

Extractive Industries Transparency Initiative (EITI)

**Validation of Timor Leste**

**Report on initial data collection and stakeholder consultation by the EITI International Secretariat**

26 August 2016

## Abbreviations

ANPM	Autoridade Nacional do Petróleo e Minerais (National Petroleum and Mineral Authorities)
BCTL	Banco Central de Timor-Leste (Central Bank of Timor-Leste)
CMATS	Treaty of Certain Maritime Arrangements in the Timor Sea
DNPMR	National Directorate of Petroleum and Mineral Revenue
FONGTIL	Forum ONG Timor Leste
JPDA	Joint Petroleum Development Area
MoF	Ministry of Finance
MPMR	Ministry of Petroleum and Mineral Resources
PSC	Production Sharing Contract
SOE	State-owned enterprise
TLEA	Timor-Leste Exclusive Area
TL-EITI MSWG	Timor-Leste EITI Multi-Stakeholder Working Group
TOR	Terms of Reference
UNCLOS	United Nation Convention on the Law of the Sea

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## Executive Summary

The government of Timor-Leste announced its commitment to the EITI in 2003 at the EITI Conference in London<sup>1</sup>. A Multi-Stakeholder Working Group (MSWG) was formed in 2007, and the country was accepted as an EITI Candidate in February 2008. Following their first Validation the EITI Board designated Timor-Leste EITI compliant in July 2010, making it the first country in Asia to become compliant with the EITI Rules.

In November 2015, Timor-Leste undertook a pilot Validation of compliance against the EITI Standard. On 1 June 2016, the EITI Board agreed that the Validation of Timor-Leste should commence on 1 July 2016, with the International Secretariat carrying out initial data collection and stakeholder consultation. This report presents the International Secretariat's findings and initial assessment. The International Secretariat has applied the standard terms of reference for data gathering and stakeholder consultations. While the assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's preliminary assessment is that requirements 1.2, 1.3, 1.4, 4.7, 4.9, 6.1 and 7.2 are unmet. The major areas of concern relate to lack of disaggregated reporting of revenues: challenges with the procedures for EITI reporting; the lack of civil society engagement; limited disclosures of mandatory social expenditures, and the lack of impact assessment. Corrective actions for each sub-requirement are suggested in the assessment tables for each requirement.

## Overall conclusions

Timor-Leste has been a pioneer in EITI implementation, both in terms of being one of the first countries to implement the EITI as well as in expanding implementation beyond the minimum requirements of the EITI Rules and increasingly also the EITI Standard. A key reason behind Timor-Leste's many successes with EITI implementation is the consistently strong political support that the Government of Timor-Leste has provided since the country became an EITI candidate in 2007. Alfredo Pires, Minister of Petroleum and Mineral Resources and EITI Champion since 2006 has been a major driver of the process. The support extends across all government agencies involved in the management of the extractive sector, including the Central Bank, the Ministry of Finance, the National Directorate of Minerals, the National Petroleum Authority, and the Petroleum Fund. Representatives from these agencies all actively contribute to the work of the Timor-Leste MSWG, provide data for EITI Reports and support outreach and dissemination efforts. The many study tours to Timor-Leste from other implementing countries over the years, including from Ghana, Mozambique, Sao Tome and Principe, Seychelles and the Solomon Islands testifies to the mentoring role that Timor-Leste has played. The Government of Timor-Leste has also actively shared Timor-Leste's experience with prospective implementing countries in the region including Myanmar, Papua New Guinea, the Philippines and Vietnam.

Another key strength of EITI implementation in Timor-Leste's has been the oversight provided by the MSWG. There have naturally been periods of high and low activity and stakeholder relations have not always been easy. In recent years, disagreement regarding the reporting procedures and a lack of trust between stakeholders has affected implementation. Civil society engagement has also decreased significantly. Notwithstanding these challenges, much of the substantive MSWG work is driven by a core group of dedicated MSWG members from government and industry, providing input and steering EITI implementation, with the national secretariat having more of a coordination role. While this has ensured strong ownership by MSWG members, it has also resulted in a heavy workload for many. It now seems

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<sup>1</sup> <http://www.laohamutuk.org/Oil/EITI/03AlkatiriEITI.htm>

timely to boost the capacity and competencies within the national secretariat in order to ensure more efficient support to the MSWG. There is also a need to ensure that civil society engaged in the EITI has adequate resources, capacity and skills to participate in the process.

With a relatively small and clearly structured oil sector, EITI reporting in Timor-Leste has been fairly straightforward from a data availability and record keeping point of view. The number of company and government reporting entities is small and auditing and assurance procedures are strong. The transition from the EITI Rules to the EITI Standard appears to have been quite smooth. The main gaps in EITI reporting highlighted in this report seem to be mainly due to concerns by some stakeholders regarding certain disclosures, rather than a lack of available information and data. However, MSWG discussions around reporting templates and the level of disaggregation of data have been highly contentious. Reaching consensus on these matters have been time-consuming and have caused delays to EITI reporting, leading to less timely and less useful EITI Reports. Although the requirements for disaggregated data in the EITI Standard should have rendered previous discussions moot, the last EITI Report does not contain data disaggregated to the levels required by the EITI. Although pushing strongly for disaggregation, government and civil society explained the lack of disaggregation by the need for compromise given industry concerns, and the need to avoid suspension for failure to meet the reporting deadline given the protracted discussions. The 2012 EITI Report and subsequently the 2013 EITI Report were seen by many as a step backwards in terms of transparency, as both reports were published late and contained less detail than previous reports. Although it may have brought industry back to the table, a challenge ahead will be to ensure that the multi-stakeholder nature of the EITI does not prevent the government and civil society from achieving its ambitions when it comes to transparency. At the same time, the EITI is also an important platform for building dialogue and trust among stakeholders. An approach that reflects international best practice and that has the full support of all constituencies would be the ideal outcome.

Given Timor-Leste's high dependency on oil, there is a vibrant national debate about sector management, the spending of oil money, and the future prospects of the oil sector in Timor-Leste. Many civil society organisations participate actively in this debate. The EITI's contribution to this debate has mainly been through dissemination events and workshops, in particular at the regional level. The findings of the EITI reports themselves do not really appear to have caused any significant discussion. The reports are not "smoking gun" reports and have to date contained limited recommendations for improving sector management. However, the EITI has nevertheless provided a tripartite platform for discussions and debates about oil sector management. This has enabled the public to raise concerns in particular around how the oil money is spent, and provided a channel of feedback to government representatives.

A key opportunity for making the EITI more relevant and useful would be to move towards more timely and mainstreamed transparency. Most government agencies in Timor-Leste already publish the information required to be disclosed under the EITI Standard on government websites as well as in quarterly and annual reports. In many aspects, this information is considerably more up to date and comprehensive than the information provided in the EITI reports. Thus, with a more capacitated national secretariat, EITI reporting in Timor-Leste could in the future be more about pulling information from already existing reporting and sources, with a greater focus on up to date and highly credible analysis and forecasts, perhaps on a quarterly basis. Other areas where stakeholders have suggested that the EITI might be useful include monitoring of budget execution, including verifying that the money was being spent on what it is supposed to be spent on, and reviewing the efficiency of spending in particular related to the new infrastructure fund. Other areas include contract transparency, sovereign wealth fund investments and state-owned companies, including financial information but also governance issues.

## Recommendations

Based on the initial data gathering and stakeholder consultations, the International Secretariat makes the following overall recommendation for improving implementation in Timor-Leste. Detailed recommendations are provided in the assessment tables throughout the report.

1. The MSWG is encouraged to further entrench extractive sector transparency in government systems, and take steps to move towards quarterly EITI reporting based on the routine disclosures provided by relevant government agencies and companies. It is recommended that the MSWG undertakes a feasibility study to identify what information required to be disclosed under the EITI Standard is already publicly available and what information is not yet routinely disclosed. Opportunities for providing more EITI data in open data formats could also be explored.
2. The MSWG is encouraged to consider strengthening the national EITI Secretariat to take a more active role in supporting implementation and the work of the MSWG, including building capacity with a view to supporting more mainstreamed EITI implementation. The MSWG is also encouraged to review the governance arrangements of the MSWG with regards to national secretariat participation in the MSWG and its role as Chair.
3. While considering the feasibility of mainstreamed disclosures and in preparing for the next EITI Report, it is recommended that the MSWG reviews the confidentiality arrangements between the Independent Administrator and reporting entities with a view to identifying a procedure that safeguards confidential information but that does not disadvantage any stakeholders or create obstacles and delays to EITI Reporting. The MSWG should ensure that future confidentiality agreements, if any, and the reporting templates, are developed in consultation with the Independent Administrator.
4. In preparing for the next EITI Report, the MSWG should find a workable solution to industry concerns about disclosing disaggregated production, export and revenue data in order to ensure compliance with the EITI Standard. The government may wish to consider introducing or amending legal requirements.
5. The MSWG should consider whether to take a more active role in developing recommendations from EITI Reports, and agree relevant follow-up and implementation.
6. It is recommended that civil society undertakes a capacity building needs assessment and that actions to address civil society capacity constraints are implemented.
7. The MSWG should consider extending disclosures to include spending of oil and gas revenue allocated to the infrastructure fund for infrastructure developments that are aimed at supporting the oil and gas sector.
8. The MSWG should ensure that future social expenditure reporting provides the deemed or actual value of the in-kind transactions.
9. TL-EITI may wish to consider undertaking an impact assessment, with a view to identifying opportunities to increase impact. This could also include exploring whether to extend EITI disclosures to other areas of national priority and interest, including for example budget expenditures, contract transparency, SOE governance and sovereign wealth fund investments.

*Figure 1 – assessment card*

		EITI REQUIREMENTS		LEVEL OF PROGRESS				
		No	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)							
	Workplan (#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)							
	Infrastructure provisions and 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 (#5.2e)							
	Revenue management and expenditures (#5.3)							
Socio-economic contribution	Social expenditures (#6.1.)							
	SOE quasi-fiscal expenditures (#6.2)							
	Economic contribution (#6.3)							
	Public debate (#7.1)							
Outcomes and impact	Data accessibility (#7.2)							
	Follow up on recommendations (#7.3)							
	Outcomes and Impact of implementation (#7.4)							
<b>Overall assessment:</b>								

## Introduction

### Overview and background of EITI implementation

The government of Timor-Leste first announced its commitment to the EITI in 2003 at the EITI Conference in London<sup>2</sup>. A Multi-Stakeholder Working Group (MSWG) was formed in 2007, and the country was accepted as an EITI candidate in February 2008<sup>3</sup>. Alfredo Pires, now Minister of Petroleum and Mineral Resources, and the most senior government official in charge of petroleum in Timor-Leste, was selected by the Prime Minister Mari Alkatiri to be the EITI Champion. Following their first Validation Report<sup>4</sup> the EITI International Board designated Timor-Leste EITI compliant in July 2010 making it the first country in Asia to become compliant with the EITI Rules.

### Objectives for Implementation and Progress in Implementing the Work plan

In October 2012, the MSWG produced a long-term, five-year work plan for 2012-2017<sup>5</sup>. The objectives and activities focused on the EITI process and the publication of the EITI Report. It has since been updated annually by the MSWG to conform to the requirements of the 2016 EITI Standard and to also reflect national priorities. The 2016 EITI work plan<sup>6</sup> has four objectives:

1. Ensure publication of TL EITI report in a timely manner and in accordance with the EITI Standard;
2. Encourage discussions on transparency in public expenditures, including investment decisions, focusing on economic diversification;
3. Reform the legal framework and maintain contract transparency within extractive industries and other revenues generated in Timor-Leste; and
4. Institutional development for TL EITI secretariat, including capacity building for the MSG and outreach activities.

The MSWG usually updates its work plan in September every year and it takes effect in January of the following year. In June each year, the national secretariat prepares a budget based on the activities under the five-year work plan to be ready for the annual budget debates in November. Implementation of the 2016 work plan is slightly delayed as the primary focus of the MSG for the first quarter was the production of a supplementary report for 2013. The main dissemination activity related to the 2013 EITI Report was a series of seminars in three universities and academic institutions in June 2016. Representatives from all stakeholder groups, including the EITI Champion participated in these events.

As for previous work plans, the 2015 work plan seems to have been broadly implemented, although some activities commenced later than scheduled or have been rolled over to the 2016 work plan, including updates to outreach presentations on contract transparency, updates of the reporting templates to include further expenditure information, recruitment of a technical staff, the development of a training plan for the TL-EITI Secretariat and the publication of local-language EITI Report summaries.

<sup>2</sup> <http://www.laohamutuk.org/Oil/EITI/03AlkatiriEITI.htm>

<sup>3</sup> <https://eiti.org/node/7172>

<sup>4</sup> <https://eiti.org/document/Timor-Leste-2010-Validation-Report>

<sup>5</sup> <http://www.eiti.tl/secretariat/work-plan/finish/24-work-plan/117-work-plan-agreed-by-msg-october-2012>

<sup>6</sup> <http://www.eiti.tl/secretariat/work-plan/finish/24-work-plan/226-work-plan-2016>



## History of EITI Reporting

The first TL-EITI report covering 2008 was produced in November 2009 (within 18 months of being declared a candidate country). Reconciliation reports have been produced for each subsequent year. The latest report covering 2013 was published in 31 December 2015. The Independent Administrator (Moore Stephens), was contracted two times, producing in total four EITI Reports covering financial years 2010-2013. The previous Independent Administrator (Deloitte) was contracted to complete EITI reports for 2008 and 2009.

## Summary of engagement by government, civil society and industry

The current MSGWG operates under the Terms of Reference that were initially approved in 2007, and which have subsequently been updated (last version is dated December 2013). Members of the MSGWG meet on monthly basis and publish the meeting minutes on the TL-EITI website<sup>7</sup>. A list of MSGWG members are included in Annex B.

The early stages of the EITI were characterised by momentum and inclusiveness, with many observers attending regular MSG meetings. Although stakeholder relations have at times been difficult and marked by lack of trust and lack of commitment, in particular in 2013, more recent MSGWG dialogue reflects continuous engagement by all stakeholders albeit with increasing concern regarding civil society involvement. The main government agencies, companies and civil society groups working on extractive issues are involved in the work of TL-EITI.

## Key features of the extractive industry

Timor-Leste's economy is heavily dependent on its natural resources. Though the oil industry's contribution to GDP dropped from 89% in 2011<sup>8</sup> to 77% in 2012<sup>9</sup>, it remains the major contributor to Timor-Leste's economy. All of Timor-Leste's revenue from the oil sector – USD 3.05 billion in 2013 according to the 2013 EITI Report (p. 9) - is deposited in the Petroleum Fund, which had a balance of US \$16.5 billion in March 2016 ([www.eiti.tl](http://www.eiti.tl)). The EITI Reports track how much of the Petroleum Fund is transferred annually to Timor-Leste's budget.

There has been ongoing hydrocarbon exploration and production since oil and gas were first discovered in late 19<sup>th</sup> century. It was not until mid-1900's that explorations started, none of which resulted in much production. The situation changed in the 1970s when significant offshore reserves were predicted in the Timor Sea, between the island of Timor and Australia. Though Timor-Leste also has significant untapped mineral potential in copper, gold, silver and chromite the poor infrastructure and mountainous terrain have impeded widespread exploration and development of these resources.<sup>10</sup>

Timor-Leste's de-colonisation in mid-1970's left the country with many scars: political and economic. The long nation-building process that lasted more than three decades was completed in 2002 when the efforts of the Timorese were acknowledged through the declaration of the Restoration of their Independence.<sup>11</sup> The transition from de-colonisation to the restoration of Independence shattered the weak economy, led

<sup>7</sup> <http://www.eiti.tl/secretariat/msg/msgminutes>

<sup>8</sup> <http://www.resourcegovernance.org/countries/asia-pacific/timor-leste/extractive-industries>

<sup>9</sup> <https://eiti.org/TimorLeste>

<sup>10</sup> <http://www.resourcegovernance.org/countries/asia-pacific/timor-leste/extractive-industries>

<sup>11</sup> <http://timor-leste.gov.tl/?p=29&lang=en>

to political unrest and conflict with neighbouring Indonesia. Internal conflicts also hampered domestic economic activity with little domestic investment.

The 1994 oil and gas discoveries in the Elang-Kakatua region marked Timor-Leste's large-scale offshore oil industry. Production at Elang-Kakatua began four years later, followed by Bayu-Undan (2004) and the much smaller Kitan (2011). The Bayu-Undan discovery has an estimated 3.4 trillion cubic feet of gas and 400 million barrels of oil. The Greater Sunrise discovery (1974) includes a super-giant gas field, with estimated reserves totalling 8 trillion cubic feet of gas and 290 million barrels of oil. Despite these large reserves, the region remains under-explored. Timor-Leste has not released any acreage since the competitive bidding round in 2006. Although both onshore and offshore potential remains – between 12-17 billion barrels of oil according to the government - there are differing views on the reliability of these figures.<sup>12</sup>

Timor-Leste's petroleum sector currently consists of two different jurisdictions with different legal and fiscal regimes: the Joint Petroleum Development Area (JPDA) - jointly managed by Australia and Timor-Leste, and the Timor-Leste Exclusive Area (TLEA) and onshore prospects. The National Petroleum and Minerals Authority (ANPM), which was established by Decree Law No. 20/2008, administers the petroleum activities in both jurisdictions (JPDA and TLEA). In February 2016, it also assumed responsibility for the minerals sector. Australia and East Timor have three treaties that govern maritime arrangements in the Timor Sea. The Treaty on Certain Maritime Arrangements in the Timor Sea, which entered into force on 23 February 2007, sets aside the question of maritime boundaries and jurisdiction between the two countries. Recently, however, Timor-Leste has been involved in a maritime boundary dispute with Australia. The contested area affects Greater Sunrise gas fields, which is estimated to yield revenues of up to USD 15 billion.<sup>13</sup> To resolve the dispute, the countries agreed to undergo a compulsory conciliation process under Annex 5 of the UNCLOS<sup>14</sup>.

The treaty allows for the exploration and exploitation of petroleum resources in the JPDA for the benefit of both countries. Oil and gas revenues have surged since 2005 as major projects in the Joint Petroleum Development Area have come online. The Timor-Leste Government set up a special Petroleum Fund in 2005 to facilitate the sustainable use of its revenues over long term.<sup>15</sup>

With more than 80% of GDP coming from oil and gas exports and more than 95% of state revenue coming from the extractive sector, Timor-Leste struggles to diversify its economy. That, in combination with falling commodity prices, the need to balance savings with expenditure on development<sup>16</sup>, and lower future production and income of oil and gas, will be a challenge to the development of Timor-Leste in the coming years. Some have also questioned the viability of large developments such as Tasi Mane. Tasi Mane is a cluster of three industrial zones on the south coast of Timor-Leste that will include a supply base for the oil and gas industry, an industrial estate, a combined refinery and petrochemical plant, an LNG plant and associated transport infrastructure. There is a lot of hope around the potentially significant Greater Sunrise field. Discussions around the development of this field have led to disagreements on revenue-sharing mechanisms.<sup>17</sup> There has also been a debate regarding the establishment of an infrastructure fund to

<sup>12</sup> ibid

<sup>13</sup> <http://www.adb.org/sites/default/files/linked-documents/cps-tim-2016-2020-ea.pdf>

<sup>14</sup> <http://timor-leste.gov.tl/wp-content/uploads/2016/04/H.E.-Kay-Rala-Xanana-Gusm%C3%A3o-meets-with-UN-Secretary-General-Ban-Ki-moon-as-Timor-Leste-initiates-Compulsory-Conciliation-under-UNCLOS.pdf>

<sup>15</sup> Timor-Leste country-page. EITI International: <https://eiti.org/TimorLeste>

<sup>16</sup> Though withdrawals from the Petroleum Fund are regulated by a benchmark, the annual budget escalations (25% since 2007) and the annual overspending are contributing to a depletion of the Petroleum Fund.

<sup>17</sup> Timor-Leste presses ahead with challenge to Timor Sea oil and gas treaty. The Guardian:

finance these projects. The fund was created under Decree-Law No. 8/2011 of 16 March 2011 and is intended to “finance the implementation of a set of infrastructures that require massive investments in multi-year projects and infrastructure that meets the needs of Timor-Leste.”<sup>18</sup> Several stakeholders have raised issues around transparency in decision making regarding how these funds are allocated, as well as lack of clarity of applicable audit mechanisms. The public has also questioned the propriety of these projects and the current spending priorities of the government. One contested project is the Suai Supply Base, a USD 719 million project to design and construct a logistics base for offshore petroleum operations.<sup>19</sup> The contract was awarded to Hyundai Engineering and Construction Co. on 12 June 2015.<sup>20</sup> About a year later, it was cancelled by the Audit Chamber.<sup>21</sup> The government appealed the case to the Court of Appeals, which has not acted on it due to a lack of judges. Meanwhile, Hyundai decided to pull out of the project.

There are also concerns regarding budget expenditures. While the Petroleum Fund Law states that withdrawals from the Fund should not exceed the estimated sustainable income (ESI) of 3% for a fiscal year, overspending has occurred every year since 2008 (except for 2013) and including the most recent proposed budget where fund transfers are said to be three times higher than the ESI. While there is a multi-stakeholder consultative council that advises parliament regarding the management of the Petroleum Fund and has expressed objections to transfers in excess of 3%, the parliament has nonetheless allowed such withdrawals for several years.

Timor-Leste will have general elections in mid-2017.

#### Explanation of the pilot validation process (objectives, timeline, ToR, etc.)

The EITI International Board agreed at its 33<sup>rd</sup> Board meeting in Oslo, Norway that fifteen countries, including Timor Leste would undergo Validations starting 1 July 2016.

1. Validation is an essential feature of the EITI process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation report will, in addition, address the impact of the EITI in the country being validated, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI. The Validation process is outlined in chapter 4 of the EITI Standard<sup>22</sup>.

**2. Validation procedure.** In February 2016 the EITI Board approved a revised Validation system. The new system has three phases:

1. Data collection undertaken by the International Secretariat
2. Independent quality assurance by an independent Validator who reports directly the EITI Board
3. Board review.

In May 2016, the Board agreed the [Validation Guide](#), which provides detailed guidance on assessing EITI Requirements. The Board also established detailed [Validation procedures](#), including a standardised

<http://www.theguardian.com/world/2015/jun/05/timor-lestes-to-resume-treaty-challenge-after-australia-returned-documents>

<sup>18</sup> <http://www.laohamutuk.org/econ/specialfunds/FI-DL8-2011En.pdf>

<sup>19</sup> <http://laohamutuk.blogspot.com/2016/06/suai-supply-base-contract-cancelled-its.html>

<sup>20</sup> <http://www.macauhub.com.mo/en/2015/06/26/south-korean-group-hyundai-awarded-contract-in-timor-lestes/>

<sup>21</sup> <http://energy-pubs.com.au/oil-gas-asia/timor-lestes-to-appeal-supply-base-decision/>

<sup>22</sup> See also <https://eiti.org/validation>

procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator. As previously, there are extensive opportunities for stakeholder participation, as set out below.

The Validation Guide includes a provision that: “Where the MSG wishes that Validation pays particular attention to assessing certain objectives or activities in accordance with the MSG workplan, these should be outlined upon the request of the MSG”. The MSWG in Timor Leste did not request any issues for particular consideration.

**3. Data collection by the International Secretariat.** In accordance with the [Validation procedures](#), International Secretariat’s work was conducted in three phases:

1. Desk Review. In the period 21 June-17 July 2016, the Secretariat conducted a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including:

- The EITI work plan and other planning documents such as budgets and communication plans;
- The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;
- EITI Reports, and supplementary information such as summary reports and scoping studies;
- Communication materials;
- Annual progress reports; and
- Other information of relevance to EITI implementation and Validation.

This work included initial consultations with stakeholders, who were invited to submit any documentation they considered relevant. In accordance with the [Validation procedures](#), the Secretariat did not take into account any actions undertaken after the commencement of Validation on 1 July 2016.

2. Country visit. The country visit took place from 18-21 July 2016. The International Secretariat met with the MSWG and its members and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the MSWG.

In addition to meeting with the MSWG as a group, the Secretariat met with its constituent members (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders were able to freely express their views. Requests for confidentiality have been respected.

The list of stakeholders consulted was prepared by members of the MSWG, with inputs and suggestions from the national and the International Secretariat. The International Secretariat’s view is that the report covers views of the key stakeholders engaged in the EITI process.

3. Reporting on progress against requirements. Based on these consultations, the International Secretariat has prepared this report - making an initial evaluation of progress against requirements in accordance with the Validation Guide. In accordance with the [Validation procedures](#) the report does not include an overall assessment of compliance. The report will be made available to MSWG for comment prior to quality assurance by the Independent Validator.

The International Secretariat's team comprised: Sam Bartlett, Dyveke Rogan, and Gay Ordenes.

**4. Independent Validation.** In accordance with the EITI Standard, the EITI Board will appoint a Validator<sup>23</sup>, who will report to the Board via the Validation Committee. The Validator will assess whether the Secretariat's initial data gathering has been carried out in accordance with the Validation Guide. This will include: a detailed desk review of the relevant documentation for each requirement and the Secretariat's initial evaluation for each requirement, and a risk-based approach for spot checks, and further consultations with stakeholders. The Board may request that the Validator undertake spot checks on specific requirements. The Validator will amend or comment on the Secretariat's report as needed. The Validator then prepares a short summary (the Validation Report) for submission to the Board. This will include the Validator's assessment of compliance with each provision, but not an overall assessment of compliance. The MSWG will be invited to comment on the Validation Report.

**5. Board Review and decision.** The final stage in the process is the review by the EITI Board. The Validation Committee will review the Validator's assessment and any feedback from the MSWG. The Validation Committee will then make a recommendation to the EITI Board on the country's compliance with the EITI Requirements. The EITI Board will make the final determination of whether the requirements are met or unmet, and on the country's overall compliance in accordance with provision 8.3.a.ii of the EITI Standard. There is an appeal process, as per requirement 8.8.

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<sup>23</sup> At the time of writing, the procurement process was ongoing, see <https://eiti.org/node/7118>

## Part I – MSG Oversight

### 1. Oversight by the MSG

#### 1.1 Overview

This section relates to government oversight of the EITI process, stakeholder engagement and the environment for implementation of EITI in country, the governance and functioning of the multi-stakeholder group (MSG), and the EITI work plan.

#### 1.2 Assessment

##### Government oversight of the EITI process (# 1.1)

###### Documentation of progress

Timor-Leste was one of the first countries in Asia to join the EITI and the government has supported the EITI since the then Prime Minister Mari Alkatiri made a public declaration of Timor-Leste's intention to implement the EITI at the first global EITI Conference on 17 June 2003<sup>24</sup>. In 2006, Alfredo Pires, Minister of Petroleum and Mineral Resources (MPMR), was appointed by the Prime Minister to lead to the EITI. Since then he has served as EITI Champion and Chair of the Timor-Leste EITI Multi-Stakeholder Working Group (TL-EITI MSWG). He has also served three terms as alternate member of the EITI Board (2009-2016).

The government has publicly reaffirmed its commitment to the EITI on several occasions, most recently at the launch of the 2012 EITI Report in Dili on 6 February 2015<sup>25</sup> and Minister Alfredo Pires' message for the 2015 TL-EITI Annual Progress Report where he talked about the efforts of and challenges faced by the country to comply with the EITI Standard (p.3).

Other senior government officials are represented on the MSWG, including representatives from the Petroleum Fund (PF), the National Petroleum Authorities (ANPM), the Central Bank of Timor-Leste (BCTL), and the National Directorate of Petroleum and Mineral Revenue (DNPMR) within the Ministry of Finance (MoF). These government entities are all involved in the management of natural resources in Timor-Leste. In addition, the government created a national oil company, Timor GAP, in 2011. Timor GAP has been involved in the MSWG since 2013.

The government's engagement in the design, implementation, monitoring and evaluation of the EITI process has been consistently strong during Timor-Leste's implementation of the EITI. Government representatives have been actively engaged in core MSWG activities such as drafting and commenting on EITI work plans and annual activity reports, EITI reporting templates and EITI Reports. Minutes from MSWG meetings confirm that several of these activities have been initiated by government representatives on the MSWG, and that government representatives usually attend MSWG meetings. Government representatives have regularly participated in outreach and dissemination events in the country as well as in national and international capacity building events, conferences and outreach to other EITI countries in the region,

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<sup>24</sup> <http://www.eiti.tl/secretariat/documents/finish/25-documents/85-government-statement-to-implement-eiti-17-june-2003-by-his-excellency-dr-mari-alkatiri-pm>

<sup>25</sup> <http://timor-leste.gov.tl/?p=11233&lang=en>

including Ghana, Myanmar, Papua New Guinea, Philippines and Vietnam. Timor-Leste has also welcomed and facilitated study tours and peer learning events with other countries, and has received EITI delegations from Ghana, Mozambique, São Tomé and Príncipe, Seychelles and Solomon Islands.

