

# Validation of SÃO TOMÉ AND PRÍNCIPE

Validation Report

Sustainable Development Strategies Group (SDSG), Independent Validator

5 February 2017

## 1. BACKGROUND

São Tomé and Príncipe (STP) in Central Africa is one of the continent's smallest states with a population under 200,000. It consists of islands in the oil-rich Gulf of Guinea just above the equator. GDP growth has averaged over 4% per year since 2012, faster than many small islands states, but not sufficiently strong and diversified to meaningfully improve economic prospects and reduce the poverty rate which is high at 66%.<sup>\*</sup> In 2001, a maritime dispute between Nigeria and STP led to the establishment of the Joint Development Zone (JDZ), with the countries' agreement to divide development costs and benefits 60% to Nigeria and 40% to STP. The JDZ is managed by the Joint Development Authority (JDA), an independent entity based in Abuja governed by an inter-ministerial council. The JDA's average annual budget of US \$12 million has been criticized in both countries, given the lack of development activity in the JDZ. While interest from large international companies in the JDZ was initially high, resulting in over USD \$300 million in signature bonus payments and revenue from 2003 to 2005, these companies have since left the country due to disappointing exploration results.

In 2015, new companies entered both the block in the JDZ formerly controlled by Total as well as STP's Exclusive Economic Zone (EEZ). Exploration in the EEZ began in 2011, and rights to seven blocks of the EEZ have since been awarded to various companies. No petroleum production has taken place in either zone, however, and the country's economy relies primarily on foreign aid, agriculture, and fisheries.

STP became an EITI candidate in 2008, with the broad objectives of enabling transparency in the oil sector and creating a friendly business environment. The EITI Sub-committee was formed to serve as the multi-stakeholder group (MSG). STP was delisted in 2010 after its request for voluntary suspension was rejected by the EITI Board due to the lack of reporting on activities in the JDA. The country's candidacy was reinstated upon its re-application in 2012, after which it produced in 2014 its first EITI Report covering 2003–2013, followed in 2015 by its most recent report covering 2014. The EITI Board also approved in 2015 STP's adapted implementation request—applicable to STP's 2015 and 2016 EITI Reports—to address reporting challenges with respect to the JDA.

The EITI Board agreed in June 2016 that STP's Validation against the 2016 EITI Standard should commence on 1 July 2016. Pursuant to the Validation Guide, the International Secretariat carried out the first phase of validation—initial data collection, stakeholder consultations, and preparation of their initial evaluation of progress against the EITI requirements (the "Initial Assessment"). Apart from the reporting issues related to the JDA, the MSG did not raise any other issues for particular consideration. SDSG was appointed as the independent Validator to evaluate whether the Secretariat's work was carried out in accordance with the Validation Guide. SDSG's principal responsibilities as Validator are to review and amend the Initial Assessment, as needed, and to summarize its independent review in this Validation Report for submission to the Board through the Validation Committee.

### • Work Performed by the Independent Validator

The Secretariat's Initial Assessment was transmitted to SDSG on 3 January 2017. Our Validation Team undertook this phase of the Validation process through: (1) In-depth review and marking up of the EITI Assessment by each team member; (2) Detailed review and comments by the Multi-Stakeholder

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<sup>\*</sup> International Monetary Fund. <https://www.imf.org/external/pubs/ft/scr/2016/cr16174.pdf>, last accessed on 2/4/2017.

Specialist of Requirements 1 and 7; (3) Detailed review and comments by the Financial Specialist of Requirements 2 through 6; (4) Overall review and drafting coordination by the Team Leader; (5) Review of the comments from the country's multi-stakeholder group (MSG); (6) Consolidation of detailed comments on the mark up of the Initial Assessment; and (7) Consolidation of reviews and finalization of this Validation Report.

The SDSG Validation Team received the MSG's comments on the International Secretariat's Initial Assessment on 16 January 2017. Their comments were limited and sought to clarify issues under Requirements 2.2, 2.3, 2.4, and 4.9—these specific comments are considered, where appropriate, under the Detailed Findings in Part Three below.

