

Validation of Togo

Report on initial data collection and stakeholder consultation

Abbreviations

ANGE	Agence Nationale de Gestion de l'Environnement (National Environmental Management Agency)
ARSE	Autorité de Réglementation du Secteur de l'Electricité (Electricity Regulatory Authority)
BCEAO	Banque Centrale des Etats de l'Afrique de l'Ouest (West African States' Central Bank)
BTP	Bâtiments et Travaux Publics (Construction and Public Works)
CDDI	Commissariat des Douanes et Droits Indirects (Customs and Indirect Duties Commission)
CI	Commissariat des Impôts (Tax Commission)
CNS	Conseil national de Supervision (National Supervisory Council)
CNSS	Caisse Nationale de Sécurité Sociale (National Social Security Fund)
DGH	Direction Générale des Hydrocarbures (General Hydrocarbons Directorate)
DGMG	Direction Générale des Mines et de la Géologie (General Directorate of Mines and Geology)
DGSCN	Direction Générale de la Statistique et de la Comptabilité Nationale (General Directorate for Statistics and National Accounting)
DGTCP	Treasury and Public Accounting General Directorate (Direction Générale du Trésor et de la Comptabilité Publique)
DGTLS	General Directorate for Labour and Social Laws (Direction Générale du Travail et des Lois Sociales)
ECOWAS	Economic Community of West African States
EITI	Extractive Industries Transparency Initiative
IFAC	International Federation of Accountants
ISRS	International Standard on Related Services
OTR	Office Togolais des Revenus (Togolese Revenue Office)
PC	Prélèvement Communautaire (Community Levy)
PCS	Prélèvement Communautaire de Solidarité (Community Solidarity Tax)
SNPT	Société Nationale de Phosphates du Togo (Togolese National Phosphates Company)
TdE	Togolaise des Eaux (Togolese Water)
TEO	Taxe d'Enlèvement d'Ordure (Waste Disposal Tax)
TOFE	Tableau des Opérations Financières de L'Etat (Government Financial Operations Table)
XOF	West African Franc CFA

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Executive Summary

The Government of Togo committed to implement the EITI through an official launch on 14 December 2009. The National Supervisory Council, the Steering Committee and the technical secretariat were created on 30 March 2010. In October 2010, the country was accepted as an EITI candidate country.

On 25 October 2016, the Board agreed¹ that Togo's Validation under the 2016 EITI Standard would commence on 1 April 2017. This report presents the findings and initial assessment of the EITI International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures² and applied the Validation Guide³ in assessing Togo's progress with the EITI Standard. While the initial assessment has not yet been reviewed by the multi-stakeholder group (MSG) or been quality assured, the International Secretariat's preliminary assessment is that Togo has made meaningful progress in meeting the requirements of the EITI Standard.

Overall conclusions

The EITI in Togo not only covers the hydrocarbon sector, solid minerals and quarrying sectors, but additionally groundwater exploitation, the transportation sector and the marketing of precious minerals (downstream). Togo presents a dynamic case of EITI implementation with an engaged national team that has a good understanding of the rationale behind EITI implementation. This is reflected in the high quality of documents supporting implementation such as work plans and annual progress reports, as well as consultation amongst stakeholders on these documents. However, there is potential for improvements more broadly in the sector.

The EITI plays an important role in providing statistics on the mining sector, given a paucity of national statistics. The International Monetary Fund (IMF)'s 2014 Togo poverty reduction strategy paper⁴ notes that 'Cognizant of the current state of the national statistical system, the Government has undertaken institutional and legal reform to build system capacity, creating the national strategy for development of statistics (Stratégie nationale du développement de la statistique) in May 2010.' This led to the creation of the National Statistics Council (CNS—Conseil National de la Statistique) on 3 June 2011, which coordinates, guides and drives the national statistical system. The benefits of EITI implementation are also economic, in that the process corrects errors and improves governance of state revenues, both at the central and subnational levels. Although not yet fully comprehensive, EITI Reports are the sole source of key information linked to production and employment in the country's mining sector. Implementation of the EITI has enabled the state financial authorities, more specifically, the Tax Commission (CI) and the Customs and Indirect Duties Commission (CDDI), to identify weaknesses of their information systems and

¹ <https://eiti.org/BD/2016-18>

² <https://beta.eiti.org/document/validation-procedures>

³ <https://beta.eiti.org/document/validation-guide>

⁴ <https://www.imf.org/external/pubs/ft/scr/2014/cr14224.pdf>

to take steps to correct the shortcomings.

The government's renewed commitment to improve transparency in the sector has manifested itself in various forms. The government has recruited an expert to revise the Mining Code, which highlights transparency as a key feature of the sector's management. Additionally, on 14 July 2015, the National Assembly unanimously adopted the bill to establish the High Authority for the Prevention and Combating of Corruption and Similar Offences⁵. The Togolese revenue office (OTR) has set up a toll-free number to allow the public to report cases of corruption.

The social impact of the EITI is most visible in mining communities. In 2014, the civil society representative on the MSG, COMINTES, was entrusted with funding from the European Union's national reconciliation and civil society support project. Along with the EITI, COMINTES worked to support advocacy and good governance, particularly in the exploitation of iron from Bangéli, in the prefecture of Bassar. EITI implementation has led to improved scrutiny and oversight of subnational transfers to local authorities. The prefectures of Vo and Zio have used these funds in the construction of social infrastructure such as markets, sanitation and new offices. EITI implementation has also increased recognition of voluntary contributions to support local projects and has given rise to more favourable relationships between businesses and local communities.

Recommendations

While this report includes recommendations for specific improvements the MSG may wish to consider implementing, the following is a list of strategic recommendations that could help Togo make even greater use of the EITI as an instrument to support reforms.

1. In accordance with requirement 1.4, the MSG should update its internal governance document with provisions ensuring that (i) representation on the MSG comprises appropriate stakeholders; (ii) there are clear procedures for alternate Steering Committee members and replacement of Steering Committee members; (iii) MSG members liaise with their constituencies; (iv) there is a mechanism for dealing with conflicts of interest; and (v) the Steering Committee's policy on per diems is clear and transparent. The MSG should consider the adoption of the Ministerial order on the renewal of the MSG.
2. In accordance with requirement 1.5, the MSG should ensure that the work plan sets clear implementation objectives that are linked to the EITI Principles and reflect national priorities, and that the workplan clearly sets out the agreed activities and responsible parties.
3. To strengthen implementation, the MSG may wish to discuss and comment on whether the statutory provisions for the management and allocation of mining titles are clear, including the timeline for the allocation of permits.
4. In accordance with Requirement 2.3, Togo should maintain a publicly available register or cadastre system(s) with timely and comprehensive information regarding license holders, coordinates where collated, date of application, date of award, duration of the license and the commodity being produced in the case of production licenses.








⁵ <http://www.assemblee-nationale.tg/actualites/217-renforcement-de-l%E2%80%99arsenal-juridique-en-mati%C3%A8re-lutte-contre-la-corruption.htm>

5. In accordance with requirement 2.4, the MSG should clarify the government's policy on contract transparency, including relevant legal provisions, actual disclosure practices and any government reforms that are planned or underway.
6. In accordance with Requirement 2.5, the government is encouraged to clarify the government policy on BO disclosure, and to agree a definition of politically exposed persons for beneficial ownership within the Togolese context, as well as a quality assurance mechanisms for company declarations on beneficial ownership.
7. In accordance with requirement 2.6, the MSG should disclose details regarding the terms attached to the SOE's equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest, for instance on the company's website. The MSG should also provide details on loans and loan guarantees to SNPT.
8. To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve the collection of production data.
9. To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve.
10. To strengthen implementation, and in accordance with the global trend toward EITI mainstreaming, the OTR could consider disclosing disaggregated data on mining revenues prior to reconciliation work.
11. In accordance with requirement 4.3, the MSG should gain a full understanding of the terms of the relevant barter agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts. The multi-stakeholder group and the Independent Administrator should ensure that the EITI Report addresses these arrangements, providing a level of detail commensurate with the disclosure and reconciliation of other payments and revenues streams.
12. In accordance with requirement 4.5, the MSG should ensure that SNPT provides the detailed information requested by the Independent Administrator allowing for more in-depth reconciliation with government figures.
13. In accordance with requirement 5.2, the MSG should liaise with the OTR to disclose the revenue sharing formula for any transfers between national and subnational government entities that are related to revenues generated by the extractive industries, including any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.

Figure 1– initial 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)		■			
	Work plan (#1.5)			■		
Licenses and contracts	Legal framework (#2.1)				■	
	License allocations (#2.2)				■	
	License register (#2.3)			■		
	Policy on contract disclosure (#2.4)			■		
	Beneficial ownership (#2.5)	■				
	State participation (#2.6)			■		
Monitoring production	Exploration data (#3.1)				■	
	Production data (#3.2)				■	
	Export data (#3.3)				■	
Revenue collection	Comprehensiveness (#4.1)				■	
	In-kind revenues (#4.2)	■	■	■	■	■
	Barter agreements (#4.3)			■		
	Transportation revenues (#4.4)	■	■	■	■	■
	SOE transactions (#4.5)			■		
	Direct subnational payments (#4.6)				■	
	Disaggregation (#4.7)				■	
	Data timeliness (#4.8)				■	
	Data quality (#4.9)				■	
Revenue allocation	Distribution of revenues (#5.1)				■	
	Subnational transfers (#5.2)			■		
	Revenue management and expenditures (#5.3)	■	■	■	■	■
Socio-economic contribution	Social expenditures (#6.1)					■
	SOE quasi-fiscal expenditures (#6.2)	■	■	■	■	■
	Economic contribution (#6.3)				■	
Outcomes and impact	Public debate (#7.1)				■	
	Data accessibility (#7.2)	■	■	■	■	■
	Follow up on recommendations (#7.3)				■	
	Outcomes and impact of implementation (#7.4)			■		

Legend to the assessment card

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI Requirement.
	The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Introduction

Brief recap of the sign-up phase

The official launch of the EITI in Togo was on 14 December 2009 and the country was accepted as an EITI candidate in October 2010⁶. EITI-Togo was initially created as a project, but the government subsequently reinforced the project with legal texts. The provisions of Decree No.2010-024/PR of 30 March 2010 outline the creation, attributions, composition, organisation and functioning of the EITI implementing bodies in Togo (ITIE-Togo Decrees).

The National Supervisory Council (CNS), the Steering Committee and the technical secretariat (EITI bodies) were created on 30 March 2010. The MSG drafted and published a national EITI work plan covering the period between September 2010 and April 2012, subsequently updated to cover the year 2013 (Workplan, 2013). On 22 May 2013, at the 6th EITI Global Conference in Sydney, Australia, Togo was declared an EITI compliant country. Former Prime Minister Kwesi Séléagodji Ahoomey-Zunu, Chairman of the National Supervisory Council, was quoted as saying, "Given the impact of implementing the process in the extractive sector, it is important for us to extend it to other sectors as well' (ITIE-Togo).

Objectives for implementation and overall progress in implementing the work plan

The main objective of the EITI-Togo 2014-2016 work plan (2014-2016 EITI workplan) was to improve traceability of state revenues, the quality of the state's information management system and to guarantee the credibility of its financial information. The major components of the work plan are the functioning of EITI bodies; capacity building of the EITI organs and more stakeholders; the preparation and publication of EITI Reports; and the implementation of the communication strategy.

With respect to the functioning of EITI bodies, the national secretariat collaborated with the European Union for the provision of procedural manuals for the reliability of the administrative, financial and accounting management of the EITI bodies. The African Development Bank has provided accounting software to reassure the quality of the accounting practices and procedures of EITI-Togo. In 2016, the renewal of the members of both the National Supervisory Board and the Steering Committee took place with the national secretariat organising the various stakeholder meetings.

On capacity building, the Technical Secretariat held public awareness meetings with key stakeholders, such as the Auditor General's Office (Cour des Comptes) and journalists. They also hosted peers from EITI-Mali. Fewer communications activities took place than planned due to limited funding. The EITI-Togo website has been used for improving the visibility and accessibility of information.

There had been slippage in timeframes of activities in the 2014-2016 work plan, related to procurement

⁶ <https://eiti.org/news/togo-accepted-as-eiti-candidate>

of the Independent Administrator for the 2012 and 2013 EITI Reports and capacity-building workshops. However, the delay in work plan activities can be considered reasonable given funding constraints and the shift in priorities ahead of the country's Validation. The 2013 EITI Report was published in 2015 and recruitment of the Independent Administrator for the EITI 2014 Report started in 2015. The 2014 EITI Report was published in December 2016. The Steering Committee has participated in raising the awareness of the reporting entities for the finalisation of EITI Reports and in the preparation of the Terms of Reference for the recruitment of the Independent Administrator.

