EITI International Secretariat 19 March 2020

Second Validation of Madagascar:

Draft assessment by the EITI International Secretariat

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Acronyms

AfDB	African Development Bank
ANOR	Agence Nationale de l'Or
APPAM	Association Professionnelle du secteur Pétrolier-Amont de Madagascar
BCMM	Bureau du Cadastre Minier de Madagascar
CdC	Cour des Comptes (Supreme Audit Institution)
CSOs	Civil Society Organisations
DGD	Direction Générale des Douanes
DGI	Direction Générale des Impôts
DGE	Direction des Grandes Entreprises
DGM	Direction Générale des Mines
EITI	Extractive Industries Transparency Initiative
FAM	Frais d'Administration Minière
GFS	Government Finance Statistics
IMF	International Monetary Fund
INSTAT	Institut National de la Statistique
LGUs	Local Government Units
MFB	Ministry of Finance and Budget
MGA	Malagasy Ariary
MMRS	Ministry of Mines and Strategic Resources
MSG	Multi-Stakeholder Group
OMNIS	Office des Mines Nationales et des Industries Stratégiques
ONE	Office National pour l'Environnement
NGO	Non-Governmental Organisation
PEP	Politically Exposed Person
PSC	Production-Sharing Contract
PWYP	Publish What You Pay
PAGI	Programme d'Appui à la Gouvernance Institutionnelle
SOE	State-owned entreprise
USD	United States Dollar
VAT	Value Added Tax

1. Summary

Madagascar has made progress in addressing most of the corrective actions from its first Validation amidst a tumultuous period. Presidential elections in November 2018 brought in a new administration led by President Andry Rajoelina, for whom ensuring a greater yet sustainable contribution of the extractive industries to the national economy was a stated election campaign priority. The political transition caused some interruption in EITI implementation. In December 2019, the administration faced backlash following its proposal of draft amendments to the Mining Code without prior public consultations. These proposed reforms were presented against a backdrop of scandals in the management of the country's chrome state-owned enterprise (SOE) KRAOMA, which led to the arrest of its former Director General in January 2020. The creation of a joint-venture between KRAOMA and a Russian company, the cancellation of a bidding round in the oil and gas sector for 44 oil blocks in early 2019, as well as the announcement of an audit of Rio Tinto's subsidiary QIT Madagascar Minerals (QMM) and the suspension of Base Toliara's ilmenite mine activities in November 2019 garnered significant media attention in 2018 and 2019.

Since June 2018, Madagascar's EITI reporting has improved significantly. The multi-stakeholder group (MSG) has improved the EITI's coverage of licensing and made efforts to clarify the policy and practice related to contract disclosure. Reporting and dissemination of findings related to subnational transfers of mining revenues, including of Ambatovy's accumulated *ristournes* in 2018, remains a core strength of EITI implementation. In addition to catalysing the publication of financial statements of all SOEs and independent government agencies, Madagascar's EITI reporting provides the only source of official disclosures on complex transactions such as the creation of the KRAOMA MINING joint-venture. It provides a key source of public information on extractives companies' social expenditures and SOEs' quasi-fiscal expenditures, while being the only source of publicly-available information on extractives company beneficial and legal ownership data.

Madagascar's improved attention to the detail of EITI reporting has not yet been matched by efforts to strengthen the multi-stakeholder nature of its EITI implementation. The industry constituency continues to be the primary driver of implementation. While the Ministry of Mines and Strategic Resources (MMSR) has provided relatively consistent engagement from the government side, participation in EITI implementation has been uneven across other government ministries, partly due to delayed government MSG nominations during the political transition. While the MMSR has demonstrated high-level political commitment to EITI, this has not been consistently translated into support in practice in the June 2018 – December 2019 period. While civil society is organised through coalitions and a handful of its representatives contribute actively through MSG meetings, there is little evidence of more strategic engagement in EITI implementation on the part of the broader constituency. The EITI continues to operate in a silo to some extent, falling short of contributing to a broader public understanding of the extractive industries in public debate and decision-making.

Notwithstanding these challenges, Madagascar has clear scope to transition towards systematic disclosure of at least some of the information required by the EITI Standard. EITI Madagascar could further improve its operational collaboration with BCMM to ensure systematic disclosures of licensing data and subnational transfers of mining administration fees. There are clear opportunities for the MMSR to lead on systematic disclosures of extractives production and export data. The industry constituency's strong engagement should allow for systematic disclosures through company systems, building on their annual electronic submission of audited financial statements to the Tax Department

(DGI) starting in 2020. Progress on systematic disclosures would enable the MSG to focus on more impactful issues related to the use and analysis of EITI data.

Having reviewed the steps taken by Madagascar to address the 15 corrective actions as of the commencement of its second Validation on 29 December 2019, and *subject to the EITI Board's consideration of new information published after the commencement of Validation (in particular related to Requirements 4.9 and 6.2)*, the international Secretariat's preliminary conclusion is that Madagascar has fully addressed seven corrective actions, with assessments of either "satisfactory progress" or "not applicable" on the corresponding requirements.

The outstanding gaps relate to government engagement (Requirement 1.1), civil society engagement (Requirement 1.3), MSG oversight (Requirement 1.4), license allocations (Requirement 2.2), contract disclosure (Requirement 2.4), state participation (Requirement 2.6), data disaggregation (Requirement 4.7) and subnational transfers (Requirement 5.2).

The draft assessment was sent to the MSG on 19 March 2020. Following comments from the MSG expected on 13 April 2020, the assessment will be finalised for consideration by the EITI Board.

2. Scorecard

EITI Requirements		Level of progress					
Madagascar second Validation scorecard							
Categories	Requirements	No progress	Inadequate	Meaningful	Satisfactory	Beyond	Direction of Progress
MSG oversight	Government engagement (#1.1)			■			→
	Industry engagement (#1.2)					■	=
	Civil society engagement (#1.3)			■			→
	MSG governance (#1.4)			■			=
	Work plan (#1.5)				■		=
Licenses and contracts	Legal framework (#2.1)				■		=
	License allocations (#2.2)			■			→
	License register (#2.3)				■		=
	Contract disclosure (#2.4)			■			→
	Beneficial ownership (#2.5)						
	State participation (#2.6)			■			→
Monitoring production	Exploration data (#3.1)					■	=
	Production data (#3.2)				■		=
	Export data (#3.3)				■		=
Revenue collection	Comprehensiveness (#4.1)				■		→
	In-kind revenues (#4.2)						=
	Barter agreements (#4.3)						=
	Transportation revenues (#4.4)					■	→
	SOE transactions (#4.5)						=
	Direct subnational payments (#4.6)						→
	Data disaggregation (#4.7)			■			→
	Data timeliness (#4.8)				■		=
	Data quality (#4.9)				■		→
Revenue allocation	Distribution of revenues (#5.1)				■		→
	Subnational transfers (#5.2)			■			→
	Revenue management and expenditures (#5.3)						
Socio-economic contribution	Mandatory social expenditures (#6.1)				■		=
	SOE quasi-fiscal expenditures (#6.2)				■		→
	Economic contribution (#6.3)				■		=
Outcomes and impact	Public debate (#7.1)				■		=
	Data accessibility (#7.2)						
	Follow up on recommendations (#7.3)				■		=
	Outcomes and impact of implementation (#7.4)				■		→

Commented [IS1]: Subject to the EITI Board's consideration of new information published after the commencement of Validation.

Commented [IS2]: Subject to the Board's consideration of new information published subsequent to the commencement of Validation.

Commented [IS3]: Subject to the EITI Board's consideration of new information published after the commencement of Validation.

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Outstanding progress. The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

3. Background

Madagascar joined the EITI in 2008. It has published EITI Reports covering twelve fiscal years (2007-2018). Its first Validation under the 2016 EITI Standard was concluded on 29 June 2018 and found that Madagascar had made 'meaningful progress' in implementing the Standard.[1] The Board decided that progress with addressing the 15 corrective actions would be assessed in a second Validation commencing on 29 December 2019. The EITI International Secretariat has assessed the progress made in addressing these corrective actions, which relate to:

1. Government engagement (Requirement 1.1)
2. Civil society engagement (Requirement 1.3)
3. MSG governance (Requirement 1.4)
4. License allocations (Requirement 2.2)
5. Contract disclosure (Requirement 2.4)
6. State participation (Requirement 2.6)
7. Data comprehensiveness (Requirement 4.1)
8. Transportation revenues (Requirement 4.4)
9. Direct subnational payments (Requirement 4.6)
10. Data disaggregation (Requirement 4.7)
11. Data quality and assurance (Requirement 4.9)
12. Distribution of extractive industry revenues (Requirement 5.1)
13. Subnational transfers (Requirement 5.2)
14. Quasi-fiscal expenditures (Requirement 6.2)
15. Outcomes and impact of implementation (Requirement 7.4).

[1] Board decision 2018-35/BM-40, accessed here in January 2020.

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Madagascar has undertaken activities to address the corrective actions, including:

- The publication of the 2015, 2016, 2017 and 2018 EITI Reports over the span of 18 months;[2]
- The publication in 2018 of thematic reports on, respectively, the impact of a decade of EITI implementation, subnational payments and transfers, and beneficial ownership disclosures;[3]
- The publication in 2018 of guides to help citizens, companies and parliamentarians read EITI Reports and use EITI data;[4]
- The signature of a memorandum of understanding in December 2018 between the EITI Madagascar and the Supreme Audit Institution, *la Cour des Comptes,* for the certification of government data disclosed through the EITI;[5]
- Several capacity building and consultation workshops with MSG members, government, company and CSO representatives, including in March 2019 on the 2017-2018 Annual Progress Report;[6]
- Outreach and dissemination in Fort Dauphin, Toliara, Moramanga and Tamatave, regions affected by extractive activities, in May and June 2019, to share findings from EITI reporting on revenue allocation and management at the local level;
- The adoption of action plans to strengthen engagement in the EITI process by the government and civil society constituencies in 2019;[7]
- The publication of the audited financial statements of OMNIS, BCMM and ANOR for the fiscal years 2017-2018, for the first time.

The following section addresses progress on each of the corrective actions. The assessment covers the corrective actions established by the Board and the associated requirements in the EITI Standard. The assessment follows the guidance outlined in the Validation Guide.[8]

In the course of undertaking this assessment, the International Secretariat has also considered whether there is a need to review additional requirements, i.e. those assessed as "satisfactory progress" or "beyond" in the 2016 Validation. While these requirements have not been comprehensively assessed, in the Secretariat's view there is no evidence to suggest progress has fallen below the required standard and no additional issues that warrant consideration by the EITI Board.

[2] Madagascar EITI (February 2018), 2015 EITI Report, here; (August 2018), 2016 EITI Report, here; (December 2019, 2017 EITI Report, here; (December 2019), 2018 EITI Report, here, accessed in January 2020.
[3] Madagascar EITI (March 2018), 2008-2018: 10 ans de contribution à la transparence, here; (March 2018), Identifions les propriétaires réels des entreprises extractives, here; (February 2018), Rapport sur les paiements et transferts infranationaux, here, accessed in January 2020.
[4] Madagascar EITI (September 2018), Guide pour les entreprises extractives, here ; (September 2018) Guide pour les parlementaires, here ; Guide de lecture pour comprendre les rapports ITIE, here.
[5] Newsmada (December 2018), Gouvernance minière: l'argent des mines scruté de près, here ; MATV (December 2018), EITI Madagascar et Cour des Comptes, signature d'un protocole d'accord, here, accessed in January 2020.
[6] See for example: OMNIS (December 2019), Audited financial statements 2017-2018, accessed here and here in January 2020.
[7] Madagascar EITI (updated December 2019), Plan d'action du collège du gouvernement, here; Plan d'action du collège de la société civile, here, accessed in January 2020.
[8] EITI (2019), 'EITI Validation Guide', available here.

4. Effectiveness and impact of EITI implementation

Impact and effectiveness

There have been numerous challenges in the past twelve years of EITI implementation in Madagascar, including political instability, significant funding constraints and varying degrees of stakeholder engagement. Despite this, Madagascar EITI has consistently focused on issues of national priority in the extractive sector, and played a key role as data provider, forum for multi-stakeholder dialogue and a structure for strengthening government and civil society' capacities to oversee management of the sector.

In a country where social opposition to extractive projects has been traditionally strong, but where foreign investment in extractives is key to raising government revenues, EITI implementation has focused on issues with the highest potential for improving the governance of the sector. The near decade-long moratorium on mining licenses has raised concerns around the award of licenses in violation of the licensing freeze, affecting investor confidence in the government's license management. EITI reporting has shed light on license awards and transfers in this exceptional context, and formulated recommendations to improve the management of permits that have been followed up on by the BCMM.

Similarly, local communities' interest in their entitlements to shares of extractive revenues has been a key driver of the use of findings from EITI reporting. Since 2018, EITI Madagascar has made further efforts to highlight contradictions in the applicable regulatory texts governing the transfer of mining administration fees and *ristournes* to local governments and precisely map out the geographic spread of the largest mining companies' activities. The EITI's analysis of the effectiveness of subnational transfers of AMBATOVY's *ristournes* in 2018 and analysis of revenue management by local governments is a key chapter of the latest EITI Report responding to public debate over arrears in subnational transfers and documenting the extractive sector's contribution to local development. In March 2019, a workshop on the 2017-2018 annual progress report led to evidence-based debate on local revenue management involving around fifty stakeholders, including representatives from provinces hosting large extractive activities, prompting the Minister of Mines and Strategic Resources Fidiniavo Ravokatra to commit to prioritising the issue in planned reforms.

Other examples of the EITI leading to improving administrative procedures include the EITI's contribution to strengthening government disclosures on state participation and revenue allocation by government entities managing extractives revenues, such as KRAOMA, OMNIS, BCMM and ANOR. The publication of these entities' 2017 and 2018 audited financial statements for the first time was a direct consequence of EITI implementation, reflecting the EITI's broader potential to improve government entities' systematic disclosures along the upstream extractive value chain. These newly-published documents have the potential to improve the public's understanding of SOEs' financial management, including the creation of the joint venture between KRAOMA and FERRUM MINING SA, the third-party financing of OMNIS' equity interest in QMM by RIO TINTO and OMNIS' quasi-fiscal expenditures in road rehabilitation and senior government officials' international travel. These disclosures are taking place in parallel with the strengthening of the *Cour des Comptes*' oversight of extractive revenues, following a December 2018 memorandum of understanding between the supreme audit institution and EITI Madagascar for the certification of government extractive revenue data.

EITI Madagascar is also playing a leading role in driving beneficial ownership disclosures. It put forward a draft decree in December 2019 and disclosed detailed information about beneficial ownership and company ownership structure for the first time. Government representatives, including

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the financial intelligence service SAMIFIN and anti-corruption body BIANCO, welcomed such work, highlighting its links with Madagascar's commitments elsewhere on anti-money laundering and fighting against illicit financial flows.

Notwithstanding these achievements, EITI implementation has not yet achieved its potential impact in broadening public understanding of the extractive industries and improving the governance of the sector. Recurring challenges in funding and capacity, as well as concerns about government commitment and the sustainability of the process, have constrained the EITI's ability to actively promote the use of EITI data and following-up on recommendations. Despite tangible examples of use of EITI data at the local level, not least in companies' relations with communities and in CSOs' environmental and social advocacy, the EITI still appears to operate in a silo, perceived by most stakeholders as a compliance exercise rather than a tool for improving extractive governance.

There are however opportunities to strengthen the impact of the EITI in the current context. The government has reiterated the alignment between EITI implementation and its ambitious anti-corruption and domestic resource mobilisation targets, which feature in Madagascar's ongoing IMF programme. There is scope for integrating EITI Madagascar's work on beneficial ownership and licensing to contribute to identifying risks in licensing, building on the findings of the upcoming Transparency International study on corruption risks in licensing. The growing time series of payments and production data disclosed through EITI could be used to develop public-access financial models of the largest extractive projects to ensure greater public understanding of the economics of these projects and manage expectations. Disclosure of extractives contracts in accordance with the 2019 EITI Standard, which remains constrained by confidentiality provisions in oil and gas contracts, could facilitate an evidence-based discussion of forecast revenues from the sector that would help manage popular expectations related to key projects and support policy reforms that could improve the extractives investment climate. The EITI Madagascar's transition towards systematic disclosures of EITI data through government and company systems would support the government's plans to streamline the process for companies' tax filings and improve the government's tax administration. A growing number of companies have started publishing their audited financial statements in early 2020.

There is potential to use the EITI multi-stakeholder consultation infrastructure to support planned reforms in the legal framework governing the mining sector, including the Mining Code, particularly on licensing, tax policy and state participation. Similarly, the EITI could provide a forum for discussing ongoing efforts around open budgeting, drawing from its disclosures on local revenue management to strengthen participatory budgeting at the national level. Leveraging the 2019 EITI Standard, there is scope for EITI reporting to continue to expand to issues of key public interest, including to local communities and companies, including the extractive industries' environmental impact, subnational transfers of extractive revenues, companies' social expenditures, and the participation of women in the extractive sector.

Sustainability

Recent government commitment to providing sustainable funding to EITI implementation represents an encouraging sign. The prospect of the second Validation led to the secondment in December 2019 of four staff members from the MMRS to support the national secretariat. Nonetheless, most stakeholders consulted expressed concerns around the outlook for EITI, and many industry and civil society representatives noted that the government's vocal commitment to the EITI at the political level had not yet been matched by concrete engagement in all aspects of EITI implementation (*see Requirement 1.1*). Concerns regarding the capacity of the national secretariat and some MSG members to effectively carry out their mandate were also raised.

5. Review of corrective actions

As set out in the Board decision on Madagascar's first Validation, the EITI Board agreed 15 corrective actions.[9] The Secretariat's assessment below discusses whether the corrective actions have been sufficiently addressed. The assessments are based on publicly available information, the 2018 EITI Report, the 2017-2018 Annual Progress Report and minutes of the MSG meetings from January 2018 to December 2019, alongside various documents submitted by the national secretariat to the International Secretariat, e-mail correspondence, and stakeholder consultations (in-person and via teleconference).

5.1 Corrective action 1: Government engagement (#1.1)

In accordance with Requirement 1.1, the government must be fully, actively and effectively engaged in the EITI process. The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation. To further strengthen implementation following the institutionalisation of EITI Madagascar through the 2017 Decree, the government is encouraged to further entrench EITI funding in government budgeting to ensure the sustainability of EITI implementation over the long term. In accordance with requirement 8.3.c.i, the government constituency should develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment.

Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation found that the government had not been fully, actively and effectively engaged in the EITI process between 2014 and 2017. The Validation noted concerns that more recent signs of engagement in 2017, such as the institutionalisation of the EITI Madagascar through a decree in August 2017, would potentially not be sustained in the long term.

Progress since Validation

Government engagement in EITI implementation through public statements of commitment and participation in MSG meetings has been broadly positive in the period under review. The current Minister of Mines and Strategic Resources Fidiniavo Ravokatra, nominated as EITI Champion in March 2019, led a delegation to the EITI Global Conference in June 2019, where he highlighted the alignment between EITI implementation and the government's reform agenda under the government's "*Initiative Émergence Madagascar*" national development programme[10].

The government constituency adopted an action plan in 2019 to strengthen its engagement in EITI. Available MSG minutes and attendance lists show consistent participation from government representatives in meetings, including the EITI Champion and representatives from the MMRS, as well as in meetings of the beneficial ownership working group. Given incomplete attendance lists for the period June 2018-December 2018 (*see assessment of Requirement 1.4*), there is a lack of visibility on government participation in the lead up to presidential elections end of 2018. Following the change in government in January 2019, the replacement of government representatives on the MSG

[9] Board decision 2018-35/BM-40 (29 June 2018), accessed here in January 2020.
[10] Initiative Émergence Madagascar, accessed here in January 2020.

took several months, from February to December 2019, affecting the government's participation in the process.

General statements of support at the high-level political level have not consistently been matched by concrete efforts to support all aspects of EITI implementation at the operational level. Regarding the government's support to the institutionalisation and funding of the EITI in Madagascar, the period 2018-2019 saw several challenges affecting EITI implementation. Due to government funding gaps in 2018, the MSG and the national secretariat could not carry out all activities as foreseen in the work plan. Madagascar did not publish an annual progress report in 2018 and was therefore suspended in February 2019. The suspension was lifted in May 2019,[11] with the government committing to providing funding to ensure the sustainability of the process. A decree in May 2019 re-established the EITI Madagascar under the MMRS, after it had been transferred to the Prime Minister's Office in 2017 as a potential but unsuccessful solution to ensure adequate funding. Despite this, an effective transfer in November 2019 of MGA 140 million only covered the arrears in salary of former National Coordinator Daniella Rajo Randriafeno, rather than other aspects of implementation. In December 2019, the Ministry nominated Marcelle Dane as *interim* national coordinator following the resignation of the former National Coordinator and seconded four staff from the MMRS to support the national secretariat, albeit without clarifying their roles and duration of their assignment.

Government representatives consulted emphasised the alignment between the EITI Principles and the government's ambitious anti-corruption, domestic resource mobilisation and reform agenda. Some highlighted the current EITI Champion's active participation in MSG meetings. They noted that the government's engagement in the second half of 2018 had been affected by the lead-up to the presidential elections and the replacement of former Minister Zafilahy Ying Vah by then-Minister Henri Rabary-Njaka in June 2018. Some government representatives noted that their contribution to EITI implementation would benefit from further training on the EITI and from better collaboration between each Ministry on EITI-related matters, with some relevant government agencies unaware of EITI activities.

Industry and civil society representatives, as well as partners, expressed concerns around the concrete engagement of the government to improve the governance of the extractive sector. Examples cited by stakeholders with concern included the near adoption of amendments to the Mining Code without public consultations in December 2019, allegations of opacity around the creation of the KRAOMA MINING SA JV in 2018, the suspension of the Base Toliara project and the launch of an audit of QMM's activities in November 2019. Several partners noted that the government seemed serious about increasing revenues from the extractive sector to strengthen the national economy, but that it was sending contradictory messages to investors and partners given recent developments.

More strictly on EITI implementation, stakeholders from all constituencies noted that the prospect of the second Validation had prompted the government to send clear signals of its commitment in the last few weeks of 2019. They added that this was not representative of the period under review, and that the government's commitment to the sustainability and funding of the EITI, as well as on follow-up of EITI recommendations, remained limited. While many commended the secondment of four staff from the MMRS to the national secretariat, stakeholders consulted highlighted the clear conflict of interest in the nomination of the *interim* National Coordinator Marcelle Dane, who simultaneously represents an oil company on the MSG and is a technical advisor to the Minister at the MMRS. Many civil society and industry representatives strongly disapproved of the nomination process and consequently called into question the government's credibility.

[11] Board decision 2019-40/BC-273 (7 May 2019), accessed here in January 2020.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has partly addressed the corrective action and has achieved meaningful progress *with considerable improvements* on Requirement 1.1. The government has shown encouraging signs of its commitment to the EITI, including through public statements, adoption of an action plan for the constituency, participation of the EITI Champion and government representatives to MSG meetings, and seconding staff of the MMRS to the national secretariat as of December 2019. Nevertheless, statements of support at the high-level have not consistently been matched by concrete efforts to support all aspect of EITI implementation at the operation level since June 2018, as evidenced by uneven awareness of the EITI by different agencies represented on the MSG, limited support to the funding and sustainability of the process in the period under review, limited activities to follow-up on recommendations from EITI reporting and delayed nomination of government representatives on the MSG in 2019. Concerns from industry, civil society and partners around the wider governance of the extractive sector and the nomination of the *interim* national coordinator reflect a recognition from key stakeholders that the government's stated commitment to EITI implementation has not yet been matched by concrete evidence of this commitment to supporting all aspects of EITI in practice.