- **Comments on the Limitations of the Validation**

São Tomé and Príncipe is among the 14 countries undergoing the EITI Validation process between the latter part of 2016 and early 2017. The time provided, in general, and the nature of this phase of the process do not readily accommodate further stakeholder outreach beyond the Secretariat, particularly when no requests for issues to be 'spot-checked' were received, and given that the Independent Validator is not expected to duplicate data collection and consultation work completed by the Secretariat. Neither is it permitted to consider activities after 1 July 2016, per express directive of the Board. Notwithstanding these limitations, the Validation Team has carefully reviewed the Secretariat's Initial Assessment, the comments of the MSG, and applicable references to determine São Tomé and Príncipe's level of progress against the requirements of the 2016 Standard.

- **Comments on the International Secretariat's Initial Assessment**

The initial data collection, stakeholder consultations, and drafting of the Initial Assessment were generally undertaken by the International Secretariat in accordance with the 2016 Validation Guide. This entailed a desk review of relevant documents from 28 July–23 August 2016, and a country visit from 7–9 September 2016 by a three-person team from the International Secretariat that conducted stakeholder consultations. The Initial Assessment does not state specifically where these consultations took place, however, we assume from the limited three-day visit that meetings were likely held in São Tomé, STP's capital city. As with other Initial Assessment processes, these consultations likely focused on stakeholders in the capital who are already familiar with the EITI, although the Initial Assessment does note some consultations with stakeholders who are not represented on STP's MSG. However, lack of stakeholder engagement outside of the capital city is a significant limitation of the process, and is reflected in the fact that no stakeholder views were documented even on issues that would be critical to local governments and communities, for example, sub-national transfers and distribution of extractive revenues.

The Secretariat's team was identified by name, though it would be helpful to also indicate each member's level of familiarity or engagement with EITI in São Tomé and Príncipe to confirm the appropriate balance in perspectives and experience.

## **2. GENERAL COMMENTS**

- **Progress in EITI Implementation**

The MSG is located at the Ministry of Finance and Public Administration, and is chaired by the Minister. Day-to-day implementation is handled by the sole staffer of the STP Secretariat—staffing and capacity require strengthening, as acknowledged by the MSG in the 2015 Annual Progress Report (APR). Civil society organizations (CSOs) on the MSG, which do not otherwise focus on extractive industries, need

strengthened capacity to better understand extractive industries, transparency, and to generally carry out their obligations on the MSG. MSG engagement and public interest in EITI was greater when oil exploration began, but this has waned with the lack of development. There has been little change in the composition of the MSG, which met only twice between 2012 and 2014, although it has recently held regular as well as extraordinary meetings. There have been numerous reporting and implementation delays, for example, STP's first EITI Report, its 2013 Annual Activity Report, and most recently, its 2015 APR. The MSG has nevertheless produced two EITI Reports, the first covering 2003 to 2013, and the current Report covering 2014.

The first Report was marked by gaps due to the non-reporting by companies that had since left the JDZ. While the 2014 Report documented activities primarily relating to the EEZ, given the absence of financial flows and reporting companies in the JDZ in 2014, it also attempted to provide more information on licenses relating to the JDZ. The 2014 Report was published on time and was followed by outreach activities around the country conducted in May and August 2015.

The EITI Reports have yielded important information, despite gaps, including disclosures of signature bonuses, sub-national transfers, and data beyond the minimum required under the EITI Standard. The importance of improved information management and publicly accessible data is recognized, however, and the STP-EITI website remains underutilized.

Challenges persist with respect to reporting on licensing and other activities in the JDZ due to limited participation by the JDA. In approving the MSG's request for adapted implementation for 2015 and 2016, the EITI Board acknowledged STP's constraints with respect to the JDA and companies based in Nigeria.

The financial sustainability of the EITI process also remains a challenge. While the government has committed modest financial support for implementation, funding comes primarily from external sources, including the World Bank's Multi-Donor Trust Fund and the African Development Bank (AfDB).

