

Minutes

EITI International Secretariat

Oslo, 31 July 2018

Table of Contents

40-1 Welcome by the Chair and adoption of the agenda	3
40-2 Report from the Secretariat	4
40-3 Report from the World Bank.....	5
40-4 Report from the Implementation Committee	5
Board paper 40-4-A Clarification of Requirement 8.3.c.i	5
Board paper 40-4-B Technical and financial needs for beneficial ownership transparency	6
Board paper 40-4-C Updating Key Performance Indicators of the EITI.....	7
Board paper 40-4-D Request from EITI Germany regarding requirements 4.1 and 4.6	8
40-5 Report from the Outreach and Candidature Committee	8
Board paper 40-5-A EITI Outreach Strategy 2018-2019.....	8
Board paper 40-5-B Candidature Assessment from the Netherlands.....	9
Non-reporting of taxes while the US implemented the EITI (report from the Chair)	9
40-6 Report from the Validation Committee	9
40-7 Report from the Governance and Oversight Committee	14
Board Paper 40-7-A Supporting company minimum expectations.....	14
Board Paper 40-7-B Update on the EITI grievance review	14
40-8 Report from the Finance Committee	15
Board Paper 40-8-2018 Q1 Accounts and Q2 Forecast.....	15
40-12 Report from the Nominations Committee and the Chair.....	15
40-9 EITI Global Conference.....	15
40-11 Any other business	15
Annex A – Board decision on requirement 8.3.c.i.....	17
Annex B – Board decisions on Validations.....	19
Board decision on Cameroon	19
Board decision on Colombia.....	23
Board decision on the Republic of Congo	25
Board decision on Madagascar	31
Board decision on São Tomé and Príncipe	36
Board decision on Ukraine	38
Annex C – List of participants.....	42

MINUTES OF THE 40TH EITI BOARD MEETING

Prior to the meeting, the Board held an “implementation deep dive” focussed on impact and outlook of the EITI in the Democratic Republic of the Congo and Nigeria.

Bady Baldé, Africa Director at the EITI International Secretariat, highlighted that the EITI has contributed to increasing transparency and improving government systems in the Democratic Republic of the Congo, which in turn may have led to an increase in government revenues from the extractive sector. He highlighted that the EITI had contributed in creating a robust and lively public debate, which may have contributed to changing expectations, social norms and behaviours. Bady emphasised that major challenges remain to build resilient institutions, create a culture of transparency and accountability, and increase government revenues of the sector. He reminded the Board of significant internal governance challenges within the EITI process itself, although financial management of the Secretariat had recently improved. He concluded by calling on all stakeholders to provide extensive support to build the DRC’s capacity for routine disclosures and use of EITI data.

Waziri Adio, Executive Secretary of Nigeria EITI (NEITI), explained how the EITI had been a force for good in Nigeria. EITI implementation in Nigeria had led to the recovery of over USD 3 billion in revenues and over USD 20 billion identified for recovery. NEITI aimed to “got to scale” to reverse the resource curse. NEITI, established by law in 2007, had moved from “producing” transparency to “producing” policy, supporting reforms and remediating losses. This required a different set of tools and a different relationship with stakeholders set out in its strategic plan. It had opened up a previously opaque sector, energised debate and contributed to making sector reform an election issue. NEITI intended to go further in opening up the NNPC (Nigeria National Petroleum Company), the state-owned oil company, and contribute to changes of the tax and regulatory environment in Nigeria. The Board had assessed Nigeria’s implementation of the EITI in 2016, noting that it had made meaningful progress in implementing the EITI Standard. Waziri emphasised that Validation had helped to ensure standardisation in publications, improved reporting on the oil, gas and mining sectors and identified gaps for future work within the country. However, he underlined that the current Validation system, with its need to demonstrate satisfactory progress on all requirements, does not sufficiently recognise EITI impact, which could be demoralising.

40-1 Welcome by the Chair and adoption of the agenda

EITI Chair Fredrik Reinfeldt opened the meeting and thanked the German government for hosting the Board meeting. He invited the D-EITI Chair, Parliamentary State Secretary Oliver Wittke, to welcome Board members and observers.

Apologies were noted from Carlos Aranda, Ana Carolina González Espinosa, Moses Kulaba and Simone Niven. The Chair welcomed Judith Herbertson from the United Kingdom and Marte Briseid from Norway as Judith’s alternate.

The Board agreed the agenda.

The Chair noted that the Solomon Islands had withdrawn from implementing the EITI.

40-2 Report from the Secretariat

Jonas Moberg informed the Board that the Secretariat had reorganised itself internally, increasingly organised in teams related to issues such as beneficial ownership disclosure and reforms of state-owned enterprises. Several staff members had been promoted to director level and a new communications director would begin in August.

Jonas introduced **Implementation Progress Report** (Board paper 40-2-A) and reported that several countries were making progress on systematically disclosing EITI data, including Colombia, Indonesia, Iraq, Mexico, Mongolia, the Philippines, Timor-Leste and Zambia. These countries increasingly publish regular data in open formats. EITI implementation in other countries, such as Central Africa Republic, Guatemala, Honduras, Kyrgyz Republic, Mozambique, Tanzania, Tajikistan and Tanzania faced significant challenges and would require increased support.

Jonas drew attention to the spotlight section showing that **timeliness** of EITI reporting had not significantly improved since 2014. Lack of timeliness was in many countries due to funding gaps. Also, the Secretariat's impression was that MSGs focused heavily on the practical steps leading up to reporting rather than data analysis.

Jonas reported on the progress on **beneficial ownership**. Countries including Ghana, Kazakhstan, Mongolia, Senegal, Ukraine, the United Kingdom and Zambia had made good progress towards meeting requirement 2.5. There were at least 26 countries that have made more limited progress in implementing the BO roadmaps. There are various reasons for the lack of progress, such as political instability, elections, and technical and financial constraints.

The Board was briefed on **commodity trading and SOEs**, which Jonas suggested to combine into one policy area. He noted that the work was going well. Jonas highlighted the progress on contract transparency in EITI countries, and the momentum around contract transparency globally. Practices were changing. Jonas encouraged the Board to develop a strategy for further efforts promoting contract transparency.

Several Board members expressed concern over the lack of **timeliness**. Jonas explained that while mainstreaming EITI implementation could improve how quickly data is published, some countries spent significant time on practical aspects of reconciliation. The findings should serve as a reminder of the urgency with which the EITI needs to continue towards systematic disclosure.

Judith Herbertson asked for more information on funding for EITI implementation. Jonas would take on a more detailed review of funding needs and solutions and come back to the Board on the issue. He said such a review would look more closely at how implementing entities are funded.

Rosmarie Schlup commented on the annex to the IPR on artisanal and small-scale mining (ASM) and said although the relevance of the topic is undisputed, including more reporting on ASM requires significant funding and therefore poses a challenge for many countries. Ines Schjolberg Marques replied that it was not the Secretariat's intention to encourage all countries to report on ASM, but to highlight good practices from countries such as the DRC, Ethiopia and the Philippines, where ASM is a key priority.

With regards to the Philippines, Cielo Magno voiced her concern about President Rodrigo Duterte's labelling of civil society leaders and indigenous peoples in mining communities as terrorists which sends a

chilling effect on the participation of indigenous peoples in civil society EITI activities. She requested that the Board monitor the situation and the International Secretariat committed to report on this in future implementation progress reports. Gubad Ibadoglu and other Board members expressed concern about the arrests of a former Board member in Niger. Jonas and Fredrik responded that the Secretariat was monitoring the situation in the Philippines, and that it was not in the EITI's mandate to comment on matters like these in non-implementing countries.

Zainab Ahmed suggested that the Board should consider allowing the Secretariat to resume support for implementation in Tanzania. Eddie Rich responded on behalf of the Secretariat that it was still following up the Board's decision and reported that it had been indicated that the government would soon update the Board on its progress in addressing the fraud case. Faith Nwadishi asked whether there had been any progress with the Liberian EITI process since the political changes in the country. Eddie responded that the Secretariat was in dialogue with the government and waiting for an opportunity to have a meeting with stakeholders in country.

Jonas introduced the Outreach Progress Report (Board paper 40-2-B), noting progress in Argentina and Ecuador. Both countries were committed to implementing the EITI and preparing candidature applications. In Chile, initial contacts have been made with stakeholders including new authorities in President Sebastian Piñera's administration. Board members asked about current outreach efforts in Russia and Brazil. The Secretariat informed that no progress has been made in these countries in recent months. Jonas stressed that outreach activities were limited and rely to a great extent on collaboration with partners and Board members.

Stuart Brooks asked about progress in Australia. Sam Bartlett noted that preparations for candidature had slowed. In May 2018, the government announced that it was planning an independent gap analysis of existing disclosure practices against the 2016 Standard. The MSG met in mid-June, and the International Secretariat had offered to provide further support.

40-3 Report from the World Bank

The Chair invited Sheila Khama to introduce the paper from the World Bank. Sheila noted that the Bank had undertaken a recent funding round agreeing EITI-focused proposals totalling almost USD 1.5m from Chad, Dominican Republic, Ecuador, Senegal and Tajikistan. She emphasized that the Bank supported EITI implementation through a number of sector programs (e.g. in the DRC) and wider IDA loans (e.g. in Nigeria).

Fredrik mentioned that Daniel Kaufmann, Jonas and he had met with World Bank President Jim Kim and the Board of the Bank in April to clarify the funding structure and flow of funds. Rosmarie Schlup noted that a mid-term review was going to be carried out of the EGPS this year.