In accordance with Requirement 1.1.c), the government must demonstrate full, active and effective engagement in all aspects of EITI implementation in Madagascar. The government should contribute to the functioning of the national secretariat, as well as other EITI activities as per the MSG's work plan, through sustainable funding. The government should ensure that all its representatives are nominated on the MSG and participate actively to all aspects of EITI implementation, including through increasing awareness amongst relevant government agencies.

The government may also wish to leverage the EITI platform to sustain direct dialogue with industry, civil society and partners around the management of the sector and the latter's contribution to government revenues, for instance revisions to the Mining Code. The government is encouraged to draw on strategic recommendations from Validation to transition towards systematic disclosures of data required by the EITI Standard through routine government systems in a timely, reliable and disaggregated manner.

5.2 Corrective action 2: Civil society engagement (#1.3)

In accordance with requirement 1.3.a, the civil society constituency should demonstrate that they are able fully, actively and effectively engaged in the EITI process. Specifically, civil society should ensure that they are able to fully contribute and provide input to the EITI process and that they have adequate capacity to participate in the EITI. In accordance with requirement 8.3.c.i, the civil society constituency should develop and disclose an action plan for addressing the deficiencies in civil society engagement documented in the initial assessment.

Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation found no evidence of any legal, regulatory, or practical barriers to civil society's ability to engage in the EITI nor to their ability to freely operate, communicate and cooperate with the broader constituency. It noted however the decline in civil society's engagement in EITI implementation since 2015, partially due to the technical and financial capacity constraints and the fragmented nature of Malagasy civil society. The Validation also highlighted the lack of coordination between CSOs directly involved in the EITI and the wider constituency.

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Progress since Validation

Most stakeholders consulted agreed that civil society engagement remained constrained by limited capacities and funding, but that the overall direction of travel in the period under review was positive. When available, MSG minutes and attendance lists show regular participation from at least two CSO representatives in MSG meetings, as well as in meetings of the beneficial ownership working group. Some CSO representatives on the MSG participated in capacity-building activities, including in June and December 2018 and through the peer-learning exchange with Philippines EITI supported by the SRJS programme in 2018 and 2019.

A number of press releases in French from 2018 and 2019 show that CSOs active in EITI implementation comment on government policy and key developments in the extractive sector, including on the joint-venture agreement between FERRUM MINING and KRAOMA (*see assessment of Requirement 2.6*), the launch of the bidding round by OMNIS in 2018 and the draft amendments to the Mining Code in December 2019. The ongoing project led by the Malagasy chapter of Transparency International on corruption risks in licensing is expected to complement findings from EITI reporting (*see assessment of Requirement 2.2*).

Several stakeholders highlighted that civil society participation on the MSG was ensured almost exclusively by two members, who contributed significantly to EITI implementation and reported back to their respective networks. Stakeholders noted challenges in filling two vacant seats, including one reserved for the association of journalists, with unsuccessful calls for application. Industry and partners commended the engagement of the OSCIE platform, noting that overall CSO engagement in extractives-related issues had been reduced in the lead-up to presidential elections in 2018.

Some partners deplored the lack of strategic vision and leadership demonstrated by some civil society stakeholders and argued that the latter should make more efforts to fundraise for their activities. Nonetheless, several stakeholders highlighted several capacity building and outreach activities involving CSOs in the period under review. Civil society representatives noted that they had carried out activities at the local level using summaries of EITI Reports, although these activities were seldom documented.

In a review of the provisions of the Civil Society Protocol, civil society representatives consulted confirmed the absence of restrictions with regards to their freedom of expression, association and operation. Some pointed out that CSOs might refrain from being too vocal and critical given the current administration's protective attitude of its image at the international level. However, they noted that some of them had not hesitated to be walk out of what they considered to be "mock consultations" on draft amendments to the Mining Code organised by the MMRS in December 2019. With regards to access to decision-making, some representatives noted that they felt increasingly heard by the government and had reasonable access to decision-makers.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has partly addressed the corrective action and has achieved meaningful progress *with considerable improvements* on Requirement 1.3. Both publicly available evidence and stakeholder consultations point to a positive tendency in civil society's engagement in EITI implementation. At least two civil society representatives contribute actively and regularly to the process, and civil society organisations had participated in several capacity-building and outreach activities in the period under review. There are several examples of advocacy and policy recommendations issued by civil society organisations on key developments of the sector. Nonetheless, their engagement remains affected by limited capacity and resources, the lack of participation from a majority of representatives on the MSG and the challenges in securing nominations for vacant seats on the MSG, which reflect gaps in the broader constituency's engagement. Uneven engagement of the broader civil society constituency has led to the duties and responsibilities of actively participating in all aspects of EITI implementation being placed on two civil society stakeholders, thereby exacerbating the constituency's capacity constraints. In addition, the International Secretariat did not find evidence indicating any backsliding on adherence to the Civil Society Protocol, as confirmed in stakeholder consultations.

In accordance with Requirement 1.3.a), civil society must demonstrate full, active and effective engagement in all aspects of EITI implementation, including outreach to civil society organisations outside the capital city and dissemination of EITI findings. Civil society should ensure that all its representatives are nominated on the MSG and participate actively to all aspects of EITI implementation. Civil society representatives should ensure that they undertake effective fundraising activities to ensure adequate technical and financial capacities for their full, active and effective participation in EITI activities. All stakeholders, including development partners, are encouraged to ensure that representatives of the civil society constituency benefit from available capacity-building on EITI-related issues.

To strengthen implementation of Requirement 1.3, civil society is strongly encouraged to capitalise on the EITI Madagascar multi-stakeholder consultation infrastructure, including MSG meetings and consultations with communities affected by extractive activities, to discuss issues around the management of the extractive industries of high public interest. Civil society may wish to leverage new provisions under Requirements 6.1 and 6.4 in the 2019 EITI Standard on the environmental impact of extractive activities to ensure greater transparency around environmental payments by companies, industry practices related to environmental management and the role and activities of relevant government agencies.

5.3 Corrective action 3: Multi-stakeholder group (#1.4)

In accordance with Requirement 1.4.b.vii, the MSG should ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption. In accordance with Requirement 1.4.b.viii, the MSG must keep written records of its discussions and decisions. The MSG is encouraged to ensure that deviations from their Terms of Reference are recorded and transparent. Government and company constituencies are encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow the MSG to take decisions and follow up on them.

Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation found that the MSG included appropriate representation of each constituency, based on a clear nomination process. It noted that all CSO representatives on the MSG were independent from the government and that MSG members that attended meetings carried out their duties in accordance with the MSG's TORs. However, the Validation highlighted significant deviations from the latter, including inconsistent attendance by government and CSO representatives and frequent absence of quorum, which in turn negatively affected the design and implementation of the EITI in Madagascar.

Progress since Validation

There is evidence that the MSG met at least eight times in 2018 and seven times in 2019 based on available MSG meeting minutes and attendance lists. However, gaps in record-keeping of meetings constrain a full assessment of whether there were significant deviations in practice from the MSG's TOR, including in the MSG's decision-making and whether the quorum was reached at all meetings. Based on invitations to meetings reviewed by the International Secretariat, it seems that MSG meetings were not consistently announced, nor documents circulated, with at least seven days' advance notice as per the MSG TORs.

According to stakeholders consulted, meetings were held frequently and irregularly in the period under review, usually announced at very short notice. Industry representatives noted that this practice might partly explain inconsistent attendance from representatives of the government and civil society constituencies (*see assessments of Requirement 1.1 and 1.3*). Government representatives noted that the Independent Administrator was asked to take meeting minutes in the first half of 2019, but that otherwise significant capacity constraints faced by the national secretariat had prevented adequate record-keeping and administrative support to MSG meetings until November 2019. All stakeholders consulted agreed that issues around the sustainable funding of the EITI process (*see assessment of Requirement 1.1*), including arrears in the salary of the former national coordinator, had heavily impacted the MSG's functioning. Many noted that MSG members, including the constituency leads ("*chefs de file*"), had to take on tasks that were considered to be part of the national secretariat's role.

With regards to the nomination process, stakeholders consulted agreed that the process for designating government representatives was clear, although replacements had been significantly delayed following the new administration's appointment in January 2019 (*see assessment of Requirement 1.1*). Most industry representatives questioned the fact that a seat was reserved for a non-APPAM oil company on the MSG, given that only one oil company in Madagascar is not member of the oil and gas industry association, and suggested a change in the MSG's TOR. Civil society organisations on the MSG led the process for the nomination of two vacant positions in their constituency. However, the process was unsuccessful, due to a low number of applicants and the inability of the journalist association to organise its general assembly to elect a representative.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that the corrective action has not been addressed and that Madagascar has achieved meaningful progress *without improvements* on Requirement 1.4. Based on available documentation and stakeholder views, meetings were not consistently announced in a timely manner in the period under review, nor were MSG discussions and decisions regularly recorded. There was consensus that deviations in practice from MSG TORs were due to significant funding and capacity challenges that prevented the national secretariat from providing administrative support to the MSG. Stakeholders consulted also raised concerns around the representative nature of MSG members for the oil and gas sub-constituency and noted challenges in securing nominations for vacant CSO seats.

In accordance with Requirement 1.4.b.vii, the MSG should ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption, to ensure that MSG members have the capacities to carry out their duties. In accordance with Requirement 1.4.b.viii, the MSG must keep written records of its discussions and decisions.

To strengthen implementation, the MSG is encouraged to make these records publicly available on its website. The MSG is encouraged to ensure that deviations from their Terms of Reference are recorded

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and transparent. Government and civil society constituencies are encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow the MSG to take decisions and follow up on them. Company representatives might wish to consider reviewing the positions representing the oil and gas sub-constituency on the MSG to ensure that they reflect the industry.

5.4 Corrective action 4: Contract and license allocation (#2.2)

In accordance with Requirement 2.2, a description of the process for transferring or awarding the license and the technical and financial criteria used should be publicly available. Not least given the significant debate surrounding license movements in the mining sector, EITI Madagascar is encouraged to use EITI reporting as a diagnostic tool for non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. In cases of competitive tender for mining, oil and gas licenses, the MSG will have to disclose the list of applicants and the bid criteria for licenses awarded through a bidding process. The MSG is encouraged to consider stakeholders calls for further analysis on the efficiency and effectiveness of licensing procedures in Madagascar.

Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation documented the important impact of EITI reporting and EITI-mandated studies as diagnostic tools for supporting critical debate over licensing in the mining sector. However, the Validation showed gaps around the process for transferring licenses, lack of clarity around the existence of technical and financial criteria and lack of commentary around the apparent award of seven licenses in 2014 despite the moratorium.

Progress since Validation

A moratorium on the award of mining licenses has been in place in Madagascar for a decade. Licensing has been one of the key areas of focus of EITI Madagascar, leading to the identification of inefficiencies in the licensing process and a list of recommendations in 2015 and 2017 that the mining cadastre BCMM has been implementing since.[12] The 2018 EITI Report provides a detailed description of the process for awarding and transferring mining licenses, including the documents that should be provided by applicants and the role of government agencies. It notes that applicants do not have to provide evidence of their expertise when submitting a request and that the regulation does not include criteria for granting awards or transfers, as long as the list of documents that should be provided is complete. This was confirmed by consultations with stakeholders, with government representatives noting that such a gap would be addressed in the ongoing review of the Mining Code. Some government representatives noted that the regulatory framework should also be amended to include beneficial ownership disclosures as a condition for license applications.

The report provides a summary of license awards and transfers in 2018, including pending requests for awards and other types of transactions as of 31 December. It documents the award of eight mining licenses in 2018, including the name of license-holders for two research permits. It comments on the award of these licenses, noting that they took place in the context of the ongoing moratorium on license awards. Information about license holders is available online on BCMM's register. The report comments on the efficiency of the licensing process, noting in particular that the system for renewing

[12] See : EITI International Secretariat, Madagascar 2017 Validation, initial assessment, March 2018, pp.44-46, accessed here.

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or transferring licenses is not functioning. However, the report does not include commentary on the assessment of any non-trivial deviations in the license transfers that took place in 2018.

With regards to oil and gas, the 2018 EITI Report provides a detailed description of the procedures for awarding licenses, through tender process or direct negotiation, as well as the general list of technical and financial criteria and the criteria used in the (since-cancelled) November 2018 block bidding round. It documents the award of four exploration licenses to BRITISH PETROLEUM EXPLORATION MADAGASCAR by direct negotiation. It does not however provide information on the process for transferring oil and gas licenses and does not comment on the MSG's assessment of any non-trivial deviations from the statutory procedures in these license awards. After the start of Validation, in February 2020, OMNIS published a description of the process for transferring licenses in the oil and gas sector,[13] addressing the first of these disclosure gaps.

There was consensus amongst stakeholders consulted that the work of the EITI had contributed to highlighting gaps in the management of licenses in the mining sector, and that the issue remained a priority for EITI implementation. There was agreement that information was missing around the assessment carried out by the Directory General of the Ministry of Mines to approve mining license awards, as well as around potential deviations in practice in the transfer of both oil and gas and mining licenses. All stakeholders consulted highlighted challenges related to the ongoing moratorium on mining licenses, in terms of attracting new investments, ensuring a favourable business environment and decreasing governance risks around the management of licenses. The upcoming study by Transparency International on vulnerabilities and corruption risks in licensing was often mentioned as an important complement to EITI recommendations to date on the efficiency of the licensing system.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has partly addressed the corrective action and has achieved meaningful progress *with considerable improvements* on Requirement 2.2. EITI reporting has been instrumental in identifying the award and transfers of licenses in the mining sector in the context of the ongoing moratorium, a priority issue for the management of the sector in Madagascar. With regards to technical and financial criteria, EITI reporting contributed meaningfully to public debate by highlighting the absence of such criteria in awarding and transferring licenses in the mining sector. While EITI reporting has been key in identifying inefficiencies in the management of licenses in the extractive sector, some gaps in disclosures related to license transfers remain. The 2018 EITI Report does not comment on the statutory process for transferring oil and gas licenses, nor does it comment on potential non-trivial deviations in practice in the transfer of licenses, both in the mining and oil and gas sectors.

In accordance with Requirement 2.2, Madagascar should disclose information on the statutory process for transferring licenses in the oil and gas sector, as well as an assessment on potential non-trivial deviations in practice in the transfer of both oil and gas and mining licenses. Madagascar might wish to prioritise systematically disclosing such information through the OMNIS and BCMM websites.

To strengthen implementation, Madagascar might wish to draw from EITI reporting and recommendations to improve the management of mining licenses, including in setting standard, clear and publicly available technical and financial criteria in the award and transfer of licenses. The MSG is

[13] OMNIS (February 2020), Procédure de cession, accessed here in January 2020.

encouraged to consider the findings and conclusions of the upcoming Transparency International study on corruption risks in licensing to formulate recommendations to address such risks.

5.5 Corrective action 5: Contract disclosure (#2.4)

In accordance with Requirement 2.4, EITI Madagascar should clarify and document the government's policy on disclosure of contracts and licenses, as well as actual practice, including any reforms that are planned or underway.

Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation found that EITI reporting partially commented on contract disclosure practices but did not clarify government policy beyond the existence of legal confidentiality provisions.

Progress since Validation

Contract transparency was highlighted repeatedly throughout stakeholder consultations. Many stakeholders highlighted that both the new provisions in the 2019 EITI Standard (including the mandatory disclosure of all contracts granted, entered into or amended from 1 January 2021) and the supporting company expectations were helpful tools in advocating for implementation of contract disclosure at the national level. All stakeholders consulted agreed that the government's policy on contract disclosure remained unclear, with oil and gas PSCs considered *de facto* confidential.

The 2018 EITI Report confirms that decrees awarding contracts and licenses in the mining, oil and gas sectors are systematically disclosed through the official gazette, but that the full text of extractive contracts is not available. The report provides links to all publicly available contractual documents online. It lists the clauses typically included in model oil and gas PSCs. It clarifies the elements that are negotiable and therefore considered confidential (e.g. profit oil), as well as the fact that annexes are not publicly available and could contain provisions related to fiscal terms.

The government's official policy has yet to be clarified, despite the MSG's efforts and written commitment in December 2019 from the EITI Champion and Minister of Mines and Strategic Resources Fidiniavo Ravokatra to progressively move towards contract transparency. The oil and gas industry association APPAM officially stated its support for the latter in a letter dated June 2019.

Government representatives noted the highly sensitive nature of the issue, particularly for PSCs in the oil and gas sector. Some government representatives expressed no reservations in publishing contracts, noting restrictions laid rather within the industry constituency and the SOEs. Representatives from the oil and gas constituency noted that although the letter from APPAM made industry's support for contract disclosure official, the process leading to such disclosure had to be discussed in detail. Some company representatives agreed to potentially disclose summaries of the terms included in contracts. With regards to mining, some government and CSO representatives noted that, while the LGIM and QMM convention were publicly available, the full text of licenses and other documents signed between the companies and the government were not publicly available. There was consensus amongst CSO representatives that contract disclosure should be a priority for the government, with several noting that contract disclosure was key to strengthening companies' social license to operate and help citizens understand companies' financial, social and environmental obligations.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has partly addressed the corrective action and has achieved meaningful progress *with considerable improvements* on Requirement 2.4. The MSG should be commended for its efforts in clarifying the government's policy and prompting the oil and gas company association APPAM to state its support for contract disclosure. EITI reporting allowed to document the practice in contract disclosure and identify gaps, including highlighting that the disclosure of the profit oil split was considered particularly sensitive. Despite this, the government's policy remains unclear. Stakeholder consultations confirmed challenges in contract disclosure, both from the government's and the industry's perspectives.

In accordance with Requirement 2.4, Madagascar should clarify and document the government's policy on disclosure of contracts and licenses.

To strengthen implementation, Madagascar is encouraged to disclose the full text of all extractive contracts and licenses. The government may wish to include contract disclosure provisions in its review of sector legislation and companies operating in Madagascar are encouraged to adhere to the EITI supporting companies' expectations in demonstrating support for contract disclosure. In line with the 2019 EITI Standard and particularly given the lack of clarity of the government's policy, the MSG is expected to include plans for disclosing contracts with a clear timeframe for implementation in its work plan, ahead of the 1 January 2021 deadline. Madagascar might wish to systematically disclose the full text of mining licenses through the BCMM register, including the decree awarding and transferring licenses and the terms and conditions ("*cahier de charges*") to which companies subscribe, as well as the full text of oil and gas PSCs on the OMNIS website.

5.6 Corrective action 6: State participation (#2.6)

In accordance with Requirement 2.6, the MSG should ensure that a comprehensive list of state participation in the extractive industries, including terms associated with state equity and any changes in the year under review, be publicly accessible. The MSG must also clarify the rules and practices governing financial relations between SOEs (most notably KRAOMA) and the state. The MSG may wish to liaise with relevant government entities and development partners to assess the extent to which clarification of such issues could support progress under the IMF extended credit facility. Stakeholders are encouraged to embed reporting of such information through routine government systems, for instance in publishing extractives SOEs' statutes and audited financial statements on a regular basis.

Findings from the first Validation

Madagascar was found to have made inadequate progress in implementing the requirement. The Validation noted the lack of clarity around the comprehensiveness of reported state interests in the mining sector and the terms associated with state equity in extractive companies, as well as the absence of a description of the statutory financial relations between SOEs and the state and of a confirmation around potential changes in government ownership. EITI reporting confirmed that there were no loans or guarantees provided to extractive companies in that year.

Progress since Validation

State participation in the mining sector has attracted media attention in the 18 months since Madagascar's first Validation. A draft new Mining Code was proposed by the government in November

2019, whose Article 24 introduced a 20% statutory share of all mining production to government.[14] Public consultations on the draft law were extended into early 2020.[15] Meanwhile, the creation of a joint venture between state-owned KRAOMA and a Russian investor FERRUM MINING in 2018[16] elicited strong public interest and allegations of corruption[17], including from KRAOMA staff.[18] In a separate investigation into allegations of embezzlement of some MGA 88bn, the former KRAOMA Director General was arrested in January 2020.[19]

Madagascar's 2018 EITI Report marks a considerable improvement over the first Validation in the coverage of the rules and practices related to the financial relations between extractives SOEs and the government. However, while the MSG has correctly categorised KRAOMA as a SOE, it does not include OMNIS as a SOE for EITI reporting purposes. While it bases this decision on the fact that the legal registration of OMNIS is as a public administrative establishment (EPA) in the oil and gas sector, stakeholder consultations confirmed that OMNIS holds equity interests in certain mining companies and represents the state in oil and gas projects, in addition to its investment promotion and regulatory functions. There was a tendency among all stakeholders consulted to conflate the definition of SOE with the materiality of a SOE's payments to government. Several government and industry stakeholders argued that OMNIS should not be considered a SOE given that it is not statutorily required to pay dividends to government. Upon consultations, most stakeholders noted the government's plans to clarify the role of OMNIS in future. There was consensus that OMNIS met the definition of SOEs in Requirement 2.6.a, namely that it was wholly owned by the government and was engaged in extractive activities on behalf of the government.

Regardless of the definition of OMNIS, the 2018 EITI Report provides a comprehensive description of the rules related to the financial relations between KRAOMA, OMNIS and the government and, together with the two entities' audited 2018 financial statements that were published through the EITI for the first time, adequately describes the practice. It confirms the lack of loans from the government and SOEs to extractives companies. The report provides coverage of state and SOE equity in the mining, oil and gas sectors, and a comprehensive list of oil and gas PSCs in which OMNIS represents the state. It also covers the creation and terms of a new mining JV involving KRAOMA. However, the terms associated with SOE equity in these subsidiaries and joint ventures are not comprehensively described. There were conflicting views regarding the terms associated with OMNIS' equity in mining companies, although there was no resistance to publishing information on these terms in future.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has partly addressed the corrective action and has achieved meaningful progress *with considerable improvements* on Requirement 2.6. The 2018 EITI Report correctly defines KRAOMA as a SOE, but explicitly omits OMNIS as a SOE despite the latter's representation of the state in oil and gas contracts and as owner of equity in several mining companies. The report describes the rules and practices related to the financial relations between both KRAOMA and OMNIS and the government, including those related to distribution of profits, retained earnings, reinvestments and third-party financing. It presents a comprehensive list of state participations in the mining, oil and gas sectors, but does not consistently

[14] Le Monde (January 2020), 'A Madagascar, semaine décisive pour le nouveau code minier', accessed here in January 2020.
[15] News Mada (January 2020), 'Code minier : poursuite des consultations', accessed here in January 2020.
[16] Africa Intelligence (November 2018), 'Russians muscle in on chrome industry', accessed here in January 2020.
[17] Malina.mg (March 2019), 'Ferrum Mining: KRAOMA's new obscure partner', accessed here in January 2020.
[18] MATV (December 2019), 'Affaire Kraomita : Ferrum Mining Les employés saisissent le PAC', accessed here in January 2020.
[19] MATV (January 2020), 'Détournement de 88 milliards : Le déferrement de l'ancien DG de Kraoma reporté à ce jour', accessed here in January 2020; and Midi Madagascar (January 2020), 'Affaire KRAOMA : L'ancien DG et trois autres personnes placés sous mandat de dépôt', accessed here in January 2020.

describe the terms associated with the SOEs' equity in these extractives companies. One change in state participation in 2018, the creation of KRAOMA MINING JV, is described, including the terms of the transaction. The report only confirms the lack of loans from government and SOEs to extractives companies, but does not comment on the existence of any guarantees. There was consensus however among stakeholders consulted that there were no guarantees to extractives companies in 2018.

