



Republic of Seychelles

Ministry of Finance, Trade, Investment and Economic Planning

10th August 2018

Dear Mr. Jonas Moberg
Executive Director
EITI Secretariat

RE: DRAFT VALIDATION REPORT BY COWATER SOGEMA INDEPENDENT VALIDATOR

We would like to acknowledge receipt of the Draft Validation Report.

The Seychelles EITI Multi-Stakeholder Group has reviewed thoroughly the document and has decided not to endorse the report for the following reasons:

1. The report is not for Seychelles EITI as it makes reference to Columbia on page 1 on the Draft Validation Report.
2. Secondly, the MSG believes that the Independent Validator, did not properly read the documentation submitted to the International Secretariat representatives. For example: most of the queries addressed in the report have been covered by the SEITI report for the years 2015 to 2016. Therefore, MSG would like to give the correct status of the matters covered in the report.

We are confident that the validation process is an objective process based on rational analysis and that the final Validation report will be objectively consistent with the precise term of the EITI Standard. We also understand that any assessment expressed in these reports is still at a drafting stage and can change when further clarification is provided.

This is the reason why the MSG has serious concerns about the current version of the reports and about the reliability of the analysis presented so far. We would like to ask the International Secretariat to do a thorough assessment of all the documents provided and to consider seriously the following comments.

Please find MSG's response in the table below.

Yours Sincerely,

Patrick Payet
Chair
Seychelles EITI Multi-Stakeholder Group

		ASSESSMENT BY THE VALIDATOR	PAGE NUMBER	MSG'S RESPONSE TO THE ASSESSMENT
1.	Executive Summary	In December 2017, the EITI Board agreed that Colombia's Validation under the 2016 EITI Standard would commence on 1 January 2018.	1	Shouldn't it read Seychelles instead?
2.	Executive Summary	The Validator also recommends that requirement 2.4 be downgraded to meaningful progress, as the Petroleum Act's provisions are insufficiently detailed to adequately clarify the government's policy on contract disclosure	1	<p>We understood that the EITI standard encouraged countries to publish the contracts and that was not a requirement.</p> <p>We also understood that requirement 2.4 requires that the EITI report documents the Government's policy on disclosure of contracts and licenses, but we did not understand that the Standard required the government to amend the law.</p> <p>We believe that Section 3.2.7 of the SEITI report 2015-2016 documented:</p> <ul style="list-style-type: none"> • The current Government policy on Petroleum Contract disclosure; • The current Government policy on Petroleum Contract allocation; • The current Government policy on petroleum license disclosure; and • The ongoing reform on the policy for contract disclosure. <p>We also believe that Section 3.3.7 of the EITI report documented the current Government policy on the</p>

				<p>disclosure of contracts in the quarrying sector.</p> <p>We kindly ask that the recommendation to be objectively reworded to stick to the terms of the EITI standard.</p>
3.	Background	Seychelles is an upper middle-income country and the highest ranking African country on the Human Development Index.	1	<p>Seychelles is a high-income country and the highest ranking African country on the Human Development Index.</p> <p>(Please find link http://documents.worldbank.org/curated/en/191181499447495374/pdf/Seychelles-SCD-FINAL-23Jun17-06282017.pdf)</p>
4.	Background	Seychelles has no production in the petroleum sector but one company is currently undertaking exploration activities and others are collecting seismic data	1	We believe it should read ‘Seychelles has no production in the petroleum sector but exploration effort is ongoing’.
5.	Background	Joint petroleum zone	2	Should read ‘joint management zone’
6.	Background	The Ministry of Finance, Trade and Economic Planning (MFTEP) is the primary government entity responsible for oil and gas sector	2	Should read ‘ the oil and gas portfolio falls under the Ministry of Investment, Industry & Entrepreneurship Development but the EITI portfolio falls under the Vice-President’s Office under Department of the Blue Economy
7.	Background	There is currently one company with an active exploration license, Japanese Oil Gas and Minerals Exploration Company, (JOGMEC). The Petroleum Mining Act (1976) provides for two types of upstream petroleum arrangements (exploration licenses and petroleum agreements).	2	<p>It should read ‘the Japan, Oil, Gas and Metals National Corporation’</p> <p>Can the Validator be a little bit more specific with the year that we had that one company with an active exploration license, as currently (in 2018) we have none.</p>