- **Impact of EITI Implementation**

The implementation of EITI in STP began in 2012, with two Reports thus far produced focusing on the country's small, nascent oil sector that is currently limited to exploration activities. Stakeholders nevertheless noted that the initiative is relevant and has had positive impacts. For example, the EITI reporting processes have helped reinforce the importance of transparency. Notably, some government agencies credit EITI with the heightened awareness of the need to improve information management systems to ensure data is readily available. Furthermore, the 2014 EITI Report documents sub-national transfers, which has helped increase public understanding of the oil sector and how oil revenues are allocated. The EITI reporting process on the management of revenues has also helped in monitoring signature bonuses and any other sporadic revenues as well as prepare for future oil revenues. EITI reporting has led to the awareness of certain gaps, however, including the lack of clear guidelines in their monitoring and management of social projects, which has created pressure on the ANP to become more accountable. Both EITI Reports provide information about the funding and high expenditures of the JDA, contributing to public debate among civil society all the way to the heads of state of both STP and Nigeria on the need for further disclosure and reforms in the management of the JDA.

There is evidence that the EITI in STP is impacting other sectors as well. STP is exploring the inclusion of the fisheries sector in EITI, and have already engaged this sector in EITI activities; the AfDB is currently funding a scoping study related to the fisheries sector. Expanding the scope and coverage of EITI beyond the oil sector may provide the MSG the opportunity to become a wider platform for dialogue on revenue transparency and the governance of natural resources.

- The Independent Validator's Assessment of Compliance

Figure 1 – Validator's assessment

EITI Requirements		LEVEL OF PROGRESS					Note
		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)						1
	Beneficial ownership (#2.5)						
	State participation (#2.6)						2
Monitoring production	Exploration data (#3.1)						3
	Production data (#3.2)						
	Export data (#3.3)						
Revenue collection	Comprehensiveness (#4.1)						4
	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)						
Revenue allocation	Revenue management & expenditures (#5.1)						5
	Subnational transfers (#5.2)						
	Distribution of revenues (#5.3)						
Socio-economic contribution	Mandatory social expenditures (#6.1.a)						6
	Discretionary social expenditures (#6.1.b)						
	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)						

1-6: Please see Detailed Findings. 2: Previously found Satisfactory and changed to Not Applicable.

### 3. DETAILED FINDINGS

- 1.1 **Government engagement.** We agree that São Tomé and Príncipe has made **SATISFACTORY** progress in implementing this provision. While there has been continued and consistent support expressed by the government, challenges remain with respect to obtaining data on the JDZ from the JDA.
- 1.2 **Company engagement.** We agree that São Tomé and Príncipe's progress in implementing this provision is **SATISFACTORY**, noting both the positive step to expand company representation on the MSG but also the limitations in engaging any companies with the JDZ. Companies can and should also be more proactive particularly in outreach and information dissemination for their constituency, within the MSG, and with other stakeholder groups.
- 1.3 **Civil society engagement.** We agree that São Tomé and Príncipe has made **SATISFACTORY** progress in implementing this provision. The active involvement of the Association of Female Lawyers and other CSOs in STP-EITI helps to demonstrate that CSOs are effectively engaged in the EITI process. CSO representatives noted their continuing need, however, for greater capacity and knowledge regarding the oil sector and transparency. Moreover, their participation is also impacted by lack of financial resources.
- 1.4 **MSG Governance.** We agree with the International Secretariat's finding that São Tomé and Príncipe has made **MEANINGFUL** progress in meeting this requirement. The consistency of MSG meetings has recently improved, although these were sporadically held prior to 2015. Minutes of certain critical MSG discussions have not been captured, for example, on the definition of materiality. At times neither MSG discussions nor resulting decisions are properly documented. MSG minutes were not made available for meetings after May 2014. The TOR for the MSG and adherence thereto need to be improved, including the procedures for designation and refreshment of MSG members. As noted above, MSG members, particularly CSO members, do not appear to have sufficient capacity to fully carry out their duties.
- 1.5 **Work Plan.** We agree with the International Secretariat's finding that São Tomé and Príncipe's progress is **MEANINGFUL** in meeting this requirement. The 2016 work plan is not included in the Initial Assessment's annex of documents. Most activities, though not all, are costed and several are not clearly linked to specific objectives. Broader consultations on the work plan's development are needed, although it is favourably noted that the work plan considers and advances work on the fisheries sector.
- 2.1 **Legal Framework and Fiscal Regime.** We agree that São Tomé and Príncipe has made **SATISFACTORY** progress in meeting this requirement noting, however, that the Initial Assessment should clearly state whether the level of fiscal devolution is addressed in the EITI Report.
- 2.2 **License Allocations.** São Tomé and Príncipe's adapted implementation with respect to revenue reconciliation and disclosure of contextual information applies only to 2015 and 2016. We therefore agree with the finding of the International Secretariat that the country has not been able to fully disclose information on license allocations within the JDZ for 2014 and the years prior thereto. Consequently, its progress here has been **MEANINGFUL** and not satisfactory. Additionally, we note that it is very difficult to ascertain whether the initial assessment addresses each of the requirements.