Madagascar should agree a definition of SOE for EITI reporting purposes that is in line with the definition in Requirement 2.6.a.i, namely "*a wholly or majority government-owned company that is engaged in extractive activities on behalf of the government*." In accordance with Requirement 2.6.a.ii, Madagascar should ensure that a comprehensive description of the terms associated with state participation in the extractive industries is publicly accessible on an annual basis, including equity interests held by SOEs' subsidiaries, joint ventures and affiliates.

To strengthen implementation, Madagascar could consider ways of systematically disclosing information on the statutory financial relations between KRAOMA, OMNIS and the state, by publishing the SOEs' statutes and all other relevant laws, regulations and decrees codifying the financial relations between extractives SOEs and the state. Madagascar is encouraged to explore ways of systematically disclosing information on the financial relations in practice between extractives SOEs (KRAOMA and OMNIS) and the state, for instance through routine publication of their audited financial statements on their respective websites, with additional narrative describing each SOE's practices of distributing profits, retaining earnings, reinvesting in their operations and third-party financing in accordance with Requirement 2.6.a.i. Madagascar may wish to ensure that a description of any changes in state participation be systematically disclosed through government and SOE systems annually, including the terms of each transaction.

5.7 Corrective action 7: Data comprehensiveness (#4.1)

In accordance with Requirement 4.1.a, the MSG should ensure that its materiality decisions related to selecting companies and revenue streams for reconciliation are clearly documented. In its approach to the materiality of revenue streams, the MSG is encouraged to strike a balance between comprehensiveness and relevance for stakeholders, to ensure that a workable approach to reconciliation is adopted and to facilitate the embedding of revenue transparency in government and company systems.

In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity is clearly assessed to support the IA's overall assessment of the comprehensiveness of reconciliation.

In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of reconciliation, including revenues that fall below agreed materiality thresholds.

Findings from the first Validation

Madagascar was found to have made inadequate progress in implementing the requirement. The Validation noted that there was no evidence of the MSG having considered the materiality of revenue streams included in the scope of reconciliation, although the MSG had appeared to consistently adopt a de-facto materiality threshold of zero for selecting material revenue streams. The MSG's approach to materiality for selecting companies was based on payments to government but was deemed not sufficiently clear to ensure its accessibility to the average reader. The companies that did not report were named and the value of their payments to government is provided relative to government-reported revenues in aggregate, although not by non-reporting company. The share of non-reporting companies (roughly 5% of sector revenue) was deemed insignificant by the IA. While material government entities appeared to have reported all revenues from the 71 largest extractive companies, the lack of data on the remaining 70 companies and the lack disaggregated data by revenue stream was a concern.

Progress since Validation

Notwithstanding 13 oil and gas (largely exploration) licenses, Madagascar's extractive industries are dominated by mining companies. In the 2018 EITI report, the MSG has adopted a clear quantitative threshold for selecting material payments.

For selecting material companies however, the report provides a convoluted approach involving an initial quantitate threshold based on non-tax payments, select data on tax payments from 70 companies and a review of previous years' reporting. The report is transparent in highlighting constraints on full government disclosures in its description of a lack of consistent Tax ID Number (NIF) use and the fact that the primary activity of many license-holding companies was in fact not on mining (e.g. HOLCIM). Nevertheless, analysis of the fiscal regime and stakeholder consultations indicated that there was "a very low probability" of a company making more than the minimum threshold of USD 125,000 in total payments to government being excluded from the scope of reconciliation based on this approach. The reconciliation is clearly explained, including figures on the materiality of non-reporting companies, which appeared negligible.

While the report provides the government's full unilateral disclosures of revenues for each of the 20 material revenue streams for 70 companies, including all oil and gas companies, it does not provide full unilateral disclosure of revenues from all mining companies, including all those below the materiality threshold. Nonetheless, the report is transparent about the practical challenges to sourcing full unilateral disclosures of revenues from all mining license-holders, explaining that the other mining companies are unlikely to make tax payments given their activities in exploration rather than production, in addition to the two constraints highlighted above.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has fully addressed the corrective action and has achieved satisfactory progress on Requirement 4.1. The 2018 EITI report addresses most aspects of Requirement 4.1, aside from full unilateral government disclosure of revenues, for each of the material revenue streams, from all mining, oil and gas companies, including those below the materiality threshold. Despite the MSG's convoluted approach to selecting material companies, the approach ensured that all companies making more than USD 125,000 in payments to government were included in the scope of reporting. The report provides full government unilateral disclosures of extractives revenues for all revenue streams for the 70 largest companies. It provides full disclosure of revenues from oil and gas companies and of administrative fee (FA) payments from mining companies. Requirement 4.1.d states: "*Unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of EITI implementation, including revenues that fall below agreed materiality thresholds.*" The Secretariat's assessment is that the 2018 EITI Report is transparent about practical challenges to sourcing comprehensive non-tax information from companies beyond the 70 and thus considers this gap to be of marginal importance.

To strengthen implementation, Madagascar is encouraged to implement Tax ID Numbers in a consistent manner across different ministries to ensure that the government is able to track the total (tax and non-tax) payments to government from each of the companies holding mining, oil and gas licenses on an annual basis. Madagascar is urged to demonstrate conclusively that all oil, gas and mining companies making material payments to the government have comprehensively disclosed these payments in accordance with the agreed scope. To strengthen implementation, Madagascar is urged to publicly disclose aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of EITI implementation, including revenues that fall below agreed materiality thresholds.

5.8 Corrective action 8: Transportation revenues (#4.4)

In accordance with Requirement 4.4, the MSG should assess the materiality of government revenues from the transportation of minerals, clarifying the management of port-related fees on the transportation of minerals.

Findings from the first Validation

Madagascar was found to have made inadequate progress in implementing the requirement. The Validation found that there was insufficient information in the 2014 EITI Report to assess whether the government collected any revenues from the transportation of minerals. It emphasised the lack of clarity surrounding the management of port-related fees.

Progress since Validation

The 2018 EITI Report includes a detailed description of the transportation of minerals and concludes that government does not derive revenues from the transportation of minerals. Nevertheless, the MSG includes the "*Droits d'entrée et de redevances pour usage d'infrastructure*" as a material payment stream to be reconciled between companies and the port concession operator. The report provides information on private transportation arrangements by location and company, information of relevance to local communities.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has addressed the corrective action and that this requirement was not applicable in the year under review. The 2018 EITI Report demonstrates that the government and SOEs do not receive revenues from the transportation of extractives commodities. Nonetheless, the report reflects efforts to go beyond the minimum requirement by describing the different private transportation arrangements for extractives commodities and reconciling company payments for the use of port infrastructure.

To strengthen implementation and to meet domestic demand for information, Madagascar may wish to consider the environmental aspects of commodity transport in future EITI reporting.

5.9 Corrective action 9: Direct subnational payments (#4.6)

In accordance with Requirement 4.6, the MSG should establish whether direct subnational payments, within the scope of the agreed benefit streams, are material. Where material, the MSG is required to ensure that reconciled information on company payments to subnational government entities and the receipt of these payments be publicly accessible. EITI Madagascar may wish to provide more information on the disbursement of ristournes from Ambatovy to host communes built-up since the start of production in 2012 given the materiality of such delayed payments.

Findings from the first Validation

Madagascar was found to have made inadequate progress in implementing the requirement. The Validation noted the lack of clarity around the materiality of subnational payments and the beneficiaries of *ristournes* payments, and therefore the lack of clarity around the comprehensiveness of reconciled revenues. It also emphasised concerns around gaps in reporting around unpaid *ristournes* by AMBATOVY as of 2014, given the value of these arrears and their significance for relevant subnational governments.

Progress since Validation

The MSG agreed that thirteen local taxes as set in the Tax Code were not extractive specific and that none would be considered material for the purpose of EITI reporting, based on the value of total payments for each direct subnational revenue stream for 2018. These revenues are disclosed unilaterally and in aggregate as reported by the 16 reporting companies.

The MSG initially considered the *ristournes* to be material subnational payments, when they are paid directly to local government units (*see also ristournes under the assessment of Requirement 5.2.).* The report notes that, although the regulatory framework provides for certain types of license holders, including artisanal miners, to pay *ristournes* directly to local governments, payments of *ristournes* were made to the Treasury for all material companies and are therefore considered subnational transfers for the purposes of this assessment (*see Requirement 5.2*). Stakeholders consulted confirmed during consultations that subnational direct payments were not applicable in the context of industrial mining in Madagascar.

Secretariat's Assessment

The International Secretariat's preliminary assessment is Madagascar has addressed the corrective action and that this requirement was not applicable in the year under review. The 2018 EITI Report clarified the absence of material subnational payments in the extractive sector. It confirmed that no "*ristournes*" were paid directly to local governments by material companies in the period under review, as confirmed by stakeholder consultations.

5.10 Corrective action 10: Data disaggregation (#4.7)

In accordance with Requirement 4.7, the MSG is required to ensure that EITI data is presented by individual company, government entity and revenue stream. To strengthen implementation, the MSG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018.

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Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation noted that financial data was disaggregated by company and government entity, not by individual revenue stream, which had a material impact on assessments of the comprehensiveness of reporting.

Progress since Validation

Reconciled financial data is presented disaggregated by company, revenue stream and government agency in the 2018 EITI Report. However, while the report states that data is presented by project, this is the case for only six of the 17 material companies, which held only one license each in 2018. The MSG agreed a definition of project that was aligned with Canada's Extractive Sector Transparency Measures Act (ESTMA). However, the MSG's interpretation of the agreed definition of project focused on producing mines, without considering license-based payments, such as mining and oil and gas administration fees (FA) collected by BCMM and OMNIS.

Extensive consultations with stakeholders led to consensus that projects should not have only been defined as producing mines. Stakeholders recognised that project-level reporting should have been disaggregated by license for non-tax payments and revenues, aside from those projects with substantially interconnected infrastructure. Stakeholders confirmed that tax revenues were collected at a consolidated company level while non-tax revenues were collected on a per-license or per-contract basis respectively in the mining and oil and gas sectors. After the commencement of Validation and following consultations, in February 2020, two companies (RED GRANITI and MASINA INDUSTRY GROUP) published their audited financial statements with details of their FA payments in 2018 on the EITI Madagascar website. In February 2020, EITI Madagascar also published a spreadsheet presenting full government unilateral disclosure of mining administration fees (FA) collected by BCMM from the top 70 extractives companies, disaggregated by license.

Secretariat's Assessment

<u>The International Secretariat's preliminary assessment is that Madagascar has partly addressed the corrective action and has achieved meaningful progress *with considerable improvements* on Requirement 4.7.</u> The 2018 EITI Report documents the MSG's approach to project-level reporting, although this is based on a per-mine rather than per-license basis. The reconciled financial data is de facto disaggregated by license for only six of the 17 material companies.

In accordance with Requirement 4.7, Madagascar should ensure that it publishes EITI data disaggregated by each individual project, for impositions that are levied at a per-license basis (e.g. non-tax). Madagascar is required to ensure that its definition of project is consistent with that in Requirement 4.7, namely that as "*operational activities that are governed by a single contract, license, lease, concession or similar legal agreement, and form the basis for payment liabilities with a government*."

5.11 Corrective action 11: Data quality and assurance (#4.9)

In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:

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a. examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his/her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.
b. ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
c. ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.

Findings from the first Validation

Madagascar was found to have made inadequate progress in implementing the requirement. The Validation found that the MSG had approved the selection of the Independent Administrator (IA) and related TORs, and had reviewed material entities' statutory audit procedures prior to agreeing quality assurance procedures for ensuring the reliability of reconciled data. It noted that it was unclear however why MSG members had approved quality assurance procedures that few companies followed in practice. While the IA provided assurances regarding the comprehensiveness and reliability of reconciled data, the materiality of payments from entities that did not comply with the agreed quality assurance procedures was not provided.

Progress since Validation

While all but four of the 17 material companies in the 2018 EITI Report demonstrated that their 2018 financial statements were audited to international standard, the *Cour des Comptes'* statutory audit of 2018 public accounts was not completed at the time of preparation of the 2018 EITI Report. The *Cour des Comptes* currently does not undertake financial audits of extractives revenues to international standards. For EITI purposes, the *Cour de Comptes* has concluded a five-year agreement with EITI Madagascar for it to provide certification of government EITI reporting (of tax and customs revenues), based on a comparison of government EITI reporting templates with actual collections by the single Treasury account.

There is evidence that the MSG approved the ToR for its Independent Administrator in line with the template, oversaw procurement of the IA for the 2018 EITI Report and approved the reporting templates. The 2018 EITI Report covers most aspects of Requirement 4.9, including an overview of statutory audit procedures for reporting entities and evidence of the IA's review of actual audit practices in 2018. The quality assurances agreed by the MSG for EITI reporting by companies and government entities are described, together with an assessment of adherence to quality assurances in practice. However, while the report provides an assessment of the materiality of payments and revenues from reporting entitles that did not comply with the agreed quality assurances, it does not contain a statement from the IA on the comprehensiveness and reliability of the reconciled financial data. The report provides an overview of follow-up on past EITI recommendations and a new set of recommendations based on the 2018 reporting cycle. Summary data for the 2017 and 2018 EITI Reports were submitted to the International Secretariat for comments in December 2019.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar had partly addressed the corrective action and had achieved meaningful progress *with considerable improvements* on Requirement 4.9 at the commencement of Validation. However, subject to the Board's consideration of new information published after the commencement of Validation, the Secretariat's preliminary assessment would be that Madagascar had fully addressed the corrective action and had achieved satisfactory progress on Requirement 4.9. There is evidence that the MSG approved the ToR for its Independent Administrator in line with the template, oversaw procurement of the IA for the 2018 EITI Report and approved the reporting templates. Summary data for the 2017 and 2018 EITI Reports were submitted to the International Secretariat for comments in December 2019. The 2018 EITI Report covers most aspects of Requirement 4.9, aside from a statement by the IA on the comprehensiveness and reliability of the reconciled financial data. However, after the start of Validation (in February 2020), EITI Madagascar published an addendum to the 2018 EITI Report that included the IA's assessment that it did not uncover any elements that would put into question the comprehensiveness and reliability of reconciled financial data in the 2017 EITI Report.

If the Board does not consider new information published after the commencement of Validation, Madagascar would need to address the following corrective action: In accordance with Requirement 4.9.b and the standard Terms of Reference for Independent Administrators, Madagascar should ensure that the Independent Administrator provides an assessment of the comprehensiveness and reliability of the (financial) data presented in future EITI reporting.

To strengthen implementation, Madagascar may wish to consider channels for systematic disclosures of information on statutory audit and assurance procedures for extractives companies, SOEs and government entities through routine government and company systems. Such disclosures could improve public understanding of ongoing and planned reforms in public- and private-sector audit procedures. Madagascar is encouraged to consider ways of systematically publishing the audited financial statements of extractives companies, SOEs and government entities through routine disclosure systems. Madagascar is encouraged to ensure that the quality assurances agreed for ensuring the credibility of financial data reported by companies and government entities are robust and do not provide discretion to reporting entities on the specific assurances to provide.

5.12 Corrective action 12: Distribution of extractive industry revenues (#5.1)

In accordance with Requirement 5.1, EITI Madagascar should publicly clarify which extractive industry revenues, whether cash or in-kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable. To strengthen implementation, EITI Madagascar may wish to use EITI reporting to monitor the migration of government finances towards a single

Treasury account system, providing a platform for public information on the management of off-budget extractives revenues.

Findings from the first Validation

Madagascar was found to have made inadequate progress in implementing the requirement. The Validation found that there were fundamentally contradictory views between information provided in EITI reporting and stakeholder views. There was lack of clarity around whether Madagascar operates a single Treasury account and whether revenues collected by government entities such as BCMM and OMNIS were recorded in the national budget. There was no publicly available report covering the revenue management of the 11 revenue-collecting government entities aside from the general budget execution report, which was not sufficiently disaggregated to identify recorded extractives revenues.

Progress since Validation

Madagascar's progress in meeting the terms of its extended credit facility (ECF) was rated as 'satisfactory' by the IMF in 2019.[20] As in the first Validation, independent government agencies manage extractives revenues that are not recorded in the national budget.

The 2018 EITI Report clearly lists the extractives revenues that are not recorded in the national budget and provides only a cursory explanation of the practice. EITI Madagascar has published the audited financial statements for the main government agencies collecting extractives revenues off-budget for 2017 and 2018, including BCMM, KRAOMA, OMNIS, ANOR. While the MSG has undertaken little analysis of these financials to date, their public disclosure provides an overview of their financial management. There was consensus among stakeholders consulted that all financial reports of government entities managing extractives revenues not recorded in the national budget had been published by the commencement of the second Validation.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar has addressed the corrective action and has achieved satisfactory progress on Requirement 5.1. The 2018 EITI Report clearly lists and provides the value of extractives revenues not recorded in the national budget. While it provides only a cursory explanation of their management, the publication of the audited financial statements of BCMM, OMNIS, ANOR and KRAOMA for 2017 and 2018 provides information on the management of these off-budget revenues, even if these have not been analysed in detail to date.

To strengthen implementation, Madagascar is encouraged to systematically disclose on their respective websites the audited financial statements of government entities collecting extractives revenues not recorded in the national budget. Civil society stakeholders are encouraged to strengthen their use of information on revenues and expenditures not recorded in the national budget, as a means of strengthening citizen oversight of the budgetary process.

[20] IMF (June 2019), 'IMF Staff Completes Program Review Mission to Madagascar', accessed here in January 2020.

5.13 Corrective action 13: Subnational transfers (#5.2)

In accordance with Requirement 5.2, the MSG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity. The MSG is encouraged to reconcile these transfers.

Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation noted that the EITI reporting described the general revenue sharing formula for mining administration fees (FAM) and disclosed the transfers of FAM in 2016, but that there was insufficient information to identify discrepancies between budgeted and executed transfers, disaggregated by local government unit (LGU). The Validation highlighted the contribution of EITI reporting as a diagnostic mechanism for delays in transfers and welcomed the government's reforms to streamline the calculation and payment of FAM as well as the Madagascar EITI's commissioning of a dedicated study on subnational payments and transfers.

Progress since Validation

Local revenue management is one of the main priorities of EITI implementation in Madagascar. Over the past decade, EITI Reports have provided a unique source of information to understand challenges in executing transfers and identifying shares of extractive revenues allocated for transfer to local governments. Such disclosures yielded substantial impact, prompting local mayors to demand their communes' statutory entitlements of shares of extractive revenues from the central government.[21] In February 2018, the MSG published a standalone report on subnational payments and transfers, drawing from five years of EITI data and additional disclosures collected from eleven pilot local governments (communes) affected by extractive activities. The report highlighted contradictions in the regulatory framework around subnational transfers and practical obstacles to effective transfers, and listed concrete recommendations to improve the government's system at the local and national level.[22] In addition, previous EITI Reports included data from participatory budgeting initiatives in selected communes, showing the significant shares of extractive revenues used at the local level.

With regards to the oil and gas sector, the 2018 EITI Report describes the applicable regulatory framework, and identifies the reasons for the lack of effective subnational transfers of petroleum revenues.

With regards to the mining sector, the MSG considered three revenue streams to be transferred to local governments: mining royalties (*redevances*), the mining administration fees (*frais d'administration manière*, FAM), and the *ristournes*. Sixteen regions and 34 communes were included in the scope of reporting to cover payments transferred to local governments, based on whether they host significant extractive activities rather than a clear materiality threshold. The report notes that, for

[21] See: Madagascar EITI (February 2018), 2008-2019: 10 ans de contribution à la transparence, accessed here in January 2020, p.11.
[22] Madagascar EITI (February 2018), Rapport sur les paiements et les transferts infranationaux, accessed here in January 2020.

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communes receiving a share of Ambatovy's *ristournes*, only the 20 communes that were due to receive a share higher than 5% were included in the scope.

Based on the revenue-sharing formula, no shares of royalties are transferred at the local level. As confirmed during stakeholder consolations, *redevances* are therefore not relevant for the assessment of disclosures related to subnational transfers, although the details of the distribution of shares for royalties amongst central government entities represent useful information.

The 2018 EITI Report compares shares of FAM that should have been transferred at the local level according to the revenue sharing formula with shares that were effectively transferred, albeit not disaggregated by local government unit. The report shows the discrepancy between effective transfers in 2018 and revenues reported by twelve of the communes that participated in reporting. As of January 2020, BCMM systematically discloses data about effective transfers to communes in 2018 on its website.

The 2018 EITI Report compares shares of *ristournes* that should have been transferred at the local level according to the revenue sharing formula with shares that were effectively transferred, albeit not disaggregated by local government unit apart from the case of *ristournes* paid by Ambatovy (see below). In the previous Validation, stakeholders had noted that some mining companies paid *ristournes* directly to local governments, whereas others paid them to the central government. The 2018 EITI Report clarifies that none of the material companies paid *ristournes* directly to local governments. The disbursement in 2018 of MGA 61bn worth of *ristournes* accumulated over the five previous years by Ambatovy, the country's largest mining project, elicited strong public interest.[23] The 2018 EITI Report focuses on the effective distribution of these *ristournes*, providing a detailed table based on the revenue sharing formula and disaggregated by local government unit. The report explains that disbursements were gradual to prevent overburdening the communes and challenges in managing the revenues. It notes that the statutory earmarks for this local government revenue were split 30%/70% respectively between operating expenses and investment costs, but reviewed to 20%/80% until the end of fiscal year 2018. In information published on 25 February, after the start of Validation, the MSG also provided the detailed revenue sharing formula and effectives transfers of QMM's *ristournes*, disaggregated by local government units, highlighting a change in the applicable decree in 2017.

The 2018 EITI Report also provides detailed information about revenue collection in seventeen reporting communes, including the total amount of *FAM* and *ristournes* per commune, as well as about the detailed budget (per revenue stream) and expenditures (per type) for the communes of Fanandrana and Amboditandrohoro.

There was consensus amongst all stakeholders that the EITI had a key role to play in fostering public debate on the issue. They noted that it was important to accompany communities that benefit from extractive revenues, and highlighted the focus on local revenue collection and management in dissemination activities undertaken by the EITI in four extractive regions (*see Requirement 7.4*). Stakeholders noted that EITI data could inform local communities on how extractive revenues could contribute to local and sustainable development and help local authorities improve budgeting, as well as manage citizens' expectations with regards to the oil and gas sector where no shares of revenues have been transferred in practice.

[23] See: Trésor public Malagasy (September 2018), Secteur minier : Ambatovy s'acquitte de ses ristournes, accessed here in January 2020. L'Express de Madagascar (September 2018), Projet Ambatovy – les ristournes minières versées, accessed here in January 2020.

