTR	Data reliability should be improved on a permanent basis
Distribution of revenues (5.1)	CSOs IN HAUT KATANGA	The allocation of revenues from the extractive sector is not specified in the state budget, under the principle of the consolidation of the State budget. This is the problem for ensuring traceability.	Meaningful	<ul style="list-style-type: none"> - The government should define the public policy on the allocation of revenues from the extractive industries. - It should also undertake legal reforms (public finances) to ensure a clear allocation of revenues from the extractive industries to the priority issues of sustainable development in the country, and to facilitate the traceability of revenues.
	MMKi	NTR	NTR	- Explain the allocation of revenues from the EI that are not listed in the national budget;

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
				<ul style="list-style-type: none"> - Explain the revenues retained by the tax collection agencies and SOEs; - Provide information on the contribution from the mining cadaster (CAMI) into special accounts. - Write to the Ministries of finance and of the budget to call for explanations on the allocation of revenues from the EI that are not listed in the budget, and those retained by tax collection agencies and state-owned enterprises.
	NRN	NTR	Meaningful	See recommendations from the whole NRN
	CSOs IN LUALABA	NTR	Meaningful	NTR
	CSOs in Kongo Central	The law is clear on the issue and this has been disclosed	Satisfactory	NTR
	DESC / RDC	NTR	NTR	Specify the source of revenues to improve traceability
Subnational transfers (5.2)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - Failure to comply with the 2002 law (distribution key) and the absence in the new code of a clear distribution key of these flows in the case of ETDs overlapping. - In the EITI report, the mining levy is not reconciled between the national level and the ETDs. 	Meaningful	<ul style="list-style-type: none"> - Ensure that transfers are made in compliance with the legal provisions and standards that are in force in the DRC. - Establish distribution methods for the case of overlap between ETDs, publication and reconciliation of declarations of payment of the mining levy by ETDs).
	DYFEM	<p>The validator suggests that the DRC reassures that subnational transfers are disclosed, as well as all differences, and the calculations according to the revenue-sharing formula, disaggregated by province and territorial entity.</p> <p>DYFEM estimates that the DRC has lifted the major options that enable a response to this requirement. This is the case particularly with Decree-law No. 13/001 of 23 February 2013 which sets out the nomenclature of taxes, rights and levies of the provinces and decentralized territorial entities, as well as the collection methods. In addition, law No. 18/001 of 9 March 2018 amending and supplementing law No. 007/2002 of 11 July 2002 on the mining code, and Article 242 which established the distribution method of the mining levy.</p> <p>We have two takeaways from the analysis of these two laws: withholding tax and the distribution of the mining levy.</p>	Meaningful	NTR
	MMKi	With regard to this requirement, the commentary of the Validator expresses that the DRC must ensure that significant subnational transfers in the extractive sector are publicly disclosed, and it underlines the gaps between the subnational transfers in practice and the calculations according to the revenue-sharing formula,	Meaningful	<ul style="list-style-type: none"> - Publicly disclose significant subnational transfers in the extractive sector and clarify the differences between subnational transfers in practice and the calculations based on the revenue-sharing

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
		disaggregated by province and by decentralized territorial entity (ETD). On this level, it is important to emphasize that in the DRC, there has been a change in terms of subnational transfers because with the withholding tax, the issue of gaps will cease to exist, because the withholding will be carried out at source in line with the distribution key, as established in Article 242 of the revised mining code of March 2018. In our opinion, it would be better to take into account our comments with regard to requirement 5.2 in terms of reviewing the level of progress beyond the meaningful progress, to at least reach the SATISFACTORY level, since the withholding came into effect in September 2018.		<p>formula by province and by government entity for the years before 2018;</p> <ul style="list-style-type: none"> - Collaborate with provincial divisions of Mines, the Ministry of Finance and the DGRAD to publicly disclose up-to-date and comprehensive data on subnational transfers. For the years before the arrival of the 2018 Mining Code. - Write to the Ministries of finance and of the budget to make available the data and clarify the differences.
	NRN	NTR	Meaningful	- See recommendations from the whole NRN
	CSOs IN LUALABA	CSOs in Lualaba indicate that the number of companies that publish these expenditures is very low. More than 70% of companies selected within this scope do not yet disclose social expenditures in line with the EITI Standard	Meaningful	<p>Apply Article 175 of the Constitution with regard to the share of the national revenue allocated to the provinces, which is set at 40%.</p> <p>Meet with the institutions involved in subnational transfers (Ministry of Finance, provinces and ETDs), in order to carry out an analysis of the status of the application of the law</p> <p>-</p>
	CSOs in Kongo Central	None	Meaningful	- None
	DESC / RDC	NTR	NTR	<ul style="list-style-type: none"> - Ensure that transfers are made; - Establish payment publication and reconciliation procedures; - Organize elections at the local level
Information on revenue management and expenditures (5.3)	CSOs IN HAUT KATANGA	N/A	Encouraged	NTR
	DESC / RDC	NTR	NTR	Include in the next action plan activities to trace expenditures
Social expenditures (6.1)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - Unilateral declaration of social expenditures by companies. - Reconciliation difficulties because there is no state service which carries out the cross-checking of the social payments made by the company. 	Meaningful	To the Government, to accelerate the implementation of specialized bodies.
	MMKi	NTR	NTR	- Since it is mandatory to allocate 0.3% of turnover to communities, the MSG must raise awareness among companies to disclose their social