- 2.3 **Register of Licenses.** We agree with the finding of the International Secretariat that São Tomé and Príncipe has made **MEANINGFUL** progress in meeting this requirement. As with the discussion above under 2.2, information on licenses within the JDZ is not fully disclosed in the EITI Reports. Moreover, the information that is provided even with respect to licenses within the EEZ does not include the required dates of application.
- 2.4 **Contract Disclosures.** We disagree with the International Secretariat that São Tomé and Príncipe's progress is satisfactory and instead find that it is **MEANINGFUL**. While the EITI Report documents the policy on contract disclosure applicable to both the EEZ and JDZ and notes actual disclosure practices, it does not provide an overview of publicly available contracts nor does it discuss whether any relevant reforms are planned.
- 2.5 **Beneficial Ownership.** Disclosure under this provision is **NOT YET APPLICABLE**, however, we note that the MSG in São Tomé and Príncipe has initiated discussion on this requirement and has included pertinent activities in the 2016 work plan.
- 2.6 **State Participation in EI.** We disagree with the finding of the International Secretariat that São Tomé and Príncipe's progress under this requirement is satisfactory. The Initial Assessment appears to equate state participation under a production sharing contract with state participation as a state-owned entity (SOE). An SOE is a wholly or majority government owned company engaged in extractives on behalf of the government. It does not appear that there are SOEs in the country's oil sector, thus, this provision is **NOT APPLICABLE**.
- 3.1 **Exploration.** We disagree that São Tomé and Príncipe has made satisfactory progress and find that its progress is **MEANINGFUL**. Information on exploration activities within the JDZ is lacking in the 2014 EITI Report and for prior years. Given that adapted implementation covers only the 2015 and 2016 reports, full disclosure with respect to exploration activities in the JDZ for the prior years is required.
- 3.2 **Production Data.** We agree that this provision is **NOT APPLICABLE** to São Tomé and Príncipe.
- 3.3 **Export Data.** We agree that this provision is **NOT APPLICABLE** to São Tomé and Príncipe.
- 4.1 **Comprehensiveness.** We disagree with the International Secretariat's Initial Assessment that São Tomé and Príncipe's progress is satisfactory and find that it is **MEANINGFUL**. The MSG did not, as required, document their discussion regarding materiality, including the options they considered and their rationale for establishing definitions and thresholds.
- 4.2 **In-Kind Revenues.** We agree that this provision is **NOT APPLICABLE** to São Tomé and Príncipe, however, we note that the Initial Assessment erroneously considers that social projects may fall under in-kind revenues.
- 4.3 **Infrastructure Provisions and Barter Arrangements.** We agree that this provision is **NOT APPLICABLE** to São Tomé and Príncipe, however, we note that the Initial Assessment erroneously considers that social projects may fall under this requirement.
- 4.4 **Transportation Revenues.** We agree that this provision is currently **NOT APPLICABLE** to São Tomé and Príncipe. The Initial Assessment correctly notes that this may become a significant

revenue stream in the future should construction of a deep-water port be completed. The MSG should be mindful of this possibility.