Stakeholders agreed that the absence of disaggregated information comparing statutory shares with effective transfers for FAM and *ristournes* represented a gap in EITI disclosures given the level of communities' expectations related to these transfers. With regards to the process for executing transfers, some stakeholders noted that the revenue-sharing formula for FAM per company and per commune (based on licenses held by company) should be available, as Ministerial orders (*arrêtés*) formed the legal basis for the BCMM to make its computations each time a company made a payment. Industry representatives that similar regulatory texts defined shared of *ristournes* transferred at the local level. Government representatives confirmed that data required by the EITI Standard could be systematically disclosed through the BCMM website, to complement existing disclosures of effective FAM transfers per commune.

Secretariat's Assessment

<u>The International Secretariat's preliminary assessment is that the corrective action has been partially met and that Madagascar has achieved meaningful progress with considerable improvements on Requirement 5.2.</u> Madagascar EITI's work on subnational transfers is commendable as an example of EITI implementation's meaningful contribution to public debate on an issue of national priority. The 2018 EITI Report not only includes detailed information about the disbursement of Ambatovy's *ristournes*, it also provides an assessment of challenges in the effective transfer of extractive revenues and information about revenue management at the local level, as encouraged by Requirement 5.2.c) under the 2019 EITI Standard. However, EITI reporting has not provided data disaggregated by local government unit on statutory shares VS effective transfers, both for FAM and for *ristournes* paid by all extractive companies except for Ambatovy, as well as QMM after the start of Validation.

In accordance with Requirement 5.2, Madagascar should disclose discrepancies between statutory shares of mining administration fees (FAM) and *ristournes* and effective transfers disaggregated by local government unit, for all extractive companies.

To strengthen implementation, Madagascar might wish to consider systematically disclosing information about subnational transfers of FAM on the BCMM website, including the decrees that determine the computations for transfers to each local government unit. Stakeholders are encouraged to use EITI data on subnational transfers to promote debate at the subnational level and strengthen the management of extractive revenues by local authorities, to ensure the sector's contribution to more inclusive and sustainable local development.

5.14 Corrective action 14: Quasi-fiscal expenditures (#6.2)

In accordance with Requirement 6.2, the MSG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.

Findings from the first Validation

Madagascar was found to have made no progress in implementing the requirement. The Validation concluded that there was no evidence that the MSG had undertaken efforts to clarify the existence of quasi-fiscal expenditures. There was no evidence that the IA or the MSG had discussed this issue with relevant government entities and there was insufficient relevant information in the public domain.

Progress since Validation

There is evidence that the MSG has considered quasi-fiscal expenditures since the first Validation. The 2018 EITI Report includes commendable coverage of SOE third-party financing that could become quasi-fiscal in future.

While the 2018 EITI Report correctly categorises two types of quasi-fiscal expenditures by OMNIS in the year under review, it provides insufficient information on the nature of the second expenditure. The first consisted of a MGA 7.58bn (USD 2.1m) investment in a new road to the airport that OMNIS was directed to undertake by the Council of Ministers. The second consisted of what the report described, in line with OMNIS's published financial statements, as MGA 418.7m (USD116.6k) in "honorariums for non-staff'. The Secretariat understands based on consultations that these payments were for international travel of senior government officials, considered a sensitive issue. The disclosures on OMNIS' quasi-fiscal expenditures, while commendable, are not disaggregated to levels of detail commensurate with the disclosure of other payments and revenues. A government official noted that it should be possible to provide additional information on the nature of these expenditures.

The comprehensiveness of disclosures on quasi-fiscal expenditures by KRAOMA in the 2018 EITI Report is open to question. Consultations revealed that the only expenditures undertaken by KRAOMA that could be considered quasi-fiscal were merely rehabilitation of the roads they used for their mine sites.

However, subsequent to the commencement of Validation, in February 2020, OMNIS disclosed the detail of its quasi-fiscal expenditures on its website, disaggregated by expenditure, with information on the value, date and description of each expenditure and the identity of each beneficiary.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that Madagascar had partly addressed the corrective action and had achieved meaningful progress *with considerable improvements* on Requirement 6.2 at the commencement of Validation. However, subject to the Board's consideration of new information published after the commencement of Validation, the Secretariat's preliminary assessment would be that Madagascar had fully addressed the corrective action and had achieved satisfactory progress on Requirement 6.2. There is evidence that the MSG has considered quasi-fiscal expenditures since the first Validation. While the 2018 EITI Report correctly categorises two types of quasi-fiscal expenditures by OMNIS in the year under review, it provides insufficient information on the nature of the second expenditure. However, after the start of Validation (in February 2020), the OMNIS website published disaggregated information on its quasi-fiscal expenditures in 2018, achieving a level of transparency commensurate with other payments and revenue streams.

If the Board does not consider new information published after the commencement of Validation, Madagascar would need to address the following corrective action: In accordance with Requirement 6.2, Madagascar is required to develop a reporting process for quasi-fiscal expenditures, including by OMNIS, BCMM, KRAOMA and any of their subsidiaries and joint-ventures, to reach a level of transparency commensurate with reconciled payments and revenues.

Madagascar is encouraged to explore ways of systematically disclosing quasi-fiscal expenditures through routine systems (e.g. websites) of OMNIS and KRAOMA.

5.15 Corrective action 15: Outcomes and impact of implementation (#7.4)

In accordance with Requirement 7.4, the annual progress report should be the product of consultations with all stakeholders and include a review of the impact of EITI implementation. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the MSG, should be able to provide feedback on the EITI process and have their views reflected in the annual progress report.

Findings from the first Validation

Madagascar was found to have made meaningful progress in implementing the requirement. The Validation highlighted that the 2016 annual progress report (APR) reflected efforts to strengthen EITI implementation and provided information on progress in implementing EITI Requirements and work plan objectives. However, the report did not assess the impact of the implementation of such objectives, and there were concerns that it did not reflect the views of most stakeholders.

Progress since Validation

The 2017-2018 APR was published in April 2019, after having been widely circulated to EITI stakeholders for input in March. The document provides a summary of EITI activities, an assessment of progress against work plan objectives and EITI Requirements, an overview of the MSG's follow-up of recommendations from EITI reporting and Madagascar's first Validation, and a narrative account on strengthening the EITI's impact. The APR provides detailed information on the EITI Madagascar's capacity-building, dissemination and outreach activities; thematic studies, such as on beneficial ownership and subnational payments and transfers; and collaborations, for instance with the SAI and the *Projet d'Amélioration de la Surveillance de l'Industrie Extractive* (PASIE). Overall, the report provides a comprehensive assessment of the outcomes of EITI implementation and its limitations, and highlights areas where the EITI's impact could be strengthened, including environmental reporting and the promotion of debate on the extractive sector at the local level.

Despite funding and capacity challenges that affected the implementation of work plan activities (*see assessment of Requirement 1.1*), EITI Madagascar published thematic reports that sought to review and increase the impact of EITI implementation, including an overview of a decade of EITI implementation, a guide on how to use EITI Reports, a standalone report on subnational payments and transfers (*see assessment of Requirement 5.2*) and a report on overcoming obstacles to beneficial ownership disclosures. The 2018 EITI Report also went beyond the Requirements of the 2016 EITI Standard by including information on the artisanal and small-scale mining sector, environmental reporting, gender disaggregated data (by role) and the inclusion of gender in outreach activities, which were all considered key issues for implementation by the MSG.

In parallel, EITI Madagascar undertook activities in four regions affected by extractive activities (Fort Dauphin, Toliara, Moramanga and Tamatave) in May and June 2019 to raise awareness about the extractive industries' contribution to local development, and consistently included a component on impact assessment in its capacity-building activities. Industry representatives commended the dissemination activities undertaken in the regions, noting a strong interest from local governments and communities, including women. Some noted that EITI data could be included more consistently in companies' CSR reports and in their communications with host communities.

Stakeholders consulted noted that the impact of the EITI could be felt at different levels, such as in the work undertaken by the *Cour des Comptes* on the certification of government extractive revenues, the work around beneficial ownership disclosures that contributed to the evaluation of wider risks in the sector and in the use of EITI data in CSOs' advocacy work in extractive communities. Many government representatives noted that EITI reporting could be further expanded, to help citizens better understand ongoing reforms as well as the role and mandate of government agencies. Industry and CSO representatives welcomed the inclusion of some information on environment- and gender-related issues, which they considered to be priorities in the context of Madagascar. Such information includes a description of the legal and regulatory framework around environmental monitoring and of the role of relevant government agencies, the status of environmental permits held by material companies, and gender-disaggregated data by role disclosed by reporting companies.

Secretariat's Assessment

The International Secretariat's preliminary assessment is that the corrective action has been met and that Madagascar has achieved satisfactory progress on Requirement 7.4. The 2017-2018 Annual Progress Report provides a comprehensive assessment of the outcomes of EITI implementation and its limitations, and highlights areas where the EITI's impact could be strengthened. Despite significant funding and capacity challenges, EITI Madagascar has made efforts to increase and document the impact of EITI implementation, including on contributing to strengthening the role of the SAI in its oversight of revenues from the sector, promoting debate in communities hosting extractive activities, environmental reporting and gender-related issues.

To strengthen implementation, Madagascar is encouraged to annually assess the impact of EITI implementation, actively seeking input from stakeholders outside the MSG and from extractive regions. As highlighted by stakeholders consulted, Madagascar may wish to focus on increasing the impact of EITI implementation on issues that the MSG has identified as priorities, including revenue management and the environmental impact of extractives at the local level.

6. Requirements assessed as satisfactory in 1st Validation

The International Secretariat has also considered whether there is a need to review additional requirements. In particular, the Secretariat reviewed possible back-sliding on progress related to the Requirement 7.3 on recommendations from EITI implementation. The Secretariat's view is that there is no evidence to suggest progress has fallen below the required standard on any Requirements assessed as "satisfactory progress" or "beyond" under the first Validation.

7. Conclusion

Having reviewed the steps taken by Madagascar to address the 15 corrective actions as of the commencement of its second Validation on 29 December 2019, and *subject to the EITI Board's consideration of new information published after the commencement of Validation (in particular related to Requirements 4.9 and 5.2)*, it can be reasonably concluded that Madagascar has fully addressed seven corrective actions, with assessments of either "satisfactory progress" or "not applicable" on the corresponding requirements.

The outstanding gaps relate to government engagement (Requirement 1.1), civil society engagement (Requirement 1.3), MSG oversight (Requirement 1.4), license allocations (Requirement 2.2), contract disclosure (Requirement 2.4), state participation (Requirement 2.6), data disaggregation (Requirement 4.7) and subnational transfers (Requirement 5.2).

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Annex A: Progress in addressing individual EITI Requirements

Requirement 1: MSG oversight

Assessment table: Multi-Stakeholder Group (MSG) oversight						
EITI Requirement	EITI sub-Requirement	Summary of main findings	Source(s) of information	Summary of stakeholder views	Recommendation on compliance with the EITI provisions	Proposed corrective actions and recommendations
Government oversight of the EITI process (#1.1)	The government has issued a public statement of its intention to implement the EITI (#1.1.a)	The government constituency adopted an action plan in 2019 as per the corrective measure from the first Validation, with all activities are scheduled for between June and November 2019. The action plan focuses on six areas: i) officially reaffirming the government's commitment to implement the EITI; ii) sending a high-level delegation to the EITI Global Conference in June 2019; iii) ensuring government funding for	Government constituency action plan, here. 2019 EITI Global Conference, Stakeholders Forum, here. EITI Champion speech at the public launch of the 2017-2018 EITI Reports, 10 December 2019, here.	Many government representatives emphasised the alignment between EITI Principles and the government's ambitious anti-corruption, domestic resource mobilisation and reform agenda. Some government representatives highlighted the current EITI Champion's active participation since his nomination. They noted that the government's engagement in the	**Meaningful progress with considerable improvements.** The government has shown encouraging signs of its commitment to the EITI, including through public statements, adoption of an action plan for the constituency, participation of the EITI Champion and government representatives to MSG meetings, and seconding staff of the MMRS to the national secretariat	In accordance with Requirement 1.1.c), the government must demonstrate full, active and effective engagement in all aspects of EITI implementation in Madagascar. The government should contribute to the functioning of the national secretariat, as well as other EITI activities as per the MSG's work plan, through sustainable funding. The government should ensure that all its

		the national secretariat; iv) nominating missing government representatives on the MSG; v) encouraging efforts from government agencies in strengthening systematic disclosures; and vi) ensuring that all government MSG members sign the EITI Code of Conduct. As of end December 2019, it seems that only the second activity had been fully carried out. In June 2019 at the Stakeholders Forum of the EITI Global Conference, the EITI Champion and Minister of Mines and Strategic Resources Fidiniavo Ravokatra highlighted the alignment between the government's policy and the EITI in terms of responsible management of natural		second half of 2018 had been affected by the lead-up to the presidential elections and the replacement of former Minister Zafilahy Ying Vah by former Minister Henri Rabary-Njaka in June 2018, following the former Minister's nomination as Madagascar's ambassador to Russia. Some government representatives on the MSG noted that their contribution to MSG activities would benefit from further training on the EITI and from better collaboration between each Ministry on EITI-related matters. Industry representatives noted that not all government representatives on	as of December 2019. Nevertheless, statements of support at the high-level have not consistently been matched by concrete efforts to support all aspect of EITI implementation at the operation level since June 2018, as evidenced by uneven awareness of the EITI by different agencies represented on the MSG, limited support to the funding and sustainability of the process in the period under review, limited activities to follow-up on recommendations from EITI reporting and delayed nomination of government representatives on the MSG in 2019. Concerns from industry, civil society and partners around the wider governance	representatives are nominated on the MSG and participate actively to all aspects of EITI implementation, including through increasing awareness amongst relevant government agencies. To strengthen implementation, the government is encouraged to draw on the EITI Madagascar platform for multi-stakeholder consultations in the development of key legal and regulatory reforms, such as the revision of the Mining Code. The government may also wish to leverage the EITI platform to sustain direct dialogue with industry, civil society and partners around the management of the sector and the latter's contribution to government revenues.

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		resources. He noted that the government was funding the EITI process for the first time through its 2019 Finance Law (budget), that Madagascar was committed to including mandatory reporting by companies in its regulatory framework, that the government would aim to improve the management of revenues from the extractive sector at the local level and that it would put in place the necessary public registries to strengthen systematic disclosures and open data. The EITI Champion also made a speech at the public launch of the 2017 and 2018 EITI Reports on 10 December 2019, highlighting the government's		the MSG could attend all meetings, given how frequently and at short notice the latter took place. Industry and civil society representatives, as well as partners, consulted expressed strong concerns around the government's concrete commitment to extractive sector governance. Many mentioned the process around the revision of the Mining Code as an example of the government trying to carry out reforms in the sector without public consultations, noting that the amendments would have been approved if it had not been for the strong public backlash from	of the extractive sector and the nomination of the *interim* national coordinator reflect a recognition from key stakeholders that the government's stated commitment to EITI implementation has not yet been matched by concrete evidence of this commitment to supporting all aspects of EITI in practice.	The government is encouraged to draw on strategic recommendations from Validation related to Requirements 2-6 to transition towards systematic disclosures of data required by the EITI Standard through routine government systems in a timely, reliable and disaggregated manner.

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		engagement in the EITI process.		industry, civil society and partners. Civil society representatives noted that collaboration with government representatives at the technical level was positive, but that it remained more difficult at the high-level, due to the government's desire to maintain a favourable image at the international level. Industry representatives expressed concerns around the government's vision for the extractive sector, as illustrated by the opaque management of revenues by certain government agencies, the allegations around the creation of the KRAOMA MINING SA JV, the suspension of		
	The government has appointed a senior individual to lead on the implementation of the EITI (#1.1.b)	Fidiniavo Ravokatra, Minister of Mines and Strategic resources, was nominated as EITI Champion in March 2019, following presidential elections end of 2018 and the nomination of a new government in January 2019.	Decree 2019-174, Nomination of the EITI Champion for Madagascar, 13 March 2019, here.			
	The government is fully, actively and effectively engaged in the EITI process (#1.1.c)	A capacity-building workshop was held on 5 December 2018 for government representatives on EITI implementation, including a session on assessing the impact of the EITI. On funding, there is evidence of a transfer on 15 October 2019 of MGA 140m and a transfer on 30 May 2017 of MGA 350m.	Overview of capacity-building workshop for government representatives, 5 December 2018, here. Bank transfer to EITI Madagascar, 15 October 2019, here. Decree 2019-362 on the institutionalisation			

		Government representatives mentioned a transfer in 2018 but did not provide evidence for that transfer. Decree 2019-362 on the institutionalisation of Madagascar was approved in May 2019, establishing the EITI Madagascar as part of the MMRS after it had been transferred to the Prime Minister's office in 2017.	of Madagascar, 4 May 2019, here.	the Toliara Sands activities and the announcement of an audit of QMM's activities in November 2019. Several partners noted that the government seemed serious about increasing revenues from the extractive sector to strengthen the national economy, but that it was sending contradictory messages to investors and partners given the developments in the period under review. Many stakeholders consulted from all constituencies noted that the prospects of the second Validation had prompted the government to send clear signals of its commitment to the EITI in the last few weeks of 2019. They added that this was		
	Senior government officials are represented on the MSG (#1.1.d)	Government representatives were nominated throughout 2019 for the MMRS, the Ministry of Economy and Finance, the Prime Minister's Office, the DG of the Treasury, the Ministry of Interior and Decentralisation, and ONE.	Letters nominating government representatives on the MSG, 18 February, 2 March, 16 July, 15 November, 26 December 2019, here.			

				not representative of the period under review, and that the government's commitment to the sustainability and funding of the EITI remained limited. While many commended the secondment of four staff from the MMRS to the national secretariat, stakeholders consulted highlighted the conflict of interest in the nomination of the interim National Coordinator Marcelle Dane, who simultaneously represents an oil company on the MSG and is a technical advisor to the Minister of MMRS at the same time as being the National Coordinator. Many civil society and industry representatives in		

				particular strongly disapproved of the nomination and called into question the government's credibility as a consequence.		

Civil society engagement (#1.3)	There is an enabling environment for freedom of engagement and civil society is freely and proactively engaging in relation to EITI (#1.3.a,b,e.iv and CSP 2.4)	The International Secretariat did not find evidence indicating any backsliding on adherence to the Civil Society Protocol, as confirmed in stakeholder consultations. The March 2019 CIVICUS submission to the UN Universal Periodic Review of Madagascar highlighted several instances of arrests of environmental activists in a context of local opposition to extractives. None of these incidents were related to EITI activities for the period under review. The CSO constituency agreed an action plan in 2019, including i) recruiting the missing CSO representative on the MSG; ii) nominating the lead for the CSO	CIVICUS, Joint submission, Madagascar, UN Universal Period Review, 34th session of the UPR Working Group, March 2019, here. Civil society action plan, 2019, here. Press releases by CRAAD-OI and Collectif Tany, here. Press release, OSCIE, For an honest, frank and inclusive consultation to define the development of the extractive industries in Madagascar, 17 December 2019, here.	In a review of the provisions of the Civil Society Protocol, civil society representatives consulted confirmed the absence of restrictions with regards to their freedom of expression, association, operation and engagement in EITI. Some pointed out that CSOs might refrain from being too vocal and critical given the current administration's protective attitude of its image at the international level. However, they noted that some of them had not hesitated to walk out of what they considered to be "mock consultations" on draft amendments to the Mining Code organised by the	**Meaningful progress with considerable improvements.** Both publicly available evidence and stakeholder consultations point to a positive tendency in civil society's engagement in EITI implementation. At least two civil society representatives contribute actively and regularly to the process, and civil society organisations had participated in several capacity-building and outreach activities in the period under review. There are several examples of advocacy and policy recommendations issued by civil society organisations on key developments of the sector. Nonetheless, their engagement	In accordance with Requirement 1.3.a), civil society must demonstrate full, active and effective engagement in all aspects of EITI implementation, including outreach to civil society organisations outside the capital city and dissemination of EITI findings. Civil society should ensure that all its representatives are nominated on the MSG and participate actively to all aspects of EITI implementation. Civil society representatives should ensure that they undertake effective fundraising activities to ensure adequate technical and financial capacities for their full, active and effective participation in EITI activities. All stakeholders, including development partners,

		constituency; iii) ensuring that all CSO MSG members sign the EITI Code of Conduct; and iv) conducting outreach activities at the local level on the EITI and CSOs' role within the process. Most activities were either completed or ongoing as of December 2019. MSG meeting minutes and available attendance lists show regular participation of two civil society representatives in particular, from Taratra and Transparency International. Other members have participated less often, if at all, in 2018-2019. This should be assessed in the context of frequent and irregular MSG meetings, often	Press release, TI and other CSOs, The tender process by OMNIS for the attribution of 44 oil and gas blocks hinders the sustainable and democratic management of natural resources in Madagascar, 27 November 2018, here. Press release, OSCIE, On the KRAOMA file, 4 December 2018, here. OSCIE Forum attendance list, EITI Standard, 11 December 2018, here. Malina, Ferrum Mining: le nouveau partenaire obscur de la KRAOMA, 1	MMRS in December 2019. With regards to access to decision-making, some representatives noted that they felt increasingly heard by the government (and industry) on their opinions and had reasonable access to decision-makers. Most stakeholders consulted agreed that civil society engagement remained affected by limited capacities, but that the overall tendency for the period under review was positive. Industry and partners commended the engagement of the OSCIE platform, noting that overall CSO engagement in extractives-related issues had understandably been	remains affected by limited capacity and resources, the lack of participation from a majority of representatives on the MSG and the challenges in securing nominations for vacant seats on the MSG, which reflect gaps in the broader constituency's engagement. Uneven engagement of the broader civil society constituency has led to the duties and responsibilities of actively participating in all aspects of EITI implementation being placed on two civil society stakeholders, thereby exacerbating the constituency's capacity constraints. In addition, the International Secretariat did not	are encouraged to ensure that representatives of the civil society constituency benefit from available capacity-building on EITI-related issues. To strengthen implementation of Requirement 1.3, civil society is strongly encouraged to capitalise on the EITI Madagascar multi-stakeholder consultation infrastructure, including MSG meetings and consultations with communities affected by extractive activities, to discuss issues around the management of the extractive industries of high public interest. Civil society may wish to leverage new provisions under Requirements 6.1 and 6.4 in the 2019 EITI

		announced at a short notice. There is evidence of advocacy work undertaken by civil society stakeholders engaged in the EITI on key developments in the extractive sector in the period under review. Public statements consistently include concrete recommendations for the government and industry actors. Themes covered include: the draft amendments to the Mining Code and the government's management of the mining sector; the block bidding round launched in November 2018 by OMNIS, including concerns around the opacity of decision to launch the process, the potential	March 2019, here. OSCIE, Presentation on advocacy and the extractive sector, 24 May 2019, here. PWYP, Projet Taratra, Concerns around the future of the extractive industries in Madagascar, 28 August 2019, here.	reduced in the lead-up to presidential elections in 2018. Some partners deplored the lack of strategic vision and leadership demonstrated by some civil society actors and argued that the latter should make more efforts to fundraise for their activities. Several stakeholders highlighted capacity building and outreach activities involving CSOs, including the peer-learning exchange with the Philippines EITI supported by SRJS in 2018 and 2019 and the December 2018 OSCIE workshop. Civil society representatives noted that they regularly carried out activities at the local level using	find evidence indicating any backsliding on adherence to the Civil Society Protocol, as confirmed in stakeholder consultations.	Standard on the environmental impact of extractive activities to ensure greater transparency around environmental payments by companies, industry practices related to environmental management and the role and activities of relevant government agencies.

		overlap between oil blocks and protected areas, and the absence of a revision of the Hydrocarbons Code; the creation of the KRAOMA MINING SA JV, including concerns around the value of FERRUM MINING investment of only USD 16 million; environmental damage around the QMM operations in ANOSY and ONE not fulfilling its role.		summaries of EITI Reports, including social expenditures data disclosed by extractive companies. Several stakeholders highlighted that civil society participation on the MSG was primarily ensured by two members, who contributed significantly to EITI implementation. Stakeholders noted challenges in filling two vacant seats, including one reserved for the Order of journalists, including unsuccessful calls for application.		