		Seychelles operates under concession type contracts as opposed to production sharing types of agreement.		
8.	Background	Mineral commodities are produced in the Seychelles at a very small scale, and include clay for bricks, crushed stone, granite dimension stone, and sand. Currently, there are only two operating companies with active quarrying licenses (United Concrete Products Seychelles - UCPS and Civil Construction Company - CCCL). As the cost of construction in Seychelles is linked to prices of these products, the performance of the quarrying sector is sensitive to the growth of the construction sector. However, mining activities in the Seychelles are heavily regulated as the only objective of the sector is to supply materials for the construction sector and not to export any production.	2	Should read 'Mineral commodities are produced in the Seychelles at a very small scale, and include, crushed stone for construction aggregates and sand. Currently, there are only two only operating companies with active quarrying licenses (United Concrete Products Seychelles - UCPS and Civil Construction Company - CCCL). As the cost of construction in Seychelles is linked to prices of these products, the performance of the quarrying sector is sensitive to the growth of the construction sector. However, mining activities in the Seychelles are heavily regulated as the only objective of the sector is to supply materials for the construction sector and not to export any production.' (We do not produce clay for bricks and dimension stone but we produce construction aggregates.)
9.	Work Performed by the Independent Validator	Consolidation of reviews and the production of this draft Validation Report, sent to the International Secretariat on the XXX.	3	Please remove 'XXX' and include the period/date
10.	Comments on the International Secretariat's	The initial assessment did not include an overall assessment of compliance. The report was submitted to the Validator, with the	3	The National Coordinator received the draft Validation report for circulation on the 23 rd July 2018.

	Initial Assessment	National Coordinator (NC) also receiving a copy.		Are you making reference to this report? As no other initial report/or assessment was received.
11.	Detailed findings	.” However, the precedent in other countries is to take confidentiality provisions in relevant laws to be insufficiently detailed to adequately clarify the government’s policy on contract disclosure	7	<p>We understand that the EITI standard requires that the EITI report documents the policy as it is and we did not understand that it requires the government to change the policy.</p> <p>Regardless the EITI requirement, the Government is working toward new reforms with regards the disclosure policy, but again, we believe that the EITI report documented the current policy on contracts’ disclosure</p>
12.	Detailed Findings	For consistency’s sake, the Validator therefore recommends that this requirement is downgraded to Meaningful Progress and an additional recommendation is added to the list below.	7	We believe that this recommendation should be revised to be objectively consistent with the terms of the EITI standard and as detailed in our comment above.
13.	Requirement 1.4.a	In accordance with Requirement 1.4.a and b.vi, the MSG should ensure that the industry constituency is adequately represented on the MSG and that there is a system in place for replacing representatives that leave their positions. In accordance with Requirement 1.4.b.vii, the MSG should also ensure that there is adequate record keeping of their discussions and decisions.	7	<p>As per the amended MSG TOR dated 11 November 2014, it was agreed that any member who resigns, should give one-month notice to the Chair.</p> <p>This was also re-addressed in the Minutes of 20th July 2017.</p> <p>This ToR will go hand in hand with the Transparency Bill that was submitted to the Attorney General’s office for review on the 4th August 2017.</p> <p>Additional to that, MSG keeps records of its discussions and decisions through Minutes.</p>
14.	Requirement 1.5	In line with EITI Requirement 1.5, the MSG should ensure it has	7	We believe that this should not be stated as a recommendation as MSG publishes its Workplans on the

a current EITI work plan outlining targeted objectives in line with the national priorities for the sector, and that the work plan is made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public.