History of EITI reporting

Togo joined the EITI in 2010 and became a compliant country on 22 May 2013. The EITI in Togo is implemented in accordance with Decree No. 2010-024 / PR of 30 March 2010 on the creation, attributions, composition, organisation and functioning of the EITI implementation bodies in Togo. Togo has published five EITI Reports since its accession covering the years 2010 to 2014.

Summary of engagement by government, civil society and industry

The MSG structure in Togo is two-tiered, with a National Supervisory Council chaired by the Prime Minister and the Steering Committee chaired by the Minister of Mines and Energy. The first meeting of the National Supervisory Committee was held on 2 April 2012 and the group met seven times over the period 2012-2014. However, it has not met since 17 November 2014. The members of the Steering Committee first met on 10 August 2010. The meeting was presided by then Minister of Mines and Energy, Dammipi Noupokou. The MSG held outreach for the public on 2-3 February 2011.

Analysis of the meeting attendance shows that over the period 2010 to 2015⁷, 17 of the 32 meetings were chaired by the then Minister of Mines and Energy as Chair of the MSG, whilst the Vice-Chair, Permanent Secretary in the Ministry of Finance, chaired nine meetings in the Minister's absence. Over this period, stakeholder participation varied. Some representatives from both companies and civil society were regularly present, but there was a distinct drop in participation in 2014. To combat this lack in momentum, elections were held to renew the MSG⁸ during the period of 21-29 December 2015. Each constituency defined the nomination or election procedures⁹, as well as a rotation after a period of three years.

Key features of the extractive industry

Togo is a Sub-Saharan West African country with an estimated population of 7.3 million inhabitants¹⁰. The recent economic performance has been relatively robust: gross domestic product (GDP) growth has averaged approximately 5% over the period 2014-2016. While Togo has been subject to negative shocks, including the impact of the economic slowdown in Nigeria and lower commodity prices for its main

⁷ See Annex B on MSG attendance

⁸ Report on the renewal of MSG members: <http://itietogo.org/web/wp-content/uploads/2013/12/Rapport-sur-le-renouvellement-des-membres0001.pdf>

⁹ Procedures for the nomination of MSG members: http://itietogo.org/web/wp-content/uploads/2015/11/Proc%C3%A9dure_Renouvellement-membres-ITIE-signed.pdf

¹⁰ World Bank overview Togo updated on 1 April 2017: <http://www.worldbank.org/en/country/togo/overview>

exports, such as phosphates and clinker, the government has pursued an ambitious public investment programme that—in 2015/16—helped sustain aggregate demand. The main drivers of economic growth have been agricultural production and the extractive industries, as well as trading activities. According to statistics provided by the Ministry of the Economy and Finance, over the period 2013-2016, the extractive sector has contributed 0.2, -0.1, 0.6 and 0.0 to the country's GDP.

Togo is a producer of iron, phosphates, limestone, gravel and sand. Yet social conflicts around revenue redistribution to resource-rich communities and mine rehabilitations have been widespread. The country has undergone significant development in mining since the German and French colonial era¹¹. Mining operations began in 1961 with the industrial exploitation of phosphate in the maritime region, more precisely, in Hahotoé. The phosphate sector is operated by a single SNPT company in two mines at Hahotoé and Kpogame.

In 1975, industrial exploitation of limestone began in Tabligbo with the installation of a clinker-manufacturing plant. This deposit is currently divided between two companies: WACEM and Scantogo Mines for the production of clinker. In 2006, the government signed an agreement with MM Investment Holding Ltd for the exploitation, processing and commercialisation of iron ore, manganese, bauxite, chromite in the Nayéga perimeter. In 2010, the government granted a permit for the Pomar company to operate the Pagala marble mine in the Blittah region.

On 21 October 2010, the Government of Togo and ENI signed two sharing contracts for the exploration and production of hydrocarbons on the Oti1 and Kara offshore blocks located in the "Dahomey Basin". In June 2012, at the end of its first exploration phase, ENI confirmed that geological studies revealed the existence of black gold in the Oti 1 and Kara 1 blocks. Following a conflict arising from a renegotiation of the contract, ENI ceased operations on the two blocks mentioned above. The government has entered negotiations with other operators for the granting of these permits. However, no confirmation has been given concerning the status of these permits and any forfeiture of the concessions granted to ENI.

At present, there is no research or exploitation of hydrocarbons in Togo.

Togo is in the process of creating regulations for its Mining Code. These will include new provisions on local content, mandatory company payment declarations based on audited accounts and socio-economic work by companies in local communities. The government's main priorities in the sector are linked to the World Bank's development and mining governance project (PDGM). Over the period of five years, the country aims to modernise its mining cadastre, institutionalise auditing of the sector and update the mining database.

¹¹ 2014 EITI Report: https://eiti.org/sites/default/files/documents/rapport-itie-togo_2014.pdf

Explanation of the Validation process

Validation is an essential feature of the EITI implementation 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. It also addresses the impact of the EITI, 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 Standard¹². It has four phases:

1. Preparation for Validation by the multi-stakeholder group (MSG).
2. Initial data collection and stakeholder consultation undertaken by the EITI International Secretariat.
3. Independent quality assurance by an independent Validator who reports directly the EITI Board.
4. Board review.

The [Validation Guide](#) provides detailed guidance on assessing EITI Requirements, and more detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator.

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 work plan, these should be outlined upon the request of the MSG”. The EITI-Togo MSG did not request any issues for particular consideration.

In accordance with the Validation procedures, the International Secretariat’s work on the initial data collection and stakeholder consultation was conducted in three phases:

1. Desk Review

Prior to visiting the country, the Secretariat conducted a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including but not limited to:

- 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
- Any other information of relevance to Validation.

In accordance with the Validation procedures, the Secretariat has not taken into account actions undertaken after the commencement of Validation.

¹² See also <https://eiti.org/validation>.

2. Country visit

A country visit took place on **19-26 April 2017**. All meetings took place in **Lomé and Palimé, Togo**. The secretariat met with the multi-stakeholder group and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group. In addition to meeting with the MSG as a group, the Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders are able to freely express their views and that requests for confidentiality are respected. The list of stakeholders consulted is outlined in Annex D.

An exchange rate of XOF 541.655 to USD 1 as 31 December 2014 has been used for the purposes of this report¹³.

3. Reporting on progress against requirements

This report provides the International Secretariat initial assessment of progress against requirements in accordance with the Validation Guide. It does not include an overall assessment of compliance.

The International Secretariat's team comprised: **Gisela Granado, Bady Balde, Eddie Rich, Alex Gordy, Sam Bartlett and, acting as a consultant, Tahiny Judicael.**

¹³ <http://www.xe.com/currencytables/?from=XOF&date=2014-12-31>

Part I – MSG oversight

1. Oversight of the EITI process

1.1 Overview

This section relates to stakeholder engagement and the environment for EITI implementation in the country, the governance and functioning of the MSG and the EITI work plan.

1.2 Assessment

Government engagement in the EITI process (#1.1)

Documentation of progress

Public statement: The Government of Togo has made repeated public statements of support for the EITI since former Prime Minister, Gilbert Fossoun Hougbo, initially committed Togo to implement the EITI at a workshop at the Sarakawa Hotel on 14 December 2009 (CAC 75, 2013). The current President, Faure Gnassingbé, announced to local press following Togo’s recognition as compliant under the EITI Rules in May 2013 that “EITI compliance achieved in May 2013 is both an encouraging signal and an incentive to keep our focus on reforms” (EITI-Togo, 2013a). Former Prime Minister, Kwesi Séléagodji Ahoomey-Zunu, announced that “the fight against corruption starts here” when chairing the National Supervisory Council’s first meeting on 2 April 2012 (EITI-Togo, 2012). He also told local press in 2013: “Given the impact of EITI implementation in the extractive industries, it is important for us to also extend it to other sectors” (EITI-Togo, 2013b). When announcing proposals for a new Mining Code in January 2014, the former Minister of Mines and Energy, Dammipi Noupokou, reiterated the government’s commitment to transparency in the mining sector: “The government wants to establish a transparent and participative process for all the country’s socio-economic classes. In the past five years, we have received a growing number of requests for exploration and production licenses for all our minerals, leading to an urgent need to establish an efficient institutional and regulatory framework for the organisation and management of these licenses” (EITI, 2015). Current Minister of Mines and Energy, Dèdèriwè Ably-Bidamon, attended the EITI Conference held in Lima, Peru, in February 2016, on behalf of President Faure Gnassingbé. He stated “Togo, through me, reiterates its full commitment and support of the EITI and will continue to work towards the triumph of the values that it seeks to promote” (EDITOGO, 2016).

Senior lead: Presidential Decree 2010-024/PR of 30 March 2010 establishes the institutional structure of EITI-Togo (Decree No.2010-024/PR on the creation and functioning of the EITI organs, 2010)¹⁴. The decree creates the National Supervisory Council and the Steering Committee. The current EITI Champion is Prime Minister Komi Sélom Klassou in his position as Chair of the EITI National Supervisory Council. The Minister of Mines and Energy, Marc Dèdèriwè Abli-Bidamon, is the Chair of the EITI Steering Committee.

¹⁴ http://itietogo.org/web/wp-content/uploads/2014/07/D%C3%A9cret-2010-024.PR_.pdf

In practice the EITI-Togo National Coordinator, Kokou Didier Agbemadon, nominated by Presidential Decree 2010-028/PR of 15 April 2010, provides operational oversight of EITI implementation in Togo (Decret 2010-028/PR on establishing the institutional structure of Togo's EITI, 2010)¹⁵. Mr Agbemadon was appointed to the EITI Board as alternate in 2013 and a full member in February 2016.¹⁶

Active engagement : Presidential Decree 2010-024/PR of 30 March 2010 establishes the institutional structure of EITI-Togo (Ministere de l'Economie et des Finances, Ministere des Mines et de l'Energie, 2010). The Decree nominated the Prime Minister as Chair of a high-level National Supervisory Council, which counts ministerial rank members from the Ministries of Economy and Finance, of Mines and Energy, of Environment and Forestry Resources, of Trade and Private Sector Promotion, of Administration, Decentralisation and Local Governments, of Industry, Free Zones and Technological Innovation as well as representatives from the Presidency and the regional central bank (BCEAO). At the working level, the Decree also names representatives to the EITI Steering Committee. These individuals are from the Ministry of Territorial Administration, Decentralisation and Local Communities, the Ministry of Trade and Private Sector Promotion, the regional central bank (BCEAO), the local banking association (APBEF) and two representatives from parliament, the National Assembly (Ministere de l'Economie et des Finances, Ministere des Mines et de l'Energie, 2010).

The Government of Togo has also supported EITI implementation through budgetary allocations since 2011. According to the 2015 Annual Progress Report¹⁷, the national secretariat was entirely financed with government funding in 2015. The government is also cited as the primary source of funding for Togo's 2017 EITI work plan, providing USD 272,313 of the total USD 703,476 costs of implementation in 2017 (see *EITI Requirement 1.5*).

Attendance records and minutes of MSG meetings indicate that the government is always represented by a majority of its 12 members at Steering Committee meetings. Records of attendance at National Supervisory Council and Steering Committee meetings are provided in Annex F. There is also evidence of government representatives' participation at dissemination and outreach events.