MSG oversight (#1.4)	There should be sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption (#1.4.b) vii). The multi-stakeholder group must keep written records of its discussions and decisions ((#1.4.b) viii).	There is evidence that the MSG met at least eight times in 2018 and seven times in 2019, based on available MSG meeting minutes and attendance lists. However, gaps in record-keeping of meetings do not allow to fully assess whether there were significant deviations in practice from the MSG's TOR, nor does it allow to fully assess how decisions were taken by the MSG. Based on invitations the International Secretariat was copied in (emails sent by the national coordinator), it seems that the notice for upcoming meetings was not always announced at least seven days in advance as per the MSG TORs.	MSG minutes and attendance, June 2018-December 2019, here. Documents on the call for expressions of interest, October 2019, here. Decree n.2017-736 institutionalising the EITI Madagascar, 30 August 2017, here. Ministerial order n.5615/2013, Portant création définitive et réactivation du Comité National de l'ITIE, 15 March 2013, here. .	All MSG members consulted confirmed that meetings were held frequently and irregularly, usually announced at a very short notice. They noted that discussions and decisions were not systematically recorded and were not made public. They attributed such deviations from MSG TORs to the recurring financial and capacity challenges faced by the national secretariat, which prevented the latter from providing the adequate administrative support needed by the MSG. These challenges included significant arrears in the payment of the former national coordinator's salary. The constituency	**Meaningful progress.** Based on available documentation and stakeholder views, meetings were not consistently announced in a timely manner in the period under review, nor were MSG discussions and decisions regularly recorded. There was consensus that deviations in practice from MSG TORs were due to significant funding and capacity challenges that prevented the national secretariat from providing administrative support to the MSG. Stakeholders consulted also raised concerns around the representative nature of MSG members for the oil and gas sub-constituency and	In accordance with Requirement 1.4.b.vii, the MSG should ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption, to ensure that MSG members have the capacities to carry out their duties. In accordance with Requirement 1.4.b.viii, the MSG must keep written records of its discussions and decisions. To strengthen implementation, the MSG is encouraged to make these records publicly available on its website. The MSG is encouraged to ensure that deviations from their Terms of Reference are recorded

		There is documentary evidence of the call for proposals and nomination process for the vacant CSO representatives seats on the MSG. It seems however that the process was not successful.		leaders ("chefs de file") of each constituency and other MSG members regularly stepped in to carry out tasks that were considered to be the national secretariat's. Some stakeholders consulted noted that irregular meetings might partly explain inconsistent attendance from government and civil society constituencies. Government representatives noted that the Independent Administrator was asked to take meeting minutes in the first half of 2019. With regards to the nomination process, stakeholders consulted agreed that the process for designating government	noted challenges in securing nominations for vacant CSO seats.	and transparent. Government and civil society constituencies are encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow the MSG to take decisions and follow up on them. Company representatives might wish to consider reviewing the positions representing the oil and gas sub-constituency on the MSG to ensure that they reflect the industry.

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				representatives was clear, although replacements had been significantly delayed following the appointment of the new administration in January 2019 (*see assessment of Requirement 1.1*). Most industry representatives questioned the fact that a seat was reserved for a non-APPAM oil company on the MSG, given that only one oil company in Madagascar is not member of the oil company association, and suggested a change in the MSG TORs. Several stakeholders consulted noted that there was a significant conflict of interest in allowing the ad interim national coordinator to represent a non-		

				APPAM oil company, while being a technical advisor to the Minister simultaneously. Civil society organisations on the MSG led the process for the nomination of two vacant positions in their constituency. However, they explained that the process had been unsuccessful despite efforts, due primarily to a low number of applicants and the impossibility for the Order of Journalist to organise its general assembly to elect a representative.		

EITI disclosures

Requirement 2: Legal and institutional framework, including allocation of contracts and licenses.

Assessment table: Legal and institutional framework, including allocation of contracts and licenses						
EITI Requirement	**EITI sub-Requirement**	**Summary of main findings**	**Source(s) of information**	**Summary of stakeholder views**	**Recommendation on compliance with the EITI provisions**	**Proposed corrective actions and recommendations**
Contract and license allocations (#2.2)	A comprehensive list of mining, oil and gas license awards has been disclosed, including information on the identity of recipients (#2.2.a)	Mining: The report shows that six exploration and production licenses (PRE) were awarded in 2018, as a result of the December 2015 note (see further below) on the transformation of AERP into PRE and given that the decree was only signed in 2018. The report also documents the award of two new exploration licenses (research permits - PR), providing the name of the license holder. The report notes that both PR were transformed into exploitation permits and ceded to the company North Mining Export SARL on 28 May 2018, following a demand	Mining: 2018 EITI Report, pp. 65-68. List of awards and transfers of mining licenses in 2018, here and here.	There was consensus amongst stakeholders consulted that the work of the EITI had contributed to highlighting gaps in the management of licenses in the mining sector, and that the issue remained a priority for EITI implementation. Government representatives confirmed that no technical and financial criteria were requested as per the existing regulatory framework that applied to the mining sector. This gap was sought to be addressed by the ongoing Mining Code review.	**Meaningful progress with considerable improvements.** EITI reporting has been instrumental in identifying the award and transfers of licenses in the mining sector in the context of the ongoing moratorium, a priority issue for the management of the sector in	In accordance with Requirement 2.2, Madagascar should disclose information on the statutory process for transferring licenses in the oil and gas sector, as well as an assessment on potential non-trivial deviations in practice in the transfer of both oil and gas and

		received on 18 April 2018. The report and an annex (Excel file) provide the name of the license holders, as well as the date of application, date of award, license number, type of license, date of expiry and surface covered. The report provides a summary of the licenses awarded or transferred in 2018, disaggregated by type of permit and type of operations. It highlights that 1664 requests for awards were still pending as of the end of 2018, and that 1397 demands for other types of operations such as transfers were still pending. The report provides a list of the 50 operations on mining licenses documented in 2018, including the license number, license holder, type of operation and type of license. An annex (Excel file) provides the name of previous license owners in cases of transfers of ownership. The document was published after the start of Validation, following a misunderstanding with the Independent Administrator.		Some government representatives noted that the regulatory framework should also be amended to include beneficial ownership disclosures as a pre-requisite for license applicants. Other representatives noted that the award and transfer of licenses was only confirmed once the Directory General of the Ministry of Mines had proceeded with its assessment and that the Minister himself had signed off the award. It was unclear on what basis the Directory General of the Ministry of Mines conducts its assessment. With regards to the oil and gas sector, government representatives clarified that requests for license transfers had to be submitted to OMNIS, the latter being the entity in charge of granting these requests. Any transfer of this kind would be considered an addendum to the main contract and would have to be published in the Official Gazette.	Madagascar. With regards to technical and financial criteria, EITI reporting contributed meaningfully to public debate by highlighting the absence of such criteria in awarding and transferring licenses in the mining sector. While EITI reporting has been key in identifying inefficiencies in the management of licenses in the extractive sector, some gaps in disclosures related to license transfers remain. The 2018 EITI Report does not comment on the statutory process for transferring oil and gas licenses, nor does it comment on potential non-	mining licenses. Madagascar might wish to prioritise systematically disclosing such information through the OMNIS and BCMM websites. To strengthen implementation, Madagascar might wish to draw from EITI reporting and recommendations to improve the management of mining licenses, including in setting standard, clear and publicly available technical and financial criteria in the award and transfer of licenses. The MSG is encouraged to consider the

		Further information about license holders are available online on the BCMM's website. O&G: The report provides information about the four exploration licenses awarded in February 2018 to a subsidiary of BP (BP Exploration Madagascar Limited) after Exxon Mobile relinquished them, with the presidential decree published in the official gazette on 23 March 2018. Annex 11 of the report provides details about the date of application and expiry of the licenses, as well as the geographical coordinates.	O&G: 2018 EITI Report, pp.81-86. OMNIS, Madagascar petroleum exploration blocs, last updated November 2019, here.	Industry representatives highlighted challenges related to the ongoing moratorium on mining licenses. Referring to licenses awarded in 2018 based on the EITI Report, industry representatives noted that it was unusual for applicants to receive positive answers in a short time frame. Civil society representations highlighted the ongoing work by Transparency International in identifying corruption risks and vulnerabilities in licensing in the extractive sector. The findings will be published end of February 2020. It was expected that these findings and recommendations from the report would be discussed by the MSG.	trivial deviations in practice in the transfer of licenses, both in the mining and oil and gas sectors.	findings and conclusions of the upcoming Transparency International study on corruption risks in licensing to formulate recommendations to address such risks.
	The process for awarding mining, oil and gas licenses has been comprehensively disclosed, including technical and financial criteria assessed (#2.2.a)	Mining: The 2018 EITI Report provides a detailed description of the process for awarding licenses linked to the exploitation of extractives, including the documents that should be provided by the applicant, the role of the relevant government agencies and a description of the relevant technical and financial criteria. The report notes that, following the "first come first	2018 EITI Report, Section 5.1, License awards in the mining sector, pp. 65-68. Section 5.1.3, artisanal			

		serve" principle, the applicant does not have to provide evidence for his technical expertise when submitting the request. The report also provides the detailed procedures for awarding AERP (authorisation exclusive de reservation de perimètre) and different types of mining rights awarded in the artisanal and small-scale mining sector. O&G: The report provides a detailed description of the two procedures for awarding licenses in the O&G sector, either through tender process or direct negotiation. It provides the general list of technical and financial criteria assessed for direct negotiations, as well as the link to and a detailed description of the technical and financial criteria used in the November 2018 tender process for 44 blocs, although not the weightings of the bid criteria. The report notes that this tender process was suspended on 15 February 2019 by the government.	miner and collector licenses, pp. 77-81. Online mining cadastre, BCMM, bcmm.mg/en O&G: Section 5.2, License awards in the upstream oil sector, pp. 81-86. Annex 11, Register of oil companies.			

	Information on any non-trivial deviations from the applicable legal and regulatory framework governing license awards has been comprehensively disclosed (#2.2.a)	Mining: The 2018 EITI Report explains that there has been a moratorium on awarding mining rights since 2010. It provides a list of letters and ministerial orders between 2010 and 2015 that complement the decision to suspend the award of licenses (e.g. in December 2015, a 45-day window for AERP holders to transform their licenses into mining licenses, otherwise their AERP would be cancelled). The report therefore highlights general deviations in practice given the moratorium and highlights specific cases. O&G: The report does not comment on any non-trivial deviations in the award of licenses.				
	A comprehensive list of mining, oil and gas license transfers has been disclosed, including information on the identity of	Mining: The report provides a summary of the licenses awarded or transferred in 2018, disaggregated by type of permit and type of operations. O&G: With regards to transfers, the report mentions the transfer of Sapetro's 10% participating	Mining: 2018 EITI Report, pp. 65-68. O&G: 2018 EITI Report, pp.81-86.			

	recipients (#2.2.a)	interest to his associate MAREX, which held 90% in 2017. It does not provide detailed information about this transaction.				
	The process for transferring mining, oil and gas licenses has been comprehensively disclosed, including technical and financial criteria assessed (#2.2.a)	Mining: The 2018 EITI Report provides a detailed description of the process for transferring mining rights (i.e. renewing, transferring, transforming, partnerships, assignment, and "amodiation"), including the validity of each type of mining right and how many times a license can be renewed, as well as the documents that should be submitted by applicants. O&G: The report does not include information on the process for transferring licenses in the oil and gas sector.	Mining: Section 5.1.2.3, License transfers, pp. 71-77.			
	Information on any non-trivial deviations from the applicable legal and regulatory framework governing license transfers	The report does not comment on non-trivial deviations from the applicable legal and regulatory framework for license transfers, either in the mining or the oil and gas sectors.				

	has been comprehensively disclosed (#2.2.a)					
	The list of applicants and the bid criteria related to any bidding processes that took place in the accounting period covered by EITI reporting have been comprehensively disclosed (#2.2.c)	As mentioned above, the report clarifies that no licenses were awarded through competitive tender in 2018.				
	Information on the award of licenses held by material companies not awarded or transferred in the year under review has been disclosed (#2.2.b)	A link to the BCMM website is provided. The only missing information in the BCMM register is the date of application.				

	Additional information about the allocation of licenses has been disclosed, including commentary on the efficiency and effectiveness of these systems, a description of procedures, actual practices and grounds for renewing, suspending or revoking a contract or license (#2.2.d)	The report notes that recommendations from the Madagascar EITI 2015 study on the management of mining licenses are still relevant, including concerns raised around the risk of political interference in the award of licenses. The report also notes that the system for renewing or transforming licenses is not functioning, highlighting that several companies hold licenses past their date of validity and that the criteria for renewing licenses are not formalized. It cites the example of the MPUMALANGA RESOURCES company and its three licenses, which should not be valid anymore but are still listed as existing on the BCMM register. Transparency International launched its "Mining for Sustainable Development (M4SD)" programme in Madagascar in October 2018. A summary of the preliminary findings was published by EITI Madagascar in December 2019. It includes the identification	Summary of the M4SD programme, Transparenc y International , December 2019, here.			

		of seven categories of risks. The final study is expected to be available end of February 2020.				
Contract disclosure (#2.4)	Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals. (#2.4.a).	The report provides links to all publicly available contractual documents online. The report confirms that decrees awarding contracts and licenses in the mining, oil and gas sectors are systematically publicly disclosed, but confirms that the full text of extractives contracts is not available" or something to that effect. The report lists the clauses contained in model O&G PSCs and clarifies which elements might be negotiable (e.g. profit oil, considered confidential), as well as the fact that annexes are not publicly available and might contain provisions related to fiscal terms. A letter signed 23 December 2019 by the EITI Champion notes that the regulatory framework would have to be revised to allow for the publication of	2018 EITI Report, Section 7, pp.89-91. "Convention d'établissement" applicable to QMM's activities, here Law on large investments applicable to AMSA and DMSA, here Standard PSC, O&G sector, here Letter signed by the EITI Champion on efforts towards	Contract transparency was a recurring topic throughout stakeholder consultations. Many stakeholders highlighted that both the new provisions in the 2019 EITI Standard (including the mandatory disclosure of all contracts granted, entered into or amended from 1 January 2021) and the supporting company expectations were helpful in pushing for contract disclosure at the national level. Government representatives noted the sensitive nature of the issue, particularly for PSC in the oil and gas sector. The commitment from the Ministry of Mines to clarify the government's policy had been translated in the issue being raised at the Council of Ministers end of 2019. Some government representatives expressed no reservations in publishing contracts, noting restrictions laid rather within the industry	**Meaningful progress with considerable improvements.** The MSG should be commended for its efforts in clarifying the government's policy and prompting the oil and gas company association APPAM to state its support for contract disclosure. EITI reporting allowed to document the practice in contract disclosure and identify gaps, including highlighting that the disclosure of the profit oil split was considered particularly	In accordance with Requirement 2.4, Madagascar should clarify and document the government's policy on disclosure of contracts and licenses. To strengthen implementation, Madagascar is encouraged to disclose the full text of all extractive contracts and licenses. The government may wish to include contract disclosure provisions in its review of sector legislation and

		PSCs, and that agreements with companies might be discussed to allow for a progressive disclosure of contracts.	contract transparency, 23 December 2019, here.	constituency and the SOEs. All stakeholders consulted agreed that the government's policy on contract disclosure remained unclear, though it meant *de facto* that contracts in the oil and gas sector were considered confidential. Representatives from the oil and gas constituency noted that the letter from APPAM officialised the industry's support for contract disclosure, but that the process leading to such disclosure had to be discussed in detail. This would include determining, in close collaboration with the government, through which platform this information would be disclosed, which information would still be covered by confidentiality clauses, and options for ensuring that contract provisions would not be misinterpreted. Some company representatives agreed to potentially disclose summaries of the terms included in contracts, but not the full text of the contract. With regards to mining, some government and CSO	sensitive. Despite this, the government's policy remains unclear. Stakeholder consultations confirmed challenges in contract disclosure, both from the government's and the industry's perspectives.	companies operating in Madagascar are encouraged to adhere to the EITI supporting companies' expectations in demonstrating support for contract disclosure. In line with the 2019 EITI Standard and particularly given the lack of clarity of the government's policy, the MSG is expected to include plans for disclosing contracts with a clear timeframe for implementation in its work plan, ahead of the 1 January 2021 deadline. Madagascar might wish to
	It is a requirement that the EITI Report documents the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. Where	EITI reporting clarifies that contracts are de facto confidential, with the government's official policy yet to be clarified despite efforts by the MSG. The oil and gas industry association APPAM clarified its policy on 11 June 2019, emphasising its support for contract transparency.	2018 EITI Report, Annex 22, May 2019 letter from the MSG to the Minister asking to clarify the government's contract disclosure policy. Annex 23, 11 June 2019 letter from APPAM supporting contract transparency. The letter is also available here.			

	applicable, the EITI Report should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published. (#2.4.b).			representatives noted that, while the LGIM and QMM convention were publicly available, the full text of licenses and other documents signed between the companies and the government were not publicly available. Some government representatives suggested that the BCMM online register provide links to the full text of decrees confirming the award and transfer of licenses, as well as to the "*cahier de charges*" agreed by each company. There was consensus amongst CSO representatives that contract disclosure should be a priority for the government. Several noted that advocating for contract disclosure was key to strengthen companies' social license to operate and help citizens understand the financial, social and environmental obligations.		systematically disclose the full text of mining licenses through the BCMM register, including the decree awarding and transferring licenses and the terms and conditions ("*cahier de charges*") to which companies subscribe, as well as the full text of oil and gas PSCs on the OMNIS website.
State participation (#2.6)	The existence of any material state-owned enterprises (SOEs) engaged	The MSG's definition of SOEs is in line with that in Requirement 2.6.a. The MSG agreed that KRAOMA was the only material SOE in	SOE definition: 2018 EITI Report, p.103.	There was consensus among stakeholders consulted that the MSG had not categorised OMNIS as a SOE because, although it represented the state in oil and	**Meaningful progress *with considerable improvements***.	In accordance with Requirement 2.6.a.ii, Madagascar should ensure

	in the extractive sector has been publicly documented (#2.6.a)	Madagascar, based on the fact that it is 97.2% owned by the government and on the materiality of KRAOMA's 2017 payments to Treasury (categorised as dividends by Treasury and reimbursements of arrears and debts by KRAOMA). While the materiality of KRAOMA's 2018 payments to government was not assessed at the inception phase, the reconciliation results demonstrate that it's 2018 payments were material (MGA 334m) even if no dividends were paid. For the first time, the report provides a detailed description of the status of OMNIS and BCMM, clarifying that they cannot be considered SOEs, but highlighting the specificities of their status of Public Administrative Enterprise (EPA) and Public Commercial and Industrial Enterprise (EPIC) respectively. The MSG's rationale for not classifying BCMM as a SOE is in line with the SOE definition in Requirement 2.6.a, given that BCMM is a regulator that does not actively participate in the upstream extractive industries.	<u>Materiality</u>: 2018 EITI Report, pp.105,127. 2018 reconciliatio n results spreadsheet.	gas projects and held equity in certain mining companies, it was not required to pay dividends to government. Several industry stakeholders confirmed that OMNIS had never received dividends from the mining companies in which it holds equity, as none had yet turned a profit. Upon discussion, government and industry stakeholders conceded that OMNIS could fit the definition of a SOE according to Requirement 2.6 but that the MSG had considered the materiality of its payments to Treasury in their categorisation of OMNIS. The IA conceded that OMNIS could be considered a SOE, but without material dividend payments to government. A senior government official explained that the government intended on clarifying the role of OMNIS in future, in order to attract investment. MSG members explained that the 2018 EITI Report described OMNIS' financial relations with the state despite not categorising it as a SOE.	The 2018 EITI Report correctly defines KRAOMA as a SOE, but explicitly omits OMNIS as a SOE despite the latter's representation of the state in oil and gas contracts and as owner of equity in several mining companies. The 2018 EITI Report, combined with the published 2018 audited financial statements of KRAOMA and OMNIS, describes the statutory financial relations between both KRAOMA and OMNIS and the government, including the rules and practices related to	that a comprehensive description of the terms associated with state participation in the extractive industries is publicly accessible on an annual basis, including equity interests held by SOEs' subsidiaries, joint ventures and affiliates. Madagascar should agree a definition of SOE for EITI reporting purposes that is in line with the definition in Requirement 2.6.a.i, namely *"a wholly or majority government-owned company that is engaged in extractive*

		However, the MSG's rationale for not classifying OMNIS as a SOE is questionable, given that OMNIS is both a regulator and holds the government's interests in oil and gas production-sharing contracts (PSCs). In practice however, the 2018 EITI Report appears to *de facto* cover OMNIS as a SOE for EITI reporting purposes. The Secretariat thus concludes that there were two SOEs for EITI reporting purposes in 2018, namely KRAOMA and OMNIS.			distribution of profits, retained earnings, reinvestments and third-party financing. The 2018 EITI Report presents a comprehensive list of state participations in the mining, oil and gas sectors, but does not consistently describe the terms associated with the SOEs' equity in these extractives companies. It describes one change in state participation in 2018, in the creation of KRAOMA MINING JV. The description includes an overview of the investments from	*activities on behalf of the government*." To strengthen implementation, Madagascar could consider ways of systematically disclosing information on the rules and practices related to the financial relations between KRAOMA, OMNIS and the government, for instance by publishing the SOEs' statutes and all other relevant laws, regulations and decrees codifying the financial relations between extractives SOEs and the state as well as routine
	An explanation of the prevailing rules regarding the financial relationship between the government and SOEs has been disclosed (#2.6.a)	The report lists the relevant laws and regulations related to SOEs. It includes a summary of the rules governing the financial relationship between the government and KRAOMA, including the types of potential revenues arising from the state's participation. The report clarifies that there are no specific rules related to retained earnings, reinvestment and third-party financing, noting that the AGM or the Board can take such decisions. The report notes that SOEs should	2018 EITI Report, pp.104,106-109. OMNIS statutes here (*published in February 2020*)	There was consensus among stakeholders consulted, including the IA and SOE management, that KRAOMA was governed by the same law as private companies with a Board of Directors able to decide on distributing or retaining its earnings as well as seeking third-party financing in the form of either debt or equity. Stakeholders consulted considered the 2018 EITI Report's description of KRAOMA's statutory financial relations with the state to be comprehensive.		