40-4 Report from the Implementation Committee

Board paper 40-4-A Clarification of Requirement 8.3.c.i

Daniel Kaufmann, acting co-chair of the Implementation Committee, provided an update from the

Committee. He explained that there was emerging consensus that automatic suspension should be removed and that the Validation Committee would make a clear recommendation on suspension in cases where significant aspects of the EITI Requirements were not adhered to. However, members representing civil society argued that such an approach should be subject to agreeing criteria on how this policy would be applied.

He advised against changing the Standard regarding civil society engagement given the narrowing space for civil society around the world, and the importance of civil society engagement in translating transparency into greater accountability and improved governance. Cielo Magno echoed this, highlighting that maintaining vibrant civil society participation was essential to the EITI's credibility.

The Chair welcomed the Committee's efforts to address this issue since the last Board meeting, and highlighted the need for a clear policy that could be applied to ongoing Validations. Further delays would undermine the EITI's credibility. He noted that the simplest option would be to limit suspension to cases where the requirement was assessed as below "meaningful progress". [Mark Pearson challenged the Implementation Committee to bring forward a viable option for decision.](#) Mark noted that [recommendations from the Validation Committee were dependant on the resolution of this issue on an immediate basis."](#)

Some Board members expressed concern that the interpretation of "significant" would not be clear and should be more precisely defined in order to avoid confusion for implementing countries. Rosemarie Schlup added that the Board should ideally change the Standard, but as that was not an option, she highlighted the need for more flexibility to take country-specific circumstances into account. She noted the need for further guidance on the application of the Protocol based on practices so far. Zainab Ahmed encouraged the Board to consider alerting countries about the risk of suspension well ahead of the suspension being enforced. She also noted that implementing countries considered the provisions complex and difficult to understand; and urged the Board to consider clarifying the Board's procedures. Cielo noted that the guidance on the Protocol ought to include more explicit reference to the broader political context regarding civil society space, given that civil society space can be severely restricted through means other than laws or policies.

The following day, a revised proposal was adopted, following some minor amendments (see annex A). Mark Pearson proposed some clarification to the text and noted that the Validation Guide would need to be updated accordingly. The Chair thanked the Board, and in particular the Implementation Committee, for the efforts to reach a consensus on such a challenging issue.

Actions:

- The Board to apply requirement 8.3.c.i. as agreed.
- The International Secretariat to update the Validation Guide.

Board paper 40-4-B Technical and financial needs for beneficial ownership transparency

Ines Schjolberg Marques introduced the paper, highlighting that while some countries have shown progress on beneficial ownership, at least 26 countries had achieved limited progress due to lack of financial and technical resources, and political commitment in some countries. The two scenarios as outlined in the paper were discussed, namely: 1) countries would have established frameworks for beneficial ownership disclosures by 2020, in which case partners need to provide more financial and technical assistance; and 2) beneficial ownership disclosures would be through EITI Reports, which would

be contrary to the directive to transition mainstreamed disclosures.

Judith Herbertson inquired whether providing more funds from partners would result in institutionalising efforts at the national level or would it disincentivise countries to work on their own. Rosmarie Schlup commented that the situation appears to be less binary than presented and that the issue of lacking funds for beneficial ownership could be addressed as part of the upcoming EGPS review and alongside other priorities such as systematic disclosures. Other Board members including Alan McLean and Mark Pearson suggested that the Board could consider simplifying its approach by focusing on disclosure itself rather than on requiring extensive investment on information infrastructures. Jonas responded that there were good reasons for the current level of ambition, drawing from lessons from EITI reporting on beneficial ownership so far. He noted that the commitment that had been made by implementing countries in adopting the EITI Standard at the Global Conference and the progress in some countries was extraordinary. He stated that the EITI should be determined to look for solutions for how to best support beneficial ownership transparency to not miss this opportunity.

Actions:

The Board and Secretariat to continue working with partners and technical assistance providers to identify opportunities for improved implementation support.

The Implementation Committee to continue monitoring progress with implementation of the beneficial ownership requirements.

Board paper 40-4-C Updating Key Performance Indicators of the EITI

Eddie Rich introduced the paper by highlighting that the proposed KPIs sought to not only improve monitoring, management and communication of the EITI, but also to ‘mainstream’ indicators by drawing on the EITI’s most rigorous assessment process – Validation.

There was some discussion about whether 89 indicators were too many and whether the top level was attributable. Eddie explained that the large number was a reflection of the different objectives by EITI wide variance of stakeholders but that the 29 input indicators could be discounted as they were essentially indicators that were required more for donor reporting than for assessing impact. On attributability, he noted that it was common practice not to consider the outcomes as directly attributable to actions but reflective of wider objectives.

Zainab Ahmed noted that basing the output indicators on Validation would result in less timeliness. Eddie agreed that there was a trade-off between timeliness and rigour.

Gubad Ibadoglu asked that some other economic and governance indices be included in the higher-level impact indicators. Eddie said that the indices listed sought to reflect a wide range but that other could be considered.

The paper was agreed.

Actions:

The International Secretariat to collect data on the new KPIs and to propose targets to the Board during the Work plan process.

The International Secretariat to work with Gubad Ibadoglu on whether the impact indicators should reflect other governance indices.

Board paper 40-4-D Request from EITI Germany regarding requirements 4.1 and 4.6

Sam Bartlett introduced the paper. The request from EITI Germany (D-EITI) related to whether a materiality threshold of €2 million for local business taxes was in line with the EITI Standard (requirements 4.1 and 4.6). The MSG had initially agreed a materiality threshold of EUR 100,000 (in line with the EU-Accounting Directive). However, data collection from local governments had proven challenging due to the large number of municipalities and strong privacy protections that required a waiver letter from each company for each municipality in which they operate. A comprehensive reconciliation of the local business tax reported by companies for the 2016 EITI Report would involve more than 240 communities and would be prohibitively expensive. The work undertaken to date had revealed no material discrepancies.

The MSG had considered a number of options for addressing this issue. One option was maintaining the EUR 100,000 threshold, while reconciling only a sample of payments. The MSG preferred a higher threshold, which would focus on reconciling the largest payments. The MSG therefore proposed a higher materiality threshold for reconciling local business taxes of EUR 2 million, which would cover 50% of local business taxes. The proposal had the full support of the MSG.

It was noted that a lower threshold (e.g., EUR 1 million) would increase the coverage slightly but would likely double the cost of reconciliation. It was further noted that this threshold was not applicable to other countries, and that each country should undertake a diligent assessment of options as undertaken by the D-EITI MSG.

The EITI Board agreed that the proposal from the multi-stakeholder group in Germany on the materiality threshold for local business taxes was in line with the EITI requirements 4.1 and 4.6 of the EITI Standard.

40-5 Report from the Outreach and Candidature Committee

The Chair noted that the Outreach and Candidature Committee has not been quorate for some time and that the company constituency did not have a representative on the Committee.

Board paper 40-5-A EITI Outreach Strategy 2018-2019

Jonas Moberg presented the paper. The strategy put emphasis on working with partners and other stakeholders, especially in countries that had already committed to implementing the EITI, such as Argentina, Australia, Ecuador and Lebanon. The strategy was aligned with the 2018 Secretariat Work plan and allocated limited resources to outreach activities. He stressed the importance of partners and stakeholders to use upcoming opportunities to discuss the EITI with priority countries such as Brazil and South Africa. He reminded that outreach efforts are contingent to the support of partners and stakeholders.

The Board approved the 2018-2019 Outreach Strategy.

Actions:

The Secretariat to publish the 2018-2019 Outreach Strategy.

Board paper 40-5-B Candidature Assessment from the Netherlands

Representatives from the Netherlands recused themselves.

Sam Bartlett introduced the paper. The candidature assessment by the International Secretariat had found that the Netherlands had met the sign-up requirements (i.e. Requirements 1.1. to 1.5). The Outreach and Candidature Committee was not quorate, but the Committee members that had reviewed the file had agreed to recommend to the Board that the Netherlands be designated an EITI candidate country.

The Board admitted the Netherlands as an EITI candidate country.

The Dutch delegation was invited back into the room. Wepke Kingma, Dutch ambassador in Berlin, thanked the International Secretariat for their support and the Board for welcoming them as new member.

Actions:

The Chair to write to the Government announcing the Board's decision to accept the Netherlands as EITI candidate country.

Non-reporting of taxes while the US implemented the EITI (report from the Chair)

Jana Morgan described the content in the letters of US EITI civil society organisations, submitted to Fredrik Reinfeldt on 7 February 2018. Jana reiterated the negative implications for EITI implementation in the United States, which contributed toward the decision to withdraw from implementing the EITI. She expressed disappointment over the fact that the companies had not responded to the letters. She also emphasized the need for a stronger procedures for ensuring that the EITI Principles, Standard and Articles of Association are adhered to, and that as a show of good faith all supporting companies should disclose taxes and project-level payments in every country of operation. The Chair summarised the actions taken by him and the Secretariat and referred to the statement issued on 30 May 2018. He noted that the United States was no longer implementing the EITI.

Looking ahead, the Chair hoped that lessons had been learnt and that supporting companies of the EITI in the future would report as requested. He noted that the Board was later due to adopt a document setting out updated expectations for EITI supporting companies.

40-6 Report from the Validation Committee

Mark Pearson introduced the Validation papers. The Board agreed to the Validation Committee's proposal to reorganise the discussion of Validation cases and to submit three of the papers previously marked for discussion, on the Validations of Colombia and the Republic of Congo and the Second Validation of São Tomé and Príncipe, as decision items. Mark noted the Validation Committee's withdrawal of Board Paper 40-6-F on the Validation of the Solomon Islands, given the government's recent withdrawal from the EITI.