Although there have been no major legal obstacles to implementation in Timor-Leste, the government has sought to improve the legal framework to maximise the potential for transparency. To this end, the new model Production Sharing Contracts (PSCs) that are currently being developed include provisions mandating companies to comply with the EITI Standard<sup>26</sup>. The government has also initiated the drafting of a Transparency Law to give the EITI legal backing and to ensure transparency provisions related to other processes in the management of the extractive sector such as licensing, contracts, procurement, etc. Industry in particular has on several occasions argued that it would be easier for them to comply with requests for data disclosure if such requests were backed by law (MSWG meeting minutes<sup>27</sup>). A draft law has been developed, but the process has not yet been finalised due to other ongoing reforms (2015 Annual progress report, p.9).

The government has come a long way in embedding the transparency advocated by the EITI in government systems. In August 2011, the government launched the Timor-Leste Transparency Model which includes transparency in government decision making, budgeting, petroleum fund management, revenues and expenditures<sup>28</sup>. Much of this information has been available in the Timor-Leste Transparency Portal<sup>29</sup>. Government agencies make EITI data available on their websites on a routine basis. ANPM for example publishes all relevant laws and regulations and PSCs as well as production data and revenue data (on a quarterly basis) on its website. Financial data is also available from the Petroleum Fund website, the Transparency Portal and Timor GAP's website. In 2015, the government committed to further entrenching and mainstreaming transparency in government systems.

Since 2012, the government has also fully funded the implementation of EITI in Timor-Leste. The annual budget allocation for 2015 was USD 469 000 (2015 Annual progress report, p.20). The 2016 work plan also has a total budget of USD 469.000. This includes funding for a national secretariat with seven staff, which has been established under the MPMR to support the MSWG with the implementation of the EITI.

### **Stakeholder views**

Civil society representatives noted that the government is committed to the EITI, but recognised that government representatives on the MSWG are sometimes in a difficult position which might force them to take a more neutral position. On some issues, such as disaggregation, civil society representatives argued that the government could do more to ensure industry engagement. An industry representative commented that if there was lack of progress on any EITI issues, government tended to blame industry.

### **Initial assessment**

Evidence such as MSWG meeting minutes and conversations with stakeholders show that government is fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process. The government has provided funding to implementation and there is willingness on behalf of the government to resolve bottlenecks to implementation. Capacity among government representatives is strong. Government representatives are taking part in outreach and efforts to promote public debate. The

<sup>26</sup> According to ANPM, the new model PSCs are undergoing final reading and are due to be approved by the end of the year.

<sup>27</sup> This was discussed at several MSWG meetings, including 28 March 2014 (p.4 of minutes) and 11 April 2014 (p.4 of the minutes).

<sup>28</sup> <http://timor-leste.gov.tl/?p=4962&n=1&lang=en>

<sup>29</sup> <http://www.transparency.gov.tl/english.html>



International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

### Company engagement (# 1.2)

ConocoPhillips, Eni and Woodside are the main industry players in Timor-Leste, and have been involved in EITI implementation since the beginning. While the early years of implementation were collaborative, the relationship between the government and industry has become more difficult in recent years. In 2012, there was a strong push by the government and civil society to pursue disaggregated reporting and contract transparency. Minutes from the MSWG meetings in 2012 point to considerable debate about disaggregated reporting, with industry expressing discontent given that they had not agreed to publish disaggregated data in the 2010/2011 EITI Report. When the deadline for publishing the report (31 December 2012) was approaching, government and civil society decided to go ahead with publication of the report without the consent of industry members. This caused a breakdown in industry engagement in the EITI. Minutes from MSWG meetings show that industry representatives were more or less absent from MSWG discussions throughout 2013, although Eni remained partially engaged. Industry also declined to take part in dissemination events in 2013 and 2014 as they did not support the reports.

The relationship has subsequently improved. Industry supported the publication of the 2012 and 2013 EITI Reports and engaged heavily in drafting reporting templates and reviewing the reports. Industry was also present at the launch of the 2012 EITI report in February 2015. However, the relationship is still characterized by distrust. An example of this is the confidentiality agreement between companies and the Independent Administrator, which requires the Independent Administrators to obtain approval from each company prior to sharing the inception, draft and final EITI Report to other MSWG members. As the companies often seek consent from headquarters, each approval may take several months, slowing down the EITI reporting process. Although the 2012 reporting process was delayed due to lengthy discussions of templates which led to the Independent Administrator only being recruited in September 2014, the confidentiality provisions contributed to that the 2012 EITI Report was published a month after the deadline of 31 December 2014. Although the 2013 EITI Report was published by the deadline of 31 December 2015, it is noticeable from the minutes of the MSWG meetings in December 2015 that the delays in the reporting process were again mainly due to the lengthy industry review of the content of the report. This also led to that many of the recommendations from the pilot Validation were not addressed in the 2013 EITI Report prior to its publication.

In addition to the lengthy approval process required by industry, companies have been reluctant to disclose disaggregated data for revenue streams, production and exports, citing commercial sensitivity. This has caused tension among MSWG members and has been the subject of several discussions during MSWG meetings. Unable to reach consensus, the MSWG published the 2013 EITI Report using aggregated data. In the lead up to Validation, ANPM has been seeking to address this gap.

MSWG meeting minutes confirm that industry has been present and actively contributing to MSWG discussions (MSWG meeting minutes, 2014-2016). In terms of support to outreach activities, industry participated in the launch of the 2012 EITI Report in 2015. While there was no launch event for the 2013 EITI Report, industry participated in all three dissemination events in 2016 related to the report.

As noted above, there are no legal requirements for companies to participate in the EITI although reforms are underway.



It should be noted that the mistrust and lack of collaboration on issues such as the EITI must be understood in the context of broader disputes between the government of Timor-Leste and some industry players. In 2012, the government took legal action against ConocoPhillips and other companies over what it considered unpaid taxes, including illegitimate cost recovery deductions, delayed profit oil tax payments, etc.<sup>30</sup> In addition, there has been disagreement with Woodside over the development of the Greater Sunrise gas field<sup>31</sup>. Although a settlement was reached between ConocoPhillips and the government on the majority of the cases in February 2016<sup>32</sup>, some disputes are still on-going, including one legal proceeding between ConocoPhillips and the government regarding pipeline access, and two legal proceedings between the Government of Timor-Leste and the Government of Australia related to Greater Sunrise. One of these relate to the Treaty of Certain Maritime Arrangements in the Timor Sea (CMATS), and the second is the international arbitration to establish permanent maritime boundaries under the United Nation Convention on the Law of the Sea (UNCLOS).

### **Stakeholder views:**

All stakeholders raised the issue of the EITI law. Companies commented that if there were concerns about industry's willingness to disclose data for the EITI reports, the government should consider legal measures to make this mandatory. Government representatives said that although there might be a need for a law, such a process should not be rushed. There would be a need for careful consideration of existing laws and consultation with stakeholders. There was also concern that if the wording of such a law referred to compliance with the EITI Standard, other laws and regulations may need to be amended if the EITI Standard evolved globally. Civil society representatives said that the mandate of the EITI was not clear or strong enough. A law could address this and help enforce the responsibilities of participants in the EITI process, including on issues such as ensuring that disaggregated data is published. It would also help ensure the sustainability of the EITI. Civil society had recommended to the government to enact a law, and the government had taken on board their suggestion including hiring a firm to draft a law. However, the CSOs note that progress and follow up on the law has stalled. Civil society also noted that although decisions were made by consensus, industry was seldom willing to compromise and would rather threaten to leave the process than to try to find middle ground.

One industry representative lamented that despite the companies having to disclose the tax penalties that they disagreed with and had challenged in previous EITI Reports, the government was not willing to disclose the details of the recent settlements with companies. The government explained that these settlements were confidential.

Another industry representative commented that collaboration among the companies on the MSWG was good. Consultations were frequent, and even if they spoke on behalf of their own company at the MSWG table, industry representatives always tried to understand the perspectives and position of other companies. On contentious or important issues, there would be more strategizing among industry representatives.

### **Initial assessment**

Evidence such as MSWG meeting minutes and conversations with stakeholders show that companies are actively engaged in the design and implementation of the EITI process, through participation in MSWG

<sup>30</sup> <http://www.laohamutuk.org/Oil/tax/SSCOMLegalAction10Jul2012en.pdf>

<sup>31</sup> <http://www.eastasiaforum.org/2016/06/04/unravelling-timor-lestes-greater-sunrise-strategy/>

<sup>32</sup> [http://www.conocophillips.com.au/newsroom/Documents/Timor\\_LesteConocoPhillipsAusSettleTaxDisputes\\_17Feb16.pdf](http://www.conocophillips.com.au/newsroom/Documents/Timor_LesteConocoPhillipsAusSettleTaxDisputes_17Feb16.pdf)

meetings and input to the EITI reporting process. Capacity among company representatives is strong. There do not seem to be any legal obstacles preventing company participation in the EITI, although the lack of enabling legislation seems to affect companies' willingness to disclose information such as disaggregated revenue and production data. Despite recent efforts, the lengthy review processes, insistence on confidentiality agreements, and lack of substantiation of arguments that certain information is confidential, it is difficult to conclude that companies are effectively engaged in the EITI process in a way that supports the principles of the EITI. Therefore, the International Secretariat's initial assessment is that Timor-Leste has made meaningful progress in meeting this requirement.

### Civil society engagement (# 1.3)

There is a network of NGOs working on oil and gas issues in Timor-Leste, including Core Group Transparency, FONGTIL<sup>33</sup>, La'o Hamutuk<sup>34</sup> and Luta Hamutuk<sup>35</sup>.

FONGTIL comprises 376 members working on different issues. The Core Transparency Group, which is a network within FONGTIL focused on transparency issues, counts 14 NGOs as members. FONGTIL's three criteria for membership are that member organisations must be non-partisan, non-sectarian and non-profit. An inventory of membership is undertaken at each annual general meeting, and organisations that have become inactive or breached the membership criteria lose their membership. The Board of FONGTIL is elected for three years, and an executive director is also appointed to serve the Board and lead the FONGTIL secretariat for a three-year period (renewable once). The FONGTIL secretariat currently comprises 13 staff. The role of the FONGTIL secretariat is mainly to facilitate and coordinate member organisations, ensure capacity building and advocacy.

*Expression:* Minutes from MSWG meetings, press releases and participation in events show that civil society is clearly able to speak freely about the EITI process without restraint or coercion. Evidence of this includes the many critical articles and research that La'o Hamutuk has produced related to the management of the oil sector<sup>36</sup>. La'o Hamutuk also published a critical article related to the publication of the 2012 EITI Report in February 2015, claiming that EITI is creating less transparency in Timor-Leste than before<sup>37</sup>. Core Group Transparency was also actively campaigning in 2014 to ensure that the disaggregated disclosures be provided<sup>38</sup>. There is no evidence of self-censorship or self-imposed restrictions related to freedom of expression on EITI issues.

*Operation:* There are no suggestions of legal, regulatory, administrative and actual barriers to civil society operation preventing participation in EITI, nor any restrictions of fundamental rights. There was considerable debate related to a new media law that was proposed in 2013/14 and which was seen to potentially limit the operation of free media. The draft was revised after President Taur Matan Ruak submitted it to the Court of Appeals who declared parts of the law unconstitutional. The revised Law was finally passed and promulgated in November 2014.

*Association:* Civil society groups engaged in the EITI process are freely collaborating with each other as well as with other local NGOs not directly represented on the MSWG as well as with international groups. Two

<sup>33</sup> <http://fongtil.org/>

<sup>34</sup> <http://www.laohamutuk.org/>

<sup>35</sup> <http://www.lutahamutukinstitute.org/>

<sup>36</sup> <http://www.laohamutuk.org/Oil/OilIndex.html>

<sup>37</sup> <http://laohamutuk.blogspot.no/2015/02/transparency-initiative-gets-little.html>

<sup>38</sup> <http://www.laohamutuk.org/Oil/EITI/2014/CGT%20EITI15Apr2014en.pdf>

of the NGOs - La' o Hamutuk<sup>39</sup> and Luta Hamutuk<sup>40</sup> - are affiliated with PWYP. NRG I has also in the past provided some support from its Jakarta office.

*Engagement:* Civil society is to some extent involved in the design, implementation, monitoring and evaluation of the EITI through participation in MSWG meetings, CSO forums, dissemination events etc. The minutes from MSWG meetings point to active engagement over the years and it is clear that there is capacity amongst wider civil society to engage in questions related to the extractive sector. However, since the refreshment of CSO members on the MSWG in July 2014 there are growing concerns about the capacity of civil society to fully engage in the EITI process. For example, minutes from MSWG meetings in the period November 2015-April 2016 record virtually no civil society views on the otherwise vibrant debate between government and industry on the issue of data disaggregation. The minutes record no civil society views on the adapted implementation request (see section 3.2 on Production data for more discussion on this), nor any questions regarding the companies' arguments related to commercial sensitivity. Similarly, there is no evidence from the minutes that civil society expressed any views on the 2016 work plan objectives or submitted input to the work plan process, or the annual progress report. Minutes from MSWG meetings also show relatively low attendance by civil society, with mostly one person attending per meeting. Although the MSWG work plan includes activities aimed at building capacity for civil society, there is no evidence that these activities have been carried out or that civil society has actively sought to address any capacity challenges. When asked about replacements, civil society said that there was no plan to boost capacity in the MSWG until the next election of CSO MSWG representatives which would likely take place in October 2016.

*Access to public decision making:* Civil society has the ability to ensure that the EITI process contributes to public debate and to influence public decision making. Although EITI Reports may not play a major role in contributing to analysis, research and advocacy that civil society is putting out, there is ample evidence that civil society is promoting discussions around the Petroleum Fund Law, the management of the Petroleum Fund, Petroleum Infrastructure projects such as the Tasi mane project, the role of Timor GAP etc. The Petroleum Fund Consultative Council (PFCC), which advises the Parliament on the performance, operation and appropriations from the Petroleum Fund includes two representatives from civil society groups, including a former member of the MSWG and EITI Board. However, there is no evidence that the current CSO members have undertaken any analysis or conducted any advocacy around the EITI process in the last two years.

### **Stakeholder views**

CSOs that were consulted agreed they had freedom of expression in relation to EITI issues, noting that Timor-Leste was a transparent country and they had never experienced any restrictions or challenges with freely expressing opinions or criticising the government. One CSO representative said that he had spoken a couple of times in the media about the lack of disaggregation in the EITI Report. On one such occasion he had been approached by an industry representative who said that it would be better if such issues were raised and discussed in the MSWG rather than in the media.

No civil society representative reported any legal, regulatory, administrative or other barriers to NGO operations. Civil society representatives explained that all NGOs are required to register with the Ministry of Justice. In order to register, recommendations from two NGOs were needed in addition to a copy of the

<sup>39</sup> <http://www.laohamutuk.org/>

<sup>40</sup> <http://www.lutahamutukinstitute.org/>

NGO statutes and the annual strategic plan. In addition, many banks were asking NGOs for a recommendation when opening bank accounts, and such recommendations were often provided by FONGTIL. Civil society representatives also explained that there was an NGO Law (Decree Law nr.5<sup>41</sup>) which was enacted in 2005, but the government only started to enforce it a couple of years ago. Two issues in the law had caused some challenges for NGOs. Firstly, the law stipulated that in order to register as a foundation or association there was a need for a bank statement confirming that the organisation seeking registration possessed funds amounting to USD 50k (for foundations) and USD 12 k (for associations). The second issue was the need to provide copies of statutes in Portuguese. However, civil society explained that subsequent to NGO feedback and campaigning, the government had withdrawn the requirement to provide a Portuguese version of NGO statutes and had decided not to enforce the capitalisation requirements.

With regards to cooperation among civil society representatives, civil society explained the accountability mechanism between the CSO MSWG representatives and the wider civil society constituency. Every three months, the MSWG representatives were obliged to report on updates and progress with EITI to other FONGTIL members. This was also an opportunity for other FONGTIL members to make recommendations and input, which MSWG representatives would be obliged to follow. Civil society explained that the last consultation took place in January 2016. There had not been any consultation on the adapted implementation request letter. One civil society representative explained that he had tried to arrange a meeting with Core Group Transparency to discuss the issue, but that it had not been possible to arrange the meeting because of busy schedules. Another civil society representative said that MSWG CSO members had consulted among themselves by making phone calls, but that this had not led to any concrete outcome or positions on the issue. It was noted that of the six CSO representatives, only two were active and one of these two had resigned from the MSWG a short while ago for health reasons. The other four representatives were not participating as they were often in the regions doing other work<sup>42</sup>.

On the issue of capacity and engagement in the EITI process, civil society said that it was often difficult for them to comment because they received the EITI reports late in the process and with data redacted by the companies, noting that it was difficult for them to engage on and analyse a report without figures. Although their main capacity challenge was lack of understanding of the EITI Standard, it was also sometimes difficult to read and analyse the documents in English. Although they had been following the disaggregation debate over the last months and raised some concern around this, none of the civil society representatives had read the adapted implementation request letter seeking an exemption from the requirement for disaggregated reporting. One CSO representative said that she had not received the email asking for approval of the letter by MSWG members. Another CSO representative recalled having insisted on that the letter should only request exemption from the requirement to disaggregate production and export data, not revenue data. The representative had not checked emails for the last month and was therefore only recently aware that the letter had been approved and that it was also seeking exemption from disaggregated revenue data. No action had been taken by civil society in response to this. On other issues close to civil society's heart such as expenditure transparency, contract transparency and the abolishment of confidentiality agreements, civil society lamented that although they often raised these issues their voice was not heard. None of the civil society representatives recalled having inputted to or approved the annual progress report.

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<sup>41</sup> <http://www.jornal.gov.tl/lawsTL/RDTL-Law/RDTL-Decree-Laws/Decree-Law-2005-5.pdf>

<sup>42</sup> In the Validation consultations, only two MSWG CSO members showed up, including the one that had resigned a couple of months ago.

With regards to ability to influence public decision making, civil society confirmed that they were able to do so. A concrete example given was the advocacy by civil society regarding the need for a mining law, which had contributed to the government's decision to start elaborating such a law. Another example was NGO campaigning on the two provisions of the NGO Law mentioned above. However, CSO MSWG members confirmed that they had not used the findings of the recent EITI Reports for any advocacy campaigns or analysis. Civil society also said that they do not conduct any EITI-related activities outside those arranged by the TL-EITI secretariat. When asked why, they explained that there was a lack of funding and no donors that were willing to fund such work. At the same time, civil society admitted that apart from one attempt to submit a funding proposal to a development partner for a programme on gender and extractives, there had been no other attempts by civil society to seek funds for EITI-related projects and activities.

A stakeholder observed that current CSO representatives in the MSWG are not as active as the previous set of CSO MSWG members. He said that CSOs are more involved in report dissemination rather than on technical discussion and usually adhere to the position of the government. Another stakeholder had the impression that CSO representatives in the MSG were not too focused on transparency issues and that they had not been pushing for relevant information to be included in the report such as budget expenditures. Some also said that the current CSO members rarely consult with any civil society members outside the MSWG. On the other hand, the Consultative Council of Petroleum Fund said that they consult with CSO representatives in the MSG regarding recommendations to the parliament on issues relating to the management of the petroleum fund.

### **Initial assessment**

Evidence such as MSWG meeting minutes and conversations with stakeholders show that civil society is to some extent involved in the design, implementation, monitoring and evaluation of the EITI process. In particular, civil society is taking part in outreach and efforts to promote public debate. It is clear that there is also an enabling environment for civil society participation in the EITI, in terms of laws, regulations and actual practice.

However, the lack of capacity and engagement of civil society organisations is concerning and seems to be preventing them from fully and effectively influencing the design and implementation of the EITI. There is no evidence that civil society has taken steps to address such capacity constraints. In addition, there appears to be a certain level of apathy among civil society regarding the EITI process. Although many expressed that the EITI was important, the lack of civil society reaction and engagement on key issues such as the adapted implementation request is concerning.

The civil society protocol states that in considering whether civil society representatives are able to be fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process, the EITI Board and validators will consider the extent to which:

- Civil society representatives are able to fully contribute and provide input to the EITI process. This could for example include evidence of input and advocacy related to key MSG deliberations on issues such as work plan objectives and activities, the scope of the EITI reporting process, approval of EITI Reports, annual self-assessment of the EITI process through the annual activity reports, validation etc. It could also include evidence that civil society is regularly participating in MSG meetings, MSG working groups and other EITI events, and that the views of CSOs are taken into account and documented in MSG meeting minutes.
- Civil society representatives consider that they have adequate capacity to participate in the EITI. This should include evidence that technical, financial or other capacity constraints affecting civil society

have been considered and that plans for addressing such constraints have been agreed upon and/or effectuated including by providing access to capacity building or resources.

The International Secretariat does not find that there is enough evidence to satisfy these requirements. Thus, the International Secretariat's initial assessment is that Timor-Leste has made meaningful progress in meeting this requirement.

## MSG governance and functioning (#1.4)

### Documentation of progress

#### *MSWG composition and membership*

The TL-MSWG was established in 2007 and as of July 2016 comprises 14 members<sup>43</sup>. It includes six government members, including Alfredo Pires, Minister of Petroleum and Mineral Resources (MPMR) who is also the Chair of the MSG as well as representatives from MPMR (two seats, including one held by the national secretariat) BCTL and MoF (two seats). The government constituency also has two alternates – one representative from MPMR (ANMP) and one representative from BCTL. Industry has three representatives on the MSWG – ConocoPhillips, Eni and Woodside – and one alternate. Civil society has three representatives – Alola Fondation (resigned in April 2016 and has not been replaced), Haberan Institute, and Luta Hamutuk – and three alternates (one of which resigned in 2015 and has not been replaced). In addition, the SOE has two representatives and one alternate.

The composition of the MSWG is set out in the Terms of Reference (TOR) for the TL-MSWG<sup>44</sup>. There is a slight discrepancy between the composition outlined in the TOR and actual practice in that the TOR stipulates one seat for the SOE whereas in practice the SOE have two seats. However, MSWG meeting minutes confirm that the MSG agreed to increase the representation of the SOE to two seats at its meeting on 8 October 2013 MSWG meeting minutes also show evidence of some discussion of whether the SOE should represent government or industry, but no agreement seems to have been reached. They currently figure as a fourth constituency both in the TOR as well as in other documents. In addition, the revised TOR stipulates a seat for the TL-EITI Secretariat and in practice the secretariat tends to chair MSWG meetings and represents MPMR when the Chair is absent from meetings. Although the chairing of MSWG meetings seems to have rotated between constituencies from 2007 to 2010, the revised TOR in 2014 no longer provides for such rotations. According to MSWG meeting minutes, the EITI Champion and MSWG Chair has not chaired any MSWG meetings in recent years.

The TOR sets a term limit for membership, noting that “members shall be appointed for an initial two years term and can be reappointed for a second two years term. While the multi-party nature of the group must be maintained, the group may agree at any time to change, add or reduce numbers of members” (TOR, p.2). According to the minutes from MSWG meetings, it does not seem like a general refreshment of the whole MSWG has been organised in the period 2012-2016. Rather it seems that each constituency is responsible for sorting out its membership, including replacements and re-nominations as needed.

Regarding civil society representation, the TOR stipulates that the representatives should be “determined/selected by a forum of civil society organisations involved in transparency and civil society oversight of extractive industries.” The selection process for civil society has to date been managed by the civil society umbrella organisation FONGTIL. Each FONGTIL member organisation can put forward a

<sup>43</sup> 2015 Annual progress report, p.21. The list of MSG members and contact details are available in the annex A.

<sup>44</sup> <http://www.eiti.tl/secretariat/msg/msg-tor/finish/23-tor/185-msg-tor>

nominee to serve on the MSWG provided that the nominees meet the criteria established by civil society to serve on the MSWG. These criteria include that the nominee's organisation must be member of FONGTIL and that one of the programmes of the nominee's organisation must be focused on transparency. Biennial elections of the CSO MSWG members then take place during the annual general assembly of FONGTIL. If people resign during a term, FONGTIL calls for new nominations and elections. CSO MSWG members have to sign a MoU with FONGTIL where they commit to report to FONGTIL members every three months on their EITI activities, seek input to EITI discussions. They also have to declare any payments received for EITI work such as per diems and other benefits from their EITI work including coverage of travel to international workshops etc., if a representative takes part in capacity building activities. The MoU also states that they have to undertake dissemination work related to EITI.

The last reshuffle of CSO members to the MSWG was organised in Q2 2014, and the results of the CSO elections were communicated in a letter from civil society dated 20 June 2014 where the new MSG members and alternates were communicated<sup>45</sup>. The CSO refresh was spurred by the appointment of Mericio Akara to Parliament's Petroleum Fund Consultative Council in 2013. While he was replaced by a new CSO representative (not his alternate), CSOs agreed to change all their MSWG representatives shortly thereafter and the nominations took place in Q2 2014. MSWG minutes also confirm that when there are changes in CSO membership during a term, the resignation and chosen replacement is communicated by FONGTIL. The alternate CSO representative from Forum Tau Matan was replaced in May 2015 because she was appointed member of the FONGTIL Board and no longer had time to also participate in the MSWG work. Since May 2015, MSWG meeting minutes do not record any changes in CSO MSWG membership.

Civil society appears operationally and in policy terms independent of companies and government. At the MSWG meeting on 18 July 2014, it was noted that some CSO MSWG representatives had received donations or had working relationships with industry through the latter's local content and CSR obligations. Civil society has confirmed that some NGOs, including MSWG members, receive funding both from companies and from government. Although they are not required to publish the details of the funds that they receive, it was noted that many were transparent about their funders and that the government in general was encouraging civil society to publish the amounts and sources of their funding. Those consulted did not consider it problematic or restrictive to receive funding from government or companies and confirmed that it in no way affected their interventions at MSWG meetings or wider EITI work. There are no per diems provided to MSWG members.

With regards to industry representation, the TOR states that "the representatives of petroleum companies should be selected on the basis of largest share/interest of those companies currently operating in Timor-Leste associated areas: (i) TLEA; (ii) JPDA and (iii) future operators in JPDA as well as Timor-Leste associated areas". Minutes from MSWG meetings confirm that industry representation has mainly changed when there have been changes in country office representation. This was the case in March 2014 (Woodside) and in April 2012 (Eni). Industry representatives on the MSWG have confirmed that their representation is adequate given that it involved all private oil and gas companies operating in Timor-Leste. Industry representatives noted that although they sometimes have different opinions or approaches from their industry peers, they tend to delegate one of their three representatives when the three of them are not available to attend meetings.

With regards to government representation, the TORs stipulate the number of representatives from each government agency. The nominations procedures for government representatives were decided by the

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<sup>45</sup> MSG meeting minutes, 18 July 2014.



respective ministries in charge, e.g. the Minister of Finance appointed the representatives from the PF, DNPMR and BCTL, the Minister of Petroleum and Mineral Resources appoint the representatives from MPMR and the President of ANPM appoints the ANPM member. As with industry, it seems that government representation has mainly changed on an ad hoc basis rather than through a concerted reshuffle. According to MSWG meeting minutes, government representation was changed in March 2014 (ANPM and DNPMR), July 2014 (MPMR) and in December 2015 (ANPM). In December 2015, two alternates representing BCTL also joined the MSG (MSWG meeting minutes, 15 December 2015, p.2). The reasons for these changes were that, the previous representative from DNPMR passed away<sup>46</sup>, and the Directorate of Minerals was included in the MSWG in July 2014 because of the MSWG's desire to include the mining sector in the scope of the EITI Report. The ANPM representative was also reshuffled because he had been involved in the EITI from the inception and wanted to hand over the baton to somebody new in ANPM.

The TOR stipulates that each member is responsible for consulting with and fairly representing the interests of its constituency. Former CSO members of the MSWG noted that these consultations had become less frequent since the last reshuffle of CSO representatives on the MSWG in July 2014, and that they had little if any news these days from their CSO colleagues about what was going on within the EITI. Other CSO representatives confirmed that EITI meetings were held every three months at FONGTIL and that in addition, CSO MSWG members were doing own consultations and outreach outside of the FONGTIL meetings. CSO MSWG members also confirmed that they do discuss the MSWG meeting agenda prior to the MSWG meetings. Government representatives confirmed that they do not consult prior to MSG meetings, and are free to speak their own opinion. If there was a disagreement during an MSWG meeting, government representatives would consult with each other as a follow up. Industry confirmed that consultation outside MSWG meetings occurs and there is delegation of representation between the three representatives at times when all three MSG members could not attend meetings.