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		have their accounts audited by an external auditor. With regards to OMNIS, the report notes that, as an EPA, OMNIS is not statutorily required to transfer dividends to the state and can retain such earnings for its own budget. While the report does not explicitly confirm that OMNIS can reinvest in its operations, it implies so in its explanation that OMNIS can retain earnings to fund its budget, which implies that it can fund its reinvestments in this way. The report clarifies that OMNIS is entitled to raise third-party (debt) financing. After the start of Validation, in February 2020, OMNIS published its statutes on its website. The statutes confirm that OMNIS is entitled to receive transfers from the government (Articles 27 and 30), to retain earnings (Article 30), to reinvest in its operations (Article 31) and to seek third-party debt financing from banks and financial institutions, subject to government approval (Article 30).		Despite not defining OMNIS as a SOE for EITI reporting, stakeholders consulted including the IA and SOE management confirmed the veracity of the EITI Report's coverage of OMNIS' statutory financial relations with government. They confirmed that OMNIS could use its retained earnings to reinvest in its operations. Several stakeholders confirmed that the financial relations were codified in the OMNIS statutes, which were not publicly accessible at the start of Validation but that OMNIS management intended to publish as part of the renewal of their website. There was consensus that OMNIS was entitled to raise debt from third parties, even if this was not the case in practice, but that it could not issue equity to third parties given that it did not have shares as a EPA.	KRAOMA and its partner FERRUM MINING. While the 2018 EITI Report only confirms the lack of loans from government and SOEs to extractives companies but does not comment on the existence of any guarantees, there was consensus among stakeholders consulted that there were no guarantees to extractives companies in 2018.	publication of SOEs' audited financial statements on their respective websites. Madagascar could consider enhancing the SOEs' audited financial statements with additional narrative describing each SOE's practices of distributing profits, retaining earnings, reinvesting in their operations and third-party financing in accordance with Requirement 2.6.a.i. To strengthen implementation, Madagascar may wish to ensure

	An explanation of the prevailing practices regarding the financial relationship between the government and SOEs has been disclosed for the year under review (#2.6.a)	The report confirms that KRAOMA did not pay any dividends in relation to their 2018 results and provides the losses recorded in 2018 based on review of its 2018 audited financial statements. The report adds that discussions with the company's Director General following an audit commissioned in 2019 showed that the previous administration's commodity sales at below-market prices affected the company's revenues. While the EITI Report does not provide other key figures related to KRAOMA's financial management in 2018, KRAOMA's 2018 audited financial statements, published on the EITI website, provide the value of KRAOMA's reinvestments and third-party financing in 2018. The 2018 EITI Report addendum published after the start of Validation in February 2020 confirms the lack of dividend payment by Kraoma in 2018, including related to profits from previous years.	KRAOMA dividends: 2018 EITI Report, p.103; 2018 EITI Report addendum, p.7, here (published in February 2020). KRAOMA's 2018 audited financial statements. OMNIS debt: 2018 EITI Report, pp. 106-108. OMNIS revenues: 2018 EITI Report, pp. 152-153.	There was considerable interest in KRAOMA's financial management during consultations, given the arrest in January 2020 of the former Director General on charges of embezzlement of MGA 88bn.[24] Consultations with the IA and government stakeholders confirmed that KRAOMA had not paid any dividend in 2018, including in relation to their results in previous years. While KRAOMA had turned a profit in 2017, its Board had not yet met to agree on the distribution of dividends related to 2017, a decision that was expected in 2020. One government official highlighted the MGA 101bn deficit in KRAOMA's performance in 2018. Stakeholders highlighted plans to relaunch the KRAOMA website in Q1 2020 to publish information on KRAOMA's operations including its audited financial statements and the full text of its operating contracts. They also noted that KRAOMA did not operate based on a budget in the past and was		that a description of any changes in state participation be systematically disclosed through government and SOE systems annually, including the terms of each transaction.

[24] See for instance News Mada (January 2020), 'Détournement à la Kraoma : L'ex-DG place sous MD', accessed here.

		The report describes OMNIS' third-party financing from Rio Tinto and provides the outstanding value of OMNIS' debt (USD 77m) in 2018. The value of OMNIS' 2018 revenues from oil and gas companies is provided in the reconciliation results. OMNIS' 2018 audited financial statements, published on the EITI website, provide the value of OMNIS' reinvestments in 2018, although there is no evidence of any other third-party financing (by Rio Tinto) from the financial statements.	SOE financial statements for 2017 and 2018 in the following folder on this database: '2eme Validation EITI/15 Mesures correctives/ Recommendation 6/EXIGENCE 2.6/'	working to establish a budget in 2020 for the first time. There was significant interest on the past of civil society in OMNIS' financial management, with allegations of opacity in the management of its retained earnings. Equally, there was no evidence that CSOs had reviewed OMNIS' audited financial statements published for the first time in 2019. Consultations with government and industry confirmed that OMNIS did not resort to third-party debt financing in practice despite being statutorily entitled to do so. Several industry stakeholders also noted that OMNIS had not received dividends to date from companies in which it held equity, given that these had not yet turned a profit.		
	The government and SOE(s) have disclosed their level of ownership in mining, oil and gas companies	The report provides the list of government interests in the extractive industries held directly (KRAOMA and OMNIS) and indirectly through KRAOMA (JV KRAOMA MINING SA) and OMNIS (QMM, NASSCO, MCM, SECREN,	2018 EITI Report, pp.90,103,105-106. 2018 EITI Report	There was particular interest in the creation of KRAOMA MINING JV during stakeholder consultations. Several government representatives explained that KRAOMA was entitled to establish joint-ventures with private investors, given that it was		

	operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures. The terms associated with these ownership interests have been disclosed (#2.6.a)	MAGRAMA, and SECMA). The report confirms that all of these companies aside from SECREN operate in the upstream extractive industries. With regards to KRAOMA, the report clarifies that the state's equity in KRAOMA is held on commercial terms, with the state responsible for covering expenses in line with its equity shareholding. The report describes the creation of the KRAOMA MINING SA JV in August 2018, including KRAOMA's responsibilities for funding the JV and its entitlements in terms of profit-sharing. However, the report does not clarify the terms associated with KRAOMA's equity in the JV going forward, including its responsibilities for covering any on-going expenses at different stages of the project cycle. With regards to OMNIS, the report clarifies that no dividends were received from its participation in NASSCO, QMM, MCM, SECREN, MAGRAMA and SECMA. For OMNIS' equity interest in QMM, the report provides detailed	annex 10, pp.43-52. Overview of OMNIS participations in mining companies here (*published in February 2020*).	governed as a commercial company. They noted that KRAOMA MINING JV was in the process of being disbanded in early 2020, given the withdrawal of the Russian partner FERRUM MINING. They explained that KRAOMA's equity interest in the joint venture was on commercial terms, although KRAOMA had resorted to third-party funding from FERRUM MINING as part of the agreement. It was confirmed that the terms associated with KRAOMA's equity in the joint-venture were codified in the partnership agreement and that it would be possible to publish this agreement on the KRAOMA website, although this had not been done to date. With regards to OMNIS, stakeholders consulted confirmed that SECREN was not an extractives company. While the IA considered that OMNIS' equity in mining companies was on a fully-paid commercial basis, several government representatives explained that OMNIS' equity in MCM and QMM was on the basis of carried interest. The latter		

		information about the successive recapitalisations of QMM and Rio Tinto's third-party financing of the state's equity interest in QMM through OMNIS. However, the report does not describe the terms associated with OMNIS' equity in NASSCO, MAGRAMA and SECMA. With regards to NASSCO, the report describes for the first time the relationship between NASSCO and OMNIS. It clarifies that MCM has not started production and that NASSCO has therefore not received dividends from its equity interest in MCM. Contradicting information provided elsewhere where it states that OMNIS holds a 20% share in NASSCO (Table 39), the report notes that OMNIS holds 99% of shares in NASSCO, alongside insurance company ARO holding 1%. The report adds that NASSCO has not conducted any activity since 2005 and that neither the state nor OMNIS have provided funds to cover expenses of the MCM project to date. However, the terms associated with OMNIS' 99% interest in NASSCO and NASSCO's 20%		explained that the terms associated with OMNIS' equity in MCM and QMM were codified in the respective shareholder agreements, but that these were not public documents. Nonetheless, none of the government stakeholders consulted considered that there were any barriers to disclosing a summary of the terms associated with OMNIS' equity in these two mining companies. Government stakeholders consulted were not aware of the terms associated with OMNIS' equity in MAGRAMA and SECMA, but noted that OMNIS was in the process of "regularising" OMNIS' interests in these companies, which they confirmed were not operational in 2018. There was consensus among government and industry stakeholders consulted that OMNIS did not hold equity in oil and gas companies, but represented the state in PSCs. They explained that OMNIS did not hold a participating interest in PSCs, but was entitled to receive the state's Profit Oil in line with		

		interest in MCM are not comprehensively described. With regards to state participation in oil and gas projects through OMNIS, the report confirms that OMNIS represents the state in production-sharing contracts (PSCs) (p.103). The report notes that the minimum work commitments and production sharing split between the operator and the state are negotiable and set in the PSCs themselves. Annex 10 of the 2018 EITI Report provides a comprehensive list of 13 oil and gas contracts, but does not provide the state's entitlement to Profit Oil from each project. After the start of Validation, in February 2020, OMNIS published an overview of its equity interests in NASSCO, MCM and QMM on its website. However, these disclosures only confirmed the level of OMNIS equity, the date of establishment and the type of contract underpinning the shareholder agreements for MCM and QMM. However, they do not describe the terms associated with		terms of the PSCs. Government and industry stakeholders consulted considered that it would not be possible to disclose the production split in specific contracts without publishing the full PSC, given that these were considered confidential terms.		

		OMNIS' equity in these three companies.				
	Any changes in the level of SOE or state ownership during the reporting period have been disclosed, including the terms of the transactions (#2.6.a.ii)	The report describes the creation of the KRAOMA MINING SA JV in August 2018, based on an agreement between KRAOMA and FERRUM MINING. The report describes KRAOMA's and FERRUM MINING SA's respective contributions to the JV. It explains that the partnership contract included the transfer of three licenses held by KRAOMA to the new joint venture and that KRAOMA did not receive revenues (including dividends) related to the project in 2018. The report confirms that there were no changes in OMNIS' equity interests in extractives companies in 2018.	2018 EITI Report, pp.105-106.	Stakeholders consulted from all constituencies confirmed that the establishment of KRAOMA MINING JV was the only change in state participation in 2018. Several civil society representatives highlighted that the KRAOMA MINING JV had elicited significant public attention, including in national press coverage.[25] However, they did not express any particular views about the comprehensiveness of the 2018 EITI Report's description of the KRAOMA MINING JV establishment.		
	Details about any loans or loan guarantees to mining, oil and gas companies	The report clarifies that there were no loans provided by the government or SOEs to extractive companies in 2018. The report clearly states that the state did not provide any guarantee for OMNIS'	2018 EITI Report, pp.106,109.	There was consensus among stakeholders consulted that the government did not provide any loans or guarantees to KRAOMA, OMNIS or any extractives companies. The IA noted that the		

[25] Malina.mg (March 2019), 'Ferrum Mining: KRAOMA's new obscure partner', accessed here in January 2020.

	operating within the country have been disclosed, including loan tenor and terms (i.e. repayment schedule and interest rate) (#2.6.a.ii)	debt to Rio Tinto, highlighting that the arrangement was designed not to impact the state budget.		IMF discouraged provision of sovereign guarantees. Likewise, stakeholders confirmed that neither KRAOMA nor OMNIS provided any loans or guarantees to any extractives companies or projects. The IMF's fifth review under the extended credit facility in July 2019 confirmed that the ultimate liability of loans in the mining sector are held by multinational shareholders rather than the government.[26]		

[26] IMF (July 2019), 'Fifth Review of Extended Credit Facility Arrangement for Madagascar', accessed here in January 2020, p.93.

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Requirement 4: Revenue collection

Assessment table: Revenue collection						
EITI Requirement	EITI sub-Requirement	Summary of main findings	Source(s) of information	Summary of stakeholder views	Recommendation on compliance with the EITI provisions (to be completed for 'required' provisions)	Proposed corrective actions and recommendations
Comprehensive disclosure of taxes and revenues (#4.1)	The MSG has agreed on a materiality definition for revenue steams, including any reporting thresholds, as well as the options considered and the rationale for the materiality definition (#4.1.b)	The threshold for selecting material revenue streams was set at USD 50,000, based on EITI reporting by six material government entities for 2018. Data in the reconciliation results (Table 50) and the government's unilateral disclosure of the value of each non-material revenue stream (Table 71) confirms that no revenue stream excluded from the scope of reconciliation had an aggregate 2018 value of more than USD 50,000.	2018 EITI Report, pp.114,131, 147-149.	Stakeholders consulted did not express any particular views about the approach to materiality of revenue streams. There appeared to be broad consensus that this quantitative approach ensure comprehensive coverage of material revenue streams. One industry representative called for the scope of material payments to be agreed once and for all, rather than be revisited on an annual basis.	**Satisfactory progress**. The 2018 EITI Report describes the MSG's approach to selecting revenue streams for reconciliation based on a quantitative materiality threshold.	To strengthen implementation, Madagascar is encouraged to implement Tax ID Numbers in a consistent manner across different ministries to ensure that the government is able to track the total (tax and non-tax) payments to government from each of the

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	The MSG has agreed on a materiality definition for companies, including any reporting thresholds, as well as the options considered and the rationale for the materiality definition (#4.1.b)	The report describes the MSG's approach to the materiality of companies, given challenges in accessing data on the government's extractives revenues. The report is transparent about the reasons for its approach, due to the inconsistent use of Tax ID Numbers across Ministries and the fact that many mining license-holders are companies whose primary business is not extractives. The first stage was to identify material companies in the extractive sector based on i) previous EITI Reports and ii) companies that paid more than USD 20,000 in administration fees (FA) to either BCMM and OMNIS. This resulted in a preliminary selection of 70 material companies, including all oil and gas companies. Based on data from previous EITI Reports, six key government agencies were required to unilaterally disclose data	2018 EITI Report, pp.111-114,154-155.	The IA explained that it was not possible to source data on tax and non-tax payments from the hundreds of companies holding mining licenses, given the inconsistent use of Tax ID Numbers (TIN) and the ownership of mining licenses by companies whose primary business was not extractives. The IA considered that it was not possible to source the value of tax payments from all mining license-holders given that the mining license register did not consistently provide the TIN for each license-holder. Several government officials noted that TINs were used consistently in tracking tax and customs payments through the Ministry of Finance's SIGTAS system, but noted that there were challenges in TIN implementation for non-tax payments. The IA had not considered a threshold for selecting companies based on the share of their business in the extractives. None of the stakeholders consulted expressed concern that	It describes the MSG's approach to selecting material companies, albeit based on an analysis of payments to government from 70 of the hundreds of companies holding mining, oil and gas licenses. Nonetheless, the initial selection of these 70 companies based on a quantitative materiality threshold based on administration fee (FA) payments appears adequate to	companies holding mining, oil and gas licenses on an annual basis. Madagascar is urged to demonstrate conclusively that all oil, gas and mining companies making material payments to the government have comprehensively disclosed these payments in accordance with the agreed scope. To strengthen implementation, Madagascar is urged to publicly disclose aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of EITI

		about these 70 companies. This data was the basis for the MSG's materiality decisions. On the basis of these disclosures of revenues from the 70 companies, a materiality threshold of USD 125,000 in total payments to government resulted in the selection of 17 material companies for the 2018 reconciliation. While the report states that 12 companies were material (p.114), this appears to be a typo given that 17 companies are listed as material and included in the scope of reconciliation. The government's unilateral disclosure of revenues from 53 non-material companies indicates that no company making payments in 2018 above the USD 125,000 threshold were excluded from the scope of reconciliation. However, the report does not provide the value of payments from the hundreds of other mining license-		the approach to materiality of companies in the 2018 EITI Report could have excluded a company making material payments. However, several CSOs consulted considered that the scope of companies selected for reconciliation in 2018 was too low, noting their concerns over mining companies that accounted for much smaller payments to government. They made general reference to companies holding small-scale mining licenses but appeared to operate highly-mechanised mines. The IA confirmed that it had reviewed 2018 payments to government from all oil and gas companies. The IA and several government stakeholders consulted considered that it was highly unlikely that a mining company that made less than USD 20,000 in FA payments to BCMM could have made total payments to government of more than USD 125,000 in 2018. Indeed, they argued that mining license-holders often received tax incentives, but that they never received incentives that reduced	ensure that no company making material payments (of more than USD 125,000 in total payments to government) could have been excluded from the scope of reconciliation. There were no stakeholder concerns over the approach to selecting material companies, aside from a general civil society request for the inclusion of smaller mining companies in future. The 2018 EITI Report lists and	implementation, including revenues that fall below agreed materiality thresholds from smaller contributors to tax and non-tax revenues.

		holding companies that were not part of the 70 companies for which full unilateral government disclosures were provided. The report states that 97.5% of extractives license-holder companies made FA payments above USD 20,000 in 2018, this appears to be a typo and should refer to the fact that 97.5% of the total value of FA were from companies making more than USD 20,000 in FA payments in 2018.		their FA payments to BCMM while maintaining high tax payments to government.	describes all revenue streams applicable in the mining, oil and gas sectors, including the 20 material revenue streams selected for reconciliation. All revenue streams listed under Requirement 4.1.b have been included in the scope of reconciliation in the 2018 EITI Report. The 2018 EITI Report lists the 17 material companies and	
	The revenue streams considered material are publicly listed and described (#4.1.b)	The report provides the list of 20 material revenues streams (Table 43), indicating the corresponding revenue collecting agency. Annex 6 presents a detailed description of 84 revenue streams, including both material and non-material revenue streams.	2018 EITI Report, pp.115. 2018 EITI Report annexes, pp.31-34.	Stakeholders consulted did not express any particular views regarding the descriptions of revenue streams included in the scope of reconciliation.		

	The revenue streams listed in provision 4.1.b have been considered. Where the MSG has agreed to exclude certain revenue streams from the scope of EITI disclosures, the rationale for their exclusion is clearly documented (#4.1.c).	All revenue streams listed in Requirement 4.1.b have been included in the scope of reconciliation, where applicable.	2018 EITI Report, pp.115.	Stakeholders consulted did not express any particular views regarding the scope of revenue streams included in the scope of reconciliation.	the one material company that did not report. The value of the non-reporting company's payments to government is provided. It lists the ten material government entities selected for reporting in 2018 and confirms that they all submitted reporting templates.	

	The MSG has identified the companies making material payments and whether these companies fully	<u>Material companies</u>: The report lists the 17 material companies (Table 42). Annex 4 provides the name and Tax ID Number for the 70 extractives companies that made more than USD 20,000 in	<u>Material companies</u>: 2018 EITI Report, p.114.	The IA confirmed that 17 material companies were selected for reporting and that the reference to 12 material companies in the report (p.114) was a typo.	The 2018 EITI Report provides the value of total government revenues, per	

	reported all payments in accordance with the materiality definition (#4.1.d and the IA ToR)	aggregate FA payments to OMNIS or BCMM in 2018. <u>Material company reporting</u>: The report notes that only MADAGASCAR MINERAL FIELDS SA did not provide a reporting template (Table 46), and provides an assessment of the materiality of its payments (0,62% of revenues within the scope of reconciliation). While Table 69 marks seven companies (Ambatovy Minerals, Dynatec Madagascar, QIT Madagascar Minerals, Red Graniti Madagascar, Mainland Mining, Graph-Mada, Etablissements Gallois) as not having submitted their reporting templates, this appears to be a typo. The 2018 EITI Report addendum published in February 2020 rectifies this typo and confirms that only one company (MADAGASCAR MINERAL FIELDS SA) did not submit reporting templates for 2018.	2018 EITI Report annexes, pp.12-14. <u>Material company reporting</u>: 2018 EITI Report, p.119,120,140,145; 2018 EITI Report addendum, p.6, [here](#) (*published in February 2020*).	The IA and MSG confirmed that only one of the 17 material companies had not reported. The IA confirmed that the list of seven companies marked as not having submitted templates in Table 69 was a typo. Several government officials confirmed that the Ministry of Mines and Strategic Resources had followed up with all material companies to ensure that they reported. The IA explained that it had not been able to locate the one company that did not report (MADAGASCAR MINERAL FIELDS), given that it had not received the company's correct address from government.	material revenue stream, from the 70 companies for which (tax and non-tax) payments to government data was sourced for materiality calculations. However, the government's unilateral disclosures do not include revenues (under material revenue streams) from all other mining license-holders for which no tax and customs payments data was sourced. The report only	

	The MSG has identified the government entities receiving material revenues and whether these government entities fully reported all receipts in accordance with the materiality definition (#4.1.d and the IA ToR)	Material government entities: The report confirms that the MSG agreed that the material government agencies were those that collected material revenue streams. The list of 10 material government agencies is presented (Table 48). The list distinguishes between nine different DGI tax collecting offices, including provincial branches. While the list identifies MICTSL (Madagascar International Container Terminal Services Limited) as the 11th material government entity, the entity's website[27] confirms that it is a private company that holds the container port concession. Government reporting: The report confirms that all government agencies reported (Table 48), although it notes that SPAT and the Domains Administration submitted their disclosures in hard copy only.	Material government entities: 2018 EITI Report, pp.115,121. Government reporting: 2018 EITI Report, pp.121-122.	Stakeholders consulted did not express any particular views about material government entities' EITI reporting.	provides full unilateral government disclosure of revenues from oil and gas companies and of mining companies' FA payments to BCMM, but not of other material mining revenues from the smaller tax-paying companies beyond the 70 for which such disclosures are provided. Requirement 4.1.d states: "*Unless there are significant practical barriers, the government is additionally*	

[27] MICTSL (Madagascar International Container Terminal Services Limited) website, accessed here in January 2020.

	The government fully reported all revenues, including any revenues below the materiality thresholds (#4.1.d)	The report provides government unilateral disclosure of total government revenues from each of the 50 companies for whom payments to government were sourced for materiality calculations but who were not included in the scope of reconciliation (Table 73). The data is disaggregated by revenue stream and government entity. The report also provides total government revenues from material companies per revenue stream (Table 50). However, the report does not provide the total value of government revenues, per material revenue stream, including payments from companies that were not part of the 70 companies for whom total (tax and non-tax) payments to government were sourced. The report only provides the aggregate value of FA revenues collected by BCMM in 2018 (MGA 12.14bn), including from all mining companies. In oil and gas, the report de facto provides full unilateral government	Non-material company payments: 2018 EITTI Report, pp.151-153. Material company payments: 2018 EITTI Report, p.131. Non-material revenue streams: 2018 EITTI Report, pp.147-149. Full government unilateral disclosure: 2018 EITTI Report, p.167. Constraints on full	Several government stakeholders consulted, as well as the IA, highlighted the challenges in sourcing comprehensive tax and non-tax revenue information on all extractives license-holders beyond the 70 companies for which full disclosure was provided. They noted that the practical challenges to full unilateral disclosures were comprehensively explained in the EITI Report.	*required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of EITI implementation, including revenues that fall below agreed materiality thresholds."* The Secretariat's assessment is that the 2018 EITI Report is transparent about practical challenges to sourcing comprehensive non-tax information	

		disclosure of revenues in Tables 50 and 73, given that the 70 companies for which unilateral government disclosure was provided included all oil and gas license-holders. However, the report is transparent about the constraints on sourcing full government unilateral disclosure of all tax and non-tax revenues for all mining license-holders, related to the inconsistent use of Tax ID Numbers across Ministries and the fact that many mining license-holders are companies whose primary business is not extractives. These constraints are reiterated in the addendum to the 2018 EITI Report published in February 2020. The report also provides unilateral disclosures by the 16 reporting companies for non-material revenue streams (Table 71) and payments made to sanitary organisations (Table 72).	disclosures: 2018 EITI Report, pp.111-113; 2018 EITI Report addendum, p.5, here (*published in February 2020*).		from companies beyond the 70 for which full government unilateral disclosures is provided and thus considers this gap to be of marginal importance.	