Analysis of meeting minutes¹⁸ shows that Prime Minister Kwesi Seleagodji Ahoomey-Zunu chaired the National Supervisory Council's meetings on 28 December 2012 (ITIE Togo, 2012), 22 February 2013 (ITIE Togo, 2013), 25 March 2013 (ITIE Togo, 2013), 17 April 2013 (ITIE Togo, 2013), 14 June 2013 (ITIE Togo, 2013) and one Steering Committee meeting on 24 November 2014 (ITIE Togo, 2014). Prime Minister Gilbert Hounbo also opened the National Supervisory Council's capacity-building workshop on 20 March 2012 (Horizon News, 2012). Steering Committee meetings are typically chaired by Minister of Mines and Energy Dammipi Noupokou, who chaired such meetings on at least 15 occasions in the 2010-2016 period¹⁹. When unavailable to attend Steering Committee meetings, the Minister of Mines and Energy normally delegates to his proxy as Steering Committee Vice-Chair, Secretary General of the Ministry of

¹⁵ See: http://itietogo.org/web/wp-content/uploads/2014/07/D%C3%A9cret-2010-028.PR_.pdf

¹⁶ <https://eiti.org/contact/mr-didier-vincent-kokou-agbemadon>

¹⁷ 2015 EITI Togo Annual Progress Report: <https://eiti.org/document/togo-2015-annual-progress-report>

¹⁸ Available on the EITI Togo website on <http://itietogo.org/le-comite-de-pilotage/proces-verbaux-des-reunions/> and <http://itietogo.org/conseil-national-de-supervision/proces-verbaux-reunions/>

¹⁹ Minister of Mines and Energy Dammipi Noupokou chaired Steering Committee meetings on 10 August 2010, 27 January 2011, 7 April 2011, 18 August 2011, 2 April 2012, 5 April 2012, 10 May 2012, 25 June 2012, 22 February 2013, 14 May 2013, 17 June 2013, 27 December 2013, 10 April 2014, 24 June 2014 and 3 November 2015.

Economy, Finance and Development Planning Badawasso Gnaro, as on 12 February and 29 March 2016 for instance. Interim Minister of Mines and Energy Tatrou Bagbiegue chaired the Steering Committee meeting on 2 October 2012 only.

Evidence shows government follow-up with non-reporting companies to encourage participation. Based on a 2012 decree, all new licenses issued include an obligation for the companies to have their end-of-year accounts audited and for companies to fill out and submit the EITI reporting templates decided by the Steering Committee. This was reflected in the licenses submitted to the International Secretariat covering fiscal 2014.

Government representatives on the MSG have also actively engaged with relevant stakeholders such as Parliamentarians, the Auditor General (Cour des Comptes) and local governments. For instance, the Ministries of Mines and Energy and of Economy and Finance issued inter-ministerial circular 021/2012/MME/MEF on 10 April 2012 requiring all municipalities and prefectures in mining areas to disclose mining receipts to EITI-Togo and to the Cour des Comptes (Ministere des Mines et de l'Energie, Ministère de l'Economie et des Finances, 2012). Representatives of the Cour des Comptes and local communities were engaged during workshops on 28 March 2017. There has been no specific outreach to parliamentarians, but two representatives of the National Assembly sit on the MSG.

The government also appears to have drawn on the EITI Steering Committee as a channel for multi-stakeholder consultations, for instance in its revisions to the Mining Code in 2014 (ITIE Togo, 2015).

There is evidence of engagement from government entities not directly represented on the MSG. In 2014, the Auditor General (Cour des Comptes) participated in training workshops for reporting entities in Tsévié and in Lomé (acting as moderators at the event in the capital), presenting the auditor's role and systems as well as its EITI focal point (ITIE Togo, 2015).

Stakeholder views

During the initial data collection mission for Validation, on 26 April 2017, the Minister of Mines and Energy and Chair of the Steering Committee, Marc Dèdèriwè Abli-Bidamon, received the delegation of the EITI International Secretariat. The Minister expressed apologies on behalf of the Prime Minister for his absence due to the preparation of Togo's national holiday. He reiterated the government's effective commitment to implementing the EITI during this meeting and cited his statement²⁰ and participation at the EITI Global Conference on 25 February 2016 in Lima, Peru, as a signal of the government's commitment during the post-compliance period.

The members of the Steering Committee identified current Prime Minister Komi Selom Klassou as the chair of the National Supervisory Council and EITI Champion, in accordance with presidential decree No.

²⁰ Introductory remarks by Togolese Minister of Mines and Energy on behalf of the Head of State at the EITI Global Conference in 2016: <http://togopresse.tg/exploitation-miniére-la-conference-mondiale-de-lima-salue-lengagement-du-togo-dans-la-mise-en-oeuvre-de-litie/>

2010-024 / PR on EITI bodies. Civil society representatives noted that the current Prime Minister was cited in the Panama Papers as a shareholder of the company WACEM, through another company registered in a tax haven²¹. However, it should be noted that this participation in the company was made prior to his appointment as Prime Minister.

In practice, on the EITI website, the title of EITI Champion is always linked to a picture of the former Prime Minister, Kwesi Séléagodji Ahoomey-Zunu, currently special advisor to the President of the Republic. The former Prime Minister demonstrated strong commitment to the EITI, at times chairing both the National Supervisory Council and the Steering Committee.

Members of the MSG confirmed that the National Supervisory Council had not met since 2015. The Minister explained that the National Supervisory Council had not met in 2015 since it was an election year and there was a government reshuffle. He added that in 2016, there had been difficulty in convening the various ministers at the same time. On financing, the government is directly involved in financing EITI-Togo at USD 240,000 per year from 2011 to 2016. This budget is USD 180,000 in 2017. The Secretary General of the Ministry of Finance and Budget, Badawasso Gnaro, confirmed the 25% reduction of all state subsidies, but highlighted that this was a budgetary strategy versus a lack of government engagement.

According to company representatives on the Steering Committee, government engagement was also demonstrated through the implementation of the recommendations from EITI Reports, namely the issue of secure manual receipts and online payments by taxpayers. This reform was linked to the creation of the Togolese Office of Revenue (OTR) and concerned the entire Togolese tax system.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **satisfactory progress** in meeting this requirement.

The Minister of Mines and Energy, Dèdèriwè Ably-Bidamon, issued a public statement to implement the EITI on 25 February 2016 during the EITI Global Conference in Lima, Peru. This announcement was published in the Togolese press. The government appointed Prime Minister, Komi Sélom Klassou, and the Minister of Mines and Energy, Dèdèriwè Ably-Bidamon, to lead on the implementation of the EITI, in accordance with presidential decree No. 2010-024/PR on EITI bodies. Based on MSG meeting minutes and conversations with stakeholders, it appears that the government is fully, actively and effectively engaged in the EITI process. The EITI implementation has been entirely financed with government funding and senior government officials are represented on the MSG.

To further strengthen implementation, the MSG may wish to clarify the role and expectations of the EITI Champion in implementation.

²¹ http://www.lemonde.fr/afrique/article/2016/08/12/au-togo-les-revelations-des-panama-papiers-provoquent-la-colere-de-la-population_4982077_3212.html

Industry engagement in the EITI process (#1.2)

Documentation of progress

Active engagement: Togo's small mining sector is dominated by five companies, including the state-owned, SNPT, that operates the countries' two phosphate mines, Indian-owned MM Mining that operates the sole iron ore mine and two cement companies, WACEM and SCANTOGO-MINE, that operate two limestone mines. Local quarrying company POMAR, a subsidiary of the Dennis Group, was awarded a marble production license in 2010. A handful of international companies are also engaged in exploration for gold, ilmenite and manganese. Meanwhile, the only oil and gas company operating in Togo from 2010 to 2012 was ENI, although the Italian major ceased activities in 2012.

Companies have been largely supportive of EITI implementation. While industry's role as a constituency is not clearly defined by any of the three decrees establishing the EITI structures in Togo, there is evidence of good industry participation at training workshops on filling out reporting templates²².

Companies have shown their engagement in the EITI process by participating in reporting and the submission of reporting templates. The number of reporting companies was 37 in 2013, and 35 in 2014.²³ In discussing follow-up with non-reporting companies, the Steering Committee has tended to focus on the training workshop by the Independent Administrator to guide reporting entities in their completion and submission of reporting templates rather than on outreach to non-reporting companies (ITIE Togo, 2016). With regards to the lack of reporting in the 2014 EITI Report, one industry representative during the 29 March 2016 Steering Committee called on the government to play a more active role in encouraging reticent reporting entities to report (ITIE Togo, 2016).

There is also evidence of the industry constituency using the EITI bodies as forums for handling grievances. For instance, following fatal accidents at WACEM's mine site in Yoto prefecture in June 2015, the government established an ad hoc committee to handle compensation for victims and resolve conflicts, with the Ministry of Territorial Administration and the Ministry of Labour mandating the EITI National Coordinator to chair the ad hoc committee (ITIE Togo, 2016).

Enabling environment: Presidential Decree 2010-024/PR of 30 March 2010 provides a strong enabling environment for industry participation in EITI implementation, placing the EITI National Supervisory Council under the Prime Minister's authority (Ministere de l'Economie et des Finances, Ministère des Mines et de l'Energie, 2010).

Stakeholder views

Company representatives on the MSG noted that mining permits issued in Togo now establish compulsory participation in the EITI. However, they noted that poor company participation at MSG meetings was explained by the high staff turnover at the companies and limited resources, which make it difficult to have continuity. They confirmed that there were no meetings of companies as a constituency ahead of MSG meetings. However, it was noted that the constituency did meet to elect its members as part of the

²² <https://www.youtube.com/watch?v=Ge0cEAlGQFs>

²³ <https://eiti.org/togo#revenue-collection>

renewal of the MSG during the period 21-29 December 2015. They noted that there was no body which represented companies in the extractive sector in Togo, although the trade association of extractive industries of Togo (APIET), created in 2013, aims to fulfil this role in the future.

The national secretariat noted that 31 out of 35 companies participated in the 2014 EITI Report. It also noted that the payments of the four companies that did not participate represented 2% of revenues within the scope of EITI reporting.

According to government representatives of the Togolese Revenue Office (OTR) who are members of the Steering Committee, companies take part in meetings with the public administration to discuss discrepancies. Government representatives noted that companies participate, at least with respect to reporting and outreach activities. Civil society representatives noted that participation in MSG meetings was less regular.

Representatives of water companies noted that there were no obstacles to participation of the water sector in the EITI. In fact, they expressed the view that participation of the sector was too easy and that measures should be taken to protect the water sector. Mining company representatives noted that the land does not belong to the state and that companies must enter negotiations directly with landowners. They expressed the desire to find a better mechanism for these negotiations. Partners also noted that land titles were problematic since several persons may hold the title to the same piece of land. They also noted that companies are the ones who put in place infrastructure to carry out their operations. However, they then feel penalised for operating in a more viable zone at a higher tax rate.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **satisfactory progress** in meeting this requirement.

Evidence from input to and attendance at MSG meetings show that companies are fully, actively and effectively engaged in the EITI process. Companies participate in reporting and the EITI report covered 98% of payments from the extractive sector. According to the minutes of the EITI meeting, the Professional Association of Extractive Industries of Togo (APIET) fully participates in the EITI process. Companies do not actively fund the EITI process but are involved in outreach activities. There was evidence of an enabling environment for company participation in the EITI, for example, quarry permits establish mandatory reporting to the EITI Independent Administrator.

Civil society engagement in the EITI process (#1.3)

Documentation of progress

Despite the country's modest size, civil society in Togo has engaged effectively in EITI implementation. There do not appear to be any barriers to freedom of expression, either statutorily or in practice, in relation to the oil, gas and mining sectors. There is a diverse set of actors in the non-governmental organisation space, with 72 member organisations forming the main coalition Concertation de la Société Civile du Togo (CNSC-Togo).

Expression: There is no evidence to suggest constraints on an enabling legal framework for civil society

organisations to participate in EITI, despite concerns over potential broader legal constraints. Article 30 of the 1992 Togolese Constitution of the Fourth Republic guarantees the right to freedom of association (Republique du Togo, 2007). The non-governmental organization (NGO) CIVICUS undertook a review of civil society space in Togo in 2016, together with local partner Concertation de la Société Civile du Togo (CNSC-Togo), highlighting grave concerns relating to constitutionally ensured freedom of expression and assembly, including provisions of the 2015 Penal Code and of the 1998 Press and Communication Code (CIVICUS, 2016). Togo was ranked as “partly free” in Freedom House’s Freedom of the Press ranking, having seen its ranking improve from 74 out of 100 in 2010 to 65 in 2014 and 60 in 2016 (Freedom House, 2016). However, the country’s ranking in Reporters Without Borders’ World Press Freedom Index declined from 80th to 88th between 2015 and 2016 (Reporters Without Borders, 2017).

The NGOs found that freedom of expression was ensured by law in Togo, but not systematically ensured in practice, highlighting the 2015 Penal Code’s criminalisation of publication of false information and the discretionary powers of the High Authority of Broadcasting and Communications (HAAC). In a May 2016 report, Transparency International also raised concerns over amendments to the Penal Code and a February 2013 law granting the HAAC discretionary powers to sanction without recourse to courts (Transparency International, 2016). It also noted that freedom of association was sometimes curbed in election years and a 2011 law requiring prior authorisation of public demonstrations (Freedom House, 2016). The US Department of State has confirmed that, despite constitutional provisions ensuring freedom of expression, the Government of Togo has restricted these rights through HAAC sanctions, although not online (US Department of State, 2017). It has also highlighted the lack of implementing regulations for key legal anti-corruption institutions including the National Commission for the Fight against Corruption and Economic Sabotage, the Government Accounting Office and Finances Inspectorate and the High Authority for the Prevention of and Fight against Corruption (US Department of State, 2017).