Board paper 40-6-A Validation of Cameroon

Agnès Solange Ondigui Owona recused herself.

Noting the Board's previous discussion of the Validation of Cameroon in Oslo, Mark Pearson commended Cameroon for its decade of EITI implementation, with successes ranging from disclosures by the national oil company, expansion of EITI reporting to the oil and gas transport sector, to tangible impacts including enactment of a new Mining Code in 2016 and the launch of an online mining cadastre.

Mark presented the Validation Committee's recommendation that Cameroon had made meaningful progress in implementing the EITI Standard. In accordance with requirement 8.3c, Cameroon would be requested to undertake corrective actions before the second Validation commencing on 29 December 2019.

The Board agreed to the proposal in paper 40-6-A that Cameroon had made meaningful progress overall in implementing the 2016 Standard and would be requested to undertake corrective actions before the second Validation commencing on 29 December 2019 as outlined in Annex B below.

Actions:

The Chair to write to the Government of Cameroon announcing the Board's decision.

The Secretariat to publish the results of the Validation, including the supporting documentation.

Board Paper 40-6-B Validation of Colombia

Carlos Aranda recused himself.

Mark Pearson presented the Validation Committee's recommendation that Colombia had made satisfactory progress in implementing the 2016 EITI Standard. In accordance with requirement 8.3b, Colombia would be requested to undergo re-Validation commencing on 29 June 2021.

Francisco Paris introduced the Validation of Colombia by noting the context of the country's peace process and incoming administration, amidst volatility in extractives revenues and opposition to mining in certain quarters. The Board was notified that EITI implementation had built trust among stakeholders and informed public debate about complex issues. The EITI had provided a diagnostic of gaps in government systems, particularly at the level of transport revenues, environmental regulations and royalty distribution. The Board was reminded that, while Validation had found that Colombia had made satisfactory progress in implementing the EITI Standard, a set of 21 recommendations had been suggested for increasing the EITI's impact. Francisco highlighted opportunities for strengthening oversight of license management, improving engagement at the regional and community levels, contributing to curbing illegal mining and improving compliance with environmental regulations. While there was scope for enhancing the use of EITI data, there are challenges related to political support and financial sustainability.

Mark noted that the Validation Committee had agreed that Colombia had achieved satisfactory progress in implementing the EITI Standard whilst recognising the importance of the recommendations included in the Validation Report and the initial assessment. Cesar Gamboa emphasised the pertinence of these recommendations, in light of comments from Colombian civil society highlighting shortcomings in oversight of the extractives. Victor Hart commended Colombia's efforts as part of the regional peer-learning initiatives in Latin America and the Caribbean. Colombia had provided close support to the

Dominican Republic and was now partnering with Mexico.

The Board agreed to the proposal in paper 40-6-B that Colombia had made satisfactory progress overall in implementing the 2016 Standard and be required to undergo re-Validation commencing on 29 June 2021 as outlined in Annex B.

Carlos Cante returned to the meeting and, noting the ongoing transition to the new administration, reiterated the Government of Colombia's commitment to further enhancing the impact of EITI implementation in Colombia.

Actions:

The Chair to write to the Government of Colombia announcing the Board's decision.

The Secretariat to publish the results of the Validation, including the supporting documentation.

Board Paper 40-6-C Validation of the Republic of Congo

Brice Mackosso recused himself.

Mark Pearson presented the Validation Committee's recommendation that the Republic of Congo had made meaningful progress in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, the Republic of Congo would be requested to undertake corrective actions before the second Validation commencing on 29 December 2019.

Bady Baldé noted that the Validation of the Republic of Congo was based on events up to the start of Validation on 1 April 2017. With regards to the assessment of requirement 1.3 related to civil society engagement, Bady explained that while five of the six provisions of the Civil Society Protocol had been satisfactorily assessed, Validation had found breaches of the Protocol related to expression. The Board was alerted that the 2016 and 2017 EITI Reports had been published subsequent to the start of Validation, addressing certain gaps identified during Validation. Challenges remained in requirements related to state participation, barter arrangements and contribution to the economy. Bady also highlighted that the Republic of Congo's recently-published EITI work plan had included activities related to all corrective actions in the country's Validation. The Board was alerted to recent developments related to civil society engagement, including a workshop facilitated by the World Bank to explain to government officials the need to ensure civil society space to engage freely in EITI implementation. Cielo Magno proposed a motion to include the new information presented by Bady in the minutes of the Board's decision.

The Board agreed that the Republic of Congo had made meaningful progress on requirement 1.3 on civil society engagement. Noting the deficiencies related to the Civil Society Protocol, and pursuant to provision 8.3.c.i, the Republic of Congo was expected to demonstrate progress in addressing the corrective actions established by the Board. In accordance with requirements 8.3.c.iii-iv, failure to demonstrate progress in addressing the corrective actions in the two subsequent Validations would result in suspension pursuant to requirement 8.3.c.iv.¹

¹ Reaffirming that pursuant to the requirement 8.c. not reaching satisfactory progress in the third Validation results in suspension or delisting.

Actions:

The Chair to write to the Government of the Republic of Congo announcing the Board's decision.
The Secretariat to publish the results of the Validation, including the supporting documentation.

Board Paper 40-6-D Validation of Madagascar

Indra Thévoz introduced Madagascar's Validation by highlighting the country's significant biodiversity. Noting challenges linked to social conflict related to the management of the extractives, the opacity in mining license management and significant artisanal and small-scale mining sector, the Board was reminded of EITI Madagascar's significant achievements despite capacity constraints in the National Secretariat. Indra highlighted that EITI implementation had led to constructive tripartite engagement, growing recognition of the economic contribution of the extractives and led to the strengthening of government systems. The Board was alerted to opportunities for strengthening the impact of EITI implementation in Madagascar, ranging from SOE-related disclosures and improvements in environmental reporting, to enhancing the use of EITI as a diagnostic tool for the implementation of recent reforms. Despite infrastructure challenges, EITI Madagascar was focusing on systematic disclosures of EITI information as part of broader e-government efforts. Maria Teresa Habitan noted the recent peer learning visit by members of the EITI Madagascar MSG and National Secretariat to the Philippines, commending their significant achievements despite the Secretariat's capacity constraints.

The Board agreed to the proposal in paper 40-6-D that Madagascar had made meaningful progress overall in implementing the 2016 Standard and would be requested to undertake corrective actions before the second Validation commencing on 29 December 2019 as outlined in Annex B below.

Actions:

The Chair to write to the Government of Madagascar announcing the Board's decision.
The Secretariat to publish the results of the Validation, including the supporting documentation.

Board Paper 40-6-E Validation of São Tomé and Príncipe

José Cardoso recused himself.

Mark Pearson presented the Validation Committee's recommendation that São Tomé and Príncipe had made meaningful progress in implementing the 2016 EITI Standard, with significant improvements across individual requirements since its first Validation. In accordance with requirement 8.3c, São Tomé and Príncipe would be requested to undertake corrective actions before the second Validation commencing on 29 June 2019.

Ines Schjolberg Marques introduced the second Validation of São Tomé and Príncipe by noting the limited exploration activities in the Joint Development Zone (JDZ) with Nigeria in recent years and the lack of production to date. The Board was alerted to the impact of EITI implementation on strengthening the monitoring of social expenditures, improvements in systematic disclosures related to contract transparency, license management and revenue traceability. Ines highlighted the value of EITI implementation in managing expectations and improving the management and accountability of the JDZ's management, while improving trust among stakeholders. The Board was informed of opportunities related to systematic disclosures, license allocations and social expenditures, while limited engagement

was a possibility given the context of São Tomé and Príncipe's extractive industries.

The Board agreed to the proposal in paper 40-6-E that São Tomé and Príncipe had made meaningful progress in implementing the 2016 EITI Standard, with significant improvements across individual requirements since its first Validation, and would be requested to undertake corrective actions before the third Validation commencing on 29 June 2019 as outlined in Annex B below.

Actions:

The Chair to write to the Government of São Tomé and Príncipe announcing the Board's decision.

The Secretariat to publish the results of the second Validation, including the supporting documentation.

Board Paper 40-6-G Validation of Ukraine

Olga Bielkova recused herself.

Mark Pearson presented the Validation Committee's recommendation that Ukraine had made meaningful progress in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Ukraine would be requested to undertake corrective actions before the second Validation commencing on 29 December 2019. Mark noted that upon request of Ukraine's MSG, the Validation Committee tasked the International Secretariat to review the recently published 2016 EITI Report. The Validation Committee reviewed the updated assessments and decided not to take into consideration the new data.

Oliana Valigura introduced the Validation of Ukraine by highlighting the impact of EITI implementation as part of Ukraine's EU accession efforts and Open Government Partnership commitments. The Board was reminded that EITI reporting remained the only mechanism for publicly disclosing extractives revenues and that there was the momentum to work with the government on developing an online disclosure system. Oliana noted how the EITI contributes to the development of regulations and reporting mechanisms related to subnational revenues in Ukraine. With civil society as the main driver of EITI-related reforms, Oliana highlighted Ukraine's lead in implementing beneficial ownership transparency. The Board was alerted to challenges related to transparency in state-owned enterprises (SOEs), including their quasi-fiscal expenditures, audit and assurance practices and the financial sustainability of EITI implementation. Oliana emphasised opportunities related to strengthening oversight of the licensing system and the government audits, as well as supporting the government's privatisation plans for SOEs.