PetroSeychelles' website and ensures that the documents are made public (soft and hard copies)

2014 to 2016 Workplan
<http://www.petroseychelles.com/images/pdfs/2014%20TO%202016%20WORKPLAN.docx>

2017 Workplan
[http://www.petroseychelles.com/images/pdfs/WORKPLAN%202017%20\(1\).docx](http://www.petroseychelles.com/images/pdfs/WORKPLAN%202017%20(1).docx)

Please NB: Seychelles EITI also uses the following websites and social media pages to disseminate its work and additional to that, copies of the documents are made available to the public at the Ministry of Finance and the Department of the Blue Economy:

- Seychelles Extractive Industries Transparency Initiative facebook page
<https://www.facebook.com/Seychelles-Extractive-Industries-Transparency-Initiative-1145663435530915/?fref=tag>

- Citizens Engagement Platform Seychelles (CEPS) – Civil Society facebook page

<https://www.facebook.com/seychellescivilsociety/posts/934854353212918>

- Citizens Engagement Platform Seychelles (CEPS) – Civil Society' website
www.civilsociety.sc/

- Ministry of Finance's website
www.finance.gov.sc/

- PetroSeychelles' website

				www.petroseychelles.com/
15.	Requirement 2.2	The MSG should ensure that there is clarity on the government's plans for future licensing in the quarrying sector, and that there is a publicly available description on the allocation of mining licenses, the process for transferring licenses and the technical and financial criteria applied.	7	<p>We understand that Requirement 2.2 applies for licenses that have been awarded during the period covered by the SEITI Report 2015-2016.</p> <p>We are therefore confused to see that the requirement is not met to 'Satisfactory' while the Requirement 2.2 focuses on the licensing process for licenses awarded during the year covered by the report.</p> <p>Additionally, regardless the fact that the requirement is not applicable to the case, we believe that the SEITI report 2015-2016 met the terms of EITI Requirement 2.2 as Section 3.3.6 described the current licensing process in accordance with the applicable laws and regulations. Additionally, all the mining operators in the country have been named even if they have been awarded their respective licences prior to the period covered by the same report.</p> <p>We understand that Requirement 2.2 applies for licenses that have been awarded during the period covered by the EITI Report. We are still confused how this requirement has not been met to 'Satisfactory' while there is no licence awarded during 2015 and 2016.</p> <p>We are confident that the Validation is a credible process based on factual analysis in accordance with the EITI standard. We kindly invite the International secretariat to push the analysis and this assessment in accordance with the precise terms of the EITI Requirement 2.2.</p>
16.	Requirement 2.3	In accordance with EITI Requirement 2.3, the	7	A call for submission document detailing the application process can

		government should ensure that comprehensive information on petroleum licenses and agreements is made available, including dates of application and award of licenses/agreements.		be downloaded on the PetroSeychelles Website. Please read this document. Once an application is received and the due diligence process confirms that it is bid qualified this information is published on the PetroSeychelles website indicating the area of interest and other companies are given 90 days to counter bid. At the end of the 90 days the winning company is invited for negotiation and once the agreement is signed there is a press release (radio, TV and printing press) and an announcement posted on the PetroSeychelles webpage.
17.	Requirement 2.4	In accordance with EITI Requirement 2.4, the MSG should discuss the need for a substantive policy contract disclosure and engage the government accordingly.	7	<p>Grateful if you could reconsider this, in light with the evidence below:</p> <p>MSG already discussed the issue as per the Minutes dated...and it is being included in the 2018 Workplan.</p> <p>Additionally, please note that the Requirement 2.4 encourages that contracts are published and it is not a requirement. The standard requires that EITI Report simply documents the government's policy on disclosure of contracts and licenses. We understand that the SEITI report presented the current policy applied in the Country as per the legislation into force and we understand that the EITI Standard does not require to change the laws and policy, but requires to simply document it in the SEITI report.</p> <p>We are therefore still confused how the EITI Requirement 2.4 has not been met to 'Satisfactory'. We believe that further efforts have to be made in order to clarify how this requirement has not been made or to revise the recommendation in accordance with</p>