### *Terms of reference*

The TOR for the MSWG was last revised in Q4 2013 and approved by the MSG on 9 December 2013<sup>47</sup>. The TORs outline the objectives of the MSWG which include development, revisions and approval of annual EITI work plans; oversight of the EITI Reporting process, including agreeing on the scope of the EITI Report, reporting templates, the TOR for the Independent Administrator and the appointment of the Independent Administrator; addressing weaknesses and capacity constraints among and raise public awareness of petroleum sector transparency; and establish a work programme to incorporate the mining sector in the EITI once it is established. There is no specific reference to the annual progress report in the TOR. However, the TOR does specify that the MSWG is responsible for monitoring and evaluation of the EITI process, and in practice annual activity reports are developed and approved by the MSWG. The TOR does not outline any specific roles and responsibilities of MSWG members beyond those included in the overall objectives of the MSWG, which covers provisions 1.4.b of the EITI Standard.

The TOR includes some detail on internal governance rules and procedures:

- As noted above regarding procedures for nominating and changing MSWG members, the TOR include an open policy enabling the MSWG to agree at any time to change, add or reduce number of members.
- The term limit is set at 2 years, and members can be reappointed once.
- The MSWG may invite observers to attend meetings. Observers do not have decision-making rights.

<sup>46</sup> MSG meeting minutes, 28 March 2014, pp.4-5.

<sup>47</sup> MSG meeting minutes, 9 December 2013.



- Meetings should be held at minimum once per month.
- Meeting announcements, agenda and documents should be distributed by the secretariat to the MSWG minimum one week before the meeting.
- Meetings should be considered quorate if half of the MSWG members are attending, including at least one third of the members from each constituency.
- Decisions should be taken by consensus. The MSWG has also agreed on voting rules and rules for decision-making outside of MSG meetings.
- The Chatham House Rule should apply to meetings and minutes. Minutes should be circulated to MSWG members for approval and then published on the TL-EITI website.

Minutes from MSWG meetings confirm that the MSWG from time to time refers to its own TOR, including taking stock of quorum and from time to time also making suggested changes to the TOR. In terms of the practical application of the TOR, it seems that it is generally adhered to. Although the MSG has decided on ad hoc procedure for changing or nominating MSWG members, leaving it up to each constituency, a number of members apart from the Chair have served for more than the term limit (four years). Indeed, Mericio Akara from Luta Hamutuk served as CSO Representative on the MSG from 2007 to 2013, Carlos Florindo from ETADep served from 2007 to 2014, Jose Lobato, Country Manager of ConocoPhillips, has been an MSWG member since 2010, Filipe Nery Bernardo Petroleum Fund Analyst at the Ministry of Finance has served since 2009, and Angelo Lay, Director of commerce at ANPM, served since 2007.

The MSWG is not meeting monthly as stipulated in the TOR, but frequently. It has held six meetings in 2016, thirteen meetings in 2015, 15 meetings in 2014, eight meetings in 2013, nine meetings in 2012 and five meetings in 2011. Minutes from these meetings are available on the TL-EITI website<sup>48</sup>. Apart from the meetings in 2013, most MSWG meetings appear to have been quorate and were consistently chaired by the TL-EITI Secretariat in the absence of Minister Alfredo Pires. With regards to circulation of meeting dates, agendas and documents, the secretariat explains that minutes are scheduled two weeks in advance, unless there are urgent reasons for why the MSWG meeting is taking place. For example, in 2015, it was only the meeting on 6 November on the pilot Validation that was called with less than two weeks' notice. Nevertheless, the meeting was still scheduled more than one week in advance. Agendas and documents are typically distributed together with meeting notifications.

With regards to decision-making, the MSWG TOR states that: "The Working Group shall strive to reach resolution on matters by Consensus. However, where consensus is not possible, then final decisions of the Working Group shall be taken by vote. The vote must be taken at least by two thirds of the meeting quorum. A resolution can pass with 50%+1 in support of resolution. In the case of a voting member cannot attend a meeting where an urgent issue which need to be discuss and decided, he/she must provide in written the authority to his/her respective alternate to vote on his/her behalf." The TOR also provides for decision-making via email in cases where consensus has been reached at non-quorate MSWG meetings and the issue being discussed is time-sensitive.

Decision-making procedures were extensively discussed during the revisions to the MSWG TOR in Q4 2013. The minutes from the 8 October meeting industry expressed their disappointment with the decision of the government and civil society to publish the 2011 EITI Report without industry agreement. Industry did not consider this inclusive decision-making, and as a consequence had lost confidence in the process. The MSWG TOR was subsequently revised to ensure that a meeting would only be considered quorate if each constituency was present. Voting rules were also revised to ensure that each stakeholder group must be

<sup>48</sup> <http://www.eiti.tl/secretariat/msg/msgminutes>

present in case of a vote. Although the MSWG discussed whether or not to require at least one supporting vote from each constituency in order to pass a resolution, the International Secretariat understands that the MSWG ended up deciding on simple majority as it was considered unlikely that there would be a split within any of the constituencies. Including a requirement for support from each constituency would then make decision-making impossible.

Minutes from MSWG meetings demonstrate that discussions about decision-making have continued also after the TOR was approved. On 16 May 2014, the MSWG agreed an amendment to the TOR that if MSWG members are not able to attend meetings, the alternate should have a written authorisation confirming the right to take decision on behalf of the MSWG member. This amendment did not appear to come in response to concerns about decision-making, but was rather an attempt to ensure that decisions can be taken when full MSWG members are not present. Apart from the disagreement around the publication of the 2011 EITI Report in December 2012, the International Secretariat is not aware of any recent concerns regarding breaches of decision-making rules. Rather, the minutes point to extensive discussions regarding the level of disaggregation in the 2012 and 2013 EITI Reports with each constituency suggesting options and compromises with a view to achieve consensus. Otherwise, minutes from MSWG meetings note concerns over slow decision-making within the MSWG, in particular with regards to the approval of the EITI reports (MSWG meeting minutes; 18 December 2015; 15 January 2016). Slow decision-making is also identified as a weakness in the 2015 Annual Progress Report (p.21).

There appears to be relatively good capacity amongst MSWG members to carry out their duties, in particular among company and government representatives. Minutes document that most constituencies have been engaged in rather technical discussions related to reporting templates as well as participated in other duties such as dissemination and stakeholder outreach. Minutes also show that there are some misunderstandings related to the requirements of the EITI Standard, which is understandable for the first couple of EITI Reports being produced under the Standard. While government capacity appears to be particularly strong, as noted in the assessment of Requirement 1.3, there are concerns regarding the capacity of civil society MSWG members to carry out their duties. Minutes from MSWG meetings in the lead up to the publication of the 2012 and 2013 EITI Reports seem to indicate that civil society was largely absent from the discussions and/or not making comments. There is no evidence in the minutes of any civil society input to the 2016 work plan, the 2015 annual progress report or the discussions related to the adapted implementation request submitted by the MSWG in June 2016. Apart from regional trainings provided by e.g. NRG, PWYP or the EITI International Secretariat, there seems to have been limited capacity building events on the EITI at the national level over the last couple of years. Minutes from the MSWG meeting on 3 December 2015 record a discussion of the findings of the pilot validation and the recommendation related to civil society capacity. The minutes note that civil society expressed difficulties related to language barriers (MSWG meeting minutes, 3 December, p.5).

### **Stakeholder views**

With regards to stakeholder representation on the MSWG, several stakeholders confirmed that although MSWG members are eager to respect their 2+2 year term limits and voluntarily stood down at the end of their term, they were often re-nominated by their constituents. This was due to the fact that members and their constituents saw the EITI workload as onerous. It was noted by one government representative and a former CSO member of the MSWG that only CSOs tended to refresh their MSWG representation. Some representatives noted that given other responsibilities of MSWG representatives, they could often not respond to EITI related requests between EITI meetings. The secretariat said that some government MSWG

representatives had attempted to hand over their MSWG seats to other colleagues, but given that decision-making power on behalf of the government was retained by the initial and more senior government MSWG representative it was difficult for these old MSWG members to completely step out of the process. The secretariat's view was that it was more important that the government assigned the right people with the necessary skills, than ensuring refreshment of MSWG representatives. The secretariat also said that both civil society and government have internal procedures for nominating and changing their representative. For government, it is the Council of ministers that nominate the departments and institutions that should be involved. Then the head of that department or institution decided who the MSWG representative should be.

All stakeholders pointed to an urgent need for a strong secretariat that could encourage stakeholders to take key decisions more effectively, for instance by extracting key decisions that needed to be taken from the MSWG meeting minutes and enforcing attendance MSWG meeting. The secretariat should receive sufficient capacity building and training and seek to improve communication, representational and presentation skills. Many stakeholders were concerned that the secretariat did not yet master simple skills such as minute taking or communications. Given the role that Timor-Leste is playing in outreach and sharing of experience, it was also noted that the secretariat needed to be able to represent the country, the oil sector and manage stakeholder relations effectively. Some noted that they felt that they were serving the secretariat rather than the other way around.

Capacity constraints were also flagged as an issue that affected MSWG representation. It was noted that a weakness of the TL-EITI process was the absence of skills transfer related to the EITI. Civil society had changed their representation on the MSG in July 2014 and a couple of induction meetings had been delivered by old MSWG members, but it was conceded that the new CSO members on the MSWG faced capacity constraints in fulfilling their mandate and functions on the MSG. It was suggested that it should be a criteria for CSO MSWG members to mentor and support new CSO MSWG members during the transition period. The new CSO representatives on the MSWG have complained of a lack of support to overcome their capacity constraints, calling for the provision of English-Tetum translation for MSWG meetings, the provision of draft EITI Reports in Tetum, capacity building activities for CSOs, etc. The secretariat confirmed that all stakeholders desired more capacity building on understanding the EITI Standard.

One former MSWG member from the CSO constituency noted that the new CSO representatives may not have the English language skills to conduct a robust debate. While two of the three full MSGW members prior to 2014 spoke English, none of the current CSO members of the MSWG were deemed to speak sufficiently fluent English to hold a robust (technical) debate on the draft EITI Report in English. Thus, the new CSO members may have approved an EITI Report they did not fully comprehend. According to civil society representatives, it had been recommended to organise translation for both MSG meetings and EITI Reports during the 2010-2013 period, but this had not been implemented despite the lack of formal opposition on the MSWG. While the Core Transparency Group had held trainings for media and CSOs on the technical terms of the EITI in 2012 and 2013, this was discontinued in 2014 and 2015. The secretariat confirmed that a key challenge is that civil society does not understand the documents in English. Although they contribute to the conversations taking place in Tetun during MSWG meetings, some of the conversations were considered too technical for civil society. The secretariat confirmed that the language barrier had been discussed. The MSWG had decided to hold the MSWG meetings in Tetun but that minutes and EITI Reports should be in English. According to the secretariat, a key reason for this was that stakeholders outside Timor-Leste should be able to understand the information. Secondly, the Independent Administrator had said that the data must be provided in English. Thirdly, the companies had also

requested that meetings and reports would be in English so that they could more easily consult with their head-quarters. Finally, some of the language and terms was too technical to translate into Tetun. An industry representative confirmed that the language barrier had been discussed but that because the reports needed to be understood internationally, the MSWG had decided to keep them in English. The industry representative also said that the MSWG had operated in English since the beginning so it had become a norm.

All other stakeholders confirmed that civil society had become less active. In previous years, civil society used to campaign hard for the issues that they wanted to see included in the EITI report. Such campaigning had been largely non-existent since mid-2014. Some stakeholders from government and industry said that civil society was actively participating, for example they had been asking questions about why companies needed confidentiality agreements. However, other stakeholders said that civil society rarely fought for any positions in the MSWG and that they had become less pushy. A government representative said that while some CSO representatives who used to be on the MSWG would make noises that they wanted disaggregated information, none of the current CSO MSWG representatives had been fighting for it. Rather they were going with the flow. An industry representative commented that while there were quite intensive discussions between government and companies on how to present the adapted case to the EITI Board. "We discussed the sensitivity of the disclosures, and the unique case of Timor-Leste. The government presented some scenarios and options on how to do the disclosures. We tried to understand the situation of Ghana and other countries to see how they prepared their EITI Reports. I don't remember any input from civil society to these discussions."

As noted in the assessment of Requirement 1.3, civil society MSWG members agreed with the perception of less activity than in previous years. They explained that it was mainly because they were not very familiar with EITI issues and that it was difficult to contribute because they did not know the topic and how to focus their input. It was also noted that the MSWG meeting minutes did not always record the input or comments made by civil society. CSO MSWG members agreed that there was a need for more capacity building on EITI and that there should be better induction for new members. They suggested that the secretariat should do the orientation. They had also discussed undertaking a capacity building needs assessment for civil society and develop a training plan, but this had not yet been undertaken. This was partly due to the restructuring of FONGTIL between January and April 2015. According to the national secretariat, as of July 2016, civil society had not yet sent any proposals for capacity building activities.

No stakeholder expressed concern that their representation was inadequate. With regards to Timor GAP, government representatives noted they considered Timor GAP as part of the industry constituency. Timor GAP considered itself more as a government body, at least for the time being given that they are currently fully funded by the government and had not yet assumed a commercial role. They noted that this could change in the future. Industry members considered Timor GAP as part of the government constituency, particularly given it was wholly state-owned and despite occasional disagreements between the SOE and government over select tax issues. Civil society also thought that Timor GAP should be counted as part of the government constituency. However, at the same time no stakeholders seem to find it problematic with a forth constituency.

With regards to civil society representation, some CSO MSWG members expressed a desire for increasing full membership to 4 or 5 persons given that it was rare that all three CSO MSWG members were available to attend MSWG meetings. Alternates were not perceived or considered to speak with the same authority as full MSWG members. Civil society also confirmed that EITI is popular and that several people are

nominated when there are elections for serving on the MSWG. It was suggested that the CSO criteria for being elected to the MSWG should stipulate that nominees ought to have some knowledge of working on oil sector issues. This as some perceived it as problematic that the current CSO MSWG members lacked the necessary knowledge and skills to effectively represent civil society in the technical discussions at MSWG level. It was suggested that nominations should come mainly from Core Group Transparency, which was specialised in these issues. This would also prevent people from voting for their friends rather than for those who would be best place to represent civil society's interest at MSWG level.

With regards to the TOR for the MSWG, several CSO representatives noted that MSWG members were not familiar with their own TOR for the MSG. As an example, one former CSO MSWG representative recalled being criticised for inviting non-CSO MSWG representatives to MSWG meetings despite the fact that the TOR enables observers to participate. However, stakeholders raised no concerns about the TOR being inadequate.

Several stakeholders confirmed that many procedures were adhered to and the TL-EITI secretariat was doing a good job in calling meetings with prior notice, providing meeting minutes etc. Some CSO representatives noted that although they do know the MSWG meeting date some time in advance, it would be preferable to have a longer term schedule for MSWG meetings. CSOs also said that although they often did receive meeting agendas and documents well in advance, it did also happen that documents were distributed at the day of the MSWG meeting. This made it difficult to read, prepare and consult in advance. CSOs also thought that there was sometimes a need for longer MWSG meetings in order to really discuss and address all stakeholder concerns, in particular on heavy topics such as reviews of EITI reports.

One industry representative highlighted that the secretariat was good at distributing agendas in advance so that people could provide comments. Although documents were mostly distributed in advance, it was not always that all MSWG members actually read the papers in advanced and this could slow down discussions and decision making. Industry also appreciated that the secretariat was consistently providing minutes, which enabled those not present to also provide input.

Civil society expressed some discontent with the secretariat being a member of the MSWG and also chairing MSWG meetings. According to them, this was not considered good practice accountability wise, as the secretariat was supposed to be accountable to the MSWG. Other stakeholders consulted did not have any concerns about the secretariat chairing MSWG meetings. The secretariat had proposed including provisions for the rotation of MSWG chairing in discussions around the revisions of the MSG's TOR in 2014, but most stakeholders had preferred that Minister Pires – and thus in practice the secretariat – continue to chair MSWG meetings. However, the government constituency thought that it would be good to introduce a rotational system again as it could help increase ownership.

Industry members remained scarred by the experience over the 2011 EITI Report, which was published without their consent. Because of the lack of confidence in decision-making procedures, industry believed that the confidentiality agreements between each company and the Independent Administrator, which carry sanctions for breach of agreement, are a requirement for future reports. Such confidentiality agreements were necessary to rebuild trust amongst stakeholders and bring industry back to the EITI process. Thus, industry considered the criticisms of the confidentiality agreements by the government and the Independent Administrator unwarranted.

Only one of the stakeholders consulted could recall the use of voting, and this had only happened once. Other MSWG members could not remember that the voting mechanism had ever been used. The lack of understanding among MSWG members of the voting procedure in the TOR indeed indicates that the

MSWG does not seem to make use of voting. Civil society representatives confirmed that the MSWG was operating by the consensus principle and that sometimes it was difficult to get buy-in for their position when a decision could only be reached through consensus. An example that was cited was that in the preparation of the 2013 EITI Report there was certain information required to be published by the EITI Standard but still some stakeholders refused to include it in the EITI Report. On such occasions, civil society thought that it could be useful to hold a vote. At the same time they considered that voting could be risky unless a qualified voting system was used. An industry representative confirmed that voting was against their culture and that the MSWG would always strive to come to consensus.

### **Initial assessment**

The TL-MSWG comprises relevant actors. All government agencies that are involved in the management of the extractive sector are represented and government MSWG members have demonstrated access and ability to influence decision-makers within their agencies in order to ensure effective and timely implementation. The inclusion of the representatives from the National Directorate of Minerals and the national oil company in 2013-2014 shows that the MSWG has actively sought to include new agencies and players that might be of relevance to the work of TL-EITI. Industry is represented at senior level by the key companies operating in Timor-Leste. Civil society also represents a wide network of NGOs that work on natural resource governance issues. There is no evidence that certain stakeholder groups are inadequately represented, and constituencies are free to manage their own representation and nominations to the MSWG.

The TOR for the MSWG addresses the requirements of the EITI Standard and appears to be largely followed in practice. There have been concerns about decision-making, however since the fallout in 2013, there is no evidence that any new decisions have been taken without consensus. The MSWG meets frequently and attendance and record keeping appears adequate.

Requirement 1.4.b.i states that “Members of the multi-stakeholder group should have capacity to carry out their duties”. As noted above, government and company capacity is strong. However, lack of civil society capacity seem to be preventing civil society from fully and actively contributing to the design and implementation of the EITI. In light of this, the International Secretariat’s initial assessment is that Timor-Leste has made meaningful progress in meeting the requirement.

## **Work plan (#1.5)**

### **Documentation of progress**

In October 2012, the MSWG produced a five-year work plan for 2012-2017. The objectives and activities under this work plan focused more on the EITI process and the publication of the EITI Report. Although this work plan remains the longer-term planning tool for the MSWG, more detailed work plans are developed annually by the MSWG. Updates on the work plan are made in September of every year and take effect in January of the following year. In June, the national secretariat prepares a budget based on the activities under the five-year work plan to be ready for the annual budget debates in November. The confirmed budget is then distributed across the activities in the annual workplans.

The MSWG approved a work plan for 2016 on 4 March 2016<sup>49</sup> which contains the following priorities:

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<sup>49</sup> The MSG discussed the work plan during its meeting on 4 March 4 2016, after which it was submitted for approval. The exact date of approval is not known.

1. Ensure publication of TL EITI report in a timely manner and in accordance with the EITI Standard;
2. Encourage discussions on transparency in public expenditures, including investment decisions, focusing on economic diversification;
3. Reform the legal framework and maintain contract transparency within extractive industries and other revenues generated in Timor-Leste; and
4. Institutional development for TL EITI secretariat, including capacity building for the MSG and outreach activities

Specific objectives and activities are listed under each priority, and most of these objectives appear to be aligned with national priorities for the extractive sector as well as the EITI Principles. For instance, under the second priority, the identified objectives are to increase public awareness on expenditures out of the state budget, encourage discussions on major investment decisions to reduce oil dependency, and allow venue for discussions of expenditures to ensure maximum benefit to the community. Outreach activities and publication of materials are among the activities listed to achieve these objectives.

The work plan includes time-bound and measurable activities, although some items are not costed. While there is no information on source of funds, it is confirmed that EITI implementation in Timor-Leste is fully funded by government. While the work plan provides for capacity building activities for the MSG and the secretariat, it does not indicate what types of capacity building activities are needed and what capacity gaps exist. The work plan includes activities aimed at addressing the scope of EITI reporting, such as discussion of reporting templates, confidentiality agreements etc. The work plan also identifies opportunities for addressing legal constraints, including one objective aimed to “Promote EITI principles in new oil and gas regulations and/or PSC and new draft mining law”.

In terms of detail and scope of the work plan as required by 1.5.f, revenue management and contracts are mentioned in the work plan. Transportation payments and discretionary social expenditures are already covered in the EITI Report, while ad-hoc subnational transfers are not applicable in Timor-Leste.

Work plan implementation for 2016 is slightly delayed. Until July 2016, implemented activities related to the supplementary report, discussions on request for adapted implementation, preparations for Validation, and the organisation of three public debates related to the 2013 EITI Report. Among the activities that have been delayed are the preparation of a training plan for the national secretariat which was scheduled for February 2016; workshops, seminars and trainings for the MSG and hiring of additional staff which were scheduled for March 2016. The recruitment of the staff is now underway, and the MSWG is also in the final stages of agreeing the TOR for the 2014 and 2015 EITI Reports. The key reason for the delays is that the MSWG devoted most of its time to respond to the pilot validation findings and prepare for validation. In addition, government funding for implementation is only disbursed in March of the financial year.

It appears from the minutes of the MSWG meetings that there were several discussions on the work plan. At the MWG meeting on 15 December 2015, the MSWG discussed the findings of the pilot validation report related to the work plan. At this meeting it was noted that “MSG discussed that MSG needs to put more efforts in assisting the secretariat in designing the WP with clear timeframes and costing”. It was also noted that “the WP should include regular discussion, or on quarterly basis a review of the progress of implementation of the activities” (MSWG meeting minutes, 15 December 2015, p. 3). The MSWG also agreed next steps for revising the work plan. This discussion continued at the MSWG meeting on 18 December 2015, where it is noted that only ENI had submitted comments to the work plan (MSWG meeting minutes, 18 December 2015, p. 3). A workshop was conducted on 22 February 2016 where the MSG discussed priorities and activities (MSWG meeting minutes, 4 March 2016, p. 3). There was a

discussion on which should be the MSWG's number one priority among the work plan objectives, including a submission by Timor Gap expressing that economic diversification should not be the first priority because this will in effect widen the scope of the EITI process but that issues such as contract transparency should be among the top priorities (MSG meeting minutes, 4 March 2016, Annex 1). The MSWG work plan is available on the TL-EITI website<sup>50</sup>.

The 2015 strategic work plan, agreed by the MSG in June 2015, contains the following five priorities and objectives for EITI implementation reflecting national priorities in the extractive sector:

Priority 1: Encourage discussions on transparency in public expenditures, including investment decisions. The objectives are to increase public awareness on expenditures of state budget to encourage discussions and ensure maximum benefit to the community.

Priority 2: Maintain Contract transparency within extractive industry in Timor-Leste. to raise public awareness regarding comprehension of contracts.

Priority 3: Encourage discussions on government's approach to economic diversification to reduce oil dependency. The objective is to encourage public awareness and discussions of the government's strategy for investment diversification.

Priority 4. Reforming the legal framework within extractive industries and other revenue generating industries. The objectives are to promote EITI principles in new oil and gas regulations and/or PSCs as well as in the new mining law.

Priority 5: Continue to ensure institutional development for TL-EITI secretariat.

In accordance with requirement 1.4.e, the MSWG has considered extended the detail and scope of EITI reporting, and has agreed to address issues such as revenue management and contract transparency.

The 2015 strategic work plan contains measurable activities and actions to achieve these objectives. It lacks information on timelines, details on capacity constraints and overall scope of EITI reporting. It includes an overall budget estimate of USD 470,000<sup>51</sup> but individual activities are not costed in the work plan. The International Secretariat understands that the National Budget sets the overall envelope for EITI and the MSWG then decides on activities within this allocated budget.

The 2014 work plan is more operational and contains less strategic goals. It contains a more detailed breakdown of activities, actions, responsible party, timeline, and cost estimates. It includes activities aimed at addressing capacity constraints and also includes actions and a timeframe for the publication of the 2012 and 2013 EITI Reports.

### **Stakeholder views**

All stakeholders confirmed that they had been involved in developing the work plan, or had an opportunity to review it.

Civil society explained that in terms of consultation with broader civil society, the work plan objectives had been discussed in three meetings with CGT over the last couple of years. Contract transparency and expenditures had been identified as the most important issues for civil society and both these topics now figured among the 2016 work plan objectives. Civil society had also provided input on the types of dissemination activities to conduct. Other than the current objectives, some CSO MSWG members thought

<sup>50</sup> <http://www.eiti.tl/secretariat/work-plan>

<sup>51</sup> The International Secretariat understands that this is the budget allocated in April 2015 for the FY 2015, and that the figure will be updated based on the outcomes of the budget discussions for 2016.



that the work plan should include a plan for implementing the recommendations from EITI reports, as this was rarely discussed. They also thought it would be good with stricter deadlines and timeframes in the work plan for developing and approving EITI Reports to help prevent delays as work plan implementation was often behind schedule. It was also noted that the work plan was slightly too general and could be more useful if it contained more specific activities.

An industry representative explained that while the objectives for the work plan had been discussed in the workshop in January 2016, the issues that these objectives relate to had been identified in a workshop facilitated by the International Secretariat in September 2013. At that workshop there had been discussions about priorities for the extractive sector. These issues had been discussed again at the pre-validation workshop facilitated by the International Secretariat in January 2015, and were taken as a basis for the discussion of the 2016 work plan. The representative also confirmed that the MSWG had discussed what activities it would be possible to deliver and what would be more challenging. After the workshop, the secretariat circulated the work plan for further input by MSWG members.

The secretariat confirmed this process for elaboration of the 2016 work plan and that all stakeholders had provided input. There had been some debate about some of the objectives. For example, some MSWG members did not want to include economic diversification as an objective in the work plan because it was part of the National Development Strategy and feared that it would duplicate work of other government agencies. It had also been argued that it was not the responsibility of the MSWG to ensure economic diversification.

All stakeholders noted that while they were involved in agreeing the draft work plan drafted by the secretariat, there tended to be insufficient attention to its implementation and the work plan was rarely reviewed at MSWG meetings. It was also suggested that rather than updating the work plan on an ad hoc basis it would be beneficial to have a review of work plan implementation at the end of each calendar year, and then adjust or develop the next year's work plan accordingly. From stakeholder consultations, it did not seem like the work plan was regularly used as a tool for managing implementation. An industry representative confirmed that this had been discussed recently by the MSWG and that it had been decided that the work plan should be reviewed quarterly. This would help ensure that the MSWG would deliver on their commitments and also enable an evaluation of the reasons for why work plan activities were not implemented. Few MSWG members recalled any discussion about costing of the work plan activity or how the budget was set.

A government representative expressed that the national secretariat should provide regular updates on the progress in the work plan.

### **Initial assessment**

The MSWG has considered opportunities for linking implementation to national priorities for the sector, and have agreed objectives to that end that have been reflected in the 2016 work plan. Although there was limited consultation with stakeholders outside the MSWG on these objectives, stakeholders confirm that they respond to interests voiced during interactions with citizens.