The Board agreed to the proposal in paper 40-6-G that Ukraine had made meaningful progress overall in implementing the 2016 Standard and would be requested to undertake corrective actions before the second Validation commencing on 29 December 2019 as outlined in Annex B below.

Actions:

The Chair to write to the Government of Ukraine announcing the Board's decision.

The Secretariat to publish the results of the Validation, including the supporting documentation.

40-7 Report from the Governance and Oversight Committee

Board Paper 40-7-A Supporting company minimum expectations

The paper was approved by the Board. It was noted that the second bullet that all supporting companies are expected to disclose taxes and payments, applied to all non-EITI countries and that where they chose not to disclose taxes and payments in non-EITI implementing countries, they should state why.

Actions:

The Secretariat to publish the supporting company minimum expectations.

Board Paper 40-7-B Update on the EITI grievance review

Christian Fredrik Michelet, the EITI's legal counsel, gave a presentation on legal aspects related to the EITI grievance mechanism². He noted that the EITI Association was founded and organised to deal with conflicting interests and seek consensus decisions. It was the primary responsibility of EITI bodies to deal with such matters. He cautioned that the introduction of grievance procedures at other levels of the EITI Association would require separate rules and procedures and may require new institutional bodies in accordance with good governance.

Jim Miller supported the idea of a review of EITI's grievance procedures but cautioned that this shouldn't lead to procedures becoming bureaucratic and cumbersome. He noted that the Board already had mechanisms in place to address concerns, such as the Rapid Response or the Validation Committee. Alan McLean agreed that grievances ought to be addressed more systematically within the framework of existing grievance procedures. Cesar Gamboa believed that existing grievance procedures were not sufficient and that the independent review should continue and make recommendations to the Board. Daniel Kaufmann noted that the review must be based on a proper diagnostic, and on concrete evidence and contextual information on grievances to date. Stuart Brooks cautioned the Board about having an optimistic view of using the grievance procedure leading to the Members' Meeting.

Jonas Moberg noted that it was the Board's purpose to deal with tensions within the EITI, including grievances related to policy. Setting up a new independent mechanism would risk duplicating existing structures.

Dirk-Jan Koch concluded by noting the Governance and Oversight Committee would continue working on the review of governance procedures and make recommendations to the Board ahead of the next EITI Members' Meeting.

Actions:

The Governance and Oversight Committee to make recommendations to the Board ahead of the EITI's Members' Meeting.

² Available here: <https://eiti.org/document/eiti-grievance-mechanisms>

40-8 Report from the Finance Committee

Board Paper 40-8-2018 Q1 Accounts and Q2 Forecast

Oleksiy Orlovsky confirmed to the Board that the finances remained healthy and that a surplus of USD 0.5 million was recorded in Q1. He described the outlook for 2018 as positive and that contributions reached USD 4.2 million per 25 June. Oleksiy alerted the Board that an increasing share of funding was project specific, and that this type of funding was less reliable and more bureaucratically heavy than core funding. Oleksiy updated the Board on the ongoing recruitment of staff at the International Secretariat, which was planning to advertise two to three positions, including two specialists on beneficial ownership and public financial management/mainstreaming. This came in addition to the recruitment of a new Executive Director.

40-12 Report from the Nominations Committee and the Chair

During this closed session the Nominations Committee and the Chair briefed the Board on the process of finding a successor to Jonas Moberg and to Fredrik Reinfeldt. The consultant Perett Laver (PL) was supporting the Board for the Executive Director process. A short list was being developed and a first round of interviews would soon be conducted by PL followed by interviews by the Chair and the Committee in early August. For the Chair position, a number of candidates had been invited to express their interest as well as many who applied following widespread adverts. Interviews were planned to take place in September.

40-9 EITI Global Conference

Jonas Moberg confirmed that neither a venue nor dates had been confirmed. The International Secretariat was currently trying to secure the support of the French Government for hosting the Global Conference. Fredrik Reinfeldt would travel to Paris for discussions with the French Government. Faith Nwadishi relayed Moses Kulaba's suggestion that the event be held in Tanzania. The suggestion to host the conference in Ukraine was noted.

40-11 Any other business

Jonas Moberg, the departing EITI Executive Director, closed the Board meeting by reflecting on his 11 years at the head of the International Secretariat. Jonas noted that trust had been the core tenet of the EITI from the beginning. He encouraged the Board to accelerate and deepen efforts on mainstreaming, beneficial ownership and project-level reporting. He noted that it was important to safeguard civic space but that countries such as Tajikistan appeared to benefit from implementing the EITI although the civil society protocol was hardly respected. He called for the EITI Standard to be clear, predictable and equitably applied around the world. Implementing countries ownership of the EITI remained key for success. He called for the EITI to be more creative and more adaptive when it came to the governance of EITI processes to ensure that EITI structures were fit for purpose and were able to disclose smarter and more timely information.

40th Board meeting ended.

Annex A – Board decision on requirement 8.3.c.i

The Board reaffirmed its commitment to the importance of the adherence to Civil Society Protocol.

The Board agreed that:

If a country has made inadequate progress or less on any one of the requirements relating to stakeholder engagement (requirements 1.1, 1.2 and 1.3), suspension pursuant to requirement 8.3.c.i would apply.

If on the first Validation under this policy a country has made meaningful progress on requirement 1.3 on civil society due to a deficiency related to the Civil Society Protocol, the country will not be suspended and will be expected to demonstrate progress in addressing the corrective actions established by the Board. In accordance with requirements 8.3.c.iii-iv, failure to demonstrate progress in addressing the corrective actions in the two subsequent Validations will result in suspension pursuant to requirement 8.3.c.iv.³

The Board reaffirmed that, in accordance with requirement 8.6⁴, the Board can at any time suspend or delist a country if significant aspects of the EITI Requirements are not adhered to.

The Board also reaffirmed that:

- The procedures for assessing adherence to these requirements are set out in requirement 8.3.a assessment of Progress with EITI implementation, the EITI Validation Guide⁵, and the Validation procedures⁶. In accordance with these procedures, the Validation Committee will review the Validation Report and the comments from multi-stakeholder groups, and make a recommendation to the EITI Board.
- In accordance with 2.6 of the Protocol, “for contextual purposes, the EITI Board will review the broader environment in which the EITI operates for example by reference to indicators or other types of assessments”. The Board may consider agreeing a standard set of indicators to be considered as part of this review.
- In accordance with requirement 8.3.d.ii, the Board retains the right to establish shorter or longer timeframes for undertaking corrective actions beyond the standard 3-18 months’ timeframe.

In accordance with requirement 8.3.a.i, in order for the EITI Board to conclude that a country has made satisfactory progress, Validation needs to demonstrate that **all** aspects of the requirement have been implemented and that the broader objective of the requirement has been fulfilled. In determining whether the broader objective of requirement 1.3 has been fulfilled, the Validations undertaken to date have:

³ Reaffirming that pursuant to the requirement 8.c. not reaching satisfactory progress in the third Validation results in suspension.

⁴ Requirement 8.6 states: “Where it is manifestly clear that a significant aspect of the EITI Principles and Requirements are not adhered to by an implementing country, the EITI Board will suspend or delist that country. In accordance with provisions 8.2-8.4, this includes cases where a country has not met the requirements for timely EITI reporting, publication of annual progress reports and/or achieving compliance with the EITI Requirements by the deadlines established by the EITI Board. Where the EITI Board is concerned that adherence to the EITI Principles and Requirements is compromised, it may task the International Secretariat with gathering information about the situation and submitting a report to the EITI Board.”

⁵ <https://eiti.org/document/eiti-validation-guide>

⁶ <https://eiti.org/document/eiti-validation-procedures>

- Considered each element of the Protocol on civil society participation, namely: expression, operation, association, engagement, and access to public decision-making. An assessment of “satisfactory progress” requires that all aspects have been implemented and that the broader objective of the protocol has been fulfilled.
- Consulted civil society representatives who are substantively involved in the EITI process, including but not limited to members of the multi-stakeholder group. The ‘EITI process’ includes: activities related to preparing for EITI sign-up; MSG meetings; CSO constituency side-meetings on EITI, including interactions with MSG representatives; producing EITI Reports; producing materials or conducting analysis of EITI Reports; expressing views related to EITI activities; and expressing views related to natural resource governance.
- Reviewed existing laws/regulations and the general political environment that may restrict CSO’s ability to engage in the EITI process. This may include: requirements to register as legal entities, barriers to accessing funding, limits to freedom of movement, government inspection of NGO activities and/or requirements for CSO reporting on activities. Validation considers the trends in the legal framework – are they deteriorating or getting better?
- The extent to which any administrative restrictions have affected CSOs involved in the EITI process. Where concerns are raised, Validation considers whether administrative practice involves government discretion. For example, does the government appear to purposely and systematically neglect applications for registration from certain NGOs?

This language will be added to the Validation Guide.

Annex B – Board decisions on Validations

Board decision on Cameroon

1. Board Statement

Following the conclusion of Cameroon's Validation, the EITI Board decided that Cameroon has made meaningful progress overall in implementing the EITI Standard.