	Where companies or government entities paying or receiving material revenues have not submitted reporting templates, or have not fully disclosed all the payments and revenues, EITI reporting documents these issues and includes an assessment of the impact on the comprehensiveness of the report.	The report confirms that the MSG set the threshold for investigating discrepancies at USD 1250 per aggregate payments by company, corresponding to 1% of the materiality threshold (for selecting companies) of USD 125,000. The report provides company and government data adjusted after reconciliation and remaining discrepancies, disaggregated by revenue stream and by company (Table 49). It provides a detailed explanation of discrepancies, adjustments and final net unreconciled discrepancies (Table 69). The value of final unreconciled discrepancies is provided as 1.36% of total government extractives revenues. The main causes for final unreconciled discrepancies are explained in the report.	<u>Threshold</u>: 2018 EITI Report, p.115. <u>Discrepancies</u>: 2018 EITI Report, pp.124-131,134-146.	The IA confirmed that the threshold for investigating discrepancies was set at USD 1250, per company and per revenue stream. None of the stakeholders consulted raised concerns over the nature of discrepancies in the 2018 reconciliation. All stakeholders consulted appeared to have confidence in the comprehensiveness of the reconciled financial data.		
	The MSG has agreed a definition of materiality with	The 2018 EITI Report clearly documents the MSG's approach in assessing the materiality of	2018 EITI Report, Section	Stakeholders consulted confirmed that the government and SOEs did not collect revenues specific to	**Not applicable.** The 2018 EITI Report	To strengthen implementation, Madagascar may

Transportation revenues (#4.4)	regards to transportation revenues (#4.4)	revenues from the transport of extractives commodities, including a description of the transportation methods used by producing companies (Table 77). This shows that the government does not collect revenues from the transportation of minerals or oil and gas. The report also provides a detailed assessment of whether the government collects revenues from maritime transport. While it clarifies that the government does collect revenues from the management of the Toamasina Port, those revenues are not extractive-specific and are tied to a port concession. The MSG did consider the *"Droits d'entrée et de redevances pour usage d'infrastructure"* a material revenue stream, collected by SPAT and included in reconciliation.	13.2, pp.160-162.	the transportation of extractives commodities.	demonstrates that the government and SOEs do not receive revenues from the transportation of extractives commodities. Nonetheless, the report reflects efforts to go beyond the minimum requirement by describing the different private transportation arrangements for extractives commodities and reconciling company payments for the use of port infrastructure.	wish to consider the environmental aspects of commodity transport in future EITI reporting.
	Where transportation					

	revenues exist and are considered material, these revenue flows have been fully disclosed to levels of disaggregation commensurate with other payments and revenues streams (4.7), with appropriate attention to data quality (4.9).					
	Where transportation revenues are material but not disclosed, the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers.					

Subnational direct payments (#4.6)	The MSG has set a definition of materiality with regards to direct subnational payments (#4.6) Where direct subnational payments exist and are considered material, these revenue flows have been fully disclosed with appropriate attention to data quality (#4.6)	The 2018 EITI Report lists thirteen local taxes as set in the Tax Code. The MSG agreed that none of these revenues were extractive specific and that none were material for the purpose of EITI reporting, based on the based on the value of total payments for each direct subnational revenue stream for 2018. These revenues are disclosed unilaterally by the 16 reporting companies. The MSG considered whether the "*ristournes*" in certain cases are material subnational payments, when they are paid directly to local government units (see *also "ristournes" under the assessment of Requirement 5.2.)*. "*Ristournes*" are indeed one of the largest revenue streams in the mining sector and contribute significantly to the budget of local governments. The MSG applied materiality threshold of 0 for reconciliation. However, the report clarifies that none of the "*ristournes*" paid by the 16 material companies was paid	2018 EITI Report, Section 14, Subnational payments, pp. 163-164. Section 15, Subnational transfers, pp. 164-180. Section 10.2.3.1., Non-material revenue streams, unilaterally disclosed by companies. Madagascar EITI, February 2018, Study on subnational payments and	Stakeholders consulted confirmed during consultations that subnational direct payments were not applicable in the context of industrial mining in Madagascar.	**Not applicable.** The 2018 EITI Report clarified the absence of material subnational payments in the extractive sector. It confirmed that no "*ristournes*" are paid directly to local governments by material companies.	N/A

		directly to local governments, but rather represented subnational transfers (see *assessment of Requirement 5.2).* The report adds that ristournes are only paid directly at the local level by artisanal miners ("*orpailleurs*").	transfers, accessed here.			

Disaggregation (#4.7)	The financial data disclosed is disaggregated by individual company, government entity and revenue stream, in accordance with the definition of project provided in the EITI Standard (#4.7).	EITI reporting of financial data is disclosed disaggregated by company, revenue stream and government agency (Table 49).	2018 EITI Report, pp.124-130.	Stakeholders did not express any particular views about the level of disaggregation of EITI data. An international consultant highlighted the use of EITI payments data for financial models of mining projects.	**Meaningful progress, *with considerable improvements***. The 2018 EITI Report presents reconciled financial data disaggregated by company, revenue stream and government agency. It documents the MSG's approach to project-level reporting, although this is based on a per-mine rather than per-license basis. The reconciled financial data is de facto disaggregated by license for	In accordance with Requirement 4.7, Madagascar should ensure that it publishes EITI data disaggregated by each individual project, for impositions that are levied at a per-license basis (e.g. non-tax). Madagascar is required to ensure its definition of project is consistent with that in Requirement 4.7, namely that as "*operational activities that are governed by a single contract, license, lease, concession or similar legal agreement, and form the basis for payment liabilities*
	For reports covering fiscal years ending on or after 31 December 2018, the financial data disclosed is disaggregated by individual project (#4.7)	For the first time, the MSG considered project-level reporting, documenting its definition and its methodology in the 2017 and 2018 EITI Reports. While production and export data is presented by project, reconciled financial data is presented by government entity and revenue stream, not by project defined as a license. Although the MSG has agreed a definition of project in line with Canada's ESTMA, its interpretation of this definition of project focused only on	2018 EITI Report, Section 10.1.5, pp.116-117. 2017 EITI Report, Section 10.1.5, pp.100-101. 2018 EITI Report annexes –	Several government officials confirmed that tax and customs fees were levied on a consolidated corporate basis, but that non-tax levies, such as those levied by BCMM and OMNIS, are levied on a per-license or contract basis. MSG members consulted and the IA confirmed that the 2018 reporting templates did not request companies and government entities to report non-tax payments and revenues disaggregated by license or project.		

		producing mines, not on exploration licenses. While the 2018 EITI Report states that disclosures are effectively disaggregated by "project", it bases this assessment on the number of producing mine in operation rather than the number of licenses held by material companies. In practice, only a handful of material companies hold and participate in a single project, thereby de facto reporting by project. Review of the license register provided in Annex 4.4 indicates that 5 of the 17 material companies held only a single license in 2018.[28] All other companies either held more than one license, or participated in multiple projects, and therefore reported on a consolidated company basis. While Ambatovy holds two licenses, the Secretariat's understanding is that these licenses share substantially inter-connected infrastructure	Annex 4.4, pp.20-25). BCMM mining cadastre. Masina Industry Group Madagascar financial statements and FA payments here (published in February 2020). Red Graniti financial statements and FA payments here (published in February 2020).		six of the 17 material companies.	*with a government."*

[28] These are LABRADOR MADAGASCAR S.A.R.L. (E 94), QIT MADAGASCAR MINERALS S.A. (E 651), TANTALUM RARE EARTH (MALAGASY) S.A.R.L.U. (R 6698), GRAPH MADA and MADAGASCAR Oil SA.

		and should thus be considered as a single project. After the commencement of Validation and following consultations, in February 2020, two companies (Masina Industry Group Madagascar and Red Graniti) published their audited financial statements with details of their FA payments in 2018. In February 2020, EITI Madagascar also published a spreadsheet presenting full government unilateral disclosure of mining administration fees (FA) collected by BCMM from the top 70 extractives companies, disaggregated by license.	Full government unilateral disclosure of FA collected by BCMM from 70 companies, disaggregated by project, [here]().			
Data quality (#4.9)	The MSG agreed standard procedures in accordance with the standard procedures endorsed by the EITI Board, which ensure that the payments and revenues disclosed	The MSG adopted the IA's TORs for the 2017 and 2018 EITI Report on 10 August 2018, before agreeing revised ToR for the 2018 report on 1 March 2019. The ToR are in line with the standard Board-approved template.	ToR for the IA for the 2017 and 2018 EITI Reports. 2018 EITI Report, Section 1.3, International Standards	There was consensus among stakeholders consulted that the IA was professional and independent. MSG members appeared to rely significantly on the services of the IA, beyond preparing the EITI Report.	**Meaningful progress** <u>at the start of the second Validation</u>. **Satisfactory progress,** <u>subject to the Board's consideration</u>	*Should the Board not consider new information disclosed after the start of Validation, Madagascar would need to address the following corrective action: In accordance with Requirement 4.9.b*

	are subject to credible, independent audit, applying international auditing standards. The MSG had oversight of the procurement of the Independent Administrator (#4.9.a-b).	The contract with EY Madagascar was signed in February 2019. The MSG had oversight of the government's procurement of the IA, including the assessment of technical bids on 20 November 2018. The appointment of the IA was agreed by the MSG. The 2018 EITI Report confirms that the IA conducted the mission based on ISRS 4400 and 4410.	applied, p.17. MSG meeting minutes, 20 November 2018.		<u>of new information published after the start of Validation</u>. There is evidence that the MSG approved ToR for its Independent Administrator in line with the template and oversaw procurement of the IA for the 2018 EITI Report. The MSG approved the reporting templates for the 2018 EITI Report. The 2018 EITI Report includes a review of statutory audit procedures for companies,	*and the standard Terms of Reference for Independent Administrators, Madagascar should ensure that the Independent Administrator provides an assessment of the comprehensivenes s and reliability of the (financial) data presented in future EITI reporting.* To strengthen implementation, Madagascar may wish to consider channels for systematic disclosures of information on statutory audit and assurance procedures for extractives companies, SOEs
	The MSG has agreed on reporting templates (IA ToR)	The MSG approved the reporting templates for 2018 as part of its approval of the inception report in February 2019.	MSG letter to the Independent Administrato r on submission of documents, January 2019.	Stakeholders consulted did not express any particular views on the quality of the 2018 reporting templates aside from confirming that the MSG had approved these and that the templates did not request reporting of non-tax payments and revenues disaggregated by license or project (*see Requirement 4.7*).		
	The MSG has undertaken a review of the audit	The report clearly indicates which companies are required to have their accounts certified by	2018 EITI Report, Section	MSG members consulted confirmed that the IA had undertaken a review of audit and		

	and assurance procedures in companies and government entities participating in EITI reporting (IA ToR)	an external auditor (Commissaire aux Comptes - CAC) based on relevant regulations. Only three of the reporting companies were not required to do so. The report describes statutory audit procedures for government entities and SOEs.	16.1, Auditing procedures for extractive companies, p.182-183. 2018 EITI Report, Section 16.2, Auditing procedures for government agencies, pp. 183-185.	assurance procedures as part of the inception phase. Several industry and government representatives highlighted a reform in the 2020 budget law, requiring companies to submit their audited financial statements to the Tax Department (DGI) electronically through the "e-bilan" portal, although these were not required to be publicly disclosed. There was consensus among stakeholders consulted that the Cour des Comptes did not undertake a financial audit of extractives revenues to international standards as part of its statutory audit of public accounts.	government and SOEs. It provides evidence of the IA's review of actual audit practices of extractives companies in 2018. While the report does not explicitly confirm whether the audit of public accounts was completed for 2018, independent verification of the Cour des Comptes website indicates that it was still pending at the time of publication of the 2018 EITI Report. Through the	and government entities through routine government and company systems. Such disclosures could improve public understanding of ongoing and planned reforms in public- and private-sector audit procedures. To strengthen implementation, Madagascar is encouraged to consider ways of systematically publishing the audited financial statements of extractives companies, SOEs and government entities through routine disclosure systems.
	The report provides an overview of which reporting companies and government entities had their financial statements audited in the financial year(s) covered by	The report does not explicitly confirm that all companies who were statutorily required to have their financial statements audited in 2018 did so. However, the agreement on quality assurances for companies' EITI reporting implies that the IA completed its	2018 EITI Report, Section 16.1, Auditing procedures for extractive	The IA confirmed that it had reviewed material companies' actual extractives practices as part of its data collection and that it had received confirmations of audits of the 2018 financial statements of all companies that were required to undergo such audits, albeit not copies of the		

	EITI reporting, with any gaps identified (#4.9.a)	review of material companies' actual audit practices in 2018. The report does not confirm whether the Cour des Comptes' audit of public accounts was completed for 2018. However, it describes the Cour des Comptes' agreement with EITI for providing certification of government reporting templates, although it does not explicitly confirm the practice of the Cour des Comptes' audit of public accounts in 2018, nor the availability of audited accounts for government entities. In practice, the audited 2018 financial statements of KRAOMA, BCMM, OMNIS and AMNOR were published in a Dropbox folder linked on the EITI website in early January 2020. The Cour des Comptes' report on 2018 public accounts is not available on the auditor's website, with the latest report available covering 2017.	companies, p.182-183. SAI (Cour des Comptes) reports, from 2000 to 2017 here OMNIS audited 2018 financial statements here SOE financial statements for 2017 and 2018 in the following folder on this database: '2eme Validation EITI/15 Mesures correctives/	companies' 2018 audited financial statements themselves. The IA and several government officials confirmed that the Cour des Comptes' report on 2018 public accounts had not yet been finalised and published at the time of publication of the 2018 EITI Report. Several government officials highlighted capacity-building for Cour des Comptes staff under the Extractive Industry Oversight Improvement Project (Projet d'Amélioration de la Surveillance de l'Industrie Extractive en Afrique – PASIE).	EITI, the audited 2018 financial statements of government entities including KRAOMA, BCMM, OMNIS and AMNOR were published in full. The 2018 EITI Report describes the quality assurances agreed by the MSG for EITI reporting by companies and government entities. It describes the IA's work and its basis on ISRS 4400, which includes appropriate mechanisms	To strengthen implementation, Madagascar is encouraged to ensure that the quality assurances agreed for ensuring the credibility of financial data reported by companies and government entities are robust and do not provide discretion to reporting entities on the specific assurances to provide. To strengthen implementation, Madagascar is encouraged to ensure that summary EITI data is consistently published at the same time as its EITI Reports, as a

			Recommendation 6/EXIGENCE 2.6/'		for safeguarding confidential information. The 2018 EITI Report provides an assessment of reporting entities' compliance with the agreed quality assurances and the value of payments and revenues from entities that did not provide the required quality assurances. However, the report does not include a statement from the IA regarding the comprehensiveness and reliability of the reconciled	means of supporting Madagascar's open data and use of data efforts.
	The MSG has agreed on the assurances to be provided by the participating companies and government entities to assure the credibility of the data, including the types of assurances to be provided, the options considered and the rationale for the agreed assurances (IA ToR).	The report provides a summary of the agreed data quality assurance mechanism for company and government disclosures. In addition to the signature of management, the report notes that there were three options given to companies to certify their disclosures: i) by an external auditor, ii) by providing audited financial statements based on international standards to the IA, and iii) by submitting copies of receipts for the IA to perform spot checks of a sample of receipts compared to the reporting templates. For companies that were not statutorily required to undergo external audit of their financial statements, the IA assessed the reliability of disclosures through sampling of receipts.	2018 EITI Report, Section 10.1.5.3., pp.117-118. MoU signed between Madagascar EITI and the SAI in December 2018, here Cour des Comptes report on certification of government EITI reporting templates for 2017-2018 here (*published in*	Several government officials confirmed that the Cour des Comptes provided certification for the reporting templates of government agencies collecting tax and customs duties, but did not review the reporting from independent government entities like BCMM and OMNIS given that they have their own external auditors. A government official and the IA expressed surprise at the fact that the Cour des Comptes' detailed methodology and final report on its certification of government's 2018 EITI reporting were not published alongside the 2018 EITI Report and considered this to have been an oversight. These two documents were subsequently published online in February 2020. Government officials confirmed that the Cour des Comptes' certification of government reporting consisted of		

		To strengthen the reliability of disclosures by government agencies, Madagascar signed an MoU with the Cour des Comptes in December 2018. The 2018 EITI Report clearly describes the Cour des Comptes' mandate and methodology, noting that the main tax collecting agencies underwent the certification. For independent government entities (such as BCMM, OMNIS, ANOR, SPAT, SMMC), the report explains that their reporting templates were required to be certified by their external auditors.	*February 2020*).	a comparison of reporting templates with evidence of transfers as well as spot checks on certain tax-collecting provincial branches. The IA noted that the majority of reporting companies had provided only statements from their external auditors attesting to the fact that the company's 2018 financial statements had been audited, rather than certification of the reporting templates themselves. None of the stakeholders consulted expressed concern at the choice given to reporting companies with regards to the quality assurances to provide for their EITI reporting. The IA noted that the management sign-off on the reporting templates did not explicitly state that the data in the templates were in line with companies' audited financial statements.	financial data. After the start of Validation (in February 2020), EITI Madagascar published an addendum to the 2018 EITI Report that included the IA's assessment of comprehensive ness and reliability. The 2018 EITI Report presents information that is consistently sourced, alongside a summary of the IA's review of existing systematic disclosures of information	
	The MSG has agreed on appropriate	The report confirms that the IA conducted its work on the basis of International Standard on	2018 EITI Report, p.17.	None of the stakeholders consulted expressed concern over the mechanisms established to		

	provisions for safeguarding confidential information (IA ToR)	Related Services (ISRS) 4400 and 4410.		preserve the confidentiality of information pre-reconciliation.	required under the EITI Standard. EITI Madagascar has prepared summary data for its EITI Reports covering 2007-2016. Summary data for the 2017 and 2018 EITI Reports were submitted to the International Secretariat for comments in late December 2019. The 2018 EITI Report presents the IA's review of follow-up on past EITI recommendatio	
	A summary of the key findings from the assessment of the comprehensivenes s and reliability of the data disclosed by companies and government entities has been disclosed (IA ToR)	The report clearly highlights that only one reporting company (GRAPH-MADA SARL) did not comply with the agreed data quality assurances for their EITI reporting, and provides the value of its payments (0,66%) relative to total reconciled revenues. The report refers to the Cour des Comptes' conclusions that there were no "significant anomalies" identified in the EITI reporting of government entities it certified. The report confirms that all but two government entities submitted reporting templates that were signed by management, including independent government entities such as BCMM and OMNIS. However, the report also indicates that CNAPS and SMMC did not submit a reporting	<u>Company disclosures reliability</u>: 2018 EITI Report, Section 10.2.1.1.2, pp.120-121. <u>Government agencies disclosures reliability</u>: 2018 EITI Report, Section 10.2.1.2.2, pp.121-122. <u>Final discrepancies</u>: 2018 EITI Report, Section	The IA explained that it did not consider it a requirement to provide a statement related to the comprehensiveness and reliability of reconciled financial data given that there were no provisions within ISRS 4400 requiring it to do so. The IA acknowledged however that the ToR for the 2018 EITI Report did require it to include such a statement. Upon discussion, the IA considered that it would be possible for it to provide a statement that it had not uncovered any elements that would put into question the comprehensiveness and reliability of the reconciled financial data, on the basis of its work in line with the agreed upon procedures. None of the MSG members consulted expressed particular views about the lack of the IA's assessment in the report, aside from expressing general		

		template signed by their management, representing 7,5% of total reconciled revenues. While the report provides an assessment of compliance with reporting obligations and quality assurances, as well as the materiality of payments from non-reporting and non-complying companies and government entities, it does not include a clear statement from the IA on the comprehensiveness and reliability of reconciled financial data. The report (p.19) only includes a statement to the effect that the IA "considers" that it has collected sufficient data to ensure that the report had "a significant value-added in accordance with the 2016 EITI Standard". However, after the commencement of Validation (in February 2020), EITI Madagascar published an addendum to the 2018 EITI Report that included the IA's assessment that it did not	10.2.2.2.5, p.140. IA's assessment of comprehensiveness and reliability: 2018 EITI Report addendum, p.7, here (*published in February 2020*).	confidence in the comprehensiveness and reliability of the reconciled financial data.	ns and a new set of recommendations based on the 2018 EITI Report.	

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		uncover any elements that would put into question the comprehensiveness and reliability of the reconciled financial data.				
	Any non-financial (contextual) information is clearly sourced (IA ToR)	The non-financial information in the 2018 EITI Report is consistently sourced. On systematic disclosures, the report summarises the findings from the IA's mainstreaming feasibility study commissioned by the MSG. It highlights systematically disclosed information, information that is not systematically disclosed, as well as the main challenges related to the fragmented nature of data accessibility, gaps in comprehensiveness and lack of routine updates. The report recommends strengthening the capacity of reporting entities and companies, and outlines a roadmap for transitioning towards systematic disclosures.	See Matrix for mainstreaming feasibility study undertaken by the IA (for now on Shared). 2018 EITI Report, Section 20, Systematic disclosures, pp. 218-219.	Stakeholders consulted did not express any particular views about the sourcing of information in the 2018 EITI Report. Several government and industry stakeholders highlighted the IA's systematic disclosures feasibility study and noted the scope for transitioning towards systematic disclosures of specific EITI Requirements, such as those related to licenses, subnational transfers and SOEs.		
	Summary data has been prepared, in	Summary data for the EITI Reports covering 2007-2016	Madagascar EITI	The IA and Secretariat staff explained that summary data for		

	accordance with the summary data template.	have been prepared and published on the Madagascar page of the EITI website, although not on the EITI Madagascar website. Summary data for the 2017 and 2018 EITI Reports were not yet published at the start of Madagascar's second Validation, although they were submitted to the International Secretariat for comments in late December 2019.	summary data, available on this Google Drive. Madagascar page of the EITI website.	the 2017 and 2018 EITI Reports was in the process of preparation and would be submitted to the International Secretariat for comment in Q1 2020.		
	EITI reporting has presented a set of recommendations and there has been a review of follow-up on past EITI recommendations through EITI reporting (IA ToR).	The report includes follow-up on 30 recommendations from previous EITI Reports and four new recommendations based on the 2017 and 2018 Reports, including streamlining the process for data certification through outreach and trainings with external auditors.	2018 EITI Report, Section 21, Recommendations and follow-up, pp.220-238.	Stakeholders did not express particular views on the quality of recommendations in the 2018 EITI Report or the IA's review of follow-up on past EITI recommendations.		