The 2016 work plan includes a timeline and specific activities to achieve the objectives. It should be noted, however, that there is still no costing for some items and a few activities planned for the first quarter of 2016, namely the outreach activities, development of training plan for the secretariat and hiring of additional staff are behind schedule. Nonetheless, in general, the work plan appears to address the EITI

Requirements. The International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

Table 1 - Summary assessment table: MSG oversight

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Government oversight of the EITI process (#1.1-1.2)	The government is committed to the EITI and relevant government representatives are part of the MSWG.	Satisfactory progress
Company engagement (#1.2)	Companies are actively engaged in the design and implementation of the EITI, including MSWG deliberations. However, the lack of enabling legislation seems to affect companies' willingness to disclose information such as disaggregated revenue and production data. In addition, the lengthy review processes, insistence on confidentiality agreements, and lack of substantiation of arguments that certain information is confidential, makes it difficult to conclude that companies are effectively engaged in the EITI process in a way that supports the principles of the EITI.	Meaningful progress
Civil society engagement (#1.3)	There is an enabling environment for civil society participation in Timor-Leste. Civil society is involved in implementation. However, capacity constraints are affecting their ability to be fully and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process.	Meaningful progress
MSG governance and functioning (#1.4)	The TL-MSWG comprises relevant actors and all stakeholders feel adequately represented. The TOR for the MSWG addresses the requirements of the EITI Standard and appears to be largely followed in practice. There have been concerns about decision-making, however since the fallout in 2013, there is no evidence that any new decisions have been taken without consensus. The MSWG meets frequently and attendance and record keeping appears adequate. While capacity is strong among government and companies, there is limited evidence that civil society MSG members have sufficient capacity to carry out their duties.	Meaningful progress

Work plan (#1.5)	The work plan has clear objectives linked to national priorities for the extractive sector, as well as more detailed actions and timelines. Costing is missing for some items, and implementation is slightly behind schedule.	Satisfactory progress
<p><b>International Secretariat's recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The MSWG needs to find a workable solution to industry concerns about disclosing disaggregated production and revenue data. The government may wish to consider introducing legal requirements.</li> <li>2. TL-EITI is encouraged to consider strengthening the secretariat through capacity building and further recruitment. The MSWG may also wish to revisit the governance arrangements of the MSWG and the reporting lines and accountability mechanisms of the national secretariat.</li> <li>3. It is recommended that civil society undertakes a capacity building needs assessment and that actions to address civil society capacity constraints are implemented.</li> <li>4. The MSWG has made good efforts to identify work plan objectives that speak to national priorities for the extractive sector. However, there is a need to operationalise the work plan and make use of it as a tool to manage and keep implementation activities on track.</li> </ol>		

## Part II – EITI Disclosures

### 2. Award of contracts and licenses

#### 2.1 Overview

This section provides details on the implementation of the EITI requirements related to the legal framework for the extractive sector, licensing activities, contracts, beneficial ownership and state-participation.

#### 2.2 Assessment

##### Legal framework (#2.1)

###### Documentation of progress

###### *2013 EITI Report*

The 2013 EITI Report explains the legal framework by providing information on applicable laws for the Timor-Leste Exclusive Area (TLEA) governed by the Petroleum Act (Law No. 13/2005) and the Joint Petroleum Development Area (JPDA) governed by the Timor Sea Treaty (TST) (p. 16). There is also an overview of the salient legal provisions from applicable laws such as the Timor Sea Treaty, Interim Petroleum Mining code, Petroleum Mining Code and agreements such as the Greater Sunrise International Unitisation Agreement and Memorandum of Understanding (pp. 18-20). The fiscal regimes for JPDA and TLEA areas are also explained (p. 23).

The 2013 EITI Report describes the regulatory functions of the National Petroleum Authority (ANPM) (p. 17). The governance structure of the Petroleum Fund (PF) is also illustrated (p. 21). There is no description of the Ministry of Petroleum and Mineral Resources (MPMR), however a short description is available online noting the responsibilities and reporting lines<sup>52</sup>. There is no mention of the level of fiscal devolution.

###### *2012 EITI Report*

The 2012 EITI Report contains a comprehensive overview of the legal framework for both TLEA and the JPDA, including indicating which laws are applicable to which areas, and which PSAs pertain to each jurisdiction (p.16-20). The tax regime applicable to the petroleum activities depend on the jurisdiction area. The main taxes that apply to activities in the JPDA and TLEA are listed on p. 23. There is no specific commentary on the level of fiscal devolution, however stakeholders confirm that all revenues are levied by the central government. The report also notes that in accordance with the Timor Sea Treaty, Timor-Leste and Australia shall have title to all petroleum produced in JPDA of which 90% shall belong to Timor-Leste and 10% shall belong to Australia (p.18).

The 2012 EITI report also explains the role and responsibilities of two key government agencies – ANPM and PF – but contains no description of the role of MPMR. The report provides some limited commentary on reforms underway, including offshore regulations for TLEA.

Although mining is considered immaterial and is therefore not comprehensively covered in the EITI Report, some information about the legal framework applicable to the mining sector is available on p.25.

<sup>52</sup> <http://timor-leste.gov.tl/?p=13&lang=en>

## Stakeholder views

Government representatives explained that the draft mining code was currently with the Council of Ministers for approval and was due to be presented to the Cabinet on 19 July 2016. This code would regulate future onshore oil and mining activities, as well as offshore mining activities, if any. Other legal reforms mentioned by stakeholders include the new model offshore PSAs and offshore regulations, the draft Transparency Law and fiscal reforms. The model PSCs for onshore and offshore operations within the TLEA is almost done. ANPM noted that it will have a particular provision on fulfilling EITI requirements. Future PSCs will be publicly available. There are also reforms on the part of the Ministry of Finance, as confirmed by the National Directorate for Petroleum and Tax. Structural reforms are ongoing within the Ministry to strengthen transparency, and there are discussions on revising the fiscal regime for the extractives.

## Initial assessment

In accordance with requirement 2.1, the 2013 EITI Report contains an overview of the legal framework and fiscal regime governing the extractive sector. The International Secretariat is not aware of any key laws or relevant information that is missing from the overview. The role and responsibilities of government agencies are described. The level of fiscal devolution is not described, but stakeholders confirm that it is fully centralised. In light of this, the International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting the requirement.

## License allocations (#2.2)

### Documentation of progress

#### *2013 EITI Report*

The 2013 EITI Report describes the general process of awarding of licenses and contracts (p.18-20), and a specific description of the award of PSC 11-106 in October 2013 (p.17), the only PSC that was awarded/transferred in 2013. The report explains that ANPM deviated from the usual contract award process by deciding to award the block directly to ENI and Timor GAP given ENI's experience working in the area surrounding the block. The technical and financial criteria used are not explicitly stated.

To address this gap, the Supplementary Report published by the MSG in April 2016 explains the technical and financial justification for the award to ENI such as ENI's geological expertise, number and nature of previous projects, number of current projects, revenues, and adjusted net profits. The Supplementary Report likewise describes the general procedures for conducting public tenders for petroleum contracts, citing the relevant provisions under the Petroleum contract (p. 18).

There is no information about the license and contract awards that took place before the financial year covered by the EITI Report, nor any further information about efficiency and effectiveness of license allocation procedures.

#### *2012 EITI Report*

The process for awarding a Production Sharing Contract (PSC) in the TLEA is explained in the EITI Report (p. 17). All contracts in the TLEA are awarded on the basis of competitive bidding. The award process for rights in the JPDA is set out in the Interim Petroleum Mining Code (Interim PMC) and the Petroleum Mining Code (PMC). With regards to transfers, ANPM has internal procedures that need to be followed when there are farm-ins/farm-outs, including due diligence, assessment of technical and financial criteria, requirements for

annual reports, disqualification criteria such as companies associated with arms trade etc. No exploration or production rights were awarded or transferred in 2012.

### **Stakeholder views**

ANPM confirmed that the internal procedure and criteria for transfers of licenses are set out in the PSC. While this is not always public, ANPM make these details available whenever there are opportunities for farm-outs and farm-ins. ANPM said that to their knowledge, there were no transfers in 2013.

Timor GAP said that they had been allocated a new PSC in December 2015.

One stakeholder raised the issue of how licenses are allocated to Timor GAP without any public tender. Civil society noted the importance of explaining these license awards, and ensuring that all PSCs pertaining to Timor GAP are published. One representative noted that he had asked Timor GAP to publish the details of its participation in PSC 11-106, but that Timor GAP did not respond to the request.

### **Initial assessment**

The 2013 EITI Report discloses information about the process for awarding contracts and licenses, including details related to the award of PSC 11-106 in 2013. The Supplementary Report provides further detail on the financial and technical criteria used in awarding the contract. The International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

## **License registers (#2.3)**

### **Documentation of progress**

#### *2013 EITI Report*

The 2013 Report lists five production sharing contracts and seven exploration contracts (pp.45-46) for 2013. This is the total universe of companies operating in Timor-Leste in 2013. The information includes the name of the contract-holder (operator) and its JV partners, the jurisdiction in which the contract is located, the contract number, the contract award date and expiration, the total surface area of the contract area and the type of commodity being produced. The dates of application for these contracts and the license coordinates are not disclosed in the 2013 EITI Report. The Supplementary Report also fails to include this information. In a subsequent communication with the National Coordinator, only the coordinates for three projects were provided, namely those for PSC 03-19, PSC 3-20 and PSC 06-04.

Minutes from the MSWG meeting on 15 December 2015 shows that the MSWG discussed this issue. The minutes note that all information related to coordinates and dates of application are available on the ANPM website and that there is no need to also add it to the EITI report (MSG meeting minutes, 15 December 2015, p.3).

#### *2012 EITI Report*

The 2012 EITI Report provides license details for the five active production sharing contracts, and six active exploration contracts (p.45-46). These details include the name of the contract-holder (operator) and its JV partners, the jurisdiction in which the contract is located, the contract number, the contract award date and expiration, the total surface area of the contract area and the type of commodity being produced. The report also explains that information about the date of application for the contract and the coordinates of the license area are available from the ANPM website (p.17).

### **Stakeholder views**

ANPM said that coordinates and information about dates of application should be available on their website and in case some information are missing online, they can make it available. In relation to dates of application, they explained that there are two types of PSCs: those that were signed before Timor-Leste became independent and those that were signed under the open competitive licensing round in 2006 in the JPDA and TLEA. The first type covers Bayu-Undan and Greater Sunrise which are governed by the Interim Mining Code and therefore have confidentiality clauses. Obtaining dates of application for these PSCs has been difficult because they were lodged in old Indonesian archives that were not handed over to Timor-Leste. For the second type of PSCs, the information on the dates of the application for these PSC are available in ANPM's archives, and efforts are underway to secure them. ANPM expressed that although it was understood that it was a requirement of the EITI, it was not entirely clear why people would want to know the coordinates and what that information would be used for. It was emphasized that these PSCs were all awarded under the competitive bidding and have therefore followed the standard timeframes for application and processing as per the laws and regulations.

There were no transfers of licenses in 2013, according to ANPM. Procedures for transferring license are found in the PSCs, including procedures for farm-in and farm-outs. These are not publicly available, but ANPM informs the companies if there are such opportunities

### **Initial assessment**

Most of the information required to be disclosed under requirement 2.3 has been disclosed. The ANPM website contains an interactive map where the contract areas are indicated<sup>53</sup>. Even though not all coordinates are online, they are publicly available when requested from ANPM. With regards to the lack of publication of date of application for the license, it is understandable that information from pre-independence is not available. As for the PSCs awarded in 2006, the majority have been relinquished, are insolvent or disputed, and are not giving rise to material revenue. Furthermore, these licenses were all awarded following the standard application and bidding procedures set out in the law. On balance, the International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement, however it is recommended that the ANPM upgrades its online petroleum repository to include date of application and coordinates for future blocks as these are awarded.

## **Contract disclosures (#2.4)**

### **Documentation of progress**

The 2013 EITI Report explains that "ANPM has published in its website Lafaek Database that contains information in relation to Bayu-Undan and Kitan field production, contracts, etc. This information is generally publicly accessible. Some contracts were not publicly available due to confidentiality concerns but summary explanations have been published in *Jornal de Republica*" (p.10).

The 2015 Annual Progress Report states that most PSCs are disclosed in ANPM's website with the exception of the PSC of Bayu Undan and Greater Sunrise as both PSCs are regulated under the Interim Mining Petroleum Code. (p. 10). The 2013 EITI Report, on the other hand, states that PSC 11-06 is governed by confidentiality agreements within the PSC and the Joint Operating Agreement and as such is not allowed to disclose further information (p. 24).

<sup>53</sup> <http://www.ANPM-tl.org/webs/ANPMtlweb.nsf/LafaekMap>

There are no further references in the 2013 EITI Report to the government's policy on contract transparency or reforms.

The 2012 EITI Report does not specify the government's policy on contract disclosure, and there is no evidence that the MSWG discussed the government's policy on contract transparency as part of the 2012 EITI Report. The 2012 EITI Report mentions *actual practice* when it comes to contract transparency, i.e. that contracts are made available on the ANPM website. However, the hyperlink is only working for three of the eleven PSC summaries posted on the website.

The 2011 EITI Report includes a statement by the MSWG Chair that "Timor-Leste will no longer compromise on contract disclosure" (p.5).

There has been some discussion within the MSWG about contract transparency. The 2016 work plan specifically identifies contract disclosure as a priority by ensuring that contracts in the extractive sector are published and updated in the ANPM website. On 22 January 2016, the MSWG discussed which contracts were disclosed. The minutes note that most of the PSCs were disclosing except for Bayu-Undan and Greater Sunrise as both are regulated under Interim Petroleum Mining Code. Still, a summary of all existing PSCs can be assessed publicly. The minutes also note that while all JPDA PSCs are accessible, it is not possible to access three TLEA PSCs because all but block E were relinquished in 2011. The minutes conclude that ANPM will investigate possibilities for publishing the PSC for block E. The minutes also note that ANPM will continue to disclose any new PSC that may be agreed in the future (MSWG meeting minutes, 22 January 2016, p.4).

The MSG meeting on 10 April 2015, also makes reference to the MSG discussion of contract transparency, including creating summary power point presentations in Tetum as part of community engagement process (MSWG meeting minutes, 10 April 2015, p.4). During this discussion, ANPM noted that prior to publication, legal opinion or advice should be obtained because the Bayu-Undan and Greater Sunrise PSCs could not be published in full, only summaries can be provided. These summaries have already been published in the *Jornal da Republica* in Portuguese.

In the 2014, the National Petroleum Authority (ANPM) also conducted a series of public consultation on the new model Production Sharing Contract, available from the ANPM website (2014 Annual Activity Report, p.16).

### **Stakeholder views**

ANPM clarified that only Bayu-Undan and Greater Sunrise PSCs are covered by any confidentiality agreement. Thus, contrary to what was stated in the 2013 EITI Report, PSC 11-06 is publicly available. When asked whether all contracts are publicly available, ANPM responded in the affirmative but only with respect to new PSCs, i.e., referring to those contracts executed from 2006 onwards. For Bayu-Undan and Greater Sunrise, only summaries are made public. The new Mining Code that is being drafted stipulates that all contracts signed from now on will be public.

An industry representative explained that the Greater Sunrise PSC was confidential because the governing law prevented disclosures. A summary was nevertheless available.

Civil society representatives explained that so far only summaries of the contracts had been published, and they wanted the full contracts to be disclosed. According to feedback during dissemination, people were particularly concerned about future onshore activities. Communities in particular wanted to know what benefits they would get before potentially giving up their land to onshore activities.



## Initial assessment

The Validation Guide states that “The validator is expected to document whether the government’s policy on contract disclosure has been disclosed. This should include relevant legal provisions, actual disclosure practice and any reforms underway” (p.13). The EITI Reports include a reference to the ANPM’s website where some contract summaries are disclosed. Although the 2013 EITI report contains no information on the government’s policy on contract transparency, government representatives have explained that the policy is that all contracts signed after 2006 are public, including any new contracts. In light of this, the International Secretariat’s initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

## Beneficial ownership disclosure (#2.5)

### Documentation of progress

#### *2013 EITI Report*

The report includes some very limited information on listed companies such as Woodside Timor Sea Petroleum, ENI JPDA 06-105, 11-106 and TLEA S06-03, So6-04, and Oilex 06-103 (p. 25). It further notes that for 2013, there were no changes in the beneficial owners of such companies.

#### *2012 EITI Report*

The 2012 EITI Report notes that most companies operating in Timor-Leste are publicly listed. The report names three companies and the stock exchange that they are listed on. There is no further information about beneficial ownership in the report. The MSWG had some limited discussion about beneficial ownership at the pre-validation workshop in January 2015.

Based on recent minutes of MSWG meetings, there have been no discussions on beneficial ownership. The 2015 Annual Progress Report notes that: “Beneficial ownership has not been addressed in details as per the EITI requirements...The MSWG has included a scoping study in the next reporting round to identify gaps with the EITI Standard and to agree on actions to address [these]” (2015 Annual progress report, p.10)

### Stakeholder views

Stakeholders voiced no particular views on the information disclosed. There was some recognition that all companies operating in Timor-Leste are either state-owned or publicly listed. However, beneficial ownership could become relevant as the mining sector develops.

### Assessment

Implementing countries are no yet required to address beneficial ownership. Although the MSWG has not pursued work on beneficial ownership to date and the vast majority of companies operating in Timor-Leste are publicly listed, the MSWG might wish to consider opportunities for addressing this topic in the future.

## State-participation (#2.6)

### Documentation of progress

#### *2013 EITI Report*

The 2013 Report explains that state-participation does not yet give rise to material revenues in Timor-Leste. However Timor GAP is discussed in the 2013 Report, including its financial relationship with the

government, the absence of quasi-fiscal expenditures, revenues received for 2013 and an overview of its shares in existing projects as well as information on its subsidiaries.

### *2012 EITI Report*

State-participation in the extractive sector does not yet give rise to material revenue. However, the 2012 EITI Report still contains a brief description of the national oil company, Timor GAP (p.23-24). Timor GAP was created in July 2011 (Decree Law 31/2011) and operations begun in 2012. The company had no ownership in upstream oil, gas and mining activities in 2012, although the 2012 EITI Report notes that Timor GAP acquired a share in a JV with ENI and INPEX in 2013 (p.23). The report also confirms that neither Timor GAP, nor its subsidiaries made any payments to the government in 2012 (p.23).

The report does not provide any further description of the prevailing rules and practices regarding the financial relationship between the government and Timor GAP, such as e.g. the rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing.

There is no commentary on loan or loan guarantees provided by the government/SOEs to other oil, gas or mining companies operating in the country.

### **Stakeholder views**

Timor GAP explained that it had acquired a 24% stake in PSC 11-106 operated by ENI (with Inpex as partner) in 2013. Work under this PSC which was supposed to start in March 2016 has been deferred to next year due to lower oil prices. Timor GAP currently has two contracts signed under the Petroleum Law, one of which is 100% owned and was awarded in December 2015. These projects are only at the exploration stage. Aside from managing these two blocks, Timor GAP' subsidiaries are also developing some projects on behalf of the government, including airport construction and infrastructure that will affect sector development in the future.

With regards to Timor GAP's financial relationship with the state, it was explained that during the early years of establishment, Timor GAP still depends on the Government support through the allocation from the MPMR annual budget. Details about these transfers are disclosed in their annual reports. The rules and practices governing transfer of funds between Timor GAP and the State are based on the State Budget Law and the Timor GAP Decree Law no.31/2011, Art.4. Timor GAP must present a quarterly report to the government on the use of any public transfers. It was further explained that while other national companies in other jurisdictions often retain taxes and profits from PSCs, Timor GAP has a different system in that it operates on a commercial basis and pays revenues pursuant to laws. Timor GAP elaborated that they continue to build their technical and institutional capacity, stressing that financial support from government is necessary. It was confirmed that government support has increased, but nevertheless a budget cut was expected for the current year. Regarding retained earnings, Timor GAP noted that it did not make any profit in 2012 and therefore such disclosures were not applicable, nor were reinvestments or third party financing.

For 2013, the EITI Report states that Timor GAP's revenue received for that year is already included in the 2013 audited financial statement reported in the company's annual report (2013 EITI Report, page. 37). No revenue was received from subsidiaries in 2013. However, Timor GAP has the right to retain any financial support that they do not use during the budget year. All these details are available in the financial statements disclosed in Timor GAP's annual reports. It was also noted that third-party financing for Timor GAP was allowed by law and the Timor GAP (and the government) intended to seek third-party equity

financing for the development of the Suai zone. The issue of whether Timor GAP would benefit from a sovereign guarantee was not clear yet: they had received several requests for information in this regard and would discuss it with government in due course.

Industry noted that the MSWG could focus more on ensuring transparency in Timor GAP's operations and whether international or domestic corporate income tax rates apply to Timor GAP's subsidiaries.

A stakeholder noted that Timor Gap should be more transparent about the risks they bear in connection with their participation in PSC 11-06 given that any potential losses will be borne by the government. There is also a demand for more transparency in Timor GAP's downstream activity and in the publication of its economic analysis and data related to Tasi Mane. Stakeholders want to know how Timor Gap invests its money, how investment decisions are made and who makes them. One civil society representative said that "the government give money to Timor GAP for the South Coast project every year, but Timor GAP doesn't report on the spending for these projects, nor do they disclose the feasibility studies. We have asked Timor GAP to disclose this information as part of the EITI report".

### Initial assessment

Given that the 2013 EITI Report confirms that state-participation in the extractive sector did not give rise to material revenues in 2013, requirement 2.6 is not yet relevant to Timor-Leste. The International secretariat's initial assessment is that the requirement is not applicable. It is encouraging that the MSWG has already taken steps to engage the state-owned company in the EITI process and that some contextual information about the company has been included. Timor GAP could go further and disclose details on the downstream activities related to the extractive sector, including spending and studies related to Tasi Mane.

### Assessment of timeliness, comprehensiveness and reliability of the information disclosed

- **Timeliness:** The 2013 Report was timely, published in December 2015 covering 2013 data. The 2012 EITI Report was only released on 6 February 2015, more than two years after the end of the financial year. The MSWG is encouraged to explore opportunities for publishing more timely EITI data.
- **Comprehensiveness:** The Independent Administrator attests to the comprehensiveness of the 2013 Report by stating that "except for the effects of the matters described above [production by commodity and employment data], we can reasonably conclude that our Report duly covers all other aspects of the EITI Standard", (p.9). The IA concludes that "On this basis, we can reasonably conclude that this Report includes reliable and credible information about the revenues generated by the extractive sector in Timor-Leste" (p.15). Key laws and regulations related to the management of the extractive sector have been disclosed. Considerable progress has also been made regarding information about contract holders although some further work is needed to ensure that contract coordinates and dates of application are available. Contracts are only partially disclosed, and some links are not working.
- **Reliability:** The information provided in the 2013 and 2012 EITI Reports is backed up with data from other sources available on government websites. Although the reliability of the contextual information does not appear to have been discussed by the MSGW, the International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

*Table 2 - Summary assessment table: Award of contracts and licenses*

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Legal framework (#2.1)	Comprehensive disclosure of relevant laws, regulations and fiscal regime in both the 2012 and 2013 Reports	Satisfactory progress
License allocations (#2.2)	The 2013 EITI Report and the Supplementary Report provide sufficient detail about license allocations including the financial and technical criteria and deviations applicable to PSC 11-106. This requirement was not applicable in 2012 as no licenses were transferred or awarded.	Satisfactory progress
License registers (#2.3)	Although coordinates are not all available online, ANPM has confirmed that they can be obtained without restriction. ANPM has provided reasonable justifications for why the date of application for the licenses is not available. On balance, the Secretariat's assessment is that it would be disproportionate to consider this requirement unmet, and that there has been satisfactory progress with meeting this requirement. It is recommended that ANPM updates its online license map to include these details for future PSC awards.	Satisfactory progress
Contract disclosures (#2.4)	The 2013 Report refers to contract summaries found in other sources such as the NPA's website and "Jornal de Republica". The 2016 work plan also lists contract transparency as a priority. The EITI Report comments on actual practice on contract transparency, and government representatives have clarified the government's policy on contract disclosure.	Satisfactory progress
Beneficial ownership disclosure (#2.5)	There is no evidence that the MSWG has discussed this topic in any detail.	
State-participation (#2.6.)	The 2013 EITI Report states that this requirement is not applicable in Timor-Leste as state-participation does not yet give rise to material revenues. However, some information related to Timor Gap has been provided.	Not applicable
<p><b>International Secretariat's recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The MSWG should ensure that a description of the MPMR's role in the management of the extractive sector is provided.</li> <li>2. The MSWG should ensure that coordinates of all the license area and the date of application for the license are disclosed for the license holders.</li> <li>3. It is recommended that ANPM updates the links to the contracts and contract summaries that have been published on the website.</li> </ol>		

4. It is recommended that the MSWG incrementally includes information on beneficial ownership in preparation for the requirement for full disclosure in 2020.
5. The MSWG may wish to add commentary on legal reforms underway such as the draft transparency law, the draft mining law and revisions to the model PSCs in future EITI Reports.
6. Timor GAP could consider disclosing further details on the spending and analysis related to Tasi Mane.

### 3. Monitoring and production

#### 3.1 Overview

This section provides details on the implementation of the EITI requirements related to exploration, production and exports.

#### 3.2 Assessment

##### The overview of the extractive sector, including exploration activities (#3.1)

###### Documentation of progress

###### *2013 EITI Report*

The 2013 EITI Report provides background on the oil and gas sector, explaining the legal framework, and illustrating the current contract areas in TLEA and JPDA (p. 21). It briefly mentions one exploration activity covered by PSC 11-106 which mainly describes the process of awarding the PSC. A background and profile of the mining sector is stated in the Report (pp. 25-27) which explains briefly the legal framework and licensing process. (pp. 25-27)

###### *2012 EITI Report*

The 2012 EITI Report notes that “in 2012, no significant exploration was carried out by operators in either jurisdiction” (p. 17). The 2012 EITI Report provides a cursory overview of the oil and gas industry in Timor-Leste (p.19) and of the mining sector (p.22), covering the main areas of production, the establishment of the state-owned oil company and the two oil and gas contract areas.

###### Stakeholder views

Stakeholders noted that exploration activities for PSC 11-106 were postponed until March 2017, as an extension had been given.

A government representative said that based on recent data from ANPM and Timor Gap, Timor-Leste has estimated reserves of between 12-17 bn bbl.

An industry representative commented that the prospects claimed by government seemed unrealistic and that it gave a false impression that Timor-Leste could live off oil for another 50 years. Other stakeholders expressed doubts as to the calculation of these reserves, noting that this could be politically motivated. Others again commented that despite talking about releasing new acreage for bidding for the past six years, the government had not yet taken this step.

###### Assessment

The International Secretariat’s initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

## Production data (#3.2)

### Documentation of progress

#### 2013 EITI Report

The 2013 EITI Report discloses total oil and gas production volumes per field (p.10). However, the report does not separate oil production data from gas production data as required by requirement 3.5.a (which requires “total production volumes and the value of production *by commodity*”). Production volumes are expressed in barrels of oil equivalent (BOE) data and does not distinguish between oil and gas production (p.10) even if the production volumes are disaggregated by field. Production value estimates are disclosed (p.10) but similar to production volume, these are only expressed in BOE and not by commodity.

These gaps in the level of disaggregation were discussed by the International Secretariat with the MSG before and during the information-gathering process. Subsequent to the information-gathering process, ANPM published on its website the following information: Production volume and value by commodity, i.e., condensate and gas for Bayu Undan<sup>54</sup>, and crude for Kitan<sup>55</sup>.

#### 2012 EITI Report

The 2012 EITI Report provides less details, by mainly referring to BOE data available from the ANPM website. With regards to production values, the report comments on how production value can in general be estimated (p.10), but stops short of estimating the value of the production disclosed in the 2012 EITI Report.

MSWG meeting minutes document that the procedure for reporting on production data was first discussed at the MSWG meeting on 22 January 2014. The minutes from the MSWG meeting on 14 March 2014 highlights a discussion about the level of detail to disclose related to production. It quotes industry concerns that volumes and value of production should be combined for both Bayu-Undan and Kitan fields. Industry representatives argued that, as each producing company only operates one field each, disaggregated data would be commercially sensitive. The final reporting template that was agreed by the MSWG on 30 May 2014 asks for production data to be reported as BOE, rather than by commodity. In the draft 2012 EITI Report discussed by the MSWG on 30 January 2015, the Independent Administrator highlights the lack of production data disaggregated by commodity.

The findings of the pilot Validation led to further MSWG discussions on this matter prior to and after the publication of the 2013 EITI Report. According to MSWG meeting minutes, industry considers that information on production and export volume and value by commodity is commercially sensitive, noting that the country only has two fields with very distinct products (MSWG meeting minutes, 3 December 2015, p.2). It was also mentioned that ANPM publishes total production data from Bayu-Undan and Kitan in BOE (MSWG meeting minutes, 22 January 2016, p.3). It also appears from the minutes of the same meeting that the MSG discussed several options for producing data, such as presenting disaggregated data by project and commodities; disaggregated data by companies and commodities; aggregated data for

<sup>54</sup> [http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-EITI%20Report%2031%20December%202013/\\$File/TL%20info%20Production%20request%20050716%20Final.pdf?openelement](http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-EITI%20Report%2031%20December%202013/$File/TL%20info%20Production%20request%20050716%20Final.pdf?openelement)

<sup>55</sup> [http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-2013%20EITI%20Reporting%20of%20Kitan/\\$File/2013%20EITI%20Reporting%20of%20Kitan.pdf?openelement](http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-2013%20EITI%20Reporting%20of%20Kitan/$File/2013%20EITI%20Reporting%20of%20Kitan.pdf?openelement)

companies and disaggregated data for commodities; and data by field project but disaggregated by commodity. It does not appear, however, that any consensus was reached.