There have been reports of instances of police brutality against protestors in 2015 as well as arrests of protestors in 2012-2013 (Transparency International, 2016), although there is no evidence to suggest such instances were linked to statements or demonstrations related to extractive industries in general, or EITI in particular.

Nonetheless, analysis of attendance records suggests that civil society representatives have been able to participate in all EITI activities. There is evidence of public civil society statements critical of the government’s management of the extractive industries, particularly as related to a matter now known as ‘Wacemgate’²⁴ involving ownership links between the current Prime Minister and mining company WACEM.

Operation: The main legal environment for establishing associations and NGOs in Togo is a 1901 French Colonial Law on the Contract of Association, implemented in Togo through Decree 46-432 of 13 March 1946 (Territoire du Togo, 1946). Under Article 3 of the 1901 Law, an association’s legal registration can be withdrawn if their objectives are deemed to contravene “morality or aims to undermine the integrity of

²⁴ Information on beneficial ownership and WACEM <https://oeildafrique.com/tag/wacemgate/>
<http://www.27avril.com/blog/actualites/politiques/togo-wacemgate-selom-klassou-se-dit-plus-propre-journalistes>
http://www.lemonde.fr/afrique/article/2016/07/27/panama-papers-comment-la-fortune-de-magnats-indiens-du-togo-finit-dans-les-paradis-fiscaux_4975374_3212.html

the national territory and the good republican form of the government” (CIVICUS, 2016).

There have been concerns over the potential restrictions on freedom of assembly for rural community organisations, given that the registration of associations can only be undertaken in the country’s capital Lomé, given that decentralised state structures (communes and prefectures) are not able to deliver receipts for the creation of associations, which are required to obtain legal recognition (CIVICUS, 2016). There are clear procedures to follow to exercise freedom of assembly and certain restrictions by time and prior approval, defined by Law 2011-010 of 16 May 2011 on peaceful public manifestation and Decree 2013-013/PR of 6 March 2013 on the maintenance of public order.

There is no evidence of any legal, regulatory or administrative obstacles affecting the ability of civil society representatives to participate in the EITI process. All civil society organisations (CSOs) represented on the EITI Togo National Supervisory Council and Steering Committee, as well as all other NGOs and associations focused on extractive industries, transparency and governance, appear to have legal recognition and can coordinate and operate freely in relation to EITI-related issues and activities. There are no structural or institutional limitations to the Togolese civil society fundraising activities and CSOs do apply to organizations such as the European Union for project-specific funding²⁵.

Association: In the absence of a single updated database for CSOs in Togo, there is a broad range of estimates about the number of NGOs and associations operating in the country. The Concertation de la Société Civile du Togo (CNSC-Togo)²⁶ is a coalition of 72 member NGOs established in 2002 to focus on democracy, good governance, and the promotion and protection of individual and collective rights. There is no evidence to suggest that there are any restrictions or limitations on NGOs in terms of their ability to associate, communicate and cooperate with other national or international NGOs.

Engagement: Civil society is actively involved in the design, implementation, monitoring and evaluation of the EITI through its participation in MSG meetings, CSO forums both in the capital city of Lomé and in extractive regions such as Palimé, dissemination events and other channels. Civil society has been involved in dissemination efforts in nine mining communities (Vogan, Kpémé, Anfoin, Davié, Tabligbo, Lilicopé, Hahotoé, Pagala et Bangéli) in 2013.

Analysis of MSG meeting attendance reflects the strong and consistent engagement of civil society, with most members or their alternates participating in all meetings of the MSG and subcommittees. There is also evidence that civil society MSG members have occasionally chaired Steering Committee meetings, for instance when the Chair and Vice-Chair were absent on 17 April 2013 (ITIE Togo, 2013).

Access to public decision-making: Although faced with significant financial constraints, civil society has the ability to ensure that the EITI process contributes to public debate and to influence public decision-making. Civil society was represented in the transition government, such as prominent civil society

²⁵ https://eeas.europa.eu/delegations/togo/30916/lunion-européenne-appuie-la-société-civile_fa

²⁶ <http://www.cnsctogo.org/>

activist, Mr. Augustin Loada, who was placed in charge of the public service²⁷. There is also evidence that they were involved in consultations on the revision of the mining code²⁸. There is ample evidence of civil society using the EITI process to promote public debate, including through the redistribution of mining revenues to affected communities.

Stakeholder views

CSOs indicated that their main source of funding is membership fees, but some noted that they had partnerships with organisations in France and organisations such as the European Union. During the meeting with civil society representatives, it was estimated that there were approximately 3,000 associations or approximately 2,000 NGOs in Togo. Civil society members noted that their priorities were mainly contract transparency for a better understanding of the terms of the agreement; and improving the quality of life of affected communities, especially the provision of assistance to victims of mining production and displaced communities. They also prioritised strengthening capacity and understanding of the sector through the dissemination of EITI Reports.

Civil society representatives explained that the main steps for creating an NGO is first to obtain a registration number from the Ministry in charge of administration, following which a statute of association would be issued within a year. The NGO will be required to produce a document outlining its functioning and public utility, following which it can be declared an association. Organisations are expected to provide information on their public utility every three years.

According to members of civil society in the EITI Steering Committee, they lack the means and capabilities. Moreover, they indicated that they do not always have access to timely information from the government. It was noted that the EITI plays a key role in civil society's access to statistics on the extractive sector. Partners spoke about the introduction of the Access to Public Information Act²⁹ which attempts to deal with the issue of access to data. The new law guarantees every natural or legal person the right of access to information. Access is free unless there are costs for transcription, reproduction or transmission of the document. The law requires the government to explain denials and sets out a variety of exemptions, including for personal information without consent. Partners noted that civil society can express itself freely, but was not sufficiently dynamic. This was mainly because it was fragmented and lacked financial and other capacity.

With respect to cases of aggression or intimidation of civil society representatives, two cases were cited during the Validation mission. The first case concerned labour law and the second concerned land disputes³⁰. However, the Minister of Homeland Security subsequently made a public commitment to

²⁷ http://www.lemonde.fr/afrique/article/2014/11/23/un-gouvernement-de-transition-forme-au-burkina-faso_4528044_3212.html

²⁸ <http://www.togoenmarche.com/le-togo-dispose-desormais-dun-code-minier-communautaire/>

²⁹ <http://freedominfo.org/2016/04/togo-approves-foi-law-106th-internationally/>

³⁰ Civil society arrest in Togo: http://www.lemonde.fr/afrique/article/2017/02/10/au-togo-un-journalist-reportage-se-retreat-torture-par-des-gendarmes_5077943_3212.html

protect the journalist following the events. However, neither case was linked to EITI implementation.

Representatives of civil society noted that, with respect to the mining sector, they held public protests on 19 and 20 December 2016, at Sika Kondji on the ScanTogo Mines site for more local jobs and on 30 and 31 August 2016, three CSOs organised a sit-in to denounce corruption in the mining sector³¹.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **satisfactory** progress in meeting this requirement.

Civil society representatives and the print media are able to speak freely in public about the EITI process including during MSG meetings, EITI events including for the promulgation of EITI Reports and public events. Actual practice, such as the Wacemgate case and sit-ins by civil society, indicates that there is limited self-censorship or self-imposed restriction by civil society representatives, due to fear of reprisal. Despite the administrative slowness to register an association, there were not legal, regulatory or administrative obstacles affecting the ability of civil society representatives to participate in the EITI process. There is no evidence suggesting that the fundamental rights of civil society representatives have been restricted in relation to the implementation of the EITI process, such as restrictions on freedom of expression or freedom of movement. Civil society are not restricted from engaging other CSOs that are not part of the MSG. There is no evidence that formal or informal communication channels between civil society MSG members and the wider civil society constituency have not been restricted in relation to the EITI process. There is evidence that civil society representatives provide input into the EITI process through regular participation in MSG meetings and active participation in the dissemination of EITI reports. Civil society in Togo is supported by partners such as the European Union and the ADB, which aim to build civil society capacity to engage in the sector. Civil society has also cited instances where they were able to use the EITI process to promote public debate for example through public events, workshops and conferences organised in collaboration with the national secretariat.

To strengthen implementation, civil society representatives on the MSG may wish to consider establishing internal guidelines for structuring civil society's participation in the EITI, including more clearly defining the roles and responsibilities of MSG members, constituency liaison mechanisms and outreach activities.

MSG governance and functioning (#1.4)

Documentation of progress

NSWG composition and membership: The EITI-Togo MSG, the Steering Committee, and the high-level National Supervisory Council were established by Presidential Decree 2010-024/PR of March 2010 (Ministere de l'Economie et des Finances, Ministere des Mines et de l'Energie, 2010). The 16-member

³¹ Civil society protests: <http://www.27avril.com/blog/affaires/economie/togo-scantogo-mines-massacre-allegrement-populations-de-sika-kondji>

National Supervisory Council assembles nine high-level representatives from government³², five from mining companies and one each from civil society and the journalists' association to set broad directions for EITI implementation in Togo. The 25-member Steering Committee, tasked with operational oversight of EITI implementation, brings together 10 representatives from government³³, six from mining companies, eight from civil society and one from the professional banking association. While government representatives to the two EITI bodies were originally nominated through official letters in June 2010, the industry constituency originally agreed its EITI representation at a meeting on 4 June 2010 and civil society agreed its representatives at the 21 May 2010 meeting (CAC 75, 2013). The Steering Committee first met on 10 August 2010 (ITIE Togo, 2010) and the National Supervisory Council first met on 2 April 2012 (EITI-Togo, 2012).

The composition of the National Supervisory Council and the Steering Committee is set out in Decree 2010-024/PR of 30 March 2010 (Ministere de l'Economie et des Finances, Ministère des Mines et de l'Energie, 2010), Prime Ministerial circular 2010-035/PMRT (NSC) (Le Premier Ministre, 2010) and Ministry of Mines and Energy circular 007/MME/CAB/2010 (Ministere des Mines et de l'Energie, 2010). In terms of government appointments, the Decrees define the organisations from which representatives must be nominated, but leaves latitude to the Ministry's Secretary Generals for individual appointments and replacements, under Article 13 of Decree 2010-024/PR. All three decrees confirm the rights of industry and civil society constituencies to appoint their own representatives, under Article 1 of Decree 2010-024/PR. However, there are no safeguards in the Decrees ensuring that the nominations process for representatives is independent, free from any suggestion of coercion. Yet, there were provisions in the EITI-Togo's public call for nominations during the MSG renewal in November 2015 ensuring that each constituency was provided the space to agree their representatives free from interference, despite the fact nominations were facilitated by the national secretariat (ITIE Togo, 2015).

There are no provisions requiring pluralistic and/or diverse representation, nor for any geographic or gender diversity. The Steering Committee Chair, Minister of Mines and Energy Dammipi Noupokou, highlighted the fact that neither the civil society nor industry constituencies had taken account of gender balance in their original nominations to the MSG in 2010 (ITIE Togo, 2010). Three MSG members were women as of April 2017. Beyond these basic provisions, the nomination procedures for each constituency are not further explained (MSI Integrity, 2015).

There are no provisions in Decree 2010-024/PR for MSG member alternates nor for the length of tenure. However, the overview of the late 2015 nominations to the MSG describes the tenure of MSG members as being three years (ITIE Togo, 2016). According to the EITI-Togo website, Steering Committee members serve until the loss of the quality justifying their appointment, which includes a change in their status as representatives of a government body, company or CSO.

Minister of Mines and Energy ad interim, Dammipi Noupokou, chaired the Steering Committee from

³² The Prime Minister (Chairman of the National Supervisory Council), six other Ministers (Ministries of Economy and Finance, of Mines and Energy, of Environment and Forestry Resources, of Trade and Private Sector Promotion, of Administration, Decentralization and Local Governments, of Industry, Free Zones and Technological Innovation), the representative of the Presidency of the Republic, the Chairman of the regional central bank (BCEAO).

³³ Representatives from the Ministry of Territorial Administration, Decentralization and Local Communities, the Ministry of Trade and Private Sector Promotion, the regional central bank (BCEAO), and two representatives from parliament, the National Assembly.