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
				expenditures more. Technical Secretariat to reconcile social expenditures.
	CSOs IN LUALABA	NTR	Meaningful	NTR
	CSOs in Kongo Central	NTR	Meaningful	NTR
Quasi-fiscal expenditures (6.2)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - There are some quasi-fiscal expenditures in the 2016 review report of SOEs' financial statements, but these are confused with other expenditures. This is the case, for example, of the contribution to the budget which SOEs declare to the EITI as other payments. - For civil society in Haut-Katanga, the difficulty of quasi-fiscal expenditures declared by SOEs has, from the outset, been fostered by the confusion created by the Standard itself. It has not given a clear enough definition of this notion. However, the DRC has not made enough effort to clarify or request clarification or guidance from the SI, despite the recommendation made by all stakeholders of the executive committee in the 2015 EITI report to organize a working session with all stakeholders to remove the ambiguity surrounding this issue before the beginning of the validation. Actions have begun after the initial validation report was released, which is beyond the period covered by the validation. 	Inadequate	<ul style="list-style-type: none"> - Complete the activities carried out in May 2019 by organizing a stakeholder meeting or by urgently initiating a commission comprising all Stakeholders to circumscribe the notion of quasi-fiscal expenditures and to propose a frame of reference, as there is for social expenditures. - Make specific declaration forms. - At the international level: the standard sets out what is meant by quasi-fiscal expenditure.
	DYFEM	Disclosure by SOEs of quasi-fiscal expenditures they have made. All SOEs as well as all quasi-fiscal expenditures made by them are disclosed. A compelling case is the contextual report on additional information published in 2016.	Satisfactory	NTR
	MMKi	Referring to the data contained in the 2016 EITI contextual report, additional information on the quasi-fiscal expenditures of SOEs, data responding to some of the recommendations made with regard to this requirement, we believe that even if this requirement has not been satisfied in full, we have achieved a certain amount of progress with regard to the disclosure of this information, and this is why we propose that the rating is changed from inadequate to satisfactory. In the 2016 EITI contextual report, not only the fiscal expenditures made by SOEs that were made within this scope were disclosed, but the question of the relations between these companies and the ministry of the portfolio was also discussed.	Meaningful	<ul style="list-style-type: none"> - Initiate the definition of quasi-fiscal expenditures - Publication of the national budget to obtain the social expenditures to be made by each SOE. - Encourage the Government to disclose the details of the national budget each time a vote is held on it. - Clarify the financial relations between the Government and SOEs.
	NRN	SOEs contribute to the national economy but that these contributions are not disaggregated and are not in line with established procedures.	Meaningful	- See recommendations from the whole NRN
	CSOs IN LUALABA	CSOs in Lualaba indicate that one of the factors influencing this score or rating is the lack of a clear and comprehensive definition of what is meant by quasi-financial	Inadequate	NTR

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
		expenditures, in particular for the reporting parties. But also, there has been a delay in the execution of the recommendation made by all stakeholders in the 2015 and 2016 EITI reports, the recommendation of organizing a session with all stakeholders to establish a clear and referential content on what is meant by quasi-fiscal expenditures, in line with the work carried out on social expenditures organized in May 2018. The Technical Secretariat has already begun to organize meetings on this subject.		
	CSOs in Kongo Central	NTR	Inadequate	NTR
Contribution of the extractive sector to the economy (6.3)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - Several other criteria, apart from those included, must be considered in the assessment of the contribution of the extractive sector to the economy. - This involves the publication of reports documenting the question in a detailed fashion. 	Satisfactory	<ul style="list-style-type: none"> - The Executive Committee should agree on the methodological approach to be used to determine the elements taken into consideration in the calculation of the GDP. - Define the criteria for assessing this contribution to the economy. - Carry out extensive documentation to understand the level of contribution from the extractive sector.
	NRN	NTR	Satisfactory	- NTR
Public debate (7.1)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - Low use of information from EITI reports in debates at the level of the two chambers of parliament, the court of audits and courts, and courts and auditors at the level of the universities. - Debate at the level of grassroots populations is still very low. This is why civil society proposes that the rating is meaningful instead of what the SI proposed. 	Meaningful	<ul style="list-style-type: none"> - To the EITI Executive Committee to make available the budget allocated to dissemination and awareness-raising. - To the two chambers of parliament, to use the EITI data for parliamentary monitoring and to begin legal proceedings for any and all cases of abuse exposed by the EITI report. - To civil society, to mobilize funds for raising awareness of the EITI reports and leading public debates that also involve the communities affected by extractive activity.
	NRN	- Debate is limited at the level of civil society engaged in the EITI process. A large proportion of the public is not informed about the process and the results.	Meaningful	- See recommendations from the whole NRN
	DESC / RDC	- There have been no more public debates for some time	Inadequate	- NTR

Provisions of the EITI Standard	Civil Society Organizations (CSOs)	Comments	Levels of Progress (Points of view of CSOs)	Recommendations from CSOs
Data accessibility (7.2)	CSOs IN HAUT KATANGA	N/A	N/A	N/A
Gaps and follow-up of recommendations (7.3)	CSOs IN HAUT KATANGA	<ul style="list-style-type: none"> - The same recommendations made by the Independent Administrator (AI) and the stakeholders, contained in the EITI-RDC reports recur over several years. - The lack of or poor implementation of the recommendations can influence the reliability of future data if these are not resolved. 	Meaningful	<ul style="list-style-type: none"> - The executive committee must regularly produce a report on the follow-up of recommendations, showing the level of implementation of the recommendations that were ongoing. - It must also take into account the recommendations made by the stakeholders, including civil society, to move forward.
	NRN	NTR	Satisfactory	See recommendations from the whole NRN
	DESC / RDC	- Little or no follow-up	Inadequate	NTR
Outcomes and impact of implementation (7.4)	CSOs IN HAUT KATANGA	NTR	Satisfactory	NTR
	NRN	Communities impacted by extractive activities do not yet feel the contribution in the management of financial flows in terms of everyday improvement.	Meaningful	See recommendations from the whole NRN
	DESC / RDC	Mitigated	NTR	NTR