On 27 May 2016, the MSG agreed to seek adapted implementation for Requirements 3.2, 3.3 and 4.7 of the EITI Standard. A letter to this effect has been formally submitted to the EITI Board. There is a mention of this request in almost every MSG meeting minute since December 2015. The government stated in the meeting conducted on 8 April 2016 that if the EITI Board did not approve the request the implication is that Timor-Leste has to follow the EITI Standard accordingly (MSG meeting minutes, 8 April 2016, p.2).

At the MSG meeting on 23 June 2016, the industry expressed that based on its own understanding, the Validation will not touch upon the issues on disaggregation (MSG meeting minutes, 23 June 2016, p. 2). Nonetheless, a review of the minutes of the MSG meetings from December to April 2016 also does not reveal a detailed discussion on how industry defines commercially sensitive information although in a communication sent by the national secretariat to the International Secretariat, examples were cited regarding the possible scenarios where the price or unit of the commodity sold can be computed given the disaggregated production volume (Email from TL-EITI National Secretariat, 27 June 2016). It also pointed out that the pricing formula could be deduced, thus making it challenging to market the commodities and maximize revenues.

The national secretariat also cited a provision in the Interim Mining Code (Clause 36.2) which states that "basic information and data about petroleum operation in a contract area may be released two years after it was lodged with the Designated Authority or when the blocks to which that information and data relates cease to be part of the contract area, if earlier." (Email from TL-EITI National Secretariat, 27 June 2016).

It should be noted that ConocoPhillips' annual report for 2015<sup>56</sup> (p. 14) discloses production figures for Bayu-Undan disaggregated by commodity, i.e. liquids (MBD) and natural gas (MMCFD). On 25 July 2016, the EITI Board disapproved Timor-Leste's request for adapted implementation. As mentioned above, ANPM subsequently published the required information on production volume and value on their website. The International Secretariat was informed of this through an email dated 24 August 2016.

### Stakeholder views

During the interviews for the pilot Validation, all industry representatives noted that the inclusion of production figures disaggregated for crude oil and natural gas would be commercially sensitive, given that the output of Timor-Leste's two producing fields are crude oil and natural gas respectively. They argue that publication of such disaggregated production figures would allow readers to reverse engineer the fiscal terms on the basis of the declared payments to government. Aggregate production statistics in barrels of oil equivalent was thus the only approach they would feel comfortable with and emphasised that the EITI ought to take into account such local circumstances. They were not aware of whether ANPM published disaggregated production figures, although they were doubtful given the commercial sensitivities.

Recently, ConocoPhillips expressed that they are willing to disclose this information. Eni, however, stated that they still cannot disclose this information because it was not explained to them by the national secretariat why this is relevant to the Validation process. They were surprised that a new template was being proposed and said that they no longer have the time to process the data. Moreover, they explained that they do not feel comfortable disclosing raw data since it is not clear to them who will be responsible

<sup>56</sup>[http://www.conocophillips.com/investorrelations/companyreports/Documents/ConocoPhillips\\_2015\\_AnnualReport.pdf](http://www.conocophillips.com/investorrelations/companyreports/Documents/ConocoPhillips_2015_AnnualReport.pdf)

for reconciling this information. They clarified, however, that for future reports, they would agree to disaggregated information if suggested by the Independent Administrator.

Some government and industry representatives noted that CSOs did not express strong opinions about this issue during MSG meetings. Civil society said that they had accepted disclosure of aggregated production data.

Some other MSWG representatives lamented the lack of production data disaggregated by commodity, noting that the data was so old it could hardly put anyone at a competitive disadvantage. It was noted that production data was important to people as there was a perception among citizens that the government's earnings was the same regardless of the level of production.

Government representatives understood and supported disclosure of production data by commodity, but noted the need to understand the context of Timor-Leste. They also explained that they had agreed to publish BOE data because of industry resistance which put the country at risk of being suspended given that the deadline for publishing the report had passed.

### **Initial assessment**

Requirement 3.2 stipulates that implementing countries must disclose production values and volumes by commodity. The 2013 EITI Report only discloses BOE, and no production values are provided. In a letter dated 21 May 2016, the MSWG submitted a request for adapted implementation to the EITI Board requesting an exemption from requirements 3.2. On 25 July 2016, the EITI Board rejected the request. ANPM subsequently published the required information on 24 August 2016. Although these are developments happening after 1 July 2016, the date agreed by the Board for Validation to commence, the International Secretariat's initial assessment in light of these developments is that Timor-Leste has made satisfactory progress in meeting this requirement.

## **Export data (#3.3)**

### **Documentation of progress**

Similar to production, the 2013 EITI Report does not disaggregate export value and volumes by commodity (p.22). The Supplementary Report does not include this information. The MSWG cites commercial sensitivity as reason for non-disclosure.

The 2012 EITI Report discloses total value of oil sector exports, but does not disclose export volumes and export values by commodity.

MSWG meeting minutes document some of the recent discussions related to this issue. The minutes from the MSWG meetings on 3 and 15 December 2015 note that internal industry discussions were ongoing and that there were no plans to revise the 2013 EITI Report to address this issue (MSWG meeting minutes; 3 December, p. 5; 15 December, p.6). The minutes from the meeting on 22 January 2016 state that although ANPM published production data on its website, export data is more sensitive (MSWG meeting minutes, 22 January, p.3). At this meeting, the MSWG also considered different reporting formats for disclosure of export data.

The Supplementary Report explains that "It was evident that export volumes by commodity were not included in the 2012 and 2013 report. As the industry remains relatively small, this data could not be produced without creating risk in exposing commercially sensitive information. However, there are some



information made available at ANPM's website. Readers can access information at [www.ANPM-tl.org](http://www.ANPM-tl.org)" (Supplementary Report, p.4).

Leading into the Validation process, the government has consulted the International Secretariat regarding possible ways of disclosing disaggregated export volume. Proposed templates were sent to the secretariat where export volumes are disaggregated by commodity, i.e. condensate, LPG, and gas (email from ANPM, 6 July 2016). Export value is not included in the proposed template because ANPM claims that the government's value of export is identical to the figures for royalty and profit oil.

Similar to production volumes, ANPM published on its website<sup>57</sup> the export volume and value for Kitan after the International Secretariat's information-gathering process. As for Bayu Undan, ANPM explained that the export value is equal to sales value which means it is similar to the government's entitlement from profit oil and royalty, which they also subsequently disclosed on their website.<sup>58</sup>

### Stakeholder views

Government representatives explained that the Central Bank publishes data on total export values. Production volumes would not be equivalent to export volumes, but sales volumes would be more accurate. ANPM further noted that export value is identical to sales value and represents the government entitlement from profit oil, royalty etc. This presumes that export value does not mean the value to the company. ANPM said that they and Conoco Phillips are now willing to disclose this data as they have in fact done so after the information-gathering process.

Eni, however, expressed that they cannot disclose this information because it was not explained to them by the national secretariat why this is relevant to the Validation process. They were surprised that a new template was being proposed and said that they no longer have the time to process the data. Eni clarified, however, that for future reports, they would agree to disaggregated information if suggested by the Independent Administrator.

Some government and industry representatives noted that CSOs did not express strong opinions about this during MSG meetings. CSOs said that they had accepted aggregated publication of export data.

### Initial assessment

Requirement 3.3 stipulates that implementing countries must disclose export values and volumes by commodity. The 2013 and 2012 EITI Reports disclose total value of oil sector exports, but do not disaggregate this by commodity nor are export volumes provided. In a letter dated 21 May 2016, the MSWG submitted a request for adapted implementation to the EITI Board requesting an exemption from requirements 3.2. On 25 July 2016, the EITI Board rejected the request. However subsequent efforts were exerted by government to comply with this requirement. ANPM subsequently published the required information on 24 August 2016. Although these are developments happening after 1 July 2016, the date agreed by the Board for Validation to commence, the International Secretariat's initial assessment in light of these developments is that Timor-Leste has made satisfactory progress in meeting this requirement.

<sup>57</sup> [http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-2013%20EITI%20Reporting%20of%20Kitan/\\$File/2013%20EITI%20Reporting%20of%20Kitan.pdf?openelement](http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-2013%20EITI%20Reporting%20of%20Kitan/$File/2013%20EITI%20Reporting%20of%20Kitan.pdf?openelement)

<sup>58</sup> [http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-EITI%20Report%2031%20December%202013/\\$File/TL%20info%20Production%20request%20050716%20Final.pdf?openelement](http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-EITI%20Report%2031%20December%202013/$File/TL%20info%20Production%20request%20050716%20Final.pdf?openelement)

## Assessment of timeliness, comprehensiveness and reliability of the information disclosed

- **Timeliness:** The 2013 Report was timely published in December 2015. The 2012 EITI Report was only released on 6 February 2015, more than two years after the end of the financial year. The MSWG is encouraged to explore opportunities for publishing more timely EITI data. It is encouraging that the ANPM publishes monthly BOE production data on its website. Although this data is not disaggregated by commodity, the information is considerably more up to date than EITI data, and includes production figures as of May 2016.
- **Comprehensiveness:** Production and export data is not comprehensively disclosed for 2013 and 2012 reports. Further details about values and volumes produced and exported were provided by ANPM after the information-gathering process. The EITI Standard requires that this information is disaggregated by commodity.
- **Reliability:** The information provided in the 2013 and 2012 EITI Report is backed up with data from other sources available on government websites. Although the reliability of the contextual information does not appear to have been discussed by the MSWG, the International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

Table 3 - Summary assessment table: Monitoring and production

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Overview of the extractive sector, including exploration activities (#3.1)	The 2013 Report provides an overview of the sector, including a brief overview of one exploration activity.	Satisfactory progress
Production data (#3.2)	Production volumes are not disaggregated by commodity, and production values by commodity are not included in the EITI Report but ANPM subsequently provided this information on their website	Satisfactory progress
Export data (#3.3)	Export values are not disaggregated by commodity, and export volumes by commodity are not included in the EITI Report but ANPM subsequently provided this information on their website	Satisfactory progress
<p><b>International Secretariat's recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The MSWG should agree a workable approach for disclosing total production and export values and volumes by commodity.</li> <li>2. The MSWG could consider an analysis of the potential outlook for the extractive sector.</li> </ol>		

## 4. Revenue collection

### 4.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue

transparency, including the comprehensiveness, quality and level of detail disclosed. It also considers compliance with the EITI Requirements related to procedures for producing EITI Reports.

## 4.2 Assessment

### Comprehensiveness (#4.1)

#### Documentation of progress

The MSWG contracted one Independent Administrator to produce the 2012 and 2013 EITI Reports under the same contract. There are only minor differences in scope and results of these two reports.

#### *Materiality and revenue streams*

The EITI reports for 2012 and 2013 contain no materiality definitions, but state that the Independent Administrator's work included a review of the materiality thresholds for receipts and payments (2013 EITI Report, p.13). Although the MSWG meeting minutes point to considerable discussion about the reporting templates for the 2012 and 2013 EITI reports, there is no evidence that the MSWG ever agreed a materiality definition or materiality thresholds. The minutes from the MSWG meeting on 16 May 2014 note that "MSWG have agreed to determine the materiality level once the IA commence to collecting and reconcile data, in other hand will decide either will present in nominal or percentage. As government note the materiality issue can be addressed in the ToR for IA" (p.5). The TOR for the Independent Administrator for the 2012 and 2013 EITI Reports includes the following clause in phase 3 – initial reconciliation: "Independent Administrator should recommend the limitation for materiality, upon the completion of reconciliation of data and information to allow MSG to decide on the margin of error" (p.12). It seems that concept of materiality is confused with margin of error.

The 2013 EITI Report lists and describes the 16 payment streams that were included in the reconciliation scope (p.28). The report does not appear to exclude any revenues listed in requirement 4.1.b. National state-owned enterprise production entitlement, bonuses and dividends are not applicable. FTP may be considered a form of royalty. The Independent Administrator confirms that "according to information made available to us by NPA, NDPMR and CBTL all payment streams relating to the oil and gas taxes were included in the reconciliation scope" (p.29). The EITI Report also confirms that all these payment streams were selected and approved by the MSG (p.28). However, there is a discrepancy between the list of payment streams on p.16, and the actual payment streams that were disclosed. The overview of actual payment streams disclosed in the table on p.32 of the 2013 EITI Report includes only 13 revenue streams. Three revenue streams appear to be missing: JPDA PSC application fee, TLEA Seismic data fee and Branch Profits Tax. It may be that no payments were made against these revenue streams in 2013 or that they have been lumped in with other ANPM fees. In addition, First Tranche Petroleum (FTP) and Profit oil/gas have been treated as one revenue stream in the actual disclosures, rather than two distinct streams. Finally, the actual disclosures include a pipeline fee, which does not figure on the list of the 16 payment streams to be included in the EITI Report.

The 2012 EITI Report is identical to the 2013 EITI Report in terms of the scope of the revenue streams. As above, there a discrepancy between the agreed 16 revenue streams and the actual payment streams disclosed, with the following four revenue streams missing: JPDA PSC application fee, JPDA Seismic data fee, TLEA PSC application fee and TLEA Seismic data fee. It may be that no payments were made against these revenue streams in 2012 or that they have been lumped in with other ANPM fees. FRP and profit/oil

gas is combined also in the 2012 EITI Report, and the final disclosures includes the same pipeline fee as in the 2013 EITI Report.

### *Reporting entities*

The 2013 EITI Report lists three government entities involved in the reconciliation exercise, namely National Petroleum Authority (NPA), National Directorate Petroleum and Mineral Revenue (NDPMR), and Central Bank of Timor-Leste (CBTL). The 2013 EITI Report notes that these agencies were selected based on the proposed list of companies and payment streams (p.28). The Independent Administrator confirms that all government entities returned their reporting templates (p.11). The government has also fully disclosed all revenue from the sector, including revenues from the immaterial mining sector (p.9).

Twenty extractive companies were selected to be included in the scope of the 2013 EITI report, and these are listed on p.10 in the 2013 EITI Report. As there is no materiality definition or thresholds, it is not clear on what basis these 20 companies were selected to be included in the 2013 EITI Report although it appears that the MSWG asked all companies active in the country to report. Two companies failed to submit their reporting templates, namely Japan Energy Corporation and Minza Oil and Gas (2013 EITI Report, p. 11). No reason was provided for their non-submission although the IA states that they have sent “several reminders.” The government has unilaterally disclosed the revenues from these companies, amounting to \$465 032, or 0.014% of total government revenues (p.35), and can thus be considered financially immaterial. There is no suggestion that any of the reporting companies did not comprehensively fill in the reporting templates. The 2013 EITI Report notes that other discrepancies (not due to the three non-reporting companies) amounted to only USD 5506 (p.35).

The 2012 EITI Report included the same reporting entities as in 2013, with similar results obtained. In 2013, three companies failed to submit their reporting templates: Reliance Exploration and Production, Minza Oil and Gas, and Japan Energy Corporation (p.11). There is no explanation in the 2012 EITI Report as to why these companies did not submit their reporting templates. The minutes from the MSWG meeting on 7 November indicate that the Independent Administrator was facing challenges with obtaining reporting templates from non-operators (MSWG meeting minutes, 7 November, p.2). The minutes note that there was a lack of understanding, knowledge and communications from several companies. When contacted by the Independent Administrator, several companies had asked questions about why Moore Stephens was requesting this data, what the EITI was about etc., despite many of these companies being part of previous reporting exercises. More regular communication was suggested.

### *Assessment of comprehensiveness*

The Independent Administrator has included an assessment of the comprehensiveness of the 2013 EITI Report, stating that: “We can reasonably conclude that this report duly covers all significant payments made in 2013 by the extractive companies” (p. 11). The Independent Administrator also states that “except for the effects of the matters described above [production by commodity and employment data], we can reasonably conclude that our Report duly covers all other aspects of the EITI Standard”( p.9). The Independent Administrator concludes that “On this basis, we can reasonably conclude that this Report includes reliable and credible information about the revenues generated by the extractive sector in Timor-Leste (p.15).

The 2012 EITI Report includes an assessment of comprehensiveness that is identical to the assessment in the 2013 EITI Report.

### **Stakeholder views**

An industry representative remarked that revenue transparency was not so interesting anymore. Timor-Leste had a proven and strong track record of publishing revenue data and the functions of the PF were transparent by law. It was noted that if the EITI ever extended to cover mining, revenue transparency could be of relevance again.

A stakeholder commented that the EITI Report could possibly include information regarding the settlement reached with ConocoPhillips in February 2016, which the government has kept confidential. Although there were few details in the public domain about these settlements, some said that according to informal conversations the settlement would potentially take the form of a deduction from ConocoPhillips' payments to government and should therefore be recorded in the report somehow.

#### **Initial assessment**

Although the MSWG did not agree a specific materiality definition and thresholds, stakeholders have confirmed that the companies selected represent the total universe of companies (operators and JV partners) that were active in Timor-Leste in 2013. In addition, stakeholders confirm that the 16 payment flows included in the EITI Report represent the total universe of payments as per the PSCs in Timor-Leste. However, the government only received payments against these streams disclosed in section 6.2 of the EITI Report. Although two companies did not report, the government has disclosed the revenues received, confirming that these omissions were immaterial. Finally, the Independent Administrator's assessment is that the report covers all significant payments. On this basis, the International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

### **In-kind revenues (#4.2)**

#### **Documentation of progress**

The 2013 EITI Report mentions that in-kind revenues are not paid at the moment (p.10). The 2012 EITI Report confirms that the government's production entitlement is collected in cash (p. 10).

#### **Stakeholder views**

Timor GAP noted that with regards to the possibility of in-kind revenue as a result of its 24% stake in the ENI/Inpex PSC, this would depend on how Timor GAP would fund the liabilities associated with its 24% stake in the PSC if it struck commercially-viable discoveries and proceeded to production. Government confirmed that the law provided for that Timor GAP may contribute revenue in-kind in the future.

#### **Initial assessment**

Both the 2013 and the 2012 EITI Report confirm that disclosure of in-kind revenues is not relevant in Timor-Leste as revenues are currently only collected in cash. The International Secretariat's initial assessment is that this requirement is not applicable to Timor-Leste.

### **Infrastructure provisions and barter arrangements (#4.3)**

#### **Documentation of progress**

Barter and infrastructure transactions are not mentioned in the 2013 EITI Report, nor in the 2012 EITI Report. MSWG meeting minutes do not include any references to barter or infrastructure provisions. However, the 2015 Annual Activity report notes that: "there is no infrastructure provisions and barter arrangement agreed so far" (p.10).

### **Stakeholder views**

MSWG members confirm that there are no barter and infrastructure transactions and that no laws or regulations provide for these types of arrangements.

### **Initial assessment**

There is no information to suggest that barter and infrastructure arrangements are applicable in Timor-Leste. The International Secretariat's initial assessment is that this requirement is not applicable.

## **Transport revenues (#4.4)**

### **Documentation of progress**

The 2013 and 2012 EITI Reports include disclosure of an annual pipeline fee paid by AusAid to the government of Timor-Leste. There is no contextual information related to this fee, nor is it listed on the revenue streams to be included in the EITI Report on p.28. MSWG meeting minutes point to some discussions about this pipeline fee as part of the discussion related to the development of reporting templates for the 2012 and 2013 EITI Reports, including whether to call it pipeline fee or financial support by AusAid (MSWG meeting minutes 14 March 2014, p.3). In the latest templates circulated, the reporting line is called "Financial support during the operation of the pipeline" (MSWG meeting minutes, 22 January 2016, p.6).

### **Stakeholder views**

It was noted that the pipeline fees were categorised as financial assistance because the terms of the Timor-Leste-Australia treaty included provisions for taxation of LNG production in the jurisdiction where the LNG terminal was based, i.e. Australia (Darwin). AusAid was the institution responsible for payment of the fee, although it was not clear whether this was counted as overseas development assistance in Australia. The fee was a non-inflation adjusted flat rate of AUD 8000 per year.

### **Initial assessment**

The 2016 Standard states that "where revenues from the transportation of oil, gas and minerals are material, the government and state-owned enterprises (SOEs) are expected to disclose the revenues received". Given that the fee is not material relative to total government revenues from the sector, the International Secretariat's initial assessment is that this requirement is not applicable. The MSWG is encouraged to consider opportunities for including further contextual details about this pipeline fee in future reports.

## **Transactions between SOEs and government (#4.5)**

### **Documentation of progress**

The 2013 EITI Report references the public transfers between Timor GAP and the government, and states that Timor GAP is obliged to submit the report on quarterly basis to MPRM on the use of the public transfers. Details of transfers are mentioned in Timor GAP's 2013 Annual Report (p.24). It explains how Timor Gap was created and states that it receives funds from the government for the purpose of supporting its operational expenses. It also elaborates on Timor Gap's management of the Tasi Mane project and its expenditures.

The 2012 EITI Report does not include any transactions between the state-owned company, Timor GAP, and the government. The report confirms that neither Timor GAP, nor its subsidiaries made any payments to the government in 2012 (p.23). Minutes from MSWG meetings document that the MSWG did discuss the types of disclosures required from Timor GAP and that a special reporting template for Timor GAP was developed (MSWG meeting minutes 22 January 2014, 14 March 2014). At the 14 March meeting, it is concluded that Timor GAP will not report in 2012, only in 2013 as it made no payments/received no revenue in 2012 (MSWG meeting minutes, p.4).

The 2014 Annual Activity report recognises that “TIMOR. GAP E.P is purely funded by the State budget and other revenues collection from its activities (which is not disclosed in the TL EITI report) as well as expenditures are available at TIMOR GAP’s Annual report<sup>59</sup>” (p.17).

### **Stakeholder views**

Stakeholders confirm that Timor GAP does not collect any payments from oil companies on behalf of the State. During the pre-validation workshop in January 2015, it emerged that Timor GAP does receive financial support from the state. According to stakeholders, this information was not included in the 2012 EITI Report, but is available from Timor GAP’s 2012 and 2013 Annual Reports, available on Timor Gap’s website, and was included in the 2013 EITI Report.

Timor GAP also clarified that the grant awarded to Timor Gap in 2013 was the equivalent to the normal state allocation to Timor GAP and had simply been categorised differently.

Civil society expressed discontent with the lack of reporting by Timor GAP. They wanted to see further information about Timor GAP’s activities and detailed information on expenditures given the considerable funds received by government. The financial statements in Timor GAP’s annual report were considered too general to be useful. In addition, civil society had questions around the lack of application of the Petroleum Tax to Timor GAP. Timor GAP felt there was misunderstanding over its current position in Timor-Leste’s oil and gas industry. Given that it did not derive revenue from oil and gas production it did not pay petroleum tax (except for select activities not linked to oil production, and at minimal levels) and only paid domestic tax. It was felt that civil society misunderstood this position.

Government representatives noted that although Timor GAP does not yet generate material revenue, they could still publish information about their activities.

### **Initial assessment**

The 2013 EITI Report references the financial transactions between government and Timor Gap, as well as the explanation of its management of the Tasi Mane project. Although the 2012 EITI Reports does not include details on payment transactions by the government to Timor GAP, Timor GAP’s 2012 Annual Report discloses that “Timor GAP received from the State its initial capital of \$2.5 million in two tranches from the General State Budget of Timor-Leste. In addition, Timor Gap received a government grant of \$1.8 million during the 15 months ended 31 December 2012” (p.9). The detailed financial results are set out on p.37-40 in the 2012 Annual Report. The International Secretariat’s initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

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<sup>59</sup> <http://www.timorgap.com/databases/website.nsf/vwAll/Annual%20Reports>



## Subnational direct payments (#4.6)

### Documentation of progress

The 2013 Report has no information on subnational direct payments in Timor-Leste. Neither the 2012 EITI Report, nor MSWG meeting minutes include any references to subnational direct payments. The 2015 Annual Activity report states that: “currently, there is no payment or transfer from government or company made directly to the sub national government” (p.11).

### Stakeholder views

MSWG members confirm that there are no direct subnational payments and that no laws or regulations provide for any extractive industry payments to be made directly to local governments.

### Initial assessment

The International Secretariat’s initial assessment is that this requirement is not applicable to Timor-Leste

## Level of disaggregation (#4.7)

### Documentation of progress

Requirement 5.2.e requires that the financial data is disaggregated by individual company, government entity and revenue stream. The 2013 EITI Report does not disaggregate all payments by individual company, nor by individual revenue stream and government entity. While there is information on separate revenue streams, the corresponding company information for this is aggregated. Similarly, while there is information per company, the corresponding revenue information is aggregated. Moreover, the report lumps together the figures for FTP Royalty and Profit Oil/Gas. The ANPM’s website, however, has disaggregated information for revenues paid related to the Bayu-Undan and Kitan projects. For Bayu-Undan, the disaggregated revenues include profit oil and gas, LNG FTP, LPG FTP and condensate FTP. For Kitan, disaggregated figures for royalty and profit oil are included. Other revenue streams such as taxes, or those collected by the National Directorate for Petroleum Tax, are not disaggregated by company. The International Secretariat is not aware that disaggregated data for such taxes are publicly disclosed elsewhere.

In the 2012 EITI Report, figures are not disaggregated by individual company and individual revenue stream. The report only provides aggregate revenue data per company, and aggregate data per revenue stream. In addition, two revenue streams – FTP and Profit oil/gas – have been merged despite being two different revenue streams. According to the 2012 EITI Report, FTP is “a production payment made pursuant to a PSC between the RDTL Government and a Company relating to sales of Oil and Gas” (p.28). Profit oil/gas is defined as “a production payment made pursuant to a PSC between the RDTL Government and a Company relating to profit on sale of Oil and Gas” (p.28).

The level of disaggregation for the 2012 and 2013 EITI Reports was subject to extensive discussions. As noted elsewhere in this report, the background to this discussion was the industry discontent with the level of detail of payments disclosed in the 2011 EITI Report. The need to discuss the level of disaggregation was first raised by industry at the MSWG meeting on 13 April 2013 in the context of the need to develop new reporting templates for the 2012 and 2013 EITI Report. At this meeting it was noted that ample time would be needed to agree the templates and that the templates should be developed prior to hiring the Independent Administrator and without the latter’s involvement (MSWG meeting minutes, 13 April 2013,



p.6). According to the minutes, disaggregation was next discussed at the MSWG meeting on 5 June 2013 in the context of the adoption of the EITI Standard. At this meeting, it is noted that “disclose disaggregate data. Industry not mind to provide all data however need to be explain what is the objective, impact and benefit to community” (MSWG meeting minutes, 5 June 2013, p.3).

There are no further references in MSG minutes to discussion about reporting templates or disaggregated reporting until January 2014. However, between 22 January and the approval of the reporting templates on 30 May 2014, the MSWG met eight times to mainly discuss disaggregation. The government constituency was tasked with initiating the drafting of the templates. After initial feedback on the templates, they presented eight templates to the MSWG on 14 March 2014: template A for profit oil and gas, template B for FTP and royalties, template C for taxes, and template D for fees. The remaining templates are for production (E), local content and Corporate Social Responsibility (CSR) (F), SOEs (G) and pipeline fees (H) (MSG meeting minutes, p.3). In addition, the government suggests splitting FTP and royalties in template A as the terms in the PSC are different. FPT apply only for Bayu-Undan and Sunrise PSCs.

On 28 March 2014, industry responded to these templates suggesting combining and aggregating the three revenue flows in templates A and B (FTP, royalty and profit oil/gas), without indicating which company paid what (MSG meeting minutes, 28 March 2014, p.2). According to industry, these three payments can all be considered “host government production entitlement” as per Requirement 4.1.b of the EITI Standard. Furthermore, industry expressed concerns about commercial sensitivity of disclosing more detailed data, in particular given that Timor-Leste has only one producing field. Government and civil society objected to this proposal, noting that this was not in the spirit of the new EITI Standard and that disaggregated reporting is important for citizens. They noted that although commercial sensitivity should be considered, there is a need for industry to explain what is commercially sensitive about disaggregation. The discussion continued at the MSWG meetings on 11 April and 16 May. At these meetings, all constituencies presented options for the level of disaggregation of FTP, royalty and profit oil/gas and discuss the pros and cons of these options. On 30 May 2014, the MSWG agreed to a template where the revenue flows FTP, royalty and profit oil/gas is aggregated by legal entity. CSOs expressed disappointment and noted that this should be revisited in future years when there is more than one field in operation.