Requirement 5: Revenue management and distribution

Assessment table: Revenue management and distribution

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EITI Requirement						
Distribution of revenues (#5.1)	EITI disclosures indicate which extractive industry revenues are recorded in the national budget (#5.1.a)	The 2018 EITI Report provides a description of the allocation of revenues based on a review of the regulatory framework, with links included to the budget law and reports by the supreme audit institution (Cour des Comptes). It explains that the extractives revenues not recorded in the national budget are those collected by ANOR, BCMM and OMNIS. The value of material extractives revenues collected by BCMM and OMNIS is provided. The report implies that direct subnational payments are not recorded in the national budget as it provides a summary of revenue allocation at the subnational level.	Revenue allocation: 2018 EITI Report, Section 17, pp.187-188. 2017 EITI Report, Section 16.2, Management of extractive revenues y BCMM, OMNIS and ANOR, pp.161-162. Budget Laws, 2004-2019, accessed here, December 2019. BCMM and OMNIS revenues: 2018 EITTI Report, pp.131,151-153.	Stakeholders consulted confirmed that the only extractives revenues not recorded in the national budget were those collected by BCMM, OMNIS and ANOR as well as direct subnational payments. Several government officials noted that the share of administration fees (FA) transferred by BCMM and OMNIS to the Treasury were recorded in the national budget. Several government representatives explained that independent government institutions like BCMM and OMNIS had a Tax ID Number and were liable to income tax and VAT, given that they were registered as	**Satisfactory progress**. The 2018 EITI Report clearly lists the government revenues that are not recorded in the national budget, identifies the government entities collecting them and provides their aggregate value in 2018. The 2018 EITI Report clearly lists and provides the value of extractives revenues not recorded in the national budget in 2018. EITI Madagascar has published the	To strengthen implementation, Madagascar is encouraged to systematically disclose on their respective websites the audited financial statements of government entities collecting extractives revenues not recorded in the national budget.

				companies. The issue of taxation of these entities was presented as a contentious issue for the management of these entities.	audited financial statements of all independent government entities managing off-budget extractives revenues, including BCMM, OMNIS and ANOR.	
	Where revenues are not recorded in the budget, the allocation of these revenues has been explained, with links provided to relevant financial reports as applicable (5.1.a)	While the 2018 EITI Report notes that the audited 2018 financial statements of BCMM and ANOR were not published at the time of the report's publication, the audited 2018 financial statements of KRAOMA, BCMM, OMNIS and AMNOR were published in a Dropbox folder linked on the EITI website in December 2020. The 2018 EITI Report provides a cursory description of the general allocation of revenues by BCMM and the communes receiving extractives revenues. For OMNIS, the report describes two of its 2018 expenditures categorized as quasi-fiscal, but does not provide an overview of OMNIS' allocation of extractives revenues it collects and retains.	2018 EITI Report, Section 17, pp.187-188. OMNIS: 2018 EITI Report, p.109. Financial statements for 2017 and 2018 in the following folder on this database: '2eme Validation EITI/15 Mesures correctives/Recommendation 6/EXIGENCE 2.6/'	While many of the stakeholders consulted highlighted the publication of the audited financial statements of BCMM, OMNIS and ANOR in relation to the management of off-budget extractives revenues, there appeared to have been little use of this data since its publication. Most civil society representatives did not appear to be aware of the publication of these financial statements.		

		The 2017 EITI Report includes an analysis of extractive revenues managed by BCMM, OMNIS and ANOR. For BCMM, it highlights the main expenditures in 2017, including the construction of the Mining Business Centre, and notes that the auditor provided a qualified audit opinion, noting reservations. The report provides a summary of revenue allocation at the subnational level.				
	The MSG has referenced any national revenue classification systems or international data standards (5.1.b)	Neither EITI Report references either national or international revenue classification systems.	IMF, Technical assistance report, government finance statistics mission, October 2019, accessed here, December 2019.	An October 2019 report by the IMF documents efforts to integrate GFS in Madagascar's public finance management systems. This report highlights progress in improving its production of GFS-coded statistics.		
Subnational transfers (#5.2)	Where transfers between national and subnational government entities are related to revenues	O&G: The report identifies two types of subnational transfers in the O&G sector. The first one, the 1/2500th of the total minimum investments for exploration, is set in the Hydrocarbons Code, but does not appear to have been	2018 EITI Report, Section 15, Subnational transfers, pp. 165-180.	There was consensus amongst stakeholders consulted that the EITI had a key role to play in fostering public debate on the issue. Stakeholders agreed	**Meaningful progress with considerable improvements.** Madagascar EITI's work on subnational	In accordance with Requirement 5.2, Madagascar should disclose discrepancies between statutory shares of mining

	generated by the extractive industries and are mandated by a national constitution, statute or other revenue sharing mechanism, the multi-stakeholder group is required to ensure that material transfers are disclosed. Implementing countries should disclose the revenue sharing formula, if any, as well as any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was	effective in 2018 as there are no regulations covering its implementation. The second one, the royalty on hydrocarbons, is set by the Tax Code and Law 2014/020. The report provides the criteria for the revenue-sharing formula, which depends on the quantities of oil and/or gas produced, as well as the revenue sharing formula itself. There were however no royalties on hydrocarbons paid in Madagascar in 2018, due to the absence of O&G production. Thus, there do not appear to have been effective subnational transfers of petroleum revenues in 2018. Mining: The report provides a list of the 16 regions and 34 communes that were included in the scope of reporting to cover payments made directly to and transferred to local governments. It notes that for communes that received a share of Ambatovy's ristournes, only those that received a share higher than 5% were included in the scope, i.e. 20 communes. The selection of the other regions and communes was	Section 17.2.2., Reconciliation of FAM between BCMM and communes disclosures, pp. 199-200. Section 16.3, Intervention of the Independent Administrator at the local level. EITI Madagascar, Report on subnational payments and transfers, February 2018, here.	that the *redevances* did not represent subnational transfers after discussions. Government representatives noted that it was necessary to accompany communities that benefit from extractive revenues, in order to make them aware of their statutory share but also to strengthen their use of revenues. They added that EITI data could inform local communities on how revenues should be used in order to maximise their contribution to local sustainable development, as well as manage expectations with regards to the oil and gas sector where no shares of revenues are transferred in practice. With regards to the process for executing	transfers is commendable as an example of EITI implementation's meaningful contribution to public debate on an issue of national priority. The 2018 EITI Report not only includes detailed information about the disbursement of Ambatovy's *ristournes*, it also provides an assessment of challenges in the effective transfer of extractive revenues and information about revenue management at the local level, as encouraged by Requirement 5.2.c) under the 2019 EITI Standard. However, EITI	administration fees (FAM) and *ristournes* and effective transfers disaggregated by local government unit, for all extractive companies. To strengthen implementation, Madagascar might wish to consider systematically disclosing information about subnational transfers of FAM on the BCMM website, including the decrees that determine the computations for transfers to each local government unit. Stakeholders are encouraged to use EITI data on subnational transfers to promote debate at the subnational

	transferred between the central government and each relevant subnational entity. The multi-stakeholder group is encouraged to reconcile these transfers. Where there are constitutional or significant practical barriers to the participation of subnational government entities, the multi-stakeholder group may seek adapted implementation in accordance with Requirement 8.1 (5.2.a).	based on whether they hosted significant extractive activities. It seems that there challenges in securing their participation in reporting. The three revenue streams that were considered to be applicable under Requirement 5.2 by the MSG were the *Frais d'administration manière*, the *redevances* and the *ristournes*. The report does not clarify whether the payments made in 2018 are based on the amounts collected in previous years, or whether shares are transferred immediately following payments by companies. *Frais d'administration manière (FAM)*: The report provides a summary table comparing revenues that should have been transferred according to the revenue-sharing formula VS revenues that were effectively transferred, albeit only in summary and not disaggregated by local government. This data shows for example that no extractives revenues were		transfers, some government representatives noted that it was not possible for local governments to anticipate the amounts received and plan their budget accordingly. Some noted that the establishment of specific accounts for local governments within the Treasury had been a welcome improvement and helped ensure that transfers were effective. Some government representatives expressed doubts around the year on which transfers of FAM were based, noting that computations made by the BCMM for setting the statutory shares for each beneficiary were made automatically, each time a company made a payment. Industry representatives welcomed the	reporting has not provided data disaggregated by local government unit on statutory shares VS effective transfers, both for FAM and for *ristournes* paid by all extractive companies except for Ambatovy, as well as QMM after the start of Validation.	level and strengthen the management of extractive revenues by local authorities, to ensure the sector's contribution to more inclusive and sustainable local development.

		transferred to provinces, whereas regions and communes effectively received higher amounts than set in the formula. The report explains that this was due to a temporary suspension of transfers following a decentralization process started in 2015, with shares from previous years then also transferred in 2018. As of end of 2019, BCMM had published data about effective transfers to communes on its website (also available in Annex 21). The report provides a table summarizing total amounts that have yet to be disbursed in 2018 for provinces, regions, communes, the general budget, MMRS, CNM and ANOR. The report shows the discrepancy between amounts effectively transferred by BCMM in 2018 and revenues declared by the twelve communes that participated in EITI reporting. Table 104 also includes information which company is active in each commune. The report notes that communes are not really informed		information published through EITI reporting, noting it was particularly useful in companies' consultations with local communities. Some industry representatives noted that the revenue sharing formula per company and per commune was available as it was set in decrees, based on the licenses held by each company. It was noted that the BCMM would know exactly which share should be transferred to each local government unit and would most likely be able to track the contribution of each company.		

		when they receive their shares, which affects their own reporting. The report highlights elsewhere that the collection of FAM has been decreasing since 2012 due to the moratorium on license awards. *Redevances*: Based on the revenue-sharing formula, the *redevances* do not represent subnational transfers: none of the shares is transferred to the local level. The report cites the applicable regulatory texts, noting that the payment of *redevances* to the Treasury is mandatory for PE holders and other large-scale mining projects, whereas small-scale holders of PRE can chose to pay directly to local governments or to the Treasury. The report provides the discrepancy between shares that should have been paid to the different government agencies and effective transfers. *Ristournes*: The report provides the general revenue-sharing formula based on the regulatory framework, as well as a summary				

		of the discrepancy between amounts that should have been transferred and amounts effectively transferred. However, the report does not provide this information disaggregated by province, region and commune. In the previous Validation, it was noted that some *ristournes* payments were made directly to local governments by at least HOLCIM and QMM. The 2018 EITI Report clarified that this was not the case, for any of the material companies. The report focuses in particular on the effective distribution of *ristournes* accumulated by the Ambatovy project from the second semester of 2012 to the second quarter of August 2018, as well as those corresponding to the second semester of 2018. Following the promulgation of the relevant regulatory texts, Ambatovy paid out over MGA 61 billion to the local branch of the Treasury. The report provides a detailed table based on the revenue sharing formula provided				

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		in the regulatory texts. The report notes that the 10% supposed to be transferred to the Toamasina Province will be shared between the communes (75%) and provinces (25%), which the report takes into consideration when calculating the statutory shares that should be transferred. The report provides a summary table with the statutory amounts that should be paid to the Fonds national de péréquation, the communes and the regions. The report compares the statutory shares with effective transfers for the Fonds de péréquation for i) the 2012-2018 period and ii) the second semester of 2018, disaggregated by local government unit. Regarding transfers to the communes, the report explains that disbursements are gradual to prevent overburdening the communes and challenges in managing the revenues. It highlights that some communes complained that disbursements were too slow and required undertaking burdensome				

		procedures. The report notes that the regulations require that 30% of subnational transfers are earmarked for local governments' operating costs, while 70% are earmarked for investments. However, in practice, the split was set at 20%/80%, to prevent overspending on operating costs in the initial phase. The report compares the statutory shares with effective transfers for relevant communes, showing the absence of major discrepancies for most communes and regions. In information published on 25 February, after the start of Validation, the MSG also provided the detailed revenue sharing formula and effectives transfers of QMM's *ristournes*, disaggregated by local government units, highlighting a change in the applicable decree in 2017.				
	The MSG has reported on how extractive revenues earmarked for	The 2018 EITI Report provides detailed and unique information about revenue collection in 17 communes. In fifteen of those, the report provides the total amount				

	specific programmes or investments at the subnational level are managed, and actual disbursements (#5.2.c).	of FAM and/or ristournes paid to the commune, and for the commues of Fanandrana and Amboditandrohoro, the report provides the detailed budget (per revenue stream) and expenditures (per type, indicating whether those are functioning or investment expenditures). The report also includes an assessment of the management of revenues for two communes that received shares of Ambatovy's ristournes. The data included in the 2017 and 2018 EITI Reports complements the information and recommendations from a standalone report published by the Madagascar EITI on subnational payments and transfers in February 2018. The study had highlighted contradictions in the fiscal and regulatory regime, using data from EITI reporting covering the fiscal years 2010 to 2014 and on data collected in 11 local governments.				

Requirement 6: Social and economic spending

Assessment table: Social and economic spending						
EITI Requirement	EITI sub-Requirement	Summary of main findings	Source(s) of information	Summary of stakeholder views	Recommendation on compliance with the EITI provisions	Proposed corrective actions and recommendations
SOE quasi fiscal expenditures (#6.2)	The MSG has agreed a definition of materiality with regards to quasi-fiscal expenditures by SOEs, including SOE subsidiaries and joint ventures (#6.2)	The MSG has agreed a definition of quasi-fiscal expenditures in line with the 2019 EITI Standard. It has sought to identify them through disclosures from KRAOMA and OMNIS.	2018 EITI Report, Section 9.4, p.109.	MSG members consulted appeared familiar with the concept of quasi-fiscal expenditures. Several civil society representatives raised concerns regarding quasi-fiscal expenditures by OMNIS, albeit not specifically related to a review of its financial statements.	**Meaningful progress, *with considerable improvements*** at the start of its second Validation. The 2018 EITI Report provides the MSG's clear definition of quasi-fiscal expenditures, in line with both Requirement 6.2 and the definition in the IMF's	*Should the Board not consider new information disclosed after the start of Validation, Madagascar would need to address the following corrective action: In accordance with Requirement 6.2, Madagascar is required to develop a reporting process for quasi-fiscal expenditures, including by OMNIS, BCMM, KRAOMA and any of their subsidiaries and joint-ventures, to reach a*
	Where quasi-fiscal expenditures exist and are material, the MSG has developed a reporting process for disclosure of	Regarding quasi-fiscal expenditures in 2018, the report documents two types of expenditures undertaken by OMNIS at the state's request: a MGA 7.58bn (USD 2.1m) road between the centre of	2018 EITI Report, Section 9.4, p.109. 2017 EITI Report,	Most stakeholders consulted highlighted the sensitivity of the issue of OMNIS' fees for non-staff, explaining that these were payments for international travel by Ministry officials.		

	quasi-fiscal expenditures and these expenditures have been disclosed accordingly (6.2)	Antananarivo and the airport, and MGA 418.7m (USD116.6k) in payments described only as "fees for non-OMNIS staff". These two quasi-fiscal expenditures are reflected in OMNIS's 2018 AFS, also labelled "fees for non-OMNIS staff". A review of BCMM and KRAOMA's 2018 financial statements does not highlight any expenditures that could be considered quasi-fiscal. The report provides an insightful description of the payment of KRAOMA staff salaries by KRAOMA MINING JV and the debt of OMNIS vis-à-vis QMM (*see Requirement 2.6*). The report provides the MSG's categorisation of the future repayment of these off-budget debts could be considered quasi-fiscal expenditures. However, the report's description of OMNIS' quasi-fiscal expenditures does not disaggregate data to levels commensurate with other payments and revenues (e.g.	Section 18, p.166. OMNIS audited 2018 financial statements here (see pp.6,25 in particular) SOE financial statements for 2017 and 2018 in the following folder on this database: '2eme Validation EITI/15 Mesures correctives/Recommendation 6/EXIGENCE 2.6/' Detail of OMNIS' expenditures on "fees for	Officials consulted noted that it may be possible to provide more information on these expenditures, but not names of individuals whose expenses were covered. Some officials explained that OMNIS also lent cars and provided maintenance to other government departments. Several government officials explained that OMNIS and BCMM had both been directed in a Council of Ministers meeting to finance the new airport road, BCMM had refused while OMNIS had undertaken this significant funding. On the issue of KRAOMA's swaps of chrome for diesel in 2018, industry representatives explained that this was a simple barter payment for supplies of diesel for its own operations, and did	Fiscal transparency Manual. It provides information on two quasi-fiscal expenditures undertaken by OMNIS, albeit without to levels of detail commensurate with the disclosure of other payments and revenues. **Satisfactory progress,** subject to the Board's consideration of new information published after the start of Validation. OMNIS published the detail of its expenditures	*level of transparency commensurate with reconciled payments and revenues.* Madagascar is encouraged to explore ways of systematically disclosing quasi-fiscal expenditures through routine systems (e.g. websites) of independent government entities and SOEs like BCMM, OMNIS and KRAOMA.

		according to Requirement 4.7). Indeed the disclosure on "non-OMNIS staff fees" only disaggregate a single sum, without further explanation. After the start of Validation, in February 2020, OMNIS published the detail of its expenditures on "fees for non-OMNIS staff" on its website. These disclosures are disaggregated by individual expenditure, including the date, description and value of each expenditure, as well as the identity of the beneficiary. A total of MGA 196,835,902.69 of the total MGA 418,734,619.15 (47%) in reported quasi-fiscal expenditures consisted of indemnities and transport costs for the OMNIS Board Chair, rather than costs associated with "non-OMNIS staff", given that costs associated with the Board Chair can be considered normal business costs. This implies that OMNIS undertook a total of MGA	non-OMNIS staff" here (*published in February 2020*). Detail of Kraoma's social expenditures: 2018 EITI Report addendum, p.13, here (*published in February 2020*).	not represent include any subsidised sales. While one industry representative considered that KRAOMA's rehabilitation of public roads (RN33 and RN44) could be considered quasi-fiscal, they conceded that these rehabilitations were needed for the mining projects as they provided key access roads.	on "fees for non-OMNIS staff" on its website, disaggregated to levels commensurate with other payments and revenues.	

		221,898,716.46 (USD 66,564) in quasi-fiscal expenditures related to “fees for non-OMNIS staff”, related to indemnities and transport costs of the Minister of Mines and Strategic Resources. The addendum to the 2018 EITI Report published in February 2020 raises concerns that some of Kraoma’s 2017 social expenditures should have been classified as quasi-fiscal expenditures. However, a review of the detail of these expenditures indicates that they represent forms of social expenditures or spending on infrastructure necessary for Kraoma’s mining operations (e.g. access roads).				

Requirement 7: Outcomes and impact of implementation

Assessment table: Outcomes and impact						
EITI Requirement	**EITI sub-Requirement**	**Summary of main findings**	**Source(s) of information**	**Summary of stakeholder views**	**Recommendation on compliance with the EITI provisions (to be completed for 'required' provisions)**	**Proposed corrective actions and recommendations**
Outcomes and impact of EITI implementation on natural resource governance (#7.4)	The MSG has made efforts to review outcomes and impact of EITI implementation on natural resource governance, including whether annual activity reports or forms of documentation agreed by the MSG have been produced and contain a summary of EITI activities (7.4.a.i)	The APR provides a summary of EITI implementation in 2017 and 2018. It includes a detailed description of the EITI Madagascar's training, dissemination and communication activities, collaboration undertaken with the the SAI and other partner organisations, and thematic studies such as on subnational payments and transfers.	2017-2018 APR, here. Section 2 of the APR. Madagascar EITI (March 2018), 2008-2018: 10 ans de contribution à la transparence, here.	Industry representatives commended the dissemination activities undertaken in the regions, noting a strong interest from local governments and communities, including women. Some noted that EITI data could be further included in companies' CSR reports and in their communications with host communities. Stakeholders consulted noted that the impact of the EITI could be felt at	**Satisfactory progress.** The 2017-2018 Annual Progress Report provides a comprehensive assessment of the outcomes of EITI implementation and its limitations, and highlights areas where the EITI's impact could be strengthened. Despite	To strengthen implementation, Madagascar is encouraged to annually assess the impact of EITI implementation, actively seeking input from stakeholders outside the MSG and from extractive regions. As highlighted by stakeholders consulted, Madagascar may wish to focus on increasing the impact

	The MSG has made efforts to review outcomes and impact of EITI implementation on natural resource governance, including whether annual activity reports or forms of documentation agreed by the MSG have been produced and contain an assessment of progress in meeting EITI Requirements (7.4.a.ii)	The APR includes an assessment of progress in meeting EITI Requirements, drawing from the results of Madagascar's first Validation concluded in June 2018. It lists the fifteen corrective actions agreed by the EITI Board. The APR mentions a team building activity undertaken by the MSG in June 2018 to devise a plan for implementing these correctives actions.	Section 5 of the APR.	different levels, such as in the work done by the *Cour des Comptes* on the certification of extractive revenues, the work around beneficial ownership disclosures that contributed to the evaluation of wider risks in the sector and in the use of EITI data in CSOs' advocacy work in extractive communities. Many government representatives noted that additional information could be covered under EITI reporting, to help citizens better understand ongoing reforms as well as the role and mandate of government agencies. Industry and CSO representatives welcomed the inclusion of some information on environment- and gender-related issues, which they considered to be priorities in the context of Madagascar.	significant funding and capacity challenges, EITI Madagascar has made efforts to increase and document the impact of EITI implementation, including on contributing to strengthening the role of the SAI in its oversight of revenues from the sector, promoting debate in communities hosting extractive activities, environmental reporting and gender-related issues.	of EITI implementation on issues that the MSG has identified as priorities, including revenue management and the environmental impact of extractives at the local level.
	The MSG has made efforts to review outcomes and impact of EITI implementation on natural resource governance, including whether annual activity	The APR contains an assessment of the MSG's response to thirty recommendations from EITI reporting and Madagascar's first Validation.				

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	reports or forms of documentation agreed by the MSG have been produced and contain an overview of the MSG's responses to EITI recommendations (7.4.a.iii)					
	The MSG has made efforts to review outcomes and impact of EITI implementation on natural resource governance, including whether annual activity reports or forms of documentation agreed by the MSG have been produced and contain an assessment of progress in meeting work plan	The APR includes an assessment of progress in meeting work plan objectives, including with regards to beneficial ownership disclosures and improving disclosures around licensing in mining.	Section 4 of the APR.			

	objectives (7.4.a.iv)					
	The MSG has made efforts to review outcomes and impact of EITI implementation on natural resource governance, including whether annual activity reports or forms of documentation agreed by the MSG have been produced and contain a narrative account of efforts to strengthen the EITI's impact (7.4.a.v)	The APR includes an assessment of the strengths and weaknesses of EITI implementation in Madagascar. It highlights amongst others that efforts were made to improve the EITI's communications activities.	Section 41 of the APR.			
	The MSG has undertaken consultations to give all stakeholders an opportunity to provide feedback on the EITI	The draft APR was presented at a workshop on 28 March 2019 and shared widely for input, including with representatives from the media and local government representatives.	Section 10 of the APR.			

	process and the impact of the EITI, and have their view reflected in the annual review of outcomes and impact (7.4.b)					

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