March 2010 to July 2012. Mr. Taïrou Bagbiégué replaced him only temporarily as MSG Chair from August 2012 to January 2013 (CAC 75, 2013). Minister of Mines and Energy ad interim, Dammipi Noupokou, returned as MSG Chair over the period January 2013 to June 2015. The Steering Committee has been chaired by Mr. Marc Dèdèriwè Ably Bidamon, since 25 June 2015.

Representation: The EITI-Togo Secretariat published an overview of the late 2015 renewal of members of both the EITI National Supervisory Council and the EITI Steering Committee (the MSG) (ITIE Togo, 2016). Referring to the legal basis provided by Decree 2010-028/PR establishing the EITI in Togo, the document described the renewal process including publication of a call for candidature for representatives from industry and civil society on 13 November 2015 (through Togo Presse issue 9663), as well as official letters to government entities listed in the 2010 Decree. The national secretariat led public outreach meetings and held public nominations in the 21-29 December 2015 period, with each constituency defining its own nominations for the position of MSG members for a three-year period. The nominations were confirmed by Prime Ministerial circular for members of the National Supervisory Council and by circular of the Ministry of Mines and Energy for the Steering Committee (ITIE Togo, 2016).

Industry: There are no provisions in Decree 2010-024/PR for industry representatives to be selected with consideration of the commodities produced, with Article 12 only stating that mining, oil and gas companies on the Steering Committee must be at production stage. There are no provisions requiring private sector representatives to have a specified level of seniority, expertise or experience. Yet in practice, industry MSG members appear to have been consistently chosen with a representative cross-sample of mining production and exploration companies, quarrying companies and public water companies. While the minutes of industry representatives' meeting to agree EITI nominations only referred to the existence of nominations procedures without defining them, there is evidence that 17 industry representatives agreed the names of companies from which would be drawn the six representatives to the National Supervisory Council and five to the Steering Committee at their 29 December 2015 meeting (ITIE Togo, 2016).

The public call for nominations on 10 November 2015 requested the business associations and different professional unions to select one representative to the National Supervisory Council. The letter also invited all extractive companies to send nominees to constitute an industry constituency to select EITI representatives, including five each to the Steering Committee and National Supervisory Council. These were required to include two representatives from the oil, gas, phosphates, iron ore or marble sectors, two representatives from precious metals and water mining, and one construction materials (quarrying) company. In addition, the Professional Association of Extractive Industries in Togo (APIET) was invited to nominate one representative to the Steering Committee (ITIE Togo, 2015).

Civil society: There are no provisions in Decree 2010-024/PR requiring CSOs involved in the EITI as MSG members to be independent (both operationally and in policy terms) from government, nor barring CSOs from receiving payments from government or extractive companies. No affected populations or communities appear to be represented directly on the MSG although the Ministry in charge of local representation is part of the government constituency. Nonetheless, there is evidence that 18 civil society representatives agreed their representatives to the National Supervisory Council and the Steering Committee at their meeting on 21 December 2015 (ITIE Togo, 2016). The call for CSO nominations was open to all in a public letter from EITI-Togo on 10 November 2015, whereby an assessment committee would review CSO applications (based on assessments of the pertinence of their missions) and select a

group to elect three representatives to the Steering Committee and one to the National Supervisory Council, alongside two representatives from the media (one public and one private) to the Steering Committee (ITIE Togo, 2015).

When it was developing its internal Code of Conduct in April 2013, the Steering Committee initially debated and finally agreed to include representatives from the media, particularly state-owned media, as part of the civil society constituency (ITIE Togo, 2011). There appear to have been lengthy disagreements over the replacement of two civil society Steering Committee members in 2011, as reported at the MSG's 8 February 2012 meeting (ITIE Togo, 2012). Following the Association des Sinistres des Phosphates du Togo (ASIPTO)'s inability to agree on a replacement for its member over eight months in 2011, the Steering Committee agreed to ask the civil society constituency to nominate a representative from another institution in February 2012. The Union des journalistes indépendants du Togo (UJIT) was given additional time in February 2012 to agree a replacement for its member (ITIE Togo, 2012).

Government: Articles 3 and 12 of Decree 2010-024/PR require high-level representation on the National Supervisory Council and the Steering Committee. Each new government representative was appointed through official letter from the Secretary General of the respective ministries in December 2015 (ITIE Togo, 2016).

Terms of Reference: Decree 2010-024/PR establishing the EITI in Togo is available to the public (Ministere de l'Economie et des Finances, Ministere des Mines et de l'Energie, 2010). While there is no evidence that provisions of the establishing decree were agreed upon by any stakeholders outside of government (MSI Integrity, 2015), the MSG agreed its own internal Code of Conduct (*Règlement interieur*) on 7 April 2011 (ITIE Togo, 2011). Article 1 creates the EITI implementation bodies under the auspices of the Presidency, but does not grant it a legal basis.

There are no provisions in Decree 2010-024/PR requiring the MSG to undertake outreach activities with civil society groups and companies (e.g. informing stakeholders of the government's commitment to implement the EITI or the role of companies and civil society in EITI). However, Article 11 requires the MSG to disclose information to the public in a comprehensive format. There are no provisions requiring MSG members to liaise with their constituent groups, nor for members to commit to participate in and contribute effectively to MSG meetings. Article 11 of Decree 2010-024/PR outlines the roles and responsibilities of the Steering Committee and includes provisions requiring the group to oversee the reporting process and approve annual work plans, appointment of the Independent Administrator, the TOR for the Independent Administrator, EITI Reports and annual activity reports. There are no provisions in Decree 2010-024/PR requiring that the MSG identify languages most widely spoken by rights holders affected by the EITI and require that the documents about EITI governance are produced in local languages. There are no provisions for meetings being conducted in any language other than French. Although the EITI work plan provides for translation of EITI Reports into local languages.

Internal governance and procedures: Articles 6-9 of Decree 2010-024/PR covers the internal organisation and procedures of the National Supervisory Council, while Articles 16-20 provide the same for the Steering Committee. There are no provisions requiring or encouraging stakeholder groups or the MSG to establish codes of conduct for group members. There are no provisions on conflict of interest.

Under Article 6 of Decree 2010-024/PR, the National Supervisory Council is required to meet twice a year,

while under Article 16, the Steering Committee is required to meet at least three times a year. There are no provisions for advance notice of meetings, nor for timely circulation of documents prior to their debate and proposed adoption. There is evidence that members of the Steering Committee have asked for more time to study documents for decision, such as draft EITI Reports, for instance at the Steering Committee meeting on 3 November 2015 (ITIE Togo, 2015). The internal guidelines included in the call for MSG nominations in November 2015 specify that documents must be circulated at least one week prior to meetings, with Steering Committee meetings held every four months and announced with at least two weeks' prior notice (ITIE Togo, 2015).

Article 16 of Decree 2010-024/PR specifies that the chair of the Steering Committee sets the agenda of the meeting. While there are no provisions confirming that any MSG member has the right to table an issue for discussion, analysis of MSG meeting minutes shows that MSG members from all constituencies have tabled issues for discussion in the past, both ahead of meetings and on the day of meetings. For instance, civil society MSG members added topics to the agenda of the Steering Committee meeting on 27 December 2013 (ITIE Togo, 2013). The internal guidelines included in the call for MSG nominations in November 2015 specify that any member can add a topic to the agenda up to three weeks prior to the meeting (ITIE Togo, 2015).

Articles 5 and 15 of Decree 2010/024 empower the National Supervisory Council and Steering Committee to call upon any person with skills deemed useful to complete their work, with only observer status accorded.

There are no provisions in the decrees for a periodic review of the MSG's governance arrangements nor any system for taking grievances alleging a breach of rules of internal governance. However, there is evidence of the Steering Committee having discussed the governance of EITI-Togo on several occasions. On 27 December 2013, a CSO member raised concerns over alleged "dysfunction" of the organs of EITI implementation, considering that the national secretariat was too close to the government, given that some EITI letters had been issued on Ministry of Mines and Energy letterhead (ITIE Togo, 2013).

Decision-making: Articles 6 and 16 of Decree 2010/024 define quorum for the National Supervisory Council and Steering Committee as at least half their members present, respectively. Articles 7 and 17 require the National Supervisory Council and Steering Committee to take decisions by consensus, with Article 17 defining simple majority vote for Steering Committee decisions without consensus. Based on an analysis of MSG meeting minutes, there were no evidence of deviations in practice of decision making by consensus.

Record keeping: Article 18 of Decree 2010/024 requires Steering Committee meeting minutes to be kept and circulated within 10 days, while Article 8 requires decisions from the National Supervisory Council to be sent to the Council of Ministers by the Prime Minister who is also Chair of the Council. There are no provisions in Decree 2010-024/PR governing the treatment of confidential information by group members. Meeting minutes usually identify specific parties by name or function, but sometimes also refer to individuals by constituency, according to Chatham House rules. The records sometimes include statements expressing disagreement with the final outcome, although the outline of final decisions is

clear. Minutes and attendance registers are available on the local website³⁴.

Capacity of the MSG: There are no provisions in Decree 2010-024/PR to ensure that MSG members have the capacity to carry out their duties, nor to have relevant expertise in issues relevant to EITI. Article 19 states that the budget for the Steering Committee and its secretariat come out of the budgets of the state and contributions from the technical partners, overseen by the Minister of Mines and Energy.

Per diems: Activity 1.2.2 of the 2014-2016 EITI work plan covered the reimbursement of MSG members' expenses, with a budget of USD 150k over three years allocated to this purpose (ITIE Togo, 2014). It is unclear from the documentation whether these payments were made in practice.

Attendance:

Over the period 2013 to July 2016, 18 MSG meetings were held. On average, there was a 60% attendance rate for members of the Steering Committee over the period 2013-2016, with civil society best represented and industry least well represented at MSG meetings. There was a slump in industry and civil society participation in 2014 compared to other years whilst government participation was at its highest in 2014. The renewal of the Steering Committee in 2015 led to an increase in both industry and civil society participation in meetings.

On the government side, the Customs and Indirect Duties Authority (CDDI), General Directorate of Mining and Geology (DGMG) and the West African States' Central Bank (BCEAO) were most consistent in their attendance at MSG meetings. The Ministry of Land Administration and Decentralisation of Local Communities (MATDCL) was one of the government agencies with the poorest attendance ranking.

In 2013, companies participated at 67% of the meetings. Eau Voltic and SNPT were most consistent in their participation whilst MM Mining was less present. Company participation was especially poor in 2014 with an attendance rate of 36%. This improved following the renewal of the MSG in 2015 and attendance rebounded to approximately 64% of meetings. WACEM and Togo Carrière were most consistent in their meeting attendance whilst MM Mining continued to be least present at MSG meetings.

With respect to civil society, over the period 2013-2016, the West Africa Network for Peacebuilding (WANEP-Togo) representatives of the national assembly and the Union of NGOs of Togo (UONGTO) were most consistent in their participation. However, some organisations such as the Union for Independent Journalists in Togo (UJIT) had poor attendance rankings.

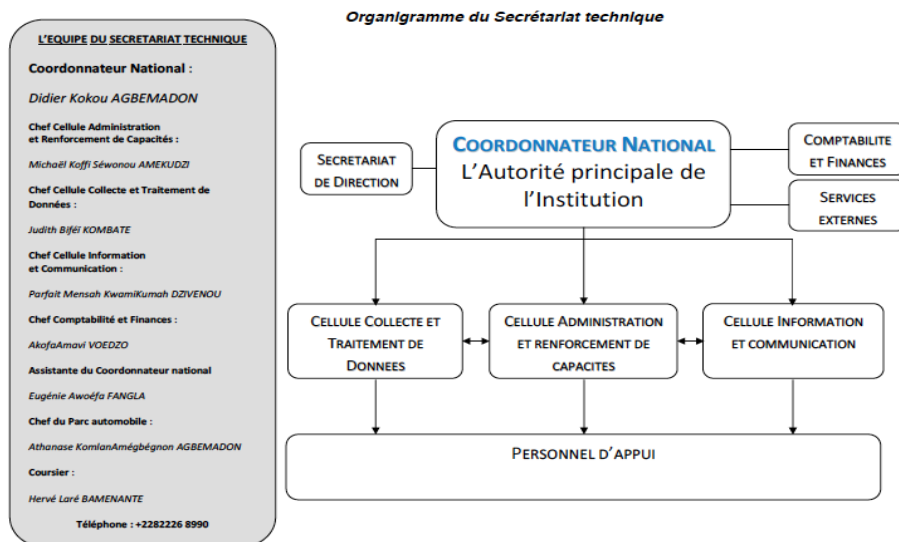
National secretariat: Article 21 of Decree 2010-024/PR clarifies that the national secretariat is placed under the authority of the EITI National Coordinator. Article 29 explains the relationship to the MSG and roles further. Articles 21-29 specify the roles and responsibilities of the technical secretariat. Charged with daily management of EITI implementation, including management of relations with stakeholders and the EITI International Secretariat, the national secretariat is split into three cells, covering administration and capacity building, information and communications, and data collection and management (ITIE Togo,

³⁴ <http://itietogo.org/le-comite-de-pilotage/proces-verbaux-des-reunions/>

2015). The national secretariat employed four staff as of 2017, down from seven in 2014 (ITIE Togo, 2016) (ITIE Togo, 2015).