Discussion of this issue continued after the publication of the 2013 EITI Report. Minutes of MWSG meetings show that on 15 January 2016, the MSWG discussed how the matter can be addressed in their Supplementary Report. Industry maintained that the information is commercially sensitive. They agreed to review the information disclosed in the ANPM website to see if it complies with the EITI Requirement. To address the issue of disaggregation, the MSWG on 22 January 2016 discussed possible options on how to present the information in their Reporting Template for future reports (MSWG meeting minutes, 22 January 2016, p.6-8). For revenue streams, the MSWG explored the following option for presenting data:

1. List FTP condensate/crude oil/LPG and LNG as one revenue stream
2. Disaggregate the following revenue streams:
  - a. FTP condensate
  - b. FTP LPG
  - c. FTP gas
3. List the following as one revenue stream: FTP condensate/crude oil/LPG and LNG/profit oil and gas

There was no consensus on either of these options.

On 8 April 2016, industry suggested that they submit a request to the EITI Board for exemption from these requirements. The government responded that it can submit such request, however, if the Board denies it,

the MSWG should abide and comply with the requirement (MSWG meeting minutes, 8 April 2016, p.2). On 27 May 2016, the MSWG formally submitted a request to the International Board requesting for exemption from Requirement 4.7 and proposing that the MSWG develop reporting templates aggregating either revenue streams or companies.

The 2015 Annual progress report includes a message from the EITI Champion stating that:

“Progress has been made in the new areas of EITI requirements despite the challenge in addressing the older requirements, which include disaggregation of production, export and revenue data. It is due to the unique situation in Timor-Leste where only one field is in production and a highly disaggregated reporting can reveal commercial sensitive information. Some may disagree with this notion but it’s a situation where it has caused disagreement in the MSG which lead to long delays in the Timor-Leste EITI process. The International Board’s attention may be required to assist Timor-Leste in defining what constitutes “Commercial Sensitivity” (2015 annual progress report, p.3).

### **Stakeholder views**

The National Directorate of Petroleum Tax explained that when they collect tax revenue, they disaggregate tax revenue by tax payer in their internal reports. It was noted that while they provided aggregated revenues for the 2013 EITI Report, as agreed by the MSG, there would be no problems with disclosing disaggregated data should the MSG agree to do so. Although there had been recent discussions about disaggregating revenues overseen by ANPM, the NDPT did not recall any discussion about disaggregating e.g. income tax by company.

MSG members explained that subsequent to submitting the request for adapted implementation, there have been renewed efforts to try to resolve the issue. It was explained that the Interim Mining Code states that "basic information and data about petroleum operation in a contract area may be released two years after it was lodged with the Designated Authority or when the blocks to which that information and data relates cease to be part of the contract area, if earlier" (Interim Mining Code, Art.36). Therefore, it seemed that disaggregated data on production, exports and revenues could be released provided that two years have lapsed.

Previously, all industry representatives noted that they paid FTP and profit oil separately, given that FTP was like a royalty while profit oil was a component of their PSCs. They said they would not be comfortable disclosing this data separately since FTP was only applicable to Bayu-Undan and Sunrise. However, an industry representative explained that after having studied the law there were no longer any concerns about releasing the data for the 2013 EITI Report in a disaggregated manner. It would also be ok to release the same level of detail of the data for future reports provided that the two-year rule was applied. On the other hand, another industry representative stated that they still cannot disclose disaggregated data because they were not informed beforehand its relevance to the Validation process, and therefore, they no longer have time to process this information. Furthermore, the representative did not consider it the companies’ responsibility to ask the MSWG whether e.g. income tax should be disclosed in disaggregated form.

Government representatives expressed disappointment over the 2012 and 2013 EITI Report including only aggregated data. However, it was recognised that after the fallout over the 2011 EITI Report, it had been necessary to compromise in order to bring industry back to the table. They said that they received FTP and profit oil payments as two separate items and that there were thus no technical barriers to disclosure of

the FTP and profit oil separately in the EITI Reports. Indeed, these revenues were disclosed separately in e.g. the budget book and on the ANPM website<sup>60</sup>.

Civil society lamented the lack of disaggregated data, noting that they had raised this issue many times in the development of the report. Core Group Transparency issued a letter calling for disaggregated reporting in April 2014, however civil society had not launched any further public campaigns or advocacy to push for disaggregated reporting since then. One civil society representative also noted that in the 2014 conversations there were different opinions among civil society. Some had threatened to walk out of the EITI unless there was a commitment to deliver on the requirement for disaggregated reporting, while others favoured to continued engagement and seeking a compromise. With regards to the more recent conversations on this issue, civil society said that they had not agreed to aggregated reporting of revenue streams, only aggregated reporting on production and export data. Although they had voiced their view on this on the April 2016 meeting, they admitted that they had not followed the discussion since then and had only recently realised that the adapted implementation request letter included a request for exemption from disaggregated revenue reporting. Civil society had not taken any action after discovering this.

### **Initial assessment**

The EITI Standard requires that the financial data is disaggregated by individual company, government entity and revenue stream. Both the 2013 and the 2012 EITI Reports only provides aggregated revenue data per company, and aggregated data per revenue stream. Minutes from MSWG meetings document the detailed discussions around this requirement, including arguments over whether or not the practice adopted would meet the requirements of the EITI Standard.

Disaggregated FTP, profit oil/gas, and royalty figures are disclosed on the ANPM website. This includes data as of October 2015. Nonetheless, taxes collected by NDPT (representing appx. 35% of total government revenues from the sector) are still aggregated and it was not shown that disaggregated figures are publicly disclosed elsewhere. It appears from the explanation of stakeholders that there was no reluctance on the part of NDPT to disclose this information. Rather, the issue was not considered by the MSWG as it seemed to have focused only on ANPM data. The industry concerns appear unfounded given that this information is already publicly available. In a letter dated 21 May 2016, the MSWG submitted a request for adapted implementation to the EITI Board requesting an exemption from requirements 3.2. On 25 July 2016, the EITI Board rejected the request. The International Secretariat's initial assessment is that Timor-Leste has made meaningful progress in meeting this requirement.

## **Data timeliness (#4.8)**

### **Documentation of progress**

The 2013 EITI Report was published in December 2015. Data pertaining to revenues are all based on 2013 figures. ANPM publishes more timely and monthly revenue data on its website. The latest information that can be found on their website is for May 2016. The 2012 EITI Report was only released on 6 February 2015, more than two years after the end of the financial year.

### **Stakeholder views**

Stakeholders lamented the late publication of EITI reports, noting that this made the reports largely irrelevant and uninteresting. Civil society argued that although they had pushed for more recent reporting,

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<sup>60</sup> <http://www.anp-tl.org/>

the secretariat had responded that there was no need to publish EITI Reports any earlier than two years after the end of the financial year.

It was noted that in order to respect the two-year rule for the government to release disaggregated data, this would likely mean that EITI reports would continue to be published only just in time to avoid suspension.

### **Initial assessment**

The MSWG is encouraged to explore opportunities for publishing more timely EITI data. It is encouraging that the ANPM publishes monthly revenue data (FTP and profit oil) on its website<sup>61</sup>. This information is considerably more up to date than EITI data, and includes revenue data as of October 2015. Although Timor-Leste should strive to publish EITI reports annually, the timeliness of reporting is consistent with requirement 4.8. The International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

## **Data quality (#4.9)**

### **Documentation of progress**

#### *Appointment of the Independent Administrator*

On 8 September 2014, the MSWG agreed to appoint Moore Stephens as the Independent Administrator for Timor-Leste's 2012 and 2013 EITI Reports. The result of the tender was publicly announced by the Ministry of Petroleum and Mineral Resources, with an invite for objections within five working days. This followed an evaluation undertaken by the MSWG of the bids received. The MSWG agreed the evaluation criteria at its meeting on 22 August 2014. The TOR for the Independent Administrator was agreed on 5 June 2014 and the government called for expressions on 17 June.

MSWG meeting minutes indicate that there were several discussions about the quality of the work of Moore Stephens, who prepared the 2010 and 2011 EITI Reports. While government and civil society was content with their performance, industry had concerns regarding the way data was presented in the 2010 and 2011 EITI Reports. Because of these concerns, it was decided to open a tender rather than simply extending the contract to Moore Stephens. Based on the results of the tender, Moore Stephens was nevertheless selected. Although Moore Stephens had initial meetings with industry to meet their concerns and confidentiality agreements were signed, industry continued to express discontent with the performance of Moore Stephens for the 2012 EITI Report (MSWG meeting minutes 23 January 2015; 30 January 2015; 10 April 2015). The concerns mainly related to that Moore Stephens continued to include information in the EITI Reports that industry had not agreed to include. An example was the last-minute inclusion of the names of the stock exchanges where the companies operating in Timor-Leste are listed. This had not been approved by industry and there were errors in the information provided.

#### *Terms of Reference for the Independent Administrator*

##### *(i) Use of the Standard Terms of Reference for Independent Administrators*

The TOR for the Independent Administrator agreed by the MSWG for the purpose of the 2012 and 2013 EITI Report are consistent with the Standard TOR agreed by the EITI Board. There are no deviations.

The MSWG has commenced drafting the TOR for the 2014 and 2015 EITI Reports.

<sup>61</sup> <http://www.ANPM-tl.org/webs/ANPMtlweb.nsf/vwAll/Publish%20What%20You%20Pay>

*(ii) Confidentiality agreements*

The MSWG has added provisions related to safeguarding confidential information to the TOR (pp.11-13). The Standard TOR agreed by the EITI Board provides for such provisions to be included. The MSWG has included a requirement that the Independent Administrator enter into a confidentiality agreement with a reporting entity, if required by that reporting entity (TOR, p.11). It also includes provisions that the initial-, draft-, and final reconciliation reports must be shared with reporting entities for prior approval before being distributed to other MWSG members for comments (TOR, pp.11-13). A separate email account for submitting reporting templates was also established. Industry expressed during the MSWG meetings on 3 and 15 December 2015 that the confidentiality agreement was executed because it has lost confidence on Moore Stephens considering that in the past, Moore Stephens circulated drafts that contained a lot of errors in the data submitted by companies. Industry also said that there might have been a miscommunication on the issue of circulating drafts to the entire MSWG. Industry was amenable to the idea of circulating the drafts to the entire MSWG to avoid delay as long as the figures are redacted until the Independent Administrator and the industry have verified that the data is correct (MSG meeting minutes, 8 April 2016, p.3).

MSWG meeting minutes also point to some discussion about alternative options to the current confidentiality agreements. On 15 December 2015 it was suggested that the MSG should consider involving the Independent Administrator in the process of designing the reporting templates and agree procedures for how the data will be presented in the future EITI reports as an alternative way to confidentiality agreements (p.6).

As explained elsewhere in this report, the background to these confidentiality provisions was the publication of the 2010 and 2011 EITI Report without industry consent. At that time, there was no requirement that the EITI Report be endorsed by the MSG. Even if the EITI Standard now includes a requirement that the EITI Report cannot be published without the agreement of the MSWG, it is understandable that industry sought additional assurances in this context. However, the confidentiality provisions appear to have caused delays and obstacles to efficient reporting, not least given that MSWG members were not authorised to review initial, draft and final reports until each of these had first been approved by the reporting entities. The Independent Administrator notes in its recommendations that (p.38):

“The TOR for the preparation of the EITI Report states that the Independent Administrator must enter into a Confidentiality Agreement with a reporting entity if required by that reporting entity. Any Confidentiality Agreements will need to be on the terms and in the format specified by the reporting entity. Our Independent Administrator contract with the MPMR for the reconciliation foresees confidentiality provisions nevertheless some companies requested separate agreements to be signed on their terms as permitted in the TOR. This situation has led to considerable delays in receiving information from companies which requested a confidentiality deed to be signed before submitting their reporting templates. In addition, these companies requested that draft and final report must be approved by them before its submission to the MSWG. This led to the preparation of several versions of the report in order to avoid disclosure of information between reporting entities and consequently led to additional delays in submitting the final document to the MSG. Furthermore, we believe that this further agreements and procedures act as an impediment to the goals of transparency aimed for by EITI”.

*(iii) Reporting templates*

The MSWG discussed and agreed the reporting templates for the 2012 and 2013 EITI Report prior to hiring the Independent Administrator, and these templates were included in the TOR for the Independent Administrator (TOR pp.22-25). The Independent Administrator was not consulted in the development of the templates. At the kick off meeting with the MSWG on 1 October 2014, the Independent Administrator voiced concerns about the reporting templates prepared by the MSWG, noting that the templates would not enable the Independent Administrator to collect detailed information or data and this may present a challenge in the reconciliation work (MSWG meeting minutes, 1 October 2014, p.2). The Independent Administrator noted that the usual practice in other countries is that the Independent Administrator prepares the templates given that these constitute the main tool for the Independent Administrator to work with during the reconciliation phase (MSWG meeting minutes, 1 October 2014, p.3). The response from the industry constituency was that if the Independent Administrator wanted to change the templates, this would require new approvals by the MSG as well as the company headquarters. If the Independent Administrator needed additional data not captured in the templates in order to undertake the work, reporting entities could provide this but the information could not be disclosed (MSWG meeting minutes, 1 October 2014, p.2). The Independent Administrator continued to raise concerns over the reporting templates in the MSWG meeting on 7 November 2014. In the final 2012 EITI Report, the Independent Administrator states (p.37):

“The reporting template used for the data collection was prepared and approved by MSG. Although our terms of reference foresee that the Independent Administrator should provide advice to MSG on the reporting template, we were informed not to make any changes to the format set. The reporting template has several limitations as follows: (i) it foresees only the declaration of annual figures from reporting entities. No schedules were included to set out the amounts in detail: by date and by payment. Details of payments are necessary documents for the reconciliation work. It would have been more efficient and would have saved a lot of time if all reporting entities were requested to send details of their payments along with their reporting templates; and (ii) much of the information foreseen in the EITI Standard was not requested in the reporting template from extractive companies such as exports, beneficial ownership, audit of financial statements and employment statistics.”

Industry observed during the meeting on 15 December 2015 that the limited time given to publish the report is due to Moore Stephens’ failure to follow the reporting template that was approved by the MSWG. MSWG meeting minutes from the period December-April 2016 recognise the need for involving the Independent Administrator in drafting the reporting template for future reports.

*(iii) Data assurances and assessment of data reliability*

There is no indication in MSWG meeting minutes that the MSWG in collaboration with the Independent Administrator has undertaken a review of the audit and assurance practices in government agencies and companies to be included in the EITI Report. The TOR for the Independent Administrator states that the Independent Administrator should undertake this review as part of the inception phase. The inception report was not made available to the International Secretariat to confirm this. The 2012 and 2013 EITI Report do however confirm that Independent Administrator did review the “assurances to be provided by reporting entities to ensure credibility of the data made available to us” (p. 11).

The 2013 Report notes that “all payment receipts reported by government entities have been subjected to an independent audit engaged by ANPM based on Australian Auditing Standards” (p.15). All revenues declared by the government entities were checked by the Independent Administrator against the audit

reports of the relevant government agencies. The audit report for Timor Gap is also referenced. While the report did not provide a commentary of company auditing practices, the Supplementary Report confirms that the companies' financial statements for 2013 were audited (p.5). As further assurance on data reliability, the senior officials of companies were requested to sign the reporting templates to attest to the fact that the templates are complete and based on accurate records. The IA concludes that "On this basis, we can reasonably conclude that this Report includes reliable and credible information about the revenues generated by the extractive sector in Timor-Leste (p.15).

The draft 2012 EITI Report indicates that the Independent Administrator had asked for companies and government entities to have the reporting templates attested by a senior official. In addition, companies were asked to have their templates certified by an external auditor and government templates would be cross checked against government audit reports. In the MSWG meeting on 7 November 2014, industry for the first time expressed concern about the certification by the external auditor (MSWG meeting minutes, p.3). On 17 December 2014, the MSWG discussed the draft 2012 EITI Report and the fact that no company had submitted templates that were certified by an external auditor. The minutes state that industry proposed to the secretariat to ask the Independent Administrator to explain via email what information they needed, as industry would not certify the reporting templates (MSWG meeting minutes, p.3).

The final 2012 EITI report does not include any reference to that the companies were requested to provide templates that were certified by their external auditors. Rather, the report states that (p.15):

"In order to comply with EITI standard and to ensure the reliability and credibility of data submitted:

- companies and Government Entities were requested to send their reporting templates signed by a Senior Official attesting that the reporting template is complete and based on accurate records; and
- all revenues declared by Government Entities were checked with different audit reports produced in relation to the Oil Sector in RDTL."

The report does not confirm whether all government entities and companies had their templates attested by a senior official, nor does the report confirm whether the government templates were checked against relevant audit reports. Also, information about which, if any, companies and government entities had their financial statements audited in 2012 is not provided in the EITI Report. Nevertheless, the Independent Administrator concludes that "on this basis [on the basis of the assurances provided by companies and government entities], we can reasonably conclude that this Report includes reliable and credible information about the revenues generated by the extractive sector in Timor-Leste" (p.15).

#### *(v) Data sources and electronic files*

For both 2013 and 2012 EITI Reports, contextual information is sourced. Summary data files in accordance with the standardised reporting format provided by the International Secretariat have been provided.

#### **Stakeholder views**

Civil society and government representatives noted that the existence of confidentiality agreements between industry and the Independent Administrator provided industry with a means of holding the EITI process up and appeared unfair. They were not able to analyse or provide input to the EITI reports in a timely manner when all the figures were redacted. Given the slowness of industry in approving the reports, this often meant that civil society only got a few days to actually study the report before the MSWG would be obliged to approve it to respect the EITI deadlines. Civil society said that although they had voiced their

discontent with these confidentiality agreements, industry had insisted on them. Civil society claimed that they would not accept such confidentiality agreements for future reports.

Most stakeholders also reported that the reporting process had become more cumbersome and any entity on the MSWG that was not paying or collecting revenue was not able to see any drafts of the report before industry had given its consent to the Independent Administrator to release the report to other MSWG members. Although it was understandable that industry wanted to check that their figures were accurately reflected in the report, the Independent Administrator now had to check even minor updates to e.g. contextual information with industry. There was a perception that industry had largely contributed to the delays with the 2012 EITI Report by not participating in MSWG meetings in 2013 and by dragging out the process for agreeing on reporting templates and the various drafts of EITI Reports throughout 2014 and 2015. It was also noted that industry had stated that if government wanted to ensure their EITI reporting an EITI law should be passed, and that industry had adopted a “take it or leave it” approach to EITI disclosures.

As noted above, industry representatives considered the current confidentiality arrangements necessary for their continued engagement in the EITI. They said that their intention was not to delay or to hide information from anyone. However, given the issues with the publication of the 2010 and 2011 reports, they wanted to make sure the data in the report was reflected in a way they were happy with. There had been recent discussions in the MSWG about retaining the confidentiality agreements in the 2014 and 2015 EITI Reports, and an industry representative said that they maintained their position that this was necessary. The confidentiality agreements were seen as an important leverage to ensure that no data would be disclosed against their will. This was as much because of the need to ensure that other industry representative would not be able to see the fine detail of the disclosures as this could put them on a competitive disadvantage. An industry representative suggested that government entities could also sign confidentiality agreements, and this way they too would be able to access copies of the draft report. Industry representatives also believed that the procedures adopted by Deloitte, which included publishing the original reporting templates in the annex of the final EITI Report, when it was Independent Administrator in for the 2008 and 2009 EITI Reports, were preferable to the way data is presented by Moore Stephens in the 2010-2012 EITI Reports. Several industry stakeholders said they would be reluctant to hire Moore Stephens again because they continued to include information in the EITI Report that had not been approved by industry.

Another industry representative explained that for their company, it is standard to execute confidentiality agreements. This practice applies even to their external auditor and will not change in relation to their participation in EITI. The problem, it was explained, is how the Independent Administrator interpreted the confidentiality agreement. It was clarified that the draft report can be sent to everyone as long as company data is redacted until the companies have approved it.

Civil society lamented that EITI Reports were published too late with too old data. In their view, the lack of agreement on the templates had slowed down the reporting process. Reporting entities also needed to familiarise themselves with the reporting template to avoid problems with filling them in. An industry representative believed that now that the MSWG had reached an agreement on the level of detail to be disclosed in the report, there would be less lengthy discussions about reporting templates in the future.

### **Initial assessment**

The MSWG has agreed a TOR for the Independent Administrator for the 2012 and 2013 EITI Report that is consistent with the standard TOR for Independent Administrators issued by the EITI Board, and appointed an Independent Administrator. However, it appears that several of the “agreed upon procedures” have not



been followed. The MSWG did not consult the Independent Administrator on the reporting templates in accordance with requirement 5.2(a) even as the latter raised concerns about the templates on several occasions. There is no evidence that a review of audit and assurance practices were undertaken in accordance with requirement 5.2(b) and it seems that the assurances originally requested by the Independents Administrators 5.2(c) were amended half way through the reporting process. Although the EITI Standard mandates the MSWG and Independent Administrator to agree provisions for safeguarding confidential information (requirement 5.2(d)), the procedures put in place appear to have disadvantaged certain members of the MSWG such as civil society and non-reporting entities as these groups were only allowed to access the various versions of the draft reports once reporting entities had approved with the content. It seems to also significantly slow down the production of EITI reports.

The lack of adherence to the “agreed upon procedure” is somewhat offset by the fact that the companies operating in Timor-Leste are mainly multi-national companies with audited financial statements available. In addition, the government agencies have published audited financial accounts on their relevant websites. The Independent Administrator therefore concludes that the data in the EITI Report is reliable and credible.

However, in light of the other breaches of the “agreed upon procedure”, including failure to address concerns related to confidentiality agreements, the International Secretariat’s initial assessment is that Timor-Leste has made meaningful progress in meeting this requirement.

### Assessment of timeliness, comprehensiveness and reliability of the information disclosed

- **Timeliness:** The 2013 EITI Report was timely published in December 2015. Data pertaining to revenues are all based on 2013 figures. ANPM publishes monthly revenue data on its website. The latest information that can be found on their website is for May 2016. The 2012 EITI Report was only released on 6 February 2015, more than two years after the end of the financial year. The MSWG is encouraged to explore opportunities for publishing more timely EITI data. It is encouraging that the ANPM publishes monthly revenue data (FTP and profit oil) on its website<sup>62</sup>. This information is considerably more up to date than EITI data, and includes revenue data as of October 2015.
- **Comprehensiveness:** The 2013 and 2012 EITI Reports comprehensively disclose all revenues from the extractive industries in Timor-Leste. However, the financial data is not disaggregated to the levels required by the EITI.
- **Reliability:** The Independent Administrator attested to the reliability of the data by stating that “except for the effects of the matters described above [production by commodity and employment data], we can reasonably conclude that our Report duly covers all other aspects of the EITI Standard” (p.9). The Independent Administrator further concludes that “On this basis, we can reasonably conclude that this Report includes reliable and credible information about the revenues generated by the extractive sector in Timor-Leste (p.15). However, in both reports the assessment of data quality highlights gaps in the use of the agreed upon procedure for EITI reports, including concerns about reporting templates and cumbersome reporting procedures caused by confidentiality agreements. There are also gaps in the procedures related to assurance of EITI data. However, this is somewhat offset by the fact that the companies operating in Timor-Leste are mainly multi-national companies with audited financial statements available. In addition, the government agencies have published audited financial accounts

<sup>62</sup> <http://www.ANPM-tl.org/webs/ANPMtlweb.nsf/vwAll/Publish%20What%20You%20Pay>

on their relevant websites<sup>63</sup>.

Table 4 - Summary assessment table: Revenue collection

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Comprehensiveness (#4.1)	For both 2013 and 2013 EITI Reports, disclosures of payments and revenues are comprehensive.	Satisfactory progress
In-kind revenues (#4.2)	The 2013 and 2012 EITI Reports confirm that in-kind revenues were not applicable in 2012.	Not applicable
Infrastructure provisions and barter arrangements (#4.3)	There was no mention of barter and infrastructure payments in the 2013 and 2012 EITI Reports. However, the 2015 Annual Activity Report confirms that barter and infrastructure arrangements are not applicable.	Not applicable
Transport revenues (#4.4)	The 2013 and 2012 EITI Report include disclosure of a pipeline fee. Given that the fee is not material relative to total government revenues from the sector, the International Secretariat's initial assessment is that this requirement is not applicable	Not applicable
Transactions between SOEs and government (#4.5)	The 2013 Report discusses Timor GAP's financial relationship with the government, as well as its management of Tasi Mane project and provides all disclosures related to transactions between the government and Timor GAP.	Satisfactory progress
Subnational direct payments (#4.6)	There was no reference to subnational direct payments in the 2013 and 2012 EITI Reports. However, the 2015 Annual Activity Report confirms that subnational direct payments are not applicable.	Not applicable
Level of disaggregation (#4.7)	The EITI Standard requires that the financial data is disaggregated by individual company, government entity and revenue stream. The 2013 and the 2012 EITI Reports only provides aggregated revenue data per company, and aggregated data per revenue	Meaningful progress

<sup>63</sup> [ANPM 2012 Annual Report](#); [Timor Gap 2012 Annual Report](#); [Petroleum Fund 2012 Annual Report](#)

	stream. Even though government subsequently published disaggregated figures for payments collected by ANPM such as profit oil, FTP and royalties, other taxes collected by NDPT such as income taxes are still not disaggregated.	
Data timeliness (#4.8)	The 2013 EITI Report was published by the deadline of 31 December 2015. The MSWG is encouraged to explore opportunities for publishing more timely EITI data.	Satisfactory progress
Data quality (#4.9)	The assessment of data quality highlights gaps in the use of the agreed upon procedure for EITI reports, including concerns about reporting templates and cumbersome reporting procedures caused by confidentiality agreements.	Meaningful progress
<p><b>International Secretariat's recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The MSWG should agree a definition of materiality and reporting thresholds prior to commencing data collection, and incorporate this definition in the next EITI Report.</li> <li>2. The MSWG should ensure that the financial data disclosed is disaggregated to the levels required by the EITI Standard.</li> <li>3. It is recommended that the MSWG reviews the confidentiality arrangements between the Independent Administrator and reporting entities with a view to identify a procedure that safeguards confidential information but that does not disadvantage any stakeholders or create obstacles and delays to EITI Reporting.</li> <li>4. The MSWG should ensure that future reporting templates and confidentiality agreements are developed in consultation with the Independent Administrator.</li> <li>5. The MSWG should ensure that in the future, a review of prevailing auditing and assurance practices is undertaken and that assurances are agreed upon prior to commencing data collection.</li> <li>6. It is recommended that the context related to the pipeline fee/financial support from AusAid is clarified in future reports.</li> </ol>		

## 5. Revenue management and distribution

### 5.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue management and distribution.

### 5.2 Assessment

#### Distribution of revenues (#5.1)

##### Documentation of progress

The 2013 EITI Report indicates transfers from the Petroleum Fund to the budget, noting that the remaining revenue from the extractive sector is kept in the Petroleum Fund. It also summarizes the Petroleum Fund

(PF)'s market value over the last five years (pp. 24-25). During 2013, USD 730 million was transferred to the state budget (p. 24)

The 2013 and 2012 EITI Reports explain that all revenues from the extractive sector are deposited in the PF apart from JPDA development fees and JPDA contract service fees which are retained by ANPM (p.20; p.29). The 2012 and 2013 EITI Reports explain that:

“According to the Petroleum Law, the total amount transferred from the PF for a fiscal year shall not exceed the appropriation amount approved by Parliament for the Fiscal Year. The Estimated Sustainable Income (ESI) for a fiscal year is the maximum amount that can be appropriated from the PF in that fiscal year. During 2012, USD 1,495 Million was transferred to the state budget” (p.24).

In 2013, USD 3,042 million was transferred to the state budget. Further details about PF income are available on p.24 in the 2012 EITI Report and p. 24 of the 2013 EITI Report.

The requirement on disclosure of revenue distributions was discussed by the MSWG on 21 February 2014. At this meeting, industry suggested that the 2012 EITI Report should disclose how much petroleum revenue was transferred to the state budget and how much was retained in the PF (MSWG meeting minutes, p.4).

There are no references to national revenue classification systems or international data standards in the EITI Report or in MSWG meeting minutes.

### **Stakeholder views**

Stakeholders from government and industry expressed that revenue management continues to be the number one question asked by stakeholders during outreach activities. According to an industry representative, the stakeholders' primary concern is not so much the content of the EITI Report but the benefits received by communities from extractive sector revenues. A government representative stated that discussions on revenue management relates to debates on economic diversification.