The Board congratulated the Government of Cameroon and Multi-Stakeholder Group (MSG) on the progress made in improving transparency and accountability in the extractive industries by providing a trusted source of data to inform public debate. The Board welcomed the EITI's impact in gradually enticing government agencies towards routine disclosures, evidenced by more regular publications by the national oil company, the Société Nationale des Hydrocarbures (SNH). The Board noted reforms spurred by EITI in the mining sector, ranging from the launch of an online mining cadastral portal to a new Mining Code in 2016 enshrining transparency requirements. The Board encouraged similar efforts to enshrine transparency requirements in the new Petroleum code, including provisions related to beneficial ownership disclosure. In its ten years of EITI reporting, Cameroon has expanded the scope of EITI reporting to include the oil transportation sector, particularly revenues from the Chad-Cameroon pipeline. The Board recognised Cameroon's efforts to go beyond the requirements of the EITI Standard in its coverage of export data, including artisanal mining, and social expenditures.

The lack of clarity on the payment of per diems for EITI activities raises concerns about the integrity of the MSG's oversight that need to be addressed, particularly given stakeholder concerns over potential conflicts of interest caused by the per diems practice.

In making its decision, the Board took special note of efforts by the national oil company, the SNH, to ensure regular disclosure of information on the oil and gas sector, includes oil sales, to its citizens through its corporate website, even if accessibility could be improved.

The Board has determined that Cameroon will have 18 months, i.e. until 29 December 2019, before a second Validation to carry out corrective actions regarding civil society engagement (1.3), MSG governance (1.4), work plan (1.5), license register (2.3), policy on contract transparency (2.4), state-participation (2.6), production data (3.2), in-kind revenues (4.2), SOE transactions (4.5), distribution of revenues (5.1), subnational transfers (5.2), SOE quasi-fiscal expenditures (6.2), public debate (7.1) and documentation of impact (#7.4). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Cameroon's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 July 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

In taking this decision, the Board welcomed Cameroon's efforts to implement the corrective measures

identified during the Validation process. The information published after the start of the Validation has not been taken into account in this evaluation.

2. Assessment card

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

3. Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Cameroon. Progress in addressing these corrective actions will be assessed in a second Validation commencing on 29 December 2019.

1. In accordance with Requirement 1.3.a, civil society must be fully, actively and effectively engaged in the EITI process. To strengthen implementation, the civil society constituency should address the concerns regarding constituency representation, including potential conflicts of interest linked to per diems (see Requirement 1.4) and ensure more effective liaison between the CSO representatives and the broader constituency. The civil society constituency may wish to consider undertaking a capacity needs assessment and formulating actions to address capacity constraints. 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 and Validator's report within three months of the Board's decision, i.e. by 29 September 2018.
2. In accordance with Requirement 1.4, the MSG should update its internal governance rules to cover all provisions of Requirement 1.4.b and publish procedures for nominating and changing MSG representatives, including the duration of mandates. In accordance with Requirement 1.4.b.vi, the MSG must clarify the practice of per diems for attending EITI meetings or other payments to MSG members to ensure that there is no conflict of interest. The MSG may wish to consider keeping public attendance records and posting MSG minutes online. The industry constituency may wish to consider establishing constituency guidelines and mechanisms to ensure coordination of mining, oil and gas companies as a constituency. The MSG may also wish to increase their engagement with Douala-based companies to ensure that their views are taken into account and that they are aware of the work of the MSG and the achievements of EITI Cameroon. The industry constituency could consider liaising with CCIMA or GICAM to ensure that the views and interests of quarries and artisanal and small-scale mining are better represented on the MSG, considering the important public interest on this sub-sector. The civil society constituency may wish to take steps towards broad and full civil society participation. This could be achieved by adopting a constituency-wide code of conduct, which could serve as a basis to set out a process for civil society nominations to the MSG and to clarify the roles and responsibilities of CSO representatives on the MSG and the Technical Secretariat.
3. In accordance with requirement 1.5, the MSG should agree a work plan that is linked to national priorities and is revisited annually to take account of changing conditions and opportunities. Clearer links to national discussions and priorities will encourage more relevance of EITI information to popular demand and could help mobilise additional resources.
4. In accordance with Requirement 2.3, Cameroon is required to maintain a publicly available register or cadastre system(s) with timely and comprehensive information regarding each of the licenses pertaining to oil and gas companies. In the absence of a public register the MSG should ensure that dates of application and license coordinates are disclosed for all licenses held by material companies.
5. In accordance with Requirement 2.4, Cameroon should ensure that the government's policy on contract disclosure is clear and public, rather than commenting on the existence of specific

contractual terms hindering the disclosure of contracts, and comment on actual practice of contract disclosure in the mining, oil and gas sectors.

6. In accordance with Requirement 2.6, Cameroon should ensure that there is a publicly-available comprehensive list of extractives companies in which the government, or any SOE, holds equity and the specific level of government ownership (and any change in the year under review). It should also work with government stakeholders to clarify the rules and practice related to the financial relationship between SOEs such as the SNH and its subsidiaries and the government as well as the existence of any loans or loan guarantees from the state or any SOE to companies operating in the mining, oil and gas sectors. The MSG may wish to integrate its approach to addressing this corrective action with (Section C) Article 23 of its July 2017 IMF extended credit facility agreement related to the SNH.
7. In accordance with Requirement 3.2, Cameroon should ensure that the production value of each mineral commodity (particularly natural gas) produced in the year(s) under review is publicly available. The MSG may also wish to explore opportunities for publishing volumes, values and pricing data in a routine manner online, drawing on data from MINMIDT, CAPAM and SNH.
8. In accordance with Requirement 4.2, Cameroon should ensure that information on volumes collected as the state's in-kind revenues, volumes sold and related revenues be publicly accessible and disaggregated by buyer for both oil, gas, condensate and gold received as the state's in-kind revenue.
9. In accordance with Requirement 4.5, Cameroon must ensure that the role of SOEs, including transfers between SOEs and other government agencies, is comprehensively and publicly addressed. The MSG may wish to consider working with the Treasury and SNH to publish information on SNH's sovereign advances to other government entities in a routine manner.
10. In accordance with Requirement 5.1, Cameroon should ensure that there is a clear public indication of which extractive industry revenues, whether cash or in-kind, are recorded in the national budget and clarify the allocation of revenues not recorded in the national budget, providing links to relevant financial reports as applicable. The MSG may wish to explore opportunities together with the Treasury and IMF to use annual disclosures as a diagnostic tool for assessing the efficiency of SNH sovereign advances in relation to normal budgetary spending.
11. In accordance with Requirement 5.2, Cameroon should undertake a more explicit assessment of the materiality of subnational transfers prior to data collection and ensure that the specific formula for calculating transfers to individual local governments be disclosed, to support an assessment of discrepancies between budgeted and executed subnational transfers. Given the high level of public interest in this issue, the MSG may wish to consider including extractives-hosting local government (communes) in the reporting process for subnational transfers in order to reconcile these transactions.
12. In accordance with Requirement 6.2, Cameroon should consider the existence and materiality of any quasi-fiscal expenditures undertaken by extractives SOEs and their subsidiaries, ensuring that all material quasi-fiscal expenditures are publicly disclosed.

13. In accordance with Requirement 7.1.e, Cameroon should ensure that outreach events, whether organised by government, civil society or companies, are undertaken to spread awareness of and facilitate dialogue about the EITI Report across the country. The MSG is encouraged to pursue its work in outreach and dissemination through a communication strategy, involving all three constituencies. The MSG might wish to foster public debate on the oil and gas sector through the use of specific data points and by building on its existing networks.
14. In accordance with Requirement 7.4.a.iii, Cameroon should ensure that the APR includes an overview of the MSG's responses to and progress made in addressing the recommendations from reconciliation and Validation. Cameroon is required to list each recommendation and the corresponding activities that have been undertaken to address the recommendations and the level of progress in implementing each recommendation. Where the government or the MSG has decided not to implement a recommendation, it is requirement that the MSG documents the rationale in the APR. In accordance with Requirement 7.4.a.iv, the MSG should include an assessment of progress with achieving the objectives set out in its work plan, including the impact and outcomes of the stated objectives. To strengthen implementation, Cameroon is encouraged to provide a comprehensive overview of the impact of the implementation of the EITI in the APR. Cameroon might also wish to conduct a formalised impact assessment after twelve years of implementing the EITI.

The government and the MSG are encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the MSG's responses to these recommendations in the next annual progress report.

Board decision on Colombia

1. Board Statement

Following the conclusion of Colombia's Validation, the EITI Board decided that Colombia has made satisfactory progress overall in implementing the EITI Standard.

The Board congratulated the Government of Colombia and Multi-Stakeholder Group (MSG) on the progress made in improving transparency and accountability in the extractive industries by providing a trusted source of data to inform public debate. The Board welcomed the EITI's impact in establishing a mechanism for discussing revenue transparency, the sector's contribution to the economy and the challenges in revenue distribution, social contributions, environmental regulation and illegal mining. The EITI has produced and compiled information in a regularly-updated online platform bringing together previously-scattered data and investigating poorly-understood issues. In its three years of EITI implementation, Colombia has expanded the scope of EITI reporting to include a wide range of areas from mineral transportation to environmental regulation. The EITI had shed light on current government agencies' regulatory practices, gaps in government systems, and on complex issues such as the distribution and allocation of royalties. This work has informed reforms in government agencies including the mining and hydrocarbon regulators. EITI Colombia is well-placed to continue contributing to improved governance of the extractive sector. Opportunities and challenges include monitoring reforms such as strengthening licensing management, including through beneficial ownership disclosures, improving engagement at the regional and community levels, coordinating efforts in expanding transparency across government agencies, contributing to curbing illegal mining, and improving compliance with

environmental regulations. In addressing these challenges and seizing these opportunities, sustained engagement from all constituencies, including in the use of EITI data, and adequate resources for EITI implementation will be key.