Activity 1.3.4 in the 2014-2016 EITI work plan planned for the establishment of regional EITI offices in the north, centre and south of the country in the first half of 2015 (ITIE Togo, 2014). However, this activity has not been implemented due to a lack of funding.

Figure 2 - Organigramme of the national secretariat



Source: (ITIE Togo, 2015)

Stakeholder views

The Steering Committee confirmed that government representatives are automatically designated according to Presidential Decree No. 2010-024/PR whilst companies and CSOs choose a representative from within their organization. During stakeholder consultations with company representatives that are not represented on the MSG, it was noted that they were invited to the company renewal process, but did not attend the actual meeting. They noted, however, that the Professional Association of Extractive Industries in Togo (APIET) attended the meeting and represented them in some capacity.

Civil society representatives confirmed that the call for nominees to the Steering Committee was open and transparent, appearing in the local press. Twelve organizations presented their candidatures. By mutual agreement at the meeting for the renewal of civil society representatives of the MSG, CSOs agreed to rotate participation in the Steering Committee. Four associations will sit each year for the 3-year period which would allow the 12 entities to sit on the steering committee in turn.

The Steering Committee noted that there was no existing mechanism for the renewal of MSG members mid-term. They confirmed that there is no systematic mechanism to deal with conflicts of interest. Members of the Steering Committee confirmed that there was sometimes conflicts between the expected role of the National Supervisory Council and the Steering Committee with respect to decisions.

With respect to the National Supervisory Council, Steering Committee members noted that the body was useful in securing high-level commitment to the work of the EITI. However, they confirmed that the body had not met since 2014, although the reasons for this were not clear from the Steering Committee.

They confirmed their participation and animated discussions during the elaboration of the work plan, Terms of Reference for the Independent Administrator, drafting of reporting templates and other documents. They noted that these documents are prepared by the national secretariat and then submitted to the Steering Committee for approval. The recruitment of the Independent Administrator was carried out by the national secretariat and the office in charge of public procurement. The Steering Committee was then consulted to approve the candidate once the selection had been completed.

With respect to per diems, there are no established rules. The decree No. 2010-024 / PR establishing the EITI provides for the free participation of members. On the other hand, the technical secretariat confirmed that travel expenses were refunded to MSG members prior to its renewal. They confirmed that these payments were made to MSG members per quarter at a 45,000 FCFA. Each member of the MSG receives approximately 90 USD every 3 months. Members of civil society noted their desire that expenses for participation in meetings be refunded and the issue of per diems revisited.

Regional EITI Committees are not set up and representatives of local communities felt that they did not have an EITI representative and that their concerns were not necessarily addressed. They noted that they did not have the opportunity to meet the representative of the Ministry of Decentralization on the Steering Committee.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **inadequate** progress towards meeting.

The invitation to participate in the EITI seems to have been open and transparent through an invitation in the national press in 2015. Government representation on the MSG is based on the position of the individual in the government, whilst civil society and industry representatives are elected by their own constituencies. The Terms of Reference outline the role and responsibilities of MSG members. An overview of the late 2015 nominations to the MSG describes the tenure of MSG members as being three years. Civil society has an agreed procedure for the renewal of its members within the constituency. However, the ministerial order for the renewal of MSG members has not been promulgated, in a bid to have institutional memory ahead of the country's Validation. The provisions for replacement of MSG members remain unclear. There are no provisions requiring MSG members to liaise with their constituent groups or that the MSG has engaged in stakeholder mapping to ensure that all partners are included in the process. Companies represented on the MSG do not include representatives from the hydrocarbon or gold marketing sectors. Although the Steering Committee meets regularly, the National Supervisory Committee has not been operational since 2015. The practice of per diems is not clear and the reimbursement of transportation expenses is not clarified by any official documentation. Although there has been conflict between the national secretariat and MSG at times, the internal procedures do not specify the treatment of conflict of interest situations.

In accordance with requirement 1.4, the MSG should update its internal governance document with provisions ensuring that (i) representation on the MSG comprises appropriate stakeholders; (ii) there are

clear procedures for alternate Steering Committee members and replacement of Steering Committee members; (iii) MSG members liaise with their constituencies; (iv) there is a mechanism for dealing with conflicts of interest; and (v) the Steering Committee's policy on per diems is clear and transparent. The MSG should consider the adoption of the Ministerial order on the renewal of the MSG.

To strengthen implementation, the MSG may wish to consider the role of the National Supervisory Committee and clarify the frequency of its meetings. The MSG may wish to examine and clarify the reporting channels and roles between the national secretariat and the MSG.

Work plan (#1.5)

Documentation of progress

The National Supervisory Council has approved triennial EITI work plans covering 2010-2013 and 2014-2016 and was in the process of developing its 2017-2019 work plan as Togo's Validation under the EITI Standard commenced on 1 April 2017 (ITIE Togo, 2010) (ITIE Togo, 2014). The national secretariat typically prepares a first draft of the triennial work plan and circulates it for comment to members of the Steering Committee. Once approved for recommendations to the National Supervisory Council, the triennial work plan is usually approved towards the start of the work plan's first year (i.e. the 2014-2016 work plan was approved in Q1-2014). The Steering Committee then extracts annual work plans based on the triennial work plan. Thus, the Steering Committee was informed by the National Coordinator of the 2016 budget allocated by the Government of Togo on 30 March 2015 (ITIE Togo, 2015), on the basis of which the Steering Committee drafted a work plan specifically for 2016 that was further discussed at the Steering Committee meeting on 3 November 2015 (ITIE Togo, 2015) and finally approved on 12 February 2016 (ITIE Togo, 2016).

Publicly accessible work plan: The 2014-2016 EITI work plan, approved by the Steering Committee on 27 December 2013 (ITIE Togo, 2013), is accessible to the public on the EITI-Togo website (ITIE Togo, 2014). However, the annual mini-work plans are not publicly available on the website.

Objective for implementation: The triennial work plan includes five objectives³⁵, albeit entirely related to strengthening EITI implementation rather than linked to broader reforms in extractive governance or public finance management.

Measurable and time-bound activities: Both the 2014-2016 work plan and the 2016 mini-work plan include breakdowns in the timelines of implementation by quarter. While the majority of activities appear clearly defined and measurable, such as capacity-building workshops, production of EITI Reports and purchases of new equipment, a handful of activities appear too broad to be measurable, including follow-up on recommendations of EITI Reports and National Supervisory Council meetings. At the Steering Committee meeting on 24 November 2014 meeting, a CSO member expressed concern over the slippage in timeframes of activities in the 2014-2016 work plan, related to procurement of the Independent Administrator for the 2012 and 2013 EITI Reports and for capacity-building workshops, although the national secretariat refuted such concerns (ITIE Togo, 2014). While activities in the 2014-2016 work plan are not specifically timed in line with deadlines for EITI reporting and Validation, the 2016 EITI work plan

³⁵ Objectives included: functioning of organs, capacity building of EITI stakeholders, implementation of a communications strategy, EITI Reports, and monitoring and evaluation of activities.

was revised in light of funding constraints and the schedule for Validation, as the Steering Committee noted at the 3 November 2015 meeting (ITIE Togo, 2015).

Activities aimed at addressing any capacity constraints: There is a significant focus on capacity building activities in both the 2014-2016 work plan and the mini-work plans, with the majority of activities related to building the capacity of MSG members and all three of the broader constituencies. Twenty-eight of the triennial work plan's 88 activities were related to capacity building, while six distinct capacity building projects were planned for 2016 alone.

Activities related to the scope of EITI reporting: The three-year work plan lays out clear disaggregated activities related to preparing four EITI Reports (covering 2012-2015), including procurement of the Independent Administrator, data collection and publication (activities 4.1.1-4.4.8). A discussion workshop is planned under Activity 2.14 on the need to develop a study on artisanal gold and diamond mining sites in order to include coverage of the sector in the contextual information in EITI Reports. A technical, legal, financial and social audit of the extractive industries is also planned under Activity 1.1.12.

Activities aimed at addressing any legal or regulatory obstacles identified: The 2014-2016 work plan includes some activities related to addressing legal obstacles. The MSG's input to revisions to the Mining Code and other extractive-related laws are planned in Activity 1.2.4, while the broader development of measures to overcome obstacles and improve EITI implementation are planned under Activity 5.5. The MSG also planned to draft an EITI law and regulations establishing the institutional structure of EITI in Togo in Activity 1.1.6.

Plans for implementing the recommendations from Validation and EITI reporting: The triennial work plan includes some, albeit only general, activities related to follow up on recommendations. Activity 5.4 covers only general follow-up on recommendations from meetings and EITI Reports and Activity 1.1.1 refers to follow up on recommendations from the Independent Administrator and the Validator. The 2016 mini-work plan includes provisions for quarterly stock-takes of follow-up on recommendations from EITI Reports and National Supervisory Council meetings. It also planned outreach events to provide public updates on the status of follow-up on recommendations (under Activity 1.4, budgeted at USD 2,769) and a study on the status of progress in EITI implementation in Togo (under Activity 4.7, budgeted at USD 1,846).

Costings and funding sources, including domestic and external sources of funding and technical assistance: The 2014-2016 EITI work plan includes costings for each activity, but neither the triennial work plan nor the annual mini-work plan identify the specific sources of funding, either overall or for each activity. However, in the notes accompanying the annual work plans, EITI-Togo provides an overview of funding sources in aggregate, rather than disaggregated by activity. Thus, it appears that the ADB, through its PAMOCI programme, allocated USD 1,080,022 over three years (2015-2018). For the 2017 mini-work plan, the EITI-Togo note states that the total USD 702,476 budget for 2017 would be split between the government (USD 272,313), the ADB (USD 199,388) and the World Bank (USD 230,774). There is evidence that the Steering Committee has insisted on recalculating cost activities according to realistically available funds, as it did regarding the 2016 EITI work plan at the 12 February 2016 meeting (ITIE Togo, 2016).

According to information submitted by the national secretariat, the total cost of EITI implementation was

157,000 USD in 2013, 272,000 USD in 2014, 172 500 USD in 2015 and 62,200 USD in 2016³⁶. Costs increased significantly in 2014 due to the costs for the elaboration of the EITI Report. The cost of implementation in 2016 also included the cost of 2015 EITI Report (USD 123,694), although these monies have not yet been paid since the contract was under negotiation at the time of the preparation of this document.

Stakeholder views

Steering Committee members confirmed that the work plans are prepared by the national secretariat and validated by the Steering Committee. The national secretariat noted that activities that directly depend on other actors such as the Ministry of Mines and not the direct responsibilities of the EITI, such as the establishment of a mining cadastre, were not included in the work plan. Although activities aimed at addressing any legal or regulatory obstacles are not explicitly identified, meetings of the Oversight Council are scheduled in the 2016 work plan. As the mandate of the Oversight Council is to resolve barriers, the technical secretariat noted that one may consider that activities to overcome barriers have been planned.

The ADB supports the EITI work plan on capacity building and report dissemination. A budget of USD 760,631 is allocated by the ADB to the EITI. At present, a disbursement of 33% would have been made. The European Union noted its projects to support civil society organisations and support for the national secretariat in drafting its procedural manual. The World Bank funded the first two EITI Reports with the multi-donor trust fund (MDTF) which ended in April 2014.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **meaningful** progress towards meeting this requirement.

The EITI work plan does include limited reference to activities undertaken to achieve Togo's national priorities, such as the promulgation of a new Mining Code. The work plan indicates time-bound activities with a budget. Activities aimed at addressing any capacity constraints and related to the scope of EITI reporting are also identified. Meetings are scheduled for follow-up on EITI recommendations. The work plan considers the work of the Independent Administrator, but other aspects such as the dissemination of EITI Reports, have not been taken into account. The triennial work plans are available online for the public, but the annual versions are not published.