### **Initial assessment**

The 2013 and 2012 EITI Reports disclose how revenues are allocated in accordance with requirement 3.7(a). The International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

## **Sub-national transfers (#5.2)**

### **Documentation of progress**

Neither the 2013 and 2012 EITI Reports, nor MSWG meeting minutes include any references to subnational transfers. The 2015 annual activity report confirms that: “currently, there is no payment or transfer from government or company made directly to the sub national government” (p.10).

### **Stakeholder views**

MSWG members confirm that there are no subnational transfers, and that no laws or regulations provides for any extractive industry related revenue sharing with local governments.

### **Initial assessment**

It has been confirmed that sub-national transfers are not relevant. The International Secretariat's initial assessment is that this requirement is not applicable in Timor-Leste.

## Information on revenue management and expenditures (#5.3)

### Documentation of progress

The 2013 EITI Report has no information on revenue management and expenditures. The 2012 EITI Report does not contain any information related to earmarked extractive revenue, budget and audit processes or revenue projections.

In updating the 2015 and 2016 workplan, the MSWG agreed that one of the priorities in the workplan should be to increase transparency in public expenditure, including investment decisions (MSWG meeting minutes, 10 April 2015, p.3). The objective of this work would be to increase public awareness on expenditures of the state budget and to encourage discussions on efficient expenditures. Activities to be undertaken according to the 2016 work plan include public discussions as well as collaboration with academic institutions. The meeting minutes recognise that that the MSWG has a limited role in these issues but that it can contribute to provide information and create public debate about the budgeting, withdrawals from the PF, etc. Several MSWG meeting minutes also note that a main concern among communities is how the budget is set and how the money is spent (MSWG meeting minutes 25 January 2013; 19 April 2013; October 2013; 19 September 2014).

As noted in Part I, section 2.2 of this report, in August 2011, the government launched the Timor-Leste Transparency Model which includes transparency in government decision making, budgeting, petroleum fund management, revenues and expenditures<sup>64</sup>.

The 2014 Annual Activity report notes that:

“The TLEITI report briefly describes the distribution of revenues from extractive industry in the Government’s annual budget... There is no revenue from extractive industry earmarked to specific programs or geographic regions. Article 145(1) of the Constitution of RDTL stated that the state budget shall be prepared by government and approved by the national parliament. Each year, the government presents state budget proposal to the National Parliament where national priorities and programs and its respective source of financing were debated and approved (or rejected). The revenues and (planned) expenditures are outlined in 6 budget books where details of projects and beneficiaries are identified and costed. This information is publicly available, e.g., State budget expenditure can be found in the [www.transparency.gov.tl](http://www.transparency.gov.tl). For annual budget books and audit report can be seen in [www.mof.gov.tl](http://www.mof.gov.tl)” (pp.17-18).

The 2015 Annual progress report states that:

“Revenues from oil and gas sector supported more than 85% of Government expenditure each year... The information about how revenues collected so far can be obtained from the BCTL website and expenditures/distribution can be seen in the MoF website (budget section and PF section) as well as in the Timor-Leste Transparency Portal ([www.transparency.gov.tl](http://www.transparency.gov.tl)) which covers Budget, Aid, eProcurement and Government Results Portal” (p.11).

### Stakeholder views

Some stakeholders said that although the EITI could focus more on expenditures, much of this information was already disclosed elsewhere and there was a need to avoid duplication. It was noted that a reporting template for expenditures was being developed for inclusion in the 2014 and 2015 EITI Report.

<sup>64</sup> <http://timor-leste.gov.tl/?p=4962&n=1&lang=en>

Other stakeholders regretted that the 2013 EITI Report had not included further information on government spending, not least given that this topic was of considerable interest to the population. An industry representative lamented that all the time and energy of the MSG had been spent on discussing disaggregation when the real challenge and public debate in the country was related to expenditures. Although such information might be available online, this does not necessarily mean that people outside of Dili are able to understand or access such information. One of the strengths of the EITI was that it through its dissemination campaigns could make such information comprehensible and accessible to a wide audience. One stakeholder commented that inclusion of information on budget spending where decision making processes are still not transparent is one way of ensuring that EITI Reports remain relevant.

Several stakeholders touched on the creation of the Infrastructure Fund which was created under Decree-Law No. 8 / 2011. This fund finances infrastructure projects requiring “massive investments.” Among the projects funded by this is the Tasi Mane project and infrastructures in Special Economic Zones. Concerns were raised regarding transparency in the management of this fund, as there seems to be a lot of discretion on the part of its managers to decide what projects should be funded. Audit mechanisms, they said, are also questionable, although in theory, the audited for state-owned companies should apply. Recently, the fund was made fully autonomous, which means that it is now regulated by an independent agency. There are currently no guidelines on how the fund should be spent.

### **Initial assessment**

Disclosing information on revenue management and expenditures is only recommended and will not count in the assessment of compliance. It is encouraging that the MSWG is responding to public interest by including plans to address more expenditure related issues in future EITI Reports, and make this information comprehensible and accessible to citizens.

The EITI Standard states that “The multi-stakeholder group is encouraged to disclose further information on revenue management and expenditures, including a description of any extractive revenues earmarked for specific programmes or geographic regions. This should include a description of the methods for ensuring accountability and efficiency in their use” (EITI Requirement 5.3.a). In light of the increasing oil and gas revenues that are being allocated to the infrastructure fund for investments in infrastructure related to the oil and gas sector, and concerns expressed by some stakeholders that there are limited oversight and accountability over these funds, it is recommended that future EITI reports are expanded to cover this.

### **Assessment of timeliness, comprehensiveness and reliability of the information disclosed**

- **Timeliness:** The data related to revenue allocations is timely. It is encouraging that the PF publishes quarterly reports on its website and that budget transfers are included in the PF’s quarterly reports<sup>65</sup>. This information is considerably more up to date than EITI data, and includes revenue data as of 30 September 2015.
- **Comprehensiveness:** Information about revenue distributions has been comprehensively disclosed both for the 2012 and 2013 EITI Reports.
- **Reliability:** The information provided in the 2012 and 2013 EITI Reports is backed up with data from other sources available on government websites. Although the reliability of the information does not appear to have been discussed by the MSWG, the International Secretariat is not aware of any

<sup>65</sup> [https://www.bancocentral.tl/Download/Publications/Quarterly-Report41\\_en.pdf](https://www.bancocentral.tl/Download/Publications/Quarterly-Report41_en.pdf)

concerns raised by stakeholders regarding the reliability of the information.

Table 5 - Summary assessment table: Revenue management and distribution

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Distribution of revenues (#5.1)	The 2012 and 2013 EITI Reports disclose how revenues are allocated.	Satisfactory progress
Sub-national transfers (#5.2.e)	The 2014 Annual Activity report confirms that sub-national transfers are not applicable.	Not applicable
Information on revenue management and expenditures (#5.3)	In response to public interest in spending, the MSWG has included transparency in public expenditure, including investment decisions as one of its priorities in the 2015 and 2016 work plans. There are references to how to access further budget and expenditure data in the 2015 Annual Activity report.	
<p><b>International Secretariat's recommendations:</b></p> <p>1. Given the public interest in revenue management and expenditures, it is recommended that TL-EITI includes further information on this issue in its forthcoming EITI Report, with a focus on making data already disclosed elsewhere understandable and accessible to the public. In particular, the MSWG might wish to focus on spending of the infrastructure fund related to extractive investments.</p>		

## 6. Social and economic spending

### 6.1 Overview

This section provides details on the implementation of the EITI requirements related to social and economic spending, including quasi-fiscal expenditures, social expenditures and the overall contribution of the extractive sector to the economy.

### 6.2 Assessment

#### Social expenditures (#6.1)

##### Documentation of progress

##### 2013 EITI Report

The 2013 EITI Report states that "CSR is not a mandatory social payment in TL context, hence CSR is voluntary" (p. 37). Whether social expenditures are cost recoverable or not, they are all voluntary according to the EITI Report. The Supplementary Report further explains that PSCs state the percentage of operations costs that should be spent for social expenditures. These are referred to as local content

commitments (LCC). It thus appears that LCCs are mandatory as they are included in the PSCs. Figures for these are included in the 2013 EITI Report for three companies, namely, Eni Timor-Leste s.p.s which contributed USD 89,497, Eni JPDA 06-105- Pty Ltd with a total LCC of USD 1,029,891 and Conoco Phillips which paid USD 11,334,000. However, there is no mention of the types of social expenditures and the beneficiaries. However, according to MSWG meeting minutes, these details should be available from ANPM's annual report for 2013 (MSWG meeting minutes, 22 January 2016, p.4).

The Supplementary Report also explains that other social expenditures are agreed between companies and government, and are called social initiative projects. It states there are no figures to report for 2013 because the projects have not commenced (p.5).

The 2012 EITI Report notes that companies were requested to report on two types of social payments: local content (recoverable expenditures) and CSR (not recoverable) (p.36). No further commentary on the mandatory vs discretionary nature of these social expenditures is provided in the EITI Report. Two companies – Eni and ConocoPhillips disclosed local content expenditures. ConocoPhillips also disclosed its CSR payments.

The MSWG meeting minutes point to some discussion about social expenditures. In January 2014, the MSWG discussed the need to develop reporting template to capture local content and CSR payments. The template was discussed in detail by the MSWG at the meeting on 30 May 2014. The minutes note that “CS proposed column A and B to list name of NGO as extra information for them to know which NGO are received donation from industries, within footnote explanations. (Majority MSWG attend the meeting on 30 May 2014 accept this)” (p.3). In response to this, industry stated that they submit annual reports to ANPM on both recoverable and non-recoverable local content and CSR expenditures. The MSWG meeting minutes from 22 January 2016 state that the details related to social expenditures are available in the ANPM annual report (p.4).

The 2012 ANPM Annual Report references the legal framework that regulates the operator's local content and CSR commitments and the key objectives behind these expenditures (ANPM 2012 Annual Report, p.53). The report explains the types of local content and CSR expenditures applicable to each PSC, provides commentary on the various projects and discloses (in aggregate) the expenditure per PSC. The 2013 ANPM Report, however, contains less details. It only describes the nature of social projects without, however, providing any figures (pp. 38-39)

### **Stakeholder views**

Several industry representatives confirmed that their PSCs did not mandate any social expenditure and that all social expenditures they reported were therefore voluntary. Companies made social expenditure both individually and as part of joint ventures. They then discussed the level of cost recoverability of each social payment with the government (ANPM), although not all social expenditure was cost recoverable. Some newer PSCs include mandatory social expenditures. Eni confirmed that they have mandatory social expenditures attached to their development plan. These include a certain percentage expenditure on goods and services and employment, as well as a set amount to spend on certain projects, such as e.g. a national library that Eni had been asked to provide even if this work had not yet commenced. The transactions related to these social expenditures were disclosed in the ANPM annual reports. Woodside explained that they were carrying out several CSR activities, but that these were all discretionary and therefore not included in the EITI Report.



Government representatives confirmed that ConocoPhillips and Woodside's social projects were all discretionary, but that Eni had an obligatory commitment to achieve certain targets regarding local content. ANPM also confirmed that the expenditures disclosed in their annual reports include the total universe on spending related to social expenditures.

Civil society expressed discontent with the current reporting on social expenditures and local content, noting that very little information was provided. There was a need for more transparency about the purpose of the social expenditures, beneficiaries etc. However, when raising this with the companies the companies had complained that it would be difficult to report on given that the recipients were not government entities. According to civil society, expenditures from the Petroleum Fund was a bigger priority and social expenditures transparency could rather be considered in the future.

### **Assessment**

The 2013 Supplementary Report distinguishes between mandatory and voluntary expenditures. Mandatory expenditures - those referred to as local content commitments - are included in the 2013 EITI Report. Details such as information about beneficiaries or the nature of the social expenditure are not disclosed, only aggregate amounts of spending per company.

The 2013 ANPM report provides detailed information about the social expenditures per PSC including information on the nature of the social expenditure and beneficiaries. This includes both obligatory and discretionary social expenditures. The 2012 ANPM report was more detailed, in that it also included costs per type of social expenditure.

Requirement 6.1.a states that:

“Where material social expenditures by companies are mandated by law or the contract with the government that governs the extractive investment, implementing countries must disclose and, where possible, reconcile these transactions. Where such benefits are provided in-kind, it is required that implementing countries disclose the nature and the deemed value of the in-kind transaction. Where the beneficiary of the mandated social expenditure is a third party, i.e. not a government agency, it is required that the name and function of the beneficiary be disclosed”.

As noted above, the 2013 EITI Report contains only aggregated data on value and spending of social expenditures by company. While the 2012 annual ANPM report provided disaggregated values according to the type of social expenditure, the 2013 annual ANPM report does not include these details. Although there was not spending across all local content commitments in 2013, none of the local content commitments appear to be costed in the 2013 ANPM report. In light of this, it is difficult to conclude that the “nature and the deemed value of the in-kind transaction” is disclosed. The International Secretariat's initial assessment is that Timor-Leste has made meaningful progress in meeting this requirement.

## **SOE quasi fiscal expenditures (#6.2)**

### **Documentation of progress**

The 2013 EITI Report states that state-participation does not yet give rise to material revenues in Timor-Leste. The report also states that there are no quasi-fiscal expenditures provided by Timor GAP in 2013.

Similarly, the 2012 EITI Report mentions that state-participation in the extractive sector does not yet give rise to material revenue in Timor-Leste. The 2012 EITI report notes that “one of the current portfolios of Timor GAP, E.P. is to assist the Government of Timor-Leste in achieving the implementation of the Tasi

Mane Project - Suai Supply Base, Betano Refinery, Beaco LNG Plant and Highway linking the three centers” (p.23).

The 2015 Annual Progress Report confirms that “there is no revenue payment or arrangements whereby SOE(s) undertake public social expenditures” (p.11).

### **Stakeholder views**

Timor GAP stated that they did not have any quasi-fiscal expenditures for social services in 2013. It was noted that it had been given responsibility for managing the (inter-ministerial) Tasi Mane project and was responsible for funding it from its budget. This included funding works, travel budgets, community relations, etc. The line for Timor GAP in the National Budget included details of the Tasi Mane project and specified the amount of funding for this project in general terms. The Timor GAP Decree Law specifies that it is responsible for such expenditures and states that Timor GAP is not required to return unspent funds to government at the end of the fiscal year.

The government confirmed that all of Timor GAP’s activities were budgeted.

### **Assessment**

Given that the 2013 and 2012 EITI Report confirm that state-participation in the extractive sector did not give rise to material revenues, requirements 6.2 is not relevant to Timor-Leste. The International Secretariat’s understanding is also that Timor GAP’s activities related to Tasi Mane are not off budget activities and therefore do not constitute quasi-fiscal expenditures. The International Secretariat’s initial assessment is that this requirement is not applicable in Timor-Leste.

## **Contribution of the extractive sector to the economy (#6.3)**

### **Documentation of progress**

The 2013 EITI Report contains information on GDP in absolute terms and as a percentage of total GDP (p.22). There is no mention of any informal mining activity. Total revenues in absolute terms are provided, but there is no figure for the percentage of share of extractive revenues from government revenues (p. 9). Exports in absolute terms and its percentage share from total exports are indicated (p. 22). While the 2013 EITI Report failed to provide employment data, the Supplementary Report supplies this information both in absolute terms and as percentage of total employment (p.3) Key areas of oil and gas production are also included.

The 2012 EITI Report includes similar information about the contribution of the extractive sector to the economy. The 2012 EITI Report states that the Independent Administrator was not able to obtain data on employment (p.9). The minutes from the MSWG meeting on 30 January 2015 confirm that the MSWG discussed the need to include employment data in the 2012 EITI Report and that this information was available from ANPM. It is unclear why it was not included in the report, however the minutes from the MSWG meeting on 29 May 2015 records the discussion about inclusion of employment data in the 2013 report. The minutes note that although ANPM and ENI do not have any concerns about publishing employment data, ConocoPhillips would not endorse the report if these figures were included.

### **Stakeholder views**

No strong argument for the omission of employment in the 2012 EITI Report was noted. Industry representatives said they would be open to including employment figures in future. Civil society lamented

that employment figures had not included in the EITI Report. ANPM confirmed that total employment by project was disclosed in their annual reports. A government representative stated that the Ministry of Finance's macro-economic policy division has the statistics on total revenues from the extractive industry which he estimates to be around 75% of government's total income.

The National Directorate of Mining confirmed that although artisanal miners were not required to obtain permits, they were required to inform the Directorate of their activities. They could not recall that they had ever been informed of any artisanal activity, and it did not seem to be a topic in Timor-Leste.

### Assessment

The 2012 and 2013 EITI Reports include most of the information set out in requirement 6.3 apart from estimates of the informal sector and total revenues generated by the extractive industries as a percentage of total government revenues. The government has confirmed that artisanal mining is not applicable. The EITI Report includes figures both on total government revenues and total revenues from extractives, even if the percentage share is not calculated. Thus, the International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

### Assessment of timeliness, comprehensiveness and reliability of the information disclosed

- **Timeliness:** The 2013 report was timely published and contains 2013 data on the overview of extractive industries and social expenditures. The 2012 EITI Report was only released on 6 February 2015, more than two years after the end of the financial year. The MSWG is encouraged to explore opportunities for publishing more timely EITI data. It is encouraging that ANPM publishes annual reports on its website that provides information on e.g. social expenditures. This information is considerably more up to date than EITI data, and includes data as of 2014.
- **Comprehensiveness:** The 2013 EITI Report and the Supplemental Report contain information on social expenditures. Information about social expenditures has been comprehensively disclosed by ANPM in its annual report. Most information related to the contribution of the extractive sector to the economy is also provided, including employment figures in the Supplementary Report.
- **Reliability:** The information provided in the 2013 and 2012 EITI Reports is backed up with data from other sources available on government websites. Although the reliability of the data does not appear to have been discussed by the MSWG, the International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

*Table 6 - Summary assessment table: Social and economic spending*

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Social expenditures (#6.1.)	The 2013 Report explains that local content commitments are included in the PSCs. Actual figures are provided in the 2013 EITI Report, but with limited detail. More comprehensive data is available from the annual ANPM report.	Meaningful progress

SOE quasi fiscal expenditures (#6.2)	State-participation in the extractive sector does not yet give rise to material revenue in Timor-Leste both for the 2012 and 2013 EITI Reports.	Not applicable
Contribution of the extractive sector to the economy (#6.3)	Most of this data has been provided, however estimates of informal sector activity and data on extractive industry revenue as a percentage of total government revenue should be disclosed in the future.	Satisfactory progress
<p><b>International Secretariat's recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The MSWG should ensure that employment data is summarized in future EITI Reports, for example by providing a link to ANPM data.</li> <li>2. The ANPM should ensure that future local content reports provide the costs spent on the various local content commitments, and the EITI Reports should include a link to this data</li> </ol>		

## Part III – Outcomes and Impact

### 7. Outcomes and Impact

This section assesses implementation of the EITI Requirements related to the outcomes and impact of the EITI process.

#### 7.1 Public debate (#7.1)

##### Documentation of progress

##### *(i) Dissemination and other activities aimed at public debate*

The MSWG has undertaken several activities aimed at disseminating information about the EITI and findings of the EITI Reports:

- Dissemination of the 2013 EITI Report has so far been limited to the organising of three debates at three different academic institutions in Dili in June 2016. MSWG representatives from all three stakeholder groups as well as the EITI Champion participated in these events. Local radio, TV and newspapers reported from the events. The audience was university students, academic and administrative staff.<sup>66</sup>
- The TL-EITI Secretariat has launched a tender for producing radio programmes for dissemination to communities.
- TL-EITI organised a dissemination campaign of the 2012 EITI Report in four regions: District of Manatuto (21 August 2015), District of Manufahi (27 August 2015), District of Ermera (22 September 2015), and District of Oecusse (30 September 2015). The participants were public servants, community leaders, CSOs, and academia. According to the annual progress report, “the response from the participants were very positive as to raise their awareness of the natural resources potential around the country, the management of the revenue received from extractive activities, and most importantly how the resources have been used to benefit their lives” (Annual progress report, p.6).
- TL-EITI organised a national launch of the 2012 EITI Report in February 2015. Dissemination of the 2012 EITI Report took place in two municipalities - Manufahi and Manatuto in August 2015.
- A workshop for district officials in Suai and Viqueque was conducted in September 2014. These two districts are affected by the government’s South Coast Project which consists of a supply base and refinery plant. TL-EITI considered that it was important for the community leaders to be well informed about these projects, what it all means to them in the future and how they can contribute to the success of the projects. Around 70 participants attended the workshop. (2014 Annual Activity Report, p.10).
- Participation in a national Book Expo in August 2014. The main objective of the activity was to raise awareness and provoke public debate around the revenues from extractive sector and how it has

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<sup>66</sup> <http://www.eiti.tl/>

been used by the government to benefit the people of Timor-Leste (2014 Annual Activity Report, p.10).

- A workshop for media (print and electronic), including non-governmental organization (NGO) and relevant government media officials was organised in June 2014. According to the 2014 Annual Activity Report: “The media and NGOs are considered as important key stakeholders within the country as both have role to provide information to the wider audiences. As such, it is essential for both to access to the correct information and to have good understanding of the extractive sector, hence to provide a good feedback and share balanced information to the public to held government accountable for its decision on how to utilize the resources to develop the country and benefit the people. Over 40 participants from media and NGO attended the workshop. Speakers were from each pillar of the EITI in the MSG and relevant government entities such ANPM and Ministry of Finance” (p.10).
- From April –August 2013, considerable activity took place related to regional dissemination of the 2010 and 2011 EITI Reports including to the districts of Aileu, Dili, Liquiça, Oecusse, and Viqueque. The reports were also presented to universities and academia. More than 650 people attended presentations and QA sessions with the national secretariat and the members of the MSWG.
- From June-November 2012, TL-EITI together with Core Group Transparency<sup>67</sup> conducted workshops in three villages in Oecusse focused on EITI and state budget transparency. The objective of the workshops was to increase the community’s knowledge and understanding of the importance of transparency and accountability in the extractive sector, increase community and ensure a feedback mechanism between communities and relevant ministries. More than 500 people attended the workshops.

The target audience for these activities have usually included community leaders, NGOs, students, youth representatives, media, central and local government representatives, and political parties. Some of the immediate outcomes of these events were direct interactions of the local communities with the representatives of local and federal government. MSWG meeting minutes and the workplan also indicate that some dissemination activities have not yet been completed mainly due to lack of funding, such as for example dissemination at district level (2014 annual activity report, p.23).

#### *(ii) Making the EITI Report comprehensible*

MSWG meeting minutes document several discussions about the need to ensure that dissemination efforts and EITI Reports are comprehensible and reach key audiences. For example:

- In January 2013 MSWG members agreed to modify the previously adapted dissemination approach to presentation of the EITI reports. It was agreed that each constituency should take part in dissemination to ensure that all questions could be answered and that all perspectives be represented. It was also agreed that high-level officials should be involved in regional presentations given the nature of questions asked by locals (re budget). (MSWG meeting minutes 25 January 2013, p.3)

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<sup>67</sup> Core group transparency is a coalition of NGOs that monitors the Government’s budget and revenues from the oil sector with the objective of ensuring that the funds benefit the Timorese people (Annual Activity Report, p. 8).

- The 2014 annual activity report notes that “Media and CSO are considered as essential part in disseminating the information related to extractive industry activities. Both have wider coverage compared to MSG per se. The Secretariat TL-EITI also collaborated with Petroleum Fund Consultative Council (PFCC)<sup>68</sup> and Luta Hamutuk to disseminate information on natural resources management on annual basis to the districts” (p.14).
- The MSWG has discussed various methods and communication tools to enable public debate, including talk shows, radio presentations of the EITI reports, regional presentations and use of mobile apps. (MSG meeting minutes April 2013, pp.3-4; 2014 Annual Activity Report, p.20).
- The MSWG has also made sure that the reconciliation reports are available in key languages such as Tetum, Portuguese, Bahasa Indonesia, French and English. All of the translated reports are made available alongside other EITI documentation on TL-EITI website: <http://www.eiti.tl/>. Hard copies of the reports are usually distributed in regional presentations and are available upon request at the national secretariat. Summary reports have not yet been developed.

### Stakeholder views

Several CSOs noted that citizens now had access to data and documents online. They could now use these, even if many people did not have the capacity to do so (language skills, internet connection, technical capacity, etc.). Some CSOs were increasingly using this information in their advocacy work with government and industry, especially on the expenditure side as they now know how much the government was earning from the extractive industries. The inclusion of a narrative account of the extractive industries, as per the EITI Standard, was important in making the EITI Reports easier to understand.

Civil society representatives also said that the public debate related to the EITI rarely took place at national level, although they had recently participated in the debates held at the universities in Dili. Otherwise, the EITI generated discussion mainly during regional dissemination events. The most frequent topics of discussion were around petroleum fund investments and expenditures.

Some CSOs representatives complained about the lack of implementation of some dissemination activities in the workplan, including dissemination and outreach at the sub-district and village level. The NGO Forum and its Core Transparency Group (and mainly Luta Hamutuk) conducted 12 community briefings on EITI a year at the village level, with support from NRGi, until 2014. This ceased in 2015 as their partnership with NRGi ended. While they have continued conducting 12 community briefings a year in 2015, their partnership with Integrity Action only includes discussion of EITI as one (small) element in the discussions. CSOs representatives estimate they have conducted community briefings in around half of Timor-Leste’s 442 villages between 2007 and November 2015. No community outreach has been arranged by civil society in 2016. It was also noted that people don’t understand the EITI Report and that there was a need for better communication tools to reach rural communities.

Timor GAP noted that the dissemination events had been helpful to them in terms of clearing up misunderstandings and raise awareness of their role.

Some government representatives said that the EITI itself did not create a lot of public debate. Dissemination at district level was usually only attended by village leaders, who did not pass on information to communities. In addition, the information provided by the EITI was not of relevance to the rural

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<sup>68</sup> Petroleum Fund Consultative Council (PFCC) is the legal body that provides advise to the National Parliament on matters related to performance and operation of the PF and whether the usage of the PF provides benefit to current and future generation of Timor-Leste.

population. There was a need to simplify the information provided to this audience. On the other hand, there are some government representatives who think that public perception of government systems in terms of transparency and accountability are very good and that EITI has contributed to that.

Industry representatives commented that when they had participated in TL-EITI events in the communities, people often said that their interest was mainly to understand how the money was translated into concrete benefits for their community. It was also noted that there were considerable discussion of the oil and gas sector in the media and that these discussions focused on declining production and the sustainability of the petroleum fund.

Industry also confirmed that they had also participated in all three public debates on the 2013 EITI Report in June 2016. One company representative explained that these debates had been a useful opportunity to explain the company's new investment decisions and the future of the field they were operating. Another company representative confirmed that participation by all pillars of the MSWG was good. ANPM had talked about the revenues that the country received. The Central Bank had talked about investments, and Timor GAP had presented information on the Tasi Mane project. The industry representative confirmed that people seemed interested in these topics and that they were asking questions about how the oil revenue is being spent, how it is invested, and how it is turned into benefits for people.

A government representative stated that even before EITI was established, the laws governing the management of the petroleum fund already mandates that information should be published. This information has already reached people through public debates, journals, radio, TV, etc. The feedback from the public is that they are more concerned about whether they are receiving any benefits such as road access, electricity etc.

A stakeholder commented that CSO representatives have not been able to push for more disclosures to stimulate public debate using the EITI process. An example given is that the CSO MSG representatives have not insisted on including in the report information regarding ConocoPhillips' settlement with the government.

### **Assessment**

The MSWG has taken steps to ensure that the EITI report is comprehensible, actively promoted and publicly accessible. Through the organisation of dissemination events and workshops, TL-EITI has ensured that the EITI has also contributed to public debate. Although it is questionable as to whether the EITI Report that has catalysed this debate, the EITI has provided a platform for discussions and debates about how the oil sector is managed, in particular discussion regarding government expenditure. The International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement.