				the precise terms of the requirement 2.4.
18.	Requirement 2.6	In accordance with Requirement 2.6, the Seychelles should ensure that there is publicly-accessible information on the rules and practice of financial relations between SOEs and the state (including retained earnings, reinvestments and third-party funding), the level of state participation, including associated terms, and any change thereof in the year(s) under review.	7	<p>We believe that the recommendation should be more specific as we do not really understand the information that is not publicly accessible with regards to State participation in Seychelles. In order to be consistent with the terms of the Requirement 2.6, we kindly invite the International Secretariat to revise this assessment in accordance with the clarifications detailed below.</p> <p>We understand that the financial statements of all SOEs are publicly available at http://www.pemc.sc. These show the retained earnings, reinvestments and third party funding as well as the level of State participation.</p> <p>We also understand that the EITI Requirement 2.6 requires us to disclose the:</p> <ul style="list-style-type: none"> - The prevailing rules and practices governing SOEs in the country, which has been clearly detailed in Section 3.2.8: of the SEITI report 2015-2016 - level of ownership in mining, oil and gas companies; which has been clearly and comprehensively detailed in Section 6.5 of the SEITI report 2015-2016, <p>So we are a bit confused about this recommendation and which term of the EITI Requirement did the Government miss precisely.</p>
19.	Requirement 4.9	In accordance with Requirement 4.9 and the standard Terms of	8	It would be great to have more specific recommendation, please

		Reference for Independent Administrators, the Seychelles should ensure that future EITI Reports provide a clearer assessment on the reliability of the data disclosed, and that actual audit practices by government entities are described.		<p>consider providing examples of clearer assessment.</p> <p>We understand that Section 1.5 of the SEITI report 2015-2016 clearly presented the assessment of:</p> <ul style="list-style-type: none"> - the comprehensiveness of data included in the report; as well as - the detailed and comprehensive impact of data assurance of each information submitted by the reporting entities. <p>We kindly invite the International Secretariat to re-visit the precise terms of the Requirement 4.9 which requires an assessment whether the payments and revenues were subject to a credible, independent audit applying international auditing standards. We believe that the report clearly presented that.</p> <p>We also believe that Section 3.5.1 clearly detailed the audit practices in the public sector as well as in the private sector.</p> <p>We are confident that the final Validation report will be objectively consistent with the EITI Standard and that any assessment is still at a drafting stage and can be change when further clarifications are provided. We would be therefore grateful if the recommendation could be more specific on how the Requirement 4.9 has been breached or has not been met.</p>
20.	Requirement 6.1	In accordance with Requirement 6.1, the MSG should clarify whether there are any	8	We believe that Section 6.2.2 of the SEITI report clearly detailed the social payments made by the companies operating in the country.

material social expenditures by companies are mandated by law or the contract with the government that governs the extractive investment.

We would be grateful if the recommendation be more specific. As far as we are concern, there was neither legal nor contractual obligations for a company to contribute to social programs as the years covered by the social expenditure relate to years prior 2014 where the CSRT was part of the Business Tax Act, which companies are exempt from.

Annexes 1 and 2 clearly presented the Corporate Social Responsibility Tax paid by mining companies to SRC (please refer to the Payment Stream 3.6 under Unilateral Disclosure under Annexes 1 and 2 of the SEITI report).

These same Annexes clearly mentioned that there is no social payment mandated by any contract (please refer to the Payment Stream 6.2 under Unilateral Disclosure under Annexes 1 and 2 of the SEITI report)

We believe that all of the terms of EITI Requirement 6.1 have been met and we kindly ask that further analysis is made to this assessment.