In accordance with requirement 1.5, the MSG should ensure that the work plan sets clear implementation objectives that are linked to the EITI Principles and reflect national priorities, and that the workplan clearly sets out the agreed activities and responsible parties.

Table 1 – Summary initial assessment table: MSG oversight

³⁶ See Annex C for costs of EITI implementation

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)	Government stakeholders appear fully, actively and effectively engaged in all aspects of EITI implementation, including scoping, reporting, dissemination and outreach.	Satisfactory progress
Company engagement (#1.2)	Mining and water companies are actively and effectively engaged in the EITI process as providers of information. In the absence of Chamber of Mines, the professional association of extractive industries in Togo (APIET) aims to fill this void. Despite challenges linked to land ownership, companies did not express any real barriers to operations in Togo.	Satisfactory progress
Civil society engagement (#1.3)	Civil society seems to be able to speak freely despite rare cases of repression, not directly linked to the EITI. Although civil society is fragmented across over 5,000 associations and NGOs, the efforts of MSG members to disseminate information to civil society through the print media are acknowledged.	Satisfactory progress
MSG governance and functioning (#1.4)	One key EITI structure, the National Supervisory Council, has not met since the appointment of the new Prime Minister and Chair of the Council, in 2015 and the reporting mechanism between the three EITI structures remains unclear. The policy of reimbursement of the Steering Committee transportation expenses is not clarified by official documentation and the Terms of Reference could explicitly refer conflicts of interest and replacement of MSG members.	Inadequate progress
Work plan (#1.5)	While significant aspects of the work plan have been implemented, due to limited funding, other aspects such as broad dissemination of EITI Reports, have not been achieved. Further attention could be given to links with national priorities.	Meaningful progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> • To further strengthen implementation, the MSG may wish to clarify the role and expectations of the EITI Champion in implementation. • To strengthen implementation, civil society representatives on the MSG may wish to consider establishing internal guidelines for structuring civil society's participation in the EITI, including more clearly defining the roles and responsibilities of MSG members, constituency liaison mechanisms and outreach activities. 		

- In accordance with requirement 1.4, the MSG should update its internal governance document with provisions ensuring that (i) representation on the MSG comprises appropriate stakeholders; (ii) there are clear procedures for alternate Steering Committee members and replacement of Steering Committee members; (iii) MSG members liaise with their constituencies; (iv) there is a mechanism for dealing with conflicts of interest; and (v) the Steering Committee's policy on per diems is clear and transparent. The MSG should consider the adoption of the Ministerial order on the renewal of the MSG.
- To strengthen implementation, the MSG may wish to consider the role of the National Supervisory Committee and clarify the frequency of its meetings. The MSG may wish to examine and clarify the reporting channels and roles between the national secretariat and the MSG.
- In accordance with requirement 1.5, the MSG should ensure that the work plan sets clear implementation objectives that are linked to the EITI Principles and reflect national priorities, and that the workplan clearly sets out the agreed activities and responsible parties.

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.

Assessment

Legal framework (#2.1)

Documentation of progress

Legal framework:

Oil and gas: The 2014 EITI Report (ITIE Togo, 2016, s. 19) names the applicable hydrocarbon law, but does not include a description of the law. The report notes that exploration and exploitation of petroleum in Togo are governed by Law No. 99-003 of 18 February 1999³⁷ on the Code of Hydrocarbons. The specific conditions applicable to holders of oil stocks are defined in the oil contracts signed between the State and the oil companies. The EITI Report does not include a summary description of the provisions of the hydrocarbon law, but makes references to the law. With respect to the transportation of hydrocarbons, the operation of the Gas Pipeline is governed by the Treaty on the West African Gas Project signed between the partner countries in Dakar on 31 January 2003 and ratified by the National Assembly on 7

³⁷ See: <http://extwprlegs1.fao.org/docs/pdf/tog92948.pdf>

September 2004.

Mining: The 2014 EITI Report (ITIE Togo, 2016, s. 23) states the primary and secondary laws governing the mining sector. The current Mining Code was not accompanied by the publication of regulations, leaving a legal vacuum concerning the application of some of these provisions, in particular those relating to the conditions for granting permits, the management of licenses and the transport of minerals. The EITI Report states that a draft of amendments to the Mining Code was being finalised. The aspects of the code which were to be amended were not clear from the report, nor the timeframe for doing so. The report notes the regulations (décret d'application) associated with the Mining Code have not yet been adopted. The report notes that the National Supervisory Council will send a letter to the national water company (TdE) requesting the elaboration of the regulations for the sector.

Fiscal regime:

Oil and gas: The 2014 EITI Report (ITIE Togo, 2016, s. 19) notes the payments that are provided for within the hydrocarbon code. These taxes include royalties, signature bonuses, corporate income tax and ordinary duties and taxes that are applicable. The 2014 EITI Report notes that no payments are applicable for the hydrocarbon sector nor to the gas pipeline operated by the West Africans Gas Pipeline Company (WAPCo). It states that fiscal revenues will be shared according to the formula provided for in Article 5 of the Harmonised Fiscal Regime of the GAO treaty.

Mining: The 2014 EITI Report (ITIE Togo, 2016, s. 23) outlines the applicable taxes and fiscal regimes for the mining sector. The major taxes applicable in the mining sector are royalties, tax on revenue from investment income, corporate tax, annual minimum tax, capital gains on the transfer of equity interests, registration fees and customs duties. The report notes that some mining companies benefit from preferential taxation regimes, namely Scantogo, in accordance with its limestone contract³⁸ and WAGEM benefiting from the free-zone regime governed by the law on the status of the industrial free-zones³⁹. These taxes are further described in Annex 9 of the EITI Report (ITIE Togo, 2016, s. 98). The report outlines the fiscal regime for the water sector, noting that companies registered with the TdE pay a tax for water at a price of USD 0.185 per cubic metre.

Government agencies' roles:

The 2014 EITI Report (ITIE Togo, 2016, s. 18) notes the government agencies responsible for oil and gas activities in Togo. These are the same for the oil, gas and mining sectors. The governing structures in the mining sector are the Council of Ministers (le Conseil des Ministres), the Ministry of Mines and Energy (Le Ministère des Mines et de l'Énergie), and the Mining Cadastre and Geologie Department (La Direction du Cadastre Minier et de la Géologie). The 2014 EITI Report (ITIE Togo, 2016, s. 24) notes that mining and transport activities fall under the purview of the Mining Cadastre and Geology Department (DCMG) and the report includes a brief description of its mandate. The national water company (TdE) is responsible for the water sector.

Degree of fiscal devolution:

³⁸ Ministry of Finance and the Economy Decree N°221/MEF/SG/DGI of 16/09/2013

³⁹ Free zone regime governed by the law on the status of the industrial free zone N°2011-18 of 24 June 2011

The 2014 EITI Report (ITIE Togo, 2016, s. 34) notes that Taxe Professionnelle, Taxes Foncières and Taxe d'Enlèvement d'Ordures are handled through the Tax Authority (CI) and passed on to local communities and municipalities.

Reforms:

The 2014 EITI Report (ITIE Togo, 2016, s. 24) does not refer to any reforms in the hydrocarbon sector but notes there was a project to amend the Mining Code. The report gives a cursory overview of the areas which will be amended in the code, namely local content, the introduction of stabilisation clauses, obligation to respect human rights, obligations to declare revenues based on audited accounts and the establishment of the public nature of information, cadastres and documents on license allocation and lastly, contributions by companies to the social and economic development of communities.

The 2014 EITI Report (ITIE Togo, 2016, s. 24) also speaks to the World Bank Development and Mining Governance project (PDGM). The project was launched in 2016 and will cover a period of five years. It aims to reinforce local government in their management of mining resources and will cover the modernisation of the mining cadastre; an institutional audit of the mining sector; strengthening transparency and accountability in the sector; improving the sustainable development in the sector; and the rehabilitation and updating of basic mining information.

Stakeholder views

The personnel at the Ministry of Mines and Energy confirmed that the Mining Code promulgated by Law No. 96-004 / PR of 23 February 1996 and amended in 2003 by Law n° 2003-012 promulgated on 14 October 2003, was still in force. It was confirmed that there were no regulations accompanying the country's mining. As part of the social and environmental contribution of mining companies, a law was promulgated in 2011 on the compulsory contribution of mining companies to local authorities, but this does not have accompanying regulations.

Togo operates under a contracting regime where most of the fiscal terms are included in the permits. Representatives at the Ministry of Finance confirmed that there were several types of tax statuses and taxes levied on mining companies. It was noted, for example, that the mining company, WACEM, operated as part of a free-zone area. It was noted that they did not systematically have the contracts with companies so that there were occasionally errors in tax recovery.

The Chair of Mineral Water Producers in Togo confirmed that there was also a legal vacuum in the water sector. Although the law calls for the payment of some taxes linked to the extraction of mineral waters, without regulations, companies do not make payments. The Directorate on Water Resources noted that the taxes proposed in the 2012 Water Law should be approved by two institutions, the National Water Council and committee in charge of the specific water basin. The tax rates would then be submitted through an inter-ministerial decree for approval by the relevant ministers. However, the two above-mentioned institutions are not yet operational. The Directorate on Water Resources is now seeking to bypass the approval by these non-functional bodies and have the decrees adopted by the relevant ministers. They noted that the deadline for completion depends on the response rate of the co-signing ministers. The draft inter-ministerial decrees were communicated to the International Secretariat following the mission.

It was noted that prefectures or municipalities also attempted to charge taxes per water truck, but that

there was no legal framework for these taxes and that each municipality could be tempted to charge fees on the same water truck. It was noted that most water operators do not have metered.

Members of the National Assembly noted that there was no information on the timetable for the adoption of regulations for the Mining Code by the National Assembly. The World Bank noted that it was financing the reform of the mining sector through the PDGM to the tune of USD 15 million. Sub-component B.1 of the project focuses on support to the education sector and public access to information on the development of the mining sector.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress towards meeting this requirement.

The 2014 EITI Report includes a summary description of the fiscal regime, including gaps in the legislation. The report covers the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies. The report also includes information about reforms underway.

To strengthen implementation, the MSG may wish to discuss and comment on the absence of regulations for the Mining Code, the Water Code and the law on social contributions, and continue its involvement in the revision of the Mining Code. The MSG is also encouraged to disclose information on ongoing reforms of the OTR and the legal and fiscal framework for construction companies in possession of quarrying permits.

License allocations (#2.2)

Documentation of progress

Award process:

Oil and gas sector: The 2014 EITI Report (ITIE Togo, 2016, s. 20) notes the Hydrocarbon Code is not explicit on the methods of granting permits and on the criteria to be used for assessing the admissibility of applications. The steps to receive an oil and gas contract are first a research authorisation by Ministerial decree, followed by an exploration permit, a production concession and a transport authorisation approved by the Council of Ministers. The Hydrocarbon Code reserves the right of priority for research permits in the allocation of production concessions.

Mining sector: The 2014 EITI Report (ITIE Togo, 2016, s. 26) notes that the current regulation is characterised by the absence of clear provisions for the management and allocation of mining titles. The report also states that no specific modalities or procedures are provided for in the texts, leaving the assessment of the admissibility of applications for permits at the discretion of the Minister in charge of mines.

The 2014 EITI Report (ITIE Togo, 2016, s. 25) also gives an overview of the mining licenses which can be allocated in Togo, established by Article 5 of the Mining Code. These include exploration authorisations, exploration permits, construction material production permits, small-scale production permits, large-scale

production permits and artisanal authorisations. The report notes that the state may enter into both an investment agreement for large-scale permits (convention d'investissement) or a partnership contract for small-scale permits (convention d'association) with mining companies, although the difference between these two is unclear in the Mining Code. The report notes that the revised Mining Code will establish the public nature of the license allocation process.

Transfer process:

Oil and gas: The 2014 EITI Report (ITIE Togo, 2016, s. 20) notes that in accordance with the hydrocarbon code, exploration licenses are transferable and transferable subject to prior authorisation by the Council of Ministers. Production licenses are transferable subject to prior authorisation by the Minister.

Mining: The 2014 EITI Report (ITIE Togo, 2016, s. 27) notes that research authorisations and artisanal authorisations are not transferable. Exploration and production permits are transferable subject to prior authorisation by the Minister of Mines.