## **7.2 Data Accessibility (#7.2)**

### **Documentation of progress**

Timor-Leste's EITI Reports are not machine-readable. No MSWG meeting minutes indicate much of a discussion among MSWG members on making EITI reports machine-readable. There are also limited evidence of discussions related to the recommendations in provisions 5.1 regarding references to revenue classification systems or production of summary reports. The 2012 and 2013 EITI Reports include a comparison of the shares of each revenue stream in accordance with the suggestion in provision 7.2(b). (2013 EITI Report, p. 36; 2013 EITI Report, p. 35)



With regards to provision 7.2(c), it is worth noting that there are several examples of how government agencies are making data about the extractive sector transparent through government websites and other routine disclosures in Timor-Leste. The Transparency Portal<sup>69</sup> that was created by the government of Timor-Leste links EITI implementation to wider transparency and accountability in the country. The portal has four sections:

1. [Budget Transparency Portal](#) – provides an oversight to budget expenditure.
2. [Aid Transparency Portal](#) – provides an overview of development projects in the country.
3. [eProcurement Portal](#) – provides an overview of active tenders.
4. [Government Results Portal](#) – provides an overview of projects and programmes related to national priorities.

Up-to-date information on the legal framework, licensing, contracts, production, social expenditures and non-tax revenues is also available through the website of the ANPM. The PF website contains quarterly reports on revenues and the overall status of the fund, as well as annual reports that include budget allocations. Timor Gap's website has information on the financial situation of the company as well as other activities. The government of Timor-Leste has expressed strong interest in continuing mainstreaming transparency, and this commitment was also reaffirmed by Minister Pires in his message in the 2014 Annual Activity Report.

#### **Stakeholder views**

It was noted that the EITI had contributed to encourage a culture of transparency in government agencies in Timor-Leste.

Some stakeholders consulted were more sceptical of the government's transparency efforts, noting that few of the pillars of the Transparency Portal were really working. The EITI data was too old, parliamentary debates were held behind closed doors, publication of cabinet decisions were limited to one or two sentences, the procurement and expenditures portals never had any documents attached to them, etc. So while there was a lot of talk of transparency, this was not really put into practice.

The National Directorate for Petroleum Tax is currently working on an online tax payers information system which enables filing of information online and publication of company tax payments. Currently, their online information only includes the template tax forms, payments instructions and applicable laws.

#### **Assessment**

Requirement 7.2 encourages the MSWGs to make EITI reports accessible to public in open data formats. The TL-EITI as not yet started its work on making EITI reports machine readable. However, transparency has become an integral feature of how government agencies work in Timor-Leste, providing an opportunity for the EITI to undertake more analysis rather than to duplicate already existing data.

### **7.3 Lessons Learned and follow-up on recommendations (#7.3)**

#### **Documentation of progress**

##### *(iv) Recommendations from the Independent Administrator*

The 2013 Report includes recommendations pertaining to the reporting exercise, such as the need for an EITI law that will ensure a comprehensive reconciliation exercise, and a complete reporting template that

<sup>69</sup> <http://www.transparency.gov.tl/english.html>

will include all the requirements of the EITI Standard (2013 EITI Report, p. 38) The report further states that the recommendations of previous years' reports were not implemented. (p. 38) It also provides an overview of actions taken from recommendations from previous reports. (p. 39) Specifically, the Report states that the secretariat has not created a database of extractive companies that can be updated whenever a new company enters the extractive sector. It also notes that there has been no action done in relation to its recommendation that there should be a scoping study on the scope of the report and formulation of a reporting template before the commencement of the reporting process (p. 39). The 2012 EITI Report includes the same status on recommendations from previous reports (p. 39).

Minutes of MSGWG meetings after the pilot validation conducted in November 2015 show that the MSG extensively discussed action plans on how to address the main recommendations from the pilot validation. The agreed steps are as follows (MSGWG meeting minutes, 15 December, pp. 3-6):

1. The MSG shall commission a feasibility study to identify all information that should be disclosed according to the EITI Standard;
2. The MSG will take steps to build the capacity of the secretariat, such as hiring additional staff. Industry and civil society also committed to provide more guidance to the secretariat;
3. The companies will have internal discussions regarding the disaggregation of production and export data and revenue streams;
4. The MSG will discuss the possibility of extending EITI disclosures to other areas of national priority. In connection with this, the MSG agreed to ask Timor Gap to share information regarding the South Coast project;
5. The MSG shall put more effort in assisting the secretariat in drafting the work plan with clear time frames and costing and a regular review of progress of implementation;
6. The MSG will examine the reason for lack of information on license registers, noting that the information is already found in ANPM's website; and
7. The MSG will involve the Independent Administrator in designing the reporting template to address the issue of confidential information.

The MSG also extensively discussed ways to address the gaps in the 2013 EITI Report as shown in the minutes of the meeting held on 22 January 2016. They discussed options for each gap such as "Government will draft templates to address the issues on data disaggregation" and "References will be made to websites that contain the missing information" (MSGWG meeting minutes, 22 January pp. 2-5). In addition, the MSGWG agreed to conduct a gap analysis of the reporting template including a review of the contextual information, and identification of reporting entities. (MSGWG meeting minutes, 8 April 2016, p. 2)

With regards to the MSGWG's progress in identifying, investigating and addressing the causes of any discrepancies in EITI reporting, EITI Reports to date show that there have been very minor discrepancies. In the 2013 Report, the discrepancy amounted to USD 459 526, mainly caused by the two companies that failed to submit their reporting templates. In the 2012 EITI Report, the discrepancy amounted to USD 235 566 or 0.006% of total government revenues from the extractive industries. The reason for this discrepancy was that three companies did not submit their reporting templates (see assessment of comprehensiveness above). The 2008-2011 EITI Reports showed zero discrepancies.

The 2015 annual progress report shows that the MSGWG has considered the recommendations from the 2012 to 2013 EITI Reports and provided the following response (pp. 17- 18):

Recommendation	Progress made	Implementation period	Responsible	Remarks

## Validation of Timor Leste: Report on initial data collection and stakeholder consultation

RDTL EITI data base	The data base is not in place yet. The recruited database officer withdrew.	2016	MPRM, Secretariat TL-EITI and MSWG	To be re-advertised in 2016
Reconciliation- scoping study	The MSG discussed and agreed to include scoping study in the next reconciliation (FY 2014)	2016-2017	MSG and IA	Included in the IA TOR
Lack of EITI law	The government, through the MPRM has contracted a law firm to prepare a draft transparency law. The draft has been circulated to the MSG but has not been discussed. It was noted that the draft might have to be revised given the revisions to the EITI Standard. The government is currently undertaking a fiscal reform which will include a review of other existing laws.	N/A pending progress in fiscal reform	MSWG	Ongoing
Limitations of the reporting template	The MSG agreed to involve the IA in drafting the reporting template for 2014	2016-2017	MSWG and IA	Included in 2016 work plan
Timing of the reconciliation work	MSG noted this recommendation and will adopt it accordingly for upcoming tender	2016	MSWG	Ongoing
Delays in the preparation of the EITI report due to confidentiality agreements	The MSG discussed this issue and noted the delay caused by this additional requirement. The industry expressed their inconvenience in the reconciliation process without the CA. The MSG agreed to include it in the work plan.	2016	MSWG	Ongoing discussion

The 2014 annual progress report contains a similar overview of recommendations from the 2010-2011 EITI Report (2014 annual progress report, p.17-21). The 2008-2009 EITI Reports contain no recommendations.

### Stakeholder views

One government representative noted there tended to be insufficient attention paid to following up EITI Report recommendations and little impact of the EITI. There tended to be little impact on policy-making given the existence of other mechanisms such as the Petroleum Fund and the government's Transparency Portal. It was conceded that this may have been due to the fact that the EITI did not make enough "sound".

Civil society confirmed that there was a lack of implementation of recommendations from the EITI.

Industry members of the MSG noted they did not agree with all recommendations of the EITI Reports and saw the recommendations as those of the Independent Administrator, rather than those of the MSG. However industry members only raised concerns over the recommendations when they were perceived to blame industry. Another industry representative confirmed that they had been providing input to the Annual progress report.

### Assessment

The MSG has taken steps to act upon lessons learnt, to identify, investigate and address the causes of any discrepancies and to consider the recommendations for improvements from the Independent Administrator. The International Secretariat's initial assessment is that Timor-Leste has made satisfactory progress in meeting this requirement. However, given that weaknesses in reporting templates have been highlighted by the Independent Administrator over the last three reporting cycles, the MSG ought to consider necessary improvements in consultation with the Independent Administrator for future EITI reports.

## 7.4 Outcomes and impact of implementation (#7.4)

### Documentation of progress

The MSG has produced five annual activity reports covering 2011-2015, which are all available on the TL-EITI Website<sup>70</sup>.

The 2015 Annual Progress Report was approved by the MSG on 28 June 2016 (ahead of the 1 July deadline). The report lists all activities of TL-EITI for 2015 including publication of the 2012 and 2013 EITI Reports, outreach activities and report dissemination in four regions, pre-validation workshop, and participation in international conferences by the MSG and the national secretariat and regular MSG meetings (pp. 5-8) The annual progress report notes the difficulty in completing all activities in the annual work plan because discussions of and approval of the 2013 EITI Report consumed most of the MSG's time (p.4).

The annual progress report discusses progress against each EITI requirement. The following was extracted from the 2015 Annual Progress Report (pp. 9-12):

EITI Requirement	Progress
Effective oversight by the MSG	Government continues to support EITI implementation. It provided a budget of USD 469,000 for the MSG and secretariat for 2015. The MSG is functioning fully with support from all key pillars. 13 MSG meetings were conducted in 2015 where the following decisions were made: 1.

<sup>70</sup> <http://www.eiti.tl/secretariat/reports/progress-reports>

	<p>Approval of work plan for 2015 and 2016; 2. Approval and launch of 2012 and 2013 EITI Reports; 3. Follow-up on issues raised from the 5<sup>th</sup> and 6<sup>th</sup> EITI Reports and pilot validation.</p>
<p>Legal and institutional framework</p>	<p>Timor-Leste has not established an EITI Law yet. The Government has prepared the draft law. However, wider consultation have not taken place due to other reforms that currently take place.</p> <p>The description of the legal framework and fiscal regime governing the extractive industry is included in the TL-EITI reports.</p> <p>Most of PSC were disclosed in ANPM's website, with the exception PSC of BU and Greater Sunrise as both PSCs are regulated under Interim Petroleum Mining Code.</p> <p>Licenses and coordinate area are addressed in the TL-EITI reports and also available in the ANPM's website.</p> <p>Beneficial ownership has not been addressed in details as per EITI requirement i.e. identity of the beneficial owners and level of ownership are not addressed in the latest 2013 report. The MSG has included a scoping study in the next reporting round to identify gaps based on the EITI standard and to agree on actions to address them.</p> <p>Payment to and revenues from state-owned enterprise in extractive industry is addressed in the 5<sup>th</sup> and 6<sup>th</sup> TL EITI reports. Currently there is only one SOE (Timor GAP). Other information which are not covered by the EITI report (i.e. revenues from subsidiary) is made available in its annual report published at <a href="http://www.timorgap.com">www.timorgap.com</a>. Currently, there is no payment or transfer from government or company made directly to the sub-national government.</p>
<p>Exploration and production</p>	<p>The information related to exploration, production and exports are addressed in TL EITI reports.</p> <p>The MSG noted the preliminary assessment by the EITI International Secretariat in November 2015 which that the level of disaggregation of production and export and revenues do not fully</p>

	<p>meet the EITI Standard.</p> <p>The MSG has responded to the lack of disaggregation of information in the Supplement 2013 Report.</p>
Revenue collection	<p>TL EITI reports clearly define taxes and revenues covered in the scope. Most of the revenues paid to the government are in dollar terms, and there are no in-kind revenues. There are no infrastructure provisions and barter arrangement agreed so far. Social expenditures made by the company are described in the TLEITI reports. More detailed information can also be accessed through the ANPM Annual reports.</p> <p>Payment to and revenues from state-owned enterprise in extractive industry is addressed in the 5<sup>th</sup> and 6<sup>th</sup> TL EITI reports. Currently there is only one SOE (Timor GAP). Other information which are not covered by the EITI report (eg revenues from subsidiary) is made available in its annual report published at <a href="http://www.timorgap.com">www.timorgap.com</a>. Currently, there is no payment or transfer from government or company made directly to the sub-national government.</p> <p>Data quality and assurance - the IA was appointed through an open competitive bidding process with clear selection criteria as set out in the Terms of Reference for IA in accordance with the 'agreed upon procedure for EITI Reports'.</p> <p>The MSG agreed to undertake reconciliation, not an audit for the data.</p> <p>The MSG appointed an IA to provide an assurance on external audit</p> <p>Confidentiality agreements are agreed upon by the IA and industry</p> <p>Reconciliation Results are disaggregated by company but aggregated by payment data ( EITI report page 30).</p> <p>Revenue stream are disaggregates by payment data and aggregated by Company (EITI report page 31).</p>

Revenue allocations	<p>Revenues from oil and gas sector supported more than 85% of Government expenditure each year. The information about how revenues are collected so far can be obtained from the BCTL website and expenditures/distribution can be seen in the MoF website (budget section and PF section) as well as in the Timor-Leste Transparency Portal (<a href="http://www.transparency.gov.tl">www.transparency.gov.tl</a>) which covers Budget, Aid, eProcurement and Government Results Portal</p>
Social and economic spending	<p>The social expenditures by extractive companies are addressed in 2012 and 2013 reports. There is no in-kind payment made by the companies in both reports.</p> <p>Quasi-fiscal expenditures – there is no revenue payment or arrangements whereby SOE(s) undertake public social expenditures.</p> <p>The information on contribution of the extractive sector to the economy are addressed in TL EITI reports. It is also available State Budget books (<a href="http://www.mof.gov.tl">www.mof.gov.tl</a>) and National Account<sup>71</sup></p>
Outcomes and impact	<p>All TL EITI reports are publicly available from the TL EITI website. When a report is launched, (ie for 5<sup>th</sup> and 6<sup>th</sup> reports), the secretariat ensures that the information is broadcasted through mobile phones (SMS). Summary of the report is posted in newspaper, radio and TV. The reports were produced in four languages namely Tetum, Bahasa Indonesia, English and Portuguese.</p> <p>The MSG and secretariat organize each year dissemination activities through outreach events to the districts. The secretariat and MSG also participated in the discussion or activities related to resource management and revenue distribution.</p> <p>From time to time, the MSG makes efforts to improve the approach in implementation of EITI principles in TL, including implementing the recommendation from the auditor and validator. Some of the recommendations have not been fully implemented.</p>

<sup>71</sup><http://www.statistics.gov.tl/timor-lestes-national-accounts-2000-2014/>

The annual progress report also states the status of progress of each objective in the work plan. Under the first objective which is to encourage discussions on transparency in public expenditures of state budget including investment decisions, the annual progress report states that this is in progress, as some information on expenditures are already in the 2013 EITI Report. However, it notes that the MSG has yet to discuss the reporting template for 2014 so that this information can be included (p. 13). Under the second objective, which is contract transparency, the annual progress report states that this is already completed and included in various EITI reports. It added that the information is in the ANPM website which is regularly updated as soon as information becomes available, except for the PSCs of BU and Greater Sunrise which are governed by the Interim Petroleum Mining Law (p. 14). For the third objective which is to encourage the discussions on government's approach to economic diversification to reduce oil dependency, the annual progress report notes that this is not yet completed (p.14). As for the fourth objective which is to reform the legal framework for EI, the annual progress report notes that the mining law is still under review by the Counsel Minister, and that the Transparency Law has been drafted but is still for discussion (p. 15). To strengthen the secretariat, which is the fifth objective, the APR states that additional staff has not been hired. EITI budget and capacity building plans are integrated in the MPRNM's budget and annual capacity building program respectively (p.16) While the APR indicates the expected outcomes from each objective which mainly relate to more access to information, increased public debate, increased capacity of stakeholders, and involvement of MSG in formulating regulations, it does not discuss any actual impact from the implementation of work plan activities.

The annual progress report discussed the constraints the MWSG faces in meeting the objectives under the work plan, such as lack of planning, time constraints, and issues around commercially sensitive information. Among the cited weaknesses in EITI implementation are the lack of EITI law, funding constraints which limited dissemination activities to regions instead of districts, lack of qualified staff in the secretariat, lack of planning, and slow progress in minute taking and in decision made by the MSG. (p. 19)

As discussed under 7.3 in the report, the annual progress report provides in detail the progress that has been made with respect to recommendations from the 2012 and 2013 EITI Report. It also lists activities undertaken under each recommendation, the implementation period set by the MSG, and who is in charge of each activity. To summarise, out of the six recommendations listed, only one has been implemented, which is the inclusion of a scoping study in the next EITI Report. All the rest are still ongoing, such as creation of an EITI data base, drafting of an EITI law, involving the Independent Administrator in the drafting of the reporting template, ensuring the proper timing of the reconciliation work, and discussion of how to address problems encountered in relation to the confidentiality agreement. There is no mention of any recommendation that the MSG decided not to implement

The 2014 annual progress report likewise provides an overview of activities which are essentially similar to the 2015 annual progress report. It also contains a detailed self-assessment of progress in meeting each EITI requirement (p.14). As noted above, it also includes an overview of the recommendations from the 2010 validation and 2010-2011 EITI reports, including actions taken to meet each recommendation, implementation period, responsible parties etc. (p.21), as well as a section identifying strengths and weaknesses of implementation (p.23). However, it does not include any reflections of the impact of the work plan objectives or these outcomes.

### **Stakeholder views**

Civil society representatives confirmed that there had been limited discussion and consultation on the annual activity reports. They had not participated in producing the 2015 annual progress report.



Government and industry representatives confirmed that they had been providing input to the Annual progress report. One government representative lamented that the annual progress report should have been sent to them earlier to allow for more time to review.

### Assessment

The MSWG has reviewed progress and outcomes of implementation on a regular basis, including by publishing annual progress reports over the past four years.

However, the 2015 annual progress report contains no discussion of impact, nor is the International Secretariat aware of any other impact studies conducted by the MSWG. The International Secretariat's initial assessment is therefore that Timor-Leste has made meaningful progress in meeting the requirement. TL-EITI may wish to consider undertaking an impact assessment, with a view to identify opportunities to increase impact.

*Table 7 - Summary assessment table: Outcomes and impact*

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Public debate (#6.1)	The MSWG has taken steps to ensure that the EITI report is comprehensible, actively promoted and publicly accessible. Through the organisation of dissemination events and workshops, TL-EITI has ensured that the EITI has also contributed to public debate.	Satisfactory progress
Data accessibility (#6.2)	TL-EITI does not yet provide EITI data in open data formats. There are considerable efforts underway to mainstream transparency in government systems.	
Lessons learned and follow up on recommendations (7.1)	The MSWG has taken steps to act upon lessons learnt, to identify, investigate and address the causes of any discrepancies and to consider the recommendations for improvements from the Independent Administrator.	Satisfactory progress
Outcomes and impact of implementation (#7.2)	The MSWG has produced annual progress reports documenting progress and outcomes of implementation. Further work on assessing impact should be considered.	Meaningful progress
<p><b>International Secretariat's recommendations:</b></p> <ol style="list-style-type: none"> <li>1. It is recommended that the MSWG considers necessary improvements to the reporting templates in consultation with the Independent Administrator for future EITI reports.</li> <li>2. The MSWG might wish to undertake an impact assessment with a view to identify opportunities for increasing the impact of implementation.</li> <li>3. The MSWG is encouraged to provide more EITI data in open data formats and to continue its work on mainstreaming extractive industry transparency.</li> <li>4. The MSWG should consider the recommendations from EITI Reports and agree relevant follow-up and</li> </ol>		

implementation.
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## 7.5 Impact analysis (not to be considered in assessing compliance with the EITI provisions)

According to civil society, the EITI had been helpful in giving civil society access to data and information online and to build awareness. Before the EITI, no communities knew how much money the government was getting from the sector. Nowadays people have access to this information. The number of NGOs focused on transparency has grown, and transparency is now a regular topic of discussions among university students and among government officials. It had also helped building relationships and civil society now had access to government and industry given their membership on the MSWG. Some trust had been built. Civil society also noted the government used Timor-Leste's compliance status in their international diplomacy. As mentioned above, civil society also considered their campaigning for a mining law as a concrete outcome of how the EITI has contributed to put the focus on natural resource governance and the need to put in place an appropriate legal framework for the mining sector.

Industry representatives noted that the EITI process had validated the Petroleum Fund mechanisms that were already in place, but questioned the broader impact of the EITI in terms of addressing community concerns.

Some government representatives found the impact of the EITI to the population of Timor-Leste limited. Transparency and accountability had been a strong focus in establishing the institutions and framework of the oil sector from the very beginning and was not really a cause of the EITI. Others said that the EITI had contributed to raise awareness in that people now know that the state budget is financed entirely by oil revenue.

Looking ahead, industry suggested that the EITI process could add more value if it covered budget execution and the sustainability of the existing oil and gas industry, particularly given the fact the two producing oil fields were maturing.

Some government representatives said that the monitoring of expenditures was already undertaken by several institutions: the Consultative Council on the Petroleum Fund, which organised public discussions on the use of the Petroleum Fund, and the Ministry of Finance's G7+ activities, which held public discussions on public financial management, in addition to the EITI. Rather, EITI may wish to expand into further analysis of revenue data and the sustainability of the current oil and gas industry. Other government representatives said that EITI to contribute to monitor budget execution, tracing budget execution and verifying that the money was being spent on what it is supposed to be spent on and review efficiency of spending.

Government representatives were also supportive of continuing to entrench transparency in government systems. They suggested that with a better capacitated secretariat, TL-EITI could start to produce its own quarterly reports drawing on the information that government agencies already put out. This would address the challenge of that current EITI data is too old. It would also address the current problems with achieving consensus on the data to be published etc. It was also noted that there had been talk about including forestry and mining in the EITI. The representative from National Directorate of Mining was very supportive of the suggestion to include the mining sector, noting that there was already a reference to the EITI in the mining law.

Civil society said that a key challenge for the EITI was to move from transparency to accountability. In the

future, civil society wanted to see contract transparency and disaggregated data. Other priority areas included information about the mining sector included in the EITI Report, in particular details about production. It was also suggested that EITI would be more useful if it could deliver quarterly and up to date reporting, including forecasts. People were not so interested in understanding what happened two years ago. Rather they want to know what is happening now and next year. Other areas where the EITI could contribute would be to look at Sovereign Wealth Fund investments and state-owned companies, including financial information but also governance issues. Finally, it was suggested to include members of parliament and community leaders in the MSG.

## Annexes

### List of stakeholders consulted<sup>72</sup>

#### Secretariat

Elda Guterres da Silva, TL-EITI National Coordinator

Trifonio Flor Sarmiento, Outreach Officer Secretariat TL-EITI

#### Civil Society

Mericio Akara, former CSO Representative, director of Luta Hamutuk and president of the NGO Forum Board

Nelson Seixas Miranda, Program Coordinator Transparency Oil & Gas, Luta Hamutuk

Alzira S.F dos Reis, Executive Director, Alola Foundation

Helio dias da Silva, Haberan Institute

Gaudencio S. Souza, FONGTIL

Carlos Florindo, Manager, ETADEP

Charles Scheiner, La'ó Hamutuk

Juvenal Diaz, La'ó Hamutuk

Alzira Reis, Alola Foundation

Arsenio Pereira da Silva, Executive Director, Forum Ong Timor Leste

#### Industry

Jose Lobato Country Manager ConocoPhillips Timor-Leste

Antonio C. Santos Woodside Country Representative

Angelina Branco, ENI Country Representative

#### Government

HE Alfredo Pires, Minister of Petroleum and Mineral Resources

Angelo Lay, Director of Commerce, ANPM

Dulce Natalia da Silva, ANPM

Hamud Alkatiri, ANPM

Helga Fernandez, NDPMR

Delice Lopes, NDPMR

Jose Jeronimo, NDPMR

Timoteo Pires, BCTL

Tobias Ferreira, BCTL

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<sup>72</sup> Includes stakeholders consulted during the November 2015 pilot validation.

Fernando da Silva, BCTL

Elga Anita Pereira, Director, National Directorate of Minerals

Auxiliadora do Rosario Coelho, National Directorate of Minerals

Agostinho G. Ramos, Ministry of Finance / DNPMR

Venancio Alves Maria, Executive Director, Department of Petroleum Fund Management, BCTL

Filipe Nery Bernardo, Petroleum Fund Analyst, MoF

Francisco Alegria, Public Relations Advisor, Timor Gap

Francisco da Costa Monteiro, President and CEO, Timor Gap

Henrique Monteiro, Timor Gap

H.E. Mr. Virgílio Marçal, President of the Commission C

Others

Rui Meneses, Vice-President, Consultative Council of Petroleum Fund (CCPF)

Zelia Fernandes, CCPF

Angela Robinson, Vise Embaixadora, Australian High Commission

Harry Hall, Second Secretary, Australian High Commission

David Knight, Senior Economist, World Bank

## List of MSG members and contact details

Name	Organisation	Contact details	Notes
<i>Government</i>			
Alfredo Pires	Minister of Petroleum and Mineral Resources	<a href="mailto:alfredopires7@hotmail.com">alfredopires7@hotmail.com</a>	
Agostinho G. Ramos	Ministry of Finance / DNPMR	<a href="mailto:aramos@mof.gov.tl">aramos@mof.gov.tl</a>	Replaced Joao Demetrio as of March 2014.
Filipe Nery Bernardo	Petroleum Fund Analyst, MoF	<a href="mailto:fnbernardo@mof.gov.tl">fnbernardo@mof.gov.tl</a>	
Angelo Lay	Director of Commerce, ANPM	<a href="mailto:angelo.lay@anp-tl.org">angelo.lay@anp-tl.org</a>	
Elda Guterres da Silva	National Coordinator, TL-EITI	<a href="mailto:vanozela@yahoo.com">vanozela@yahoo.com</a>	
Fernando Carvalho	BCTL		Replaced Venancio Maria Alves
Tobias Ferreira (alternate)	BCTL	<a href="mailto:tobias.ferreira@bancocentral.tl">tobias.ferreira@bancocentral.tl</a>	Nominated alternate in December 2015
Dulce Da Silva (alternate)	ANPM		Replaced Oscar Faria as alternate
<i>State-owned company members</i>			
Luis Martins	Director, Business Development Unit, Timor GAP	<a href="mailto:luis.martins@timorgap.com">luis.martins@timorgap.com</a>	
Francisco Alegria	Public Relations Advisor, Timor GAP	Francisco.Alegria@timorgap.com	
Henrique Monteiro (Alternate)	Director of Finance, Timor GAP	<a href="mailto:henrique.monteiro@timorgap.com">henrique.monteiro@timorgap.com</a>	Replaced Jacinta Bernando in May 2015
<i>Industry members</i>			
Jose Lobato	Country manager at ConocoPhillips TL	<a href="mailto:jose.lobato@conocophillips.com">jose.lobato@conocophillips.com</a>	
Angelina Branco	ENI country representative	<a href="mailto:angelina.branco@enitomorleste.tl">angelina.branco@enitomorleste.tl</a>	Replaced Tony Heynen as of February 2012.
Antonio C. Santos	Woodside country representative	<a href="mailto:antonio.dossantos@woodside.com.au">antonio.dossantos@woodside.com.au</a>	Replaced John Prowse, Country Manager Timor-Leste Woodside Energy Ltd, as of March 2014.
David de Araujo (Alternate)	ConocoPhillips External Relations		
<i>Civil society members</i>			
Nelson Seixas Miranda	Program Coordinator Transparency Oil & Gas, Luta Hamutuk	<a href="mailto:nelson.smiranda@gmail.com">nelson.smiranda@gmail.com</a>	MSG member since July 2014
Alzira S.F dos Reis*	Executive Director, Alola Foundation	<a href="mailto:ceo@alolafoundation.org">ceo@alolafoundation.org</a>	MSG member since July 2014. Resigned in April 2016.
Helio dias da Silva	Habera Institute	<a href="mailto:elizero5502@yahoo.co.id">elizero5502@yahoo.co.id</a>	Replaced Ana Paula Sequera in May

				2015
Sabino Gusmão Fitun (Alternate)	Director, Ba Los	<a href="mailto:sabino.fitun@gmail.com">sabino.fitun@gmail.com</a>		Alternate since July 2014
Martinha da Silva (Alternate)	Director, Feto Hadomi Familia (FHF)	<a href="mailto:tinafhf@yahoo.com">tinafhf@yahoo.com</a>		Alternate since July 2014, previously full MSG member.
Aurelia M.S Rodriques (Alternate)	Advocacy Coordinator, Fundasaun Haburas	<a href="mailto:inmely@yahoo.com">inmely@yahoo.com</a>		Alternate since July 2014

\*resigned

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44th MSG Minutes on 25 May 2012 <http://www.eiti.tl/secretariat/msg/msgminutes/2012/finish/13-2012/105-44th-minutes-on-25-may-2012>

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