The Board's decision followed a Validation that commenced on 1 January 2018. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

2. Assessment card

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1)					
	SOE quasi-fiscal expenditures (#6.2)					

Ministry of Finance quarterly reports.

The Board noted that despite the constrained general environment, civil society appears particularly engaged in the EITI process. Representatives from the civil society constituency attend MSG meetings regularly, conduct analysis of EITI Reports, produce communication materials and organise public events to inform citizens on issues related to the governance of the extractive industries. Civil society representatives in the MSG regularly express their views related to EITI activities and highlight their concerns, but self-censorship is also common practice to avoid reprisals. Cases of intimidation and arrest of journalists substantially engaged in the EITI process remain a concern.

The Board has determined that Republic of Congo will have 18 months, i.e. until 29 December 2019 before a second Validation to carry out corrective actions regarding the requirements relating to civil society engagement (1.3), MSG governance (1.4), licence allocations (2.2), license register (2.3), state-participation (2.6), production data (3.2), in-kind revenues (4.2), barter agreements (4.3), SOE transactions (4.5), data quality (4.9), distribution of revenues (5.1), social expenditures (6.1), SOE quasi-fiscal expenditures (6.2) economic contribution (6.3) and public debate (7.1), with SOE quasi-fiscal expenditures being the main area of concern. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Republic of Congo's multi-stakeholder group may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 April 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. Stakeholder comments on the report were taken into consideration by the independent Validator in finalising the Validation report. The final decision was taken by the EITI Board.

2. Assessment card

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)				■	
	Industry engagement (#1.2)				■	
	Civil society engagement (#1.3)			■		
	MSG governance (#1.4)		■			
	Work plan (#1.5)				■	
Licenses and contracts	Legal framework (#2.1)				■	
	License allocations (#2.2)		■			
	License register (#2.3)			■		
	Policy on contract disclosure (#2.4)				■	
	Beneficial ownership (#2.5)	■	■	■	■	■
	State participation (#2.6)		■			
Monitoring	Exploration data (#3.1)				■	

production	Production data (#3.2)					■		
	Export data (#3.3)						■	
Revenue collection	Comprehensiveness (#4.1)							■
	In-kind revenues (#4.2)					■		
	Barter agreements (#4.3)					■		
	Transportation revenues (#4.4)							
	SOE transactions (#4.5)						■	
	Direct subnational payments (#4.6)							
	Disaggregation (#4.7)							■
	Data timeliness (#4.8)							■
	Data quality (#4.9)							■
Revenue allocation	Distribution of revenues (#5.1)							■
	Subnational transfers (#5.2)							
	Revenue management and expenditures (#5.3)							
Socio-economic contribution	Mandatory social expenditures (#6.1.)							■
	SOE quasi-fiscal expenditures (#6.2)						■	
	Economic contribution (#6.3)							■
Outcomes and impact	Public debate (#7.1)							■
	Data accessibility (#7.2)							
	Follow up on recommendations (#7.3)							■
	Outcomes and impact of implementation (#7.4)							■
Overall assessment	Meaningful progress							■

3. Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Republic of Congo. Progress in addressing these corrective actions will be assessed in a second Validation commencing on 29 December 2019:

1. In accordance with Requirement 1.3, the Government of Congo should ensure that there is an enabling environment for civil society participation, and that civil society representatives are able to engage in public debate related to the EITI process and express opinions about the EITI process without restraint, coercion or reprisal.
2. In accordance with EITI Requirement 1.4, the government should renew the membership of the MSG in line with statutory documents. EITI Congo should review formalise and publish its per diem policy and set a reasonable amount in line with national practices. The MSG should ensure its TOR are in accordance with Requirement 1.4, publicly accessible, and implemented in practice.
3. To strengthen implementation, EITI Congo may wish to ensure that the fiscal framework, the roles and responsibilities of key government entities and current or recent reforms in the mining, oil and gas sectors are clearly described in future EITI reporting. EITI Congo may wish to consider whether the EITI Congo website could provide a platform for updated information on the legal environment and fiscal framework.
4. In accordance with EITI Requirement 2.2, EITI Congo should clearly define the number of mining, oil and gas licenses awarded and transferred in the year(s) under review, describe the statutory

allocation and award procedures, including specific technical and financial criteria, and highlight any non-trivial deviations in practice. In addition, EITI Congo may wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.

5. EITI Congo is required to maintain a publicly available register or cadastre system(s) with timely and comprehensive information in accordance with EITI Requirement 2.3. EITI Congo should ensure that future EITI Reports provide the dates of application and expiry, commodity(ies) covered and coordinates for all mining, oil and gas licenses held by material companies.
6. To further strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that EITI Congo considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. EITI Reports must document the government's policy and multi-stakeholder group's discussion on disclosure of beneficial ownership. EITI Congo may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory.
7. In accordance with EITI Requirement 2.6, EITI Congo should ensure that future EITI Reports clarify the rules and practices governing financial relations between extractives SOEs and the government, the level of and terms associated with state equity participation in the sector as well as a comprehensive overview of loans and guarantees extended by the state or SOEs to extractives companies in the year under review. EITI Congo may wish to consider the extent to which implementation of Article 15 of the March 2017 Transparency Law would support progress in meeting aspects of Requirement 2.6.
8. To strengthen implementation, EITI Congo may wish to ensure that the description of the extractive industries in future EITI Reports includes a clear overview of significant exploration activities in the year under review.
9. In accordance with EITI Requirement 3.2, EITI Congo should ensure that future EITI Reports provide production volumes and values for all minerals produced in the ROC in the year(s) under review. EITI Congo may also wish to consider the extent to which such information could be regularly disclosed on government websites as a means of complying with provisions requiring publication of more granular production data in Article 66 of the March 2017 Transparency Law.
10. To strengthen implementation, EITI Congo may wish to ensure that future EITI Reports provide export volumes and values for all commodities exported in the year(s) under review, including artisanal-mined commodities like gold.
11. To strengthen implementation, EITI Congo may wish to ensure that the materiality threshold for selecting companies in future EITI Reports ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The MSG is invited to consider whether setting a quantitative materiality threshold for selecting companies would ensure these aims are met.
12. In accordance with EITI Requirement 4.2, EITI Congo should ensure that future EITI Reports

present information on the sale of the state's in-kind revenues disaggregated by buyer. The government is encouraged to reinstate the practice of publishing the Ministry of Finance's quarterly oil sales reports to ensure timelier compliance with Article 16 of the March 2017 Transparency Law and with Requirement 4.2 of the EITI Standard. The Validator notes the recent Public Eye report on a Swiss commodity trader in the Republic of Congo, and encourages the MSG to take steps to provide more transparency in the role of oil commodity trading in future.⁷

13. In accordance with EITI Requirement 4.3, EITI Congo should assess the existence of any barter arrangements or infrastructure provisions during the scoping phase for its next EITI Report to ensure that reporting of the implementation of such agreements provides a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. The MSG, together with the IA, should gain a full understanding of the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts.
14. To strengthen implementation, EITI Congo may wish to undertake outreach to SOCOTRAM with a view to engaging it in EITI implementation. Given the significant public debate surrounding the Maritime Tax, the MSG could consider including SOCOTRAM in the scope of reporting, further adding to the EITI's impact on public debate.
15. In accordance with EITI Requirement 4.5, EITI Congo should undertake a comprehensive assessment of transactions between SOEs (SNPC and its subsidiaries) and oil and gas companies, as well as between SNPC's subsidiaries and government in its scoping of future EITI Reports. All SOEs collecting material revenues or making material payments to government should be included in future EITI reporting.
16. To further strengthen implementation, the MSG may wish to consider the extent to which implementation of the March 2017 Transparency Law would enable it to 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, agreed by the EITI Board at its 36th meeting in Bogotá.
17. To strengthen implementation, EITI Congo may wish to consider the extent to which it can leverage implementation of Article 63 of the March 2017 Transparency Law to ensure timelier disclosure of data required under the EITI Standard through routine government and company systems.
18. In accordance with EITI Requirement 4.9, EITI Congo should ensure that summary data tables for all EITI Reports are prepared in a timely manner in line with requirements of the Board-approved IA's ToR. The MSG and the IA are encouraged to provide a more detailed account of audit and assurance practices of material companies and government entities, including SOEs with a view to formulating recommendations that strengthen government and company audit and assurance systems. They may also wish to revisit the quality assurance requested from government entities

⁷ https://www.publiceye.ch/fileadmin/files/documents/Rohstoffe/PublicEye_Gunvor-in-Congo_report_2017_68p.pdf

included in the scope of reporting.

19. In accordance with EITI Requirement 5.1, EITI Congo should work with the IA in preparing the next EITI Report to clearly trace any mining, oil and gas revenues that are not recorded in the national budget and provide an explanation of the detailed allocation of these off-budget revenues.
20. To strengthen implementation, EITI Congo is encouraged to assess the materiality of subnational transfers, provide the specific formula for calculating subnational transfers of extractives revenues to individual local governments, disclose any material subnational transfers in the year(s) under review and highlight any discrepancies between the transfer amount calculated in accordance with the relevant revenue-sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.
21. To strengthen implementation, EITI Congo could consider including additional information on extractives revenues earmarked for specific purposes as well as on the budget-making and auditing process for government accounts in future EITI Reports.
22. In accordance with EITI Requirement 6.1, EITI Congo should systematically categorise types of mandatory social expenditures mandated by law or contract and ensure that reporting of mandatory social expenditures in future EITI Reports be disaggregated between cash and in-kind expenditures, by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. The MSG may also wish to consider the feasibility of reconciling mandatory social expenditures.
23. In accordance with EITI Requirement 6.2, EITI Congo should undertake a comprehensive review of all expenditures undertaken by extractives SOEs (and their subsidiaries) that could be considered quasi-fiscal. The MSG should develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.
24. In accordance with EITI Requirement 6.3, EITI Congo should ensure future EITI Report include employment figures for the mining, oil and gas sectors. The MSG may also wish to work with the Ministry of Finance, the national statistics agency (CNSEE), customs and the Ministry of Labour and Social Security to ensure that reporting of key information required by the EITI Standard on the extractive industries' share of GDP, revenues and exports is embedded in routine government disclosures.
25. To improve accessibility of EITI disclosure, and in accordance with EITI Requirement 7.1, EITI Congo should resume its dissemination activities of all EITI disclosures, including the EITI Reports, the KPMG Reports and other useful materials that can contribute to a public debate on the EITI Congo website.