Awards/transfers:

Oil and gas: The Independent Administrator in the 2014 EITI Report (ITIE Togo, 2016, s. 20) noted that they had no knowledge of license allocations in the hydrocarbon sector in 2014. On 21 October 2010, the state signed two contracts with ENI. The report states that following a conflict arising from a renegotiation of the contract, ENI ceased operations on the two blocks mentioned above in 2014. It notes that the state had entered negotiations for the granting of these permits with other operators. However, the report notes that no confirmation was given concerning the status of these permits and any forfeiture of the concessions granted to ENI.

Mining: The 2014 EITI Report (ITIE Togo, 2016, s. 27) noted, however, that six mining titles were awarded as stated below in 2014. The Independent Administrator collected this information via on-site interviews. There were two small-scale licenses for sand allocated to Midnight Sun and one small-scale license for gold allocated to Alzema Ltd respectively. There were three construction material licenses allocated to Sotessgrav and Tesgrav for sand. There was one artisanal authorisation allocated to Rohi Ltd for gravel.

The report does not state the licenses transferred in 2014.

Bidding process and technical/financial criteria:

Oil and gas: The 2014 EITI Report (ITIE Togo, 2016, s. 20) notes the Independent Administrator's understanding that the state has entered negotiations for the granting of the permits formally held by ENI with other operators. But no confirmation has been given concerning the status of these permits and any forfeiture of the concessions granted to ENI.

Mining: The 2014 EITI Report (ITIE Togo, 2016, s. 27) states that according to the DGMG, awards are made in practice on a first-come first-served basis "and no competitive bid round has been launched for the granting of these mining titles". However, this could not be verified as part of the work of the Independent Administrator. The report notes that based on the interviews carried out, these permits were granted following the examination of the applications submitted by the Ministry of Mines and Energy. The application files are supposed to contain all the documents requested as well as the payment of the instruction fee of the application file and the fixed fees. The list of documents in the application files and fees is presented in Appendix 10 of the EITI Report for each type of license. Given the absence of

a text for the application of the Mining Code, the terms and conditions of grants and the technical and financial criteria for allocation are not clearly explained.

License awardee information:

The 2014 EITI Report (ITIE Togo, 2016, s. 73) gives information on the date of application, type of permit, substance mines, reference number and the company to whom the license was allocated.

Non-trivial deviations and significant barriers:

The 2014 EITI Report does not note any non-trivial deviation to the license allocation process.

Comprehensiveness:

The 2014 EITI Report does not make a clear statement on the comprehensiveness of the coverage of license allocations. It does note, however, that the absence of a competitive bid round could not be confirmed by the Independent Administrator.

Commentary on efficiency:

The 2014 EITI Report (ITIE Togo, 2016, s. 64) notes in the recommendations that the monitoring of grants, renewals and withdrawals of mining titles is carried out using a list held by the relevant departments of the DGMG. This situation may lead to overlapping of research permits and artisanal authorisations and does not guarantee the "first come, first served," rule provided for by the regulations in force.

Stakeholder views

According to the government officials from the Hydrocarbon Directorate, the exploration permit allocated to ENI was valid for a duration of three years from 2010 to 2013. It expired in 2014 and, as such, there was no need for a formal hand-over to the government.

The World Bank representatives noted that the aim of the programme for the development and governance of the mining sector (PDMG) would be to establish procedures for the allocation, refusal and cancellation permits.

The General Directorate for Mines and Geology (DGMG) communicated the associated decrees for five of the six mining titles awarded in 2014, except for the artisanal authorisation to Rohi Ltd for gravel. The decrees communicated to the International Secretariat were decree No. 42/MME/CAB/DGMG/2014 to Sotessgrav for construction materials (sand); decree No. 44/MME/CAB/DGMG/2014 to Tesgrav for construction materials (sand); two small-scale sand permits to Midnight Sun namely decree No. 55/MME/CAB/DGMG/2014 and decree No. 56/MME/CAB/DGMG/2014 and lastly on small-scale gold production to Alzema Ltd, decree No. 34/MME/CAB/DGMG/2014.

The DGMG confirmed that there was no competitive bid round in 2014 as there was not sufficient demand for permits, although there was a competitive bid round in 2012/2013 for carbonated phosphates. Seventeen companies applied and five companies were retained. Three of the five companies responded to the government. The government is currently in negotiations with the highest ranked firms, a partnership between Elenilto and Wengfu. Partners noted that this case illustrated the lack of public information on licensing. Elenilto and Wengfu claimed to have been awarded the license,

although this was still under negotiations⁴⁰.

The DGMG also confirmed that there were no transfers in 2014. They confirmed that this had been discussed by the Steering Committee during its self-assessment ahead of the country's Validation. The DGMG also communicated the information needed for the allocation of the various permits which is included in the 2014 EITI Report. The report noted that some of the licenses allocated were published on <http://www.togo-mines.com/documentations/permis/>. However, this listing was not yet comprehensive.

With respect to any non-trivial deviation to the license allocation process, one company noted that it had been denied a license for marble and that there was an exclusive market for marble. However, representatives at the DGMG noted that the permit was denied on grounds that the company had been allocated three permits over a five-year period and had not produced any marble to date. The permit was not renewed based on a lack of production.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress towards meeting this requirement.

The EITI 2014 Report indicates the process for awarding or transferring the license(s), noting that the absence of clear provisions for the management and allocation of mining titles, including a timeline for the allocation of permits. The report gives information on the award of licenses but not transfers during the period. Stakeholder confirmed that there were no transfers in 2014. There was no evidence of competitive bidding in 2014. The report does not include clear commentary on the efficiency and effectiveness of these systems but notes that the current system leads to overlapping of permits and does not guarantee the "first come, first served" principle.

To strengthen implementation, the MSG may wish to discuss and comment on whether the statutory provisions for the management and allocation of mining titles are clear, including the timeline for the allocation of permits.

License registers (#2.3)

Documentation of progress

Public cadastre/register:

Oil and gas: The 2014 EITI Report (ITIE Togo, 2016, s. 20) notes that permits and authorisations are kept at the General Department of Hydrocarbons (DGH) level and that this information is publicly available. The provisions of the Petroleum Code provide for the keeping of records and maps of permits and authorisations, and indicate that this documentation is public. However, the Independent Administrator noted that the data on the list of permits and authorisations issued as at 31 December 2014 has not been

⁴⁰ <http://www.elenilto.com/press/elenilto-rejoint-le-geant-chinois-wengfu-pour-lappel-doffre-relatif-au-phosphate-du-togo/>

provided for the purposes of the 2014 Report.

Mining: The 2014 EITI Report (ITIE Togo, 2016, s. 26) notes that the current Mining Code does not refer to the maintenance of a register where license applications are registered. It is also the understanding of the Independent Administrator that Togo does not have a mining cadastre system. Mining titles are held on an Excel spreadsheet. The list of mining titles made available to the Independent Administrator by the DGMG is presented in Annex 12 of the EITI Report (ITIE Togo, 2016, s. 146). The report states that decisions to grant permits, either by decree of the Minister of Mines or by decree of the Council of Ministers, should be published in the Official Gazette. However, the accessibility of the current status of mining titles to the public remains limited, as it is not available online and in the form of open data.

Licenses held by material companies:

Annex 12 of the 2014 EITI Report (ITIE Togo, 2016, s. 146) includes the license reference number for companies holding licenses in the quarrying, mining, mineral transport, mineral commercialisation and water sectors.

License-holder names:

Annex 12 of the 2014 EITI Report (ITIE Togo, 2016, s. 146) includes the names of the companies holding licenses in the quarrying, mining, mineral transport, mineral commercialization and water sectors. Other information includes the address and telephone contact for the mining and quarrying companies.

License coordinates:

The report does not include information on license coordinates, but informs on the areas in which the mines are located. The 2014 EITI Report (ITIE Togo, 2016, s. 146) does not specify whether this information is available and can be easily accessed.

Dates of application, award and duration:

With respect to the quarrying and minerals sector, the 2014 EITI Report (ITIE Togo, 2016, s. 146) includes information on the award date of the license and duration of the license for all companies. With respect to companies involved in mineral water sector, the award date is included for 16 of the 43 companies and duration of the license is included for three of the 43 companies.

The report does not, however, include information on the date of application for any sector.

Commodities produced:

The list of companies in the 2014 EITI Report (ITIE Togo, 2016, s. 72) includes information on the commodity produced for all sectors. This includes garnet, gneiss, gold, gravel, limestone, mineral water, pegmatite, phosphates, and sand.

Licenses held by non-material companies:

The 2014 EITI Report (ITIE Togo, 2016, s. 75) also included information on non-material companies, not included within the scope of reconciliation. It is unclear whether this list of exhaustive.

Gaps and corrective measures:

The 2014 EITI Report (ITIE Togo, 2016, s. 64) notes in the recommendations the absence of a Mining Code

and that the development of the mining cadastre is underway at the DGMG with the World Bank PDGM. A report on the implementation of the PDGM on the A1 component which takes into account the mining cadastre will be communicated.

Stakeholder views

The National Coordinator of the World Bank PDGM confirmed that component A of the project (Governance, Transparency, Monitoring and Efficiency of the Mining Sector) aims to support improved management and monitoring of mining sector development activities in Togo. This covers license allocation, monitoring of mining activities and mine closures. Subcomponent A1 relates to the mining cadastre and the national geological database. It aims to modernise the Lomé mining cadastre office by implementing a modern, computerised cadastre system, with clear procedures for the allocation, refusal and cancellation permits. The cadastre represents 50% of the PGDM budget, i.e. USD 7.5 million.

A study on the current state of the cadastre is underway with a final report is expected in June 2018. A few licensing requests for small mines are available on the website funded by the PDGM⁴¹. The EITI national secretariat also includes information on the titles held, categorised by company, date of creation, nationality of the operator, activity carried out, state participation, date of allocation, reference number, duration and areas⁴². However, this information is not completing for all companies. The TdE noted that there was a list of companies operating in the water sector, but this information was not yet public.

Government representatives on the Steering Committee noted that the date of application for some licenses was available, although this information was not compiled for all licenses. Civil society representatives also noted correspondence to the EITI National Coordinator requesting that the maps of the mining sector in Togo be made available online and in a smaller format to improve accessibility.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **meaningful** progress towards meeting this requirement.

The 2014 EITI Report includes the names of licence holders and dates of award and expiry for all the licenses held by companies holding licenses in 2014. However, the report does not include information on application dates nor coordinates for all licenses, for both material and non-material companies. The report highlights government's long-term plans to overcome these barriers, namely the modernization of the mining cadastre by the World Bank, PDGM. The MSG, through the National Secretariat, has published further information on the mining licenses on the EITI website as an interim solution.

In accordance with Requirement 2.3, Togo should maintain a publicly available register or cadastre system(s) with timely and comprehensive information regarding license holders, coordinates where collated, date of application, date of award, duration of the license and the commodity being produced in the case of production licenses.

⁴¹ <http://www.togo-mines.com/documentations/permis/>

⁴² <http://itietogo.org/entreprises-extractives/>

Contract disclosures (#2.4)

Documentation of progress

Government policy:

The 2014 EITI Report did not clearly address the government's policy on contract transparency. It notes that the current Mining Code does not contain clear provisions on the publication of contracts (ITIE Togo, 2016, s. 19). Similarly, the Hydrocarbon Code does not have provisions for the publication of oil contracts. The report also states that the provisions of the Hydrocarbon Code do not provide for a standard model contract, but stipulate that draft contracts are proposed by the Minister of Mines and Energy to serve as a basis for negotiations with the companies.

Actual practice:

In practice, for the hydrocarbon sector, contracts signed by the state with ENI have not been published. In the mining sector, the 2014 EITI Report (ITIE Togo, 2016, s. 19) notes that the texts of industrial production permits should be published in the Togolese national gazette. In practice, only the allocation decrees are published in the national gazette. The full texts of signed mining conventions are not published.

Accessibility:

Contracts are currently not accessible in Togo. However, the 2014 EITI Report (ITIE Togo, 2016, s. 66) recommendations state that the DGMG will publish the contracts (without confidentiality clauses) on the site of the Ministry of Energy and Mines. It is not clear whether this has been done or not.

Stakeholder views

Civil society representatives confirmed that mining conventions are not published in Togo and felt that there was little progress in that sense. The Togolese Revenue Office (OTR) noted that contracts were not systematically available so there have been errors at times in data collection. The DGMG noted that government decrees should be published in the national gazette. During a Steering Committee meeting, company representatives noted that they were not necessarily opposed to the publication