- 4.5 **Transactions Related to SOEs.** We agree with the Initial Assessment that since there are no SOEs in São Tomé and Príncipe, this provision is **NOT APPLICABLE**.
- 4.6 **Subnational Payments.** We agree with the Initial Assessment that since there are no provisions on direct subnational payments in São Tomé and Príncipe, this provision is **NOT APPLICABLE**.
- 4.7 **Level of Disaggregation.** This section was incomplete in the Initial Assessment, but we assume the International Secretariat intended to make a finding of **SATISFACTORY** progress. If so, we agree with this, noting that there were no revenues from the JDZ in 2014, thus, revenue data from the EEZ is sufficiently disaggregated.
- 4.8 **Data timeliness.** We agree that São Tomé and Príncipe's progress has been **SATISFACTORY**.
- 4.9 **Data Quality and Assurance.** We agree that São Tomé and Príncipe's progress in implementing this provision has been **MEANINGFUL**. MSG documentation is lacking with respect to, among others, whether all entities required to report provided the required information and how the Independent Administrator determined the assurances to be provided by reporting entities.

Accordingly, the International Secretariat recommended that the MSG should ensure the Independent Administrator adheres to the requirements for a credible assurance process applying international standards. The MSG commented, however, that international standards required by both the funding entity and the International Secretariat have been met. The International Secretariat and the MSG should thus clarify their contrasting interpretations and findings.

- 5.1 **Distribution of Extractive Industry Revenues.** We disagree with the International Secretariat's Initial Assessment that São Tomé and Príncipe's progress is satisfactory and find that it is **MEANINGFUL**. With a materiality threshold set at zero, there are payment streams that are not recorded to national budget and the EITI Report does not disclose the information nor does it link to the financial statements required by 5.1. The Initial Assessment does not, however, sufficiently discuss the nature and process around social payments.
- 5.2 **Subnational Transfers.** We agree with the International Secretariat's finding that São Tomé and Príncipe's progress in meeting this requirement is **SATISFACTORY**, but note the complete lack of relevant stakeholder views in the Initial Assessment. The perspectives and experiences of local governments and communities with respect to this matter are critical. This is especially true for Príncipe which receives an earmarked share from oil revenues.
- 5.3 **Revenue management and expenditures.** Disclosure under this requirement is encouraged and is thus not taken into account in the overall assessment of compliance.
- 6.1 **Social Expenditures by Extractive Companies.** We disagree with the International Secretariat's assessment. Very good information regarding mandatory social expenditures is provided, however, the names and functions of non-government beneficiaries are required to be disclosed.

Given that this required information is not disclosed, São Tomé and Príncipe's progress is **MEANINGFUL** rather than satisfactory.

- 6.2 **Quasi-fiscal expenditures.** We agree that this requirement is **NOT APPLICABLE** given that there are currently no SOEs in São Tomé and Príncipe.
- 6.3 **Contribution of the Extractive Sector to the Economy.** We agree that considering the limited size of São Tomé and Príncipe's oil sector, progress in implementing this provision is **SATISFACTORY**.
- 7.1 **Public Debate.** We agree that São Tomé and Príncipe's progress has been **SATISFACTORY**.
- 7.2 **Data Accessibility.** This is currently **NOT APPLICABLE**. Disclosure under this requirement is encouraged and is thus not taken into account in the overall assessment of compliance.
- 7.3 **Discrepancies and Recommendations from EITI Reports.** We agree that São Tomé and Príncipe's progress has been **MEANINGFUL**. STP-EITI's work plan should better reflect recommendations from previous reports and specific activities to respond and follow up on these.
- 7.4 **Outcomes and Impact of EITI Implementation on NR Governance.** We agree that São Tomé and Príncipe's progress has been **MEANINGFUL**. As with the work plan under 1.5, the development of STP's APR requires broader consultative efforts and should demonstrate stakeholder consensus. The APR and other tools can be used more effectively by STP to assess outcomes and impacts of EITI implementation.