To strengthen implementation, the MSG may wish to consider commissioning an independent impact evaluation study to better document the extent to which EITI Congo has contributed in changing behaviour and improving the management of the extractive sector for the benefit of all citizens.

Board decision on Madagascar

1. Board Statement

Following the conclusion of Madagascar's Validation, the EITI Board decided that Madagascar has made meaningful progress overall in implementing the EITI Standard.

The Board congratulated the Government of Madagascar and Multi-Stakeholder Group (MSG) on the progress made in improving transparency and accountability in the extractive industries. The Board recognised that the complexities of Madagascar's mining licensing system, fiscal decentralization and state participation in the extractives sector are particularly well-suited to the EITI's multi-stakeholder governance model. Overcoming funding and capacity challenges and uneven engagement of its different constituencies, EITI Madagascar is recognised for having made a tangible impact on extractives governance. While the EITI's impact has been greatest on clarifying mining license awards since the 2011 moratorium on new licensing and contributing to the launching of an online mining cadastre in 2017, the Board considered that more work was needed in clarifying license transfers. The Board noted that EITI data on subnational payments, transfers and social expenditures has empowered mayors in communes and regions to demand their statutory share of extractives revenues. The Board recognised Madagascar's efforts to go beyond the requirements of the EITI Standard in providing information on informal extractives activities. The Board encouraged the government to continue discussions on extractives license management, production data and subnational transfers, and to expand them to other salient issues such as transparency of state owned companies (SOEs).

While stakeholder engagement has historically been inconsistent across different constituencies, the Board takes note of stakeholders' renewed engagement following the EITI's institutionalisation by Decree in August 2017. All three constituencies are urged to revitalise the Multi-Stakeholder Group in balancing interests between equal partners and representing the interests of their broader constituencies through proactive outreach, canvassing and dissemination.

The Board has determined that Madagascar will have 18 months, i.e. until 29 December 2019, before a second Validation to carry out corrective actions regarding the requirements relating to government engagement (1.1), civil society engagement (1.3), MSG governance (1.4), license allocation (2.2), contract transparency (2.4), state participation (2.6), comprehensiveness of revenue disclosures (4.1), transportation revenues (4.4), direct subnational payments (4.6), level of disaggregation (4.7), data quality (4.9), distribution of revenues (5.1), sub-national transfers (5.2), quasi-fiscal expenditures (6.2) and documenting outcomes and impact of implementation (7.4). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Madagascar's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 September 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

2. Assessment card

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

3. Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Madagascar. Progress in addressing these corrective actions will be assessed in a second Validation commencing 29 December

2019.

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.
2. In accordance with requirement 1.3.a, the civil society constituency should demonstrate that they are fully, actively and effectively engaged in the EITI process. Specifically, civil society should ensure that they 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.
3. 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. The MSG is encouraged to ensure that deviations from their ToR are recorded and transparent. Government and company constituencies are encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow the MSG to take decisions and follow up on them. In accordance with Requirement 1.4.b.viii, the MSG must keep written records of its discussions and decisions.
4. In accordance with Requirement 2.2, a description of the process for transferring or awarding the license and the technical and financial criteria used should be publicly available. Not least given the significant debate surrounding license movements in the mining sector, EITI Madagascar is encouraged to use EITI reporting as a diagnostic tool for non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. In cases of competitive tender for mining, oil and gas licenses, the MSG will have to disclose the list of applicants and the bid criteria for licenses awarded through a bidding process. The MSG is encouraged to consider stakeholders calls for further analysis on the efficiency and effectiveness of licensing procedures in Madagascar.
5. In accordance with Requirement 2.4, EITI Madagascar should clarify and document the government's policy on disclosure of contracts and licenses, as well as actual practice, including any reforms that are planned or underway.
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.

7. In accordance with Requirement 4.1.a, the MSG should ensure that its materiality decisions related to selecting companies and revenue streams for reconciliation are clearly documented. In its approach to the materiality of revenue streams, the MSG is encouraged to strike a balance between comprehensiveness and relevance for stakeholders, to ensure that a workable approach to reconciliation is adopted and to facilitate the embedding of revenue transparency in government and company systems. In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity is clearly assessed to support the IA's overall assessment of the comprehensiveness of reconciliation. In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of reconciliation, including revenues that fall below agreed materiality thresholds.
8. 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.
9. In accordance with Requirement 4.6, the MSG should establish whether direct subnational payments, within the scope of the agreed benefit streams, are material. Where material, the MSG is required to ensure that reconciled information on company payments to subnational government entities and the receipt of these payments be publicly accessible. EITI Madagascar may wish to provide more information on the disbursement of ristournes from Ambatovy to host communes built-up since the start of production in 2012 given the materiality of such delayed payments.
10. In accordance with Requirement 4.7, the MSG is required to ensure that EITI data is presented by individual company, government entity and revenue stream. To strengthen implementation, the MSG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018.
11. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:
 - 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.
12. In accordance with Requirement 5.1, EITI Madagascar should publicly clarify which extractive industry revenues, whether cash or in-kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable. To strengthen implementation, EITI Madagascar may wish to use EITI reporting to monitor the migration of government finances towards a single Treasury account system, providing a platform for public information on the management of off-budget extractives revenues.
 13. In accordance with Requirement 5.2, the MSG is required to ensure that material subnational transfers of extractives revenues are publicly disclosed, when such transfers are mandated by a national constitution, statute or other revenue sharing mechanism. The MSG should also disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount transferred between the central government and each relevant subnational entity. The MSG is encouraged to reconcile these transfers.
 14. In accordance with Requirement 6.2, the MSG should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.
 15. In accordance with Requirement 7.4, the annual progress report should be the product of consultations with all stakeholders and include a review of the impact of EITI implementation. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the MSG, should be able to provide feedback on the EITI process and have their views reflected in the APR.

The government and the MSG are encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the MSG's responses to

these recommendations in the next annual progress report.

Board decision on São Tomé and Príncipe

1. Board Statement

The EITI Board agreed that São Tomé and Príncipe has partly addressed the corrective actions from the country's first Validation. Consequently, São Tomé and Príncipe has made meaningful progress overall with implementing the EITI Standard, with considerable improvements across several individual requirements.

The Board recognised São Tomé and Príncipe's efforts to use the EITI to manage public expectations regarding the potential revenue and indirect contributions from the nascent oil and gas sector. São Tomé and Príncipe's EITI implementation is also recognised as having increased collaboration among government agencies and improved the government's public financial management systems. The second Validation has confirmed São Tomé and Príncipe's efforts to use EITI reporting as a diagnostic instrument to support reforms in the licensing system, oversight of companies' social expenditures and subnational revenue management.

The Board welcomed ongoing efforts to consider further the opportunities to improve government and company disclosures through systematic disclosures. The Multi-Stakeholder Group (MSG) should continue to ensure adherence to the EITI Principles and Requirements.

The Board has determined that São Tomé and Príncipe will have 12 months, i.e. until 29 June 2019 before a third Validation to carry out corrective actions regarding license allocations (2.2), license register (2.3) and data quality (4.9). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the third Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, São Tomé and Príncipe's MSG may request an extension of this timeframe or request that Validation commences earlier than scheduled.

2. Assessment card

EITI Requirements		Level of progress					Direction of progress
Categories	Requirements	No progress	Inadequate	Meaningful	Satisfactory	Beyond	
São Tomé and Príncipe Second Validation scorecard							
MSG oversight	Government engagement (#1.1)						=
	Industry engagement (#1.2)						=
	Civil society engagement (#1.3)						=
	MSG governance (#1.4)						→
	Work plan (#1.5)						→
Licenses and contracts	Legal framework (#2.1)						=
	License allocations (#2.2)						
	License register (#2.3)						
	Policy on contract disclosure (#2.4)						→
	Beneficial ownership (#2.5)						

	State participation (#2.6)																		=
Monitoring production	Exploration data (#3.1)																		→
	Production data (#3.2)																		
	Export data (#3.3)																		
Revenue collection	Comprehensiveness (#4.1)																		=
	In-kind revenues (#4.2)																		
	Barter agreements (#4.3)																		
	Transportation revenues (#4.4)																		
	SOE transactions (#4.5)																		
	Direct subnational payments (#4.6)																		=
	Disaggregation (#4.7)																		=
	Data timeliness (#4.8)																		=
	Data quality (#4.9)																		=
Revenue allocation	Distribution of revenues (#5.1)																		→
	Subnational transfers (#5.2)																		
	Revenue management & 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 & impact of implementation (#7.4)																		→
Overall assessment	Meaningful progress																		

3. Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by São Tomé and Príncipe. Progress in addressing these corrective actions will be assessed in a third Validation commencing on **29 June 2019**:

1. In accordance with Requirement 2.2.i and iii, São Tomé and Príncipe is required to disclose the technical and financial criteria used in awarding licenses and any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards related to the award or transfer of licenses pertaining to the companies covered in the EITI Report during the accounting period covered by the EITI Report.
2. In accordance with Requirement 2.3.b, São Tomé and Príncipe is required to maintain a publicly available register or cadastre system which includes the timely and comprehensive information on the date of application for each of the licenses pertaining to companies covered in the EITI Report. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.
3. 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. The MSG should ensure that future EITI reporting includes a clear statement from the IA on the comprehensiveness and reliability of reconciled financial data.

Board decision on Ukraine

1. Board Statement

Following the conclusion of Ukraine's Validation, the EITI Board decided that Ukraine has made meaningful progress overall in implementing the EITI Standard.

The Board congratulated the Government of Ukraine and the Multi-Stakeholder Group (MSG) on the progress made in strengthening the governance of the extractive industries. The EITI has helped ensure timely information on the revenues from mining, oil and gas, including from transportation, is provided to the public, most notably civil society, media and affected communities. The Board welcomed the extension of EITI implementation to a larger group of companies and to new sectors including coal, manganese, titanium mining and hydrocarbons transportation. Ukraine's EITI implementation has helped drive broader economic, financial and institutional reforms by supporting the adoption of a law on "Transparency in the Extractive Industries", and amendments to the laws on "State Registration of Legal Entities and Individual Entrepreneurs" and on the "Budget Code".

The EITI has also provided a mechanism for civil society to raise concerns with government and industry stakeholders, leveraging active dissemination and outreach efforts and by providing a platform for public debate and informing policy-making. Civil society has played a central role in driving EITI follow-up on reforms and by building its own capacity to improve accountability in the government's management of the extractive industries. The Board encouraged the government and MSG to pursue discussions on transparency in contracts and project-level reporting, and to enhance efforts to improve the transparency of the state-owned enterprises.

The Board recognised Ukraine's efforts to go beyond the requirements of the EITI Standard related to the engagement of civil society (1.3), beneficial ownership transparency (2.5), distribution of revenues (5.1), revenue management and expenditures (5.3), social expenditures (6.1) and public debate (7.1). The Board welcomes the government's commitment to entrench an enabling environment for EITI implementation in sector policies and legislations, and encourages the MSG's efforts to move towards systematic disclosures of EITI data through government and company systems.

The Board has determined that Ukraine will have **18 months, i.e. until 29 December 2019**, before a second Validation to carry out corrective actions regarding the requirements relating to state-participation (2.6), production data (3.2), comprehensiveness (4.1), transportation (4.4), SOE transactions (4.5), data quality (4.9), SOE quasi-fiscal expenditures (6.2) and economic contribution (6.3). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Ukraine's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 July 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in

finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

2. Assessment card

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

3. Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Ukraine. Progress in addressing these corrective actions will be assessed in a second Validation commencing on **29 December 2019**:

1. In accordance with requirement 2.6.a, the MSG should provide a comprehensive overview of state-owned enterprises, including an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party funding. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies in line with requirement 2.6.b.
2. In accordance with Requirement 3.2, the MSG should ensure that future reports disclose the production values for every extractives commodity produced, including crude oil, natural gas and every mineral covered by reports. To strengthen implementation, the MSG may wish to comment on parallel reporting systems for production volumes including regular publication and verification procedures, to ensure consistent, regular and reliable data.
3. In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity and the nature of discrepancies are 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 full disclosure of material revenues from non-material companies, disaggregated by revenue stream.
4. In accordance with Requirement 4.4, the MSG should ensure that the next EITI Report disaggregates the transportation revenues by pipeline/route and by paying company.
5. In accordance with Requirement 4.5, the MSG should engage relevant government entities and SOEs with the view to ensure that the reporting process comprehensively addresses the role of state-owned enterprises (SOEs), including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.
6. 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:
 - 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.
7. In accordance with Requirement 6.2, the MSG should clarify a definition of materiality with regards to quasi-fiscal expenditures by SOEs, including SOE subsidiaries and joint ventures. The MSG should ensure disclosure of quasi-fiscal expenditures are in accordance with requirement 6.2. This includes the nature of the subsidy scheme for household utility-payments, and the role of state-owned enterprises. It also includes the financial relationship between the SOE and its subsidiaries, including joint ventures, especially pertaining to coverage of losses. To ensure disclosure is comprehensive, the MSG may wish to define which expenditures are of a quasi-fiscal nature using national laws and regulations.
 8. In accordance with Requirement 6.3, the MSG should clarify the public availability of estimates of informal extractives activities, including but not limited to artisanal and small-scale mining.

The government and the MSG are encouraged to consider the other recommendations in the Validator's report and the International Secretariat's initial assessment and to document the MSG's responses to these recommendations in the next annual progress report.

Annex C – List of participants

(Board members not attending in grey)

Chair

Mr Fredrik REINFELDT

Countries

Implementing Countries

Ms Olga BIELKOVA, Member of Parliament, Ukraine

Alt: **Mr Ruslan BAIMISHEV**, Director of Subsoil Use Department Ministry for Investments and Development, Republic of Kazakhstan

Mr Montty GIRIANNA, Deputy Minister, Coordinating Ministry of Energy and Mineral Resources, Indonesia

Alt: **Ms Maria Teresa S. HABITAN**, Assistant Secretary, Department of Finance, Philippines

Ms Zainab AHMED, Federal Minister of State Ministry of Budget and National Planning, Nigeria

Alt: **Mr José Fernandes ROSA CARDOSO**, National Coordinator, São Tomé e Príncipe

Mr Didier Vincent Kokou AGBEMADON, National Coordinator, Togo

Alt: **Mr Mankeur NDIAYE**, President, EITI National Committee, Senegal

Ms Agnès Solange ONDIGUI OWONA, EITI National Coordinator, Cameroon

Alt: **Ms Marie-Thérèse HOLENN AGNONG**, National Coordinator, Democratic Republic of Congo

Mr Victor HART, Chair of TTEITI, Trinidad and Tobago

Alt: **Mr Carlos Andrés CANTE PUENTES**, Vice Minister of Mines, Colombia

Supporting Countries

Mr Mark PEARSON, Director General, Planning, Delivery and Results Branch, Natural Resources Canada

Alt: **Mr Chris DAVY**, Director of Policy Analysis and Public Diplomacy, Bureau of Energy Resources, U.S. State Department, USA

Ms Judith HERBERTSON, Head, Governance, Open Societies and Anti-Corruption Department, Economic Development Division, Department for International Development (DFID), UK

Alt: **Ms Marte BRISEID**, Senior Adviser, Oil for Development Section, Norwegian Agency for Development Cooperation (NORAD), Norway

Ms Rosmarie SCHLUP, Head Macroeconomic Support, Economic Cooperation and Development State Secretariat for Economic Affairs (SECO), Switzerland

Alt: **Mr Dirk-Jan KOCH**, Special Envoy for Natural Resources, Ministry of Foreign Affairs, Netherlands

Civil Society Organisations

Mr Daniel KAUFMANN, President, Natural Resource Governance Institute (NRGI)

Alt: **Ms Jana MORGAN**, Director, Advocacy and Campaigns, International Corporate Accountability Roundtable (ICAR), USA

Mr Gubad IBADOGLU, Senior Researcher, Economic Research Center, Azerbaijan
Alt: **Mr Oleksiy ORLOVSKY**, International Renaissance Foundation, Ukraine

Ms Faith NWADISHI, Executive Director, Koyenum Immalah Foundation/National Coordinator Publish What You Pay, Nigeria
Alt: **Mr Brice MACKOSSO**, Commission Justice et Paix, Republic of Congo

Ms Ana Carolina GONZÁLEZ ESPINOSA, Universidad Externado de Colombia, Colombia
Alt: **Mr César GAMBOA**, Derecho, Ambiente y Recursos naturales, Perú

Ms Cielo MAGNO, Bantay Kita, Philippines
Alt: **Mr Moses KULABA**, Governance and Economic Policy Forum, Tanzania

Companies including Investors

Mr Stuart BROOKS, Manager, International Relations, Chevron
Alt: **Ms Laura LOGAN**, Corporate Issues Advisor, Public and Government Affairs, Exxon Mobil Corporation

Mr Dominic EMERY, Vice-President, Long-Term Planning, BP
Alt: **Mr Alan McLEAN**, Executive Vice President, Tax and Corporate Structure, Royal Dutch Shell

Ms Simone NIVEN, Group executive Corporate Relations, External Affairs, Rio Tinto
Alt: **Mr James ENSOR**, Executive Director, BHP Billiton Foundation

Mr Erik NÜRNBERG, Manager Legal, Equinor, Norway
Alt: **Mr Jean-François LASSALLE**, Senior Adviser to the President E&P, Total

Mr Jim MILLER, Vice President, Environmental Affairs, Freeport-McMoRan, Copper&Gold Inc.
Alt: **Mr Carlos ARANDA**, Manager Technical Services, Southern Peru Copper Corporation

Mr Sasja BESLIK, Head of Responsible Investments at Nordea Asset Management

Board Secretary

Mr Jonas MOBERG, Executive Director, EITI International Secretariat, Oslo

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Ms Gisela GRANADO, Country Manager

Ms Leah KROGSUND, Admin and Finance Manager

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Mr Eddie RICH, Deputy Head of Secretariat

Ms Marianne STIGSET, Communications Director

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