#### **4. RECOMMENDATIONS**

Following are the Secretariat's overarching recommendations for improving EITI implementation in São Tomé and Príncipe, with the Validation Team's modifications and supplements in italics.

- 4.1 The MSG should consider reviewing its membership to ensure greater industry and civil society engagement and liaison with wider constituencies; The MSG may also consider involving CSOs that work on issues related to public accountability and budget monitoring in the EITI process and should make efforts to ensure that members have the capacity to liaise with their constituencies.
- 4.2 The MSG should continue its revision of the TORs for the MSG and continue improving record-keeping of MSG decisions.
- 4.3 The MSG should ensure that work plans are agreed and made publicly available in a timely manner and that these are kept up to date. The MSG should agree a work plan for 2017 which outlines activities that are clearly linked to the objectives and which is developed in consultation with wider stakeholders. The MSG should also ensure that the work plan is agreed.
- 4.4 The MSG should consider opportunities to mainstream EITI disclosures, as government agencies are increasingly adopting this approach in order to meet their EITI reporting obligations. This has the potential to reduce the cost of EITI implementation and provide more timely and useful data. Considering the current volume of revenue from the sector and reliance on external funding, there are legitimate concerns that the EITI is not viable in its current form. The EITI Report 2014 notes the



opportunities for disclosing information on the sector more regularly, in particular non-revenue data, more regularly and comprehensively directly by government agencies such as the Ministry of Finance and Public Administration, the NPA and GRIP to avoid that the data is dispersed over several sources.

- 4.5 The MSG should continue to address the issue of coverage in the JDZ. While securing the full engagement of the JDA is problematic and outside the control of the government and MSG, ongoing efforts to engage the JDA are recommended to ensure that the EITI Report provides a comprehensive overview of the oil sector in STP. The MSG should work with the JDA to disclose information on any licenses awarded or transferred in the JDZ in the year(s) under review.
- 4.6 The MSG should ensure the Independent Administrator(IA) adheres to the requirements for a credible assurance process applying international standards (in accordance with EITI Requirement 4.9). The EITI requires a clear indication of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information, and disclosure of any gaps or weaknesses in reporting to the IA, including naming any entities that failed to comply with the agreed procedures.
- Given that the MSG believes (in its comment to the Initial Assessment) that international standards required by both the funding entity and the International Secretariat have been met, the International Secretariat and the MSG should clarify their contrasting interpretations or findings.*
- 4.7 The MSG should continue their efforts to increase transparency regarding social payments, including building CSO capacity to monitor the selection and execution of social projects. There is a need for clearer guidelines and better monitoring of social projects (e.g. the selection of beneficiaries for education scholarships funded by companies).
- 4.8 *The MSG noted in its comments on the Initial Assessment that contracts are published in full by GRIP as provided by law, except for those in the JDZ which have not been made available by the JDA. The International Secretariat's recommended that the MSG should thus ensure that forthcoming EITI Reports confirm this. Although not a requirement, the MSG may wish to consider that the EITI reporting monitors and continues to comment on the discrepancy between the government's policy for publishing contracts and actual practice, as practiced in some other implementing countries.*
- 4.9 The MSG should clarify the government policy on beneficial ownership disclosure, actual disclosure practices, and any planned or ongoing reforms and describe this in forthcoming EITI Reports.
- 4.10 That the MSG is encouraged to elaborate on how sub-national revenues from oil are shared among the municipalities in forthcoming EITI Reports.
- 4.11 The MSG should use future Annual Progress Reports as a self-assessment tool to monitor progress with achieving work plan objectives and to document the impact of the EITI Reports. APRs should be made publicly available. *In accordance with the deadlines set out in Provision 8.4. The MSG should consider engaging stakeholders more broadly, including stakeholders not represented on the MSG, in discussions regarding outcomes and impacts of EITI implementation on natural resource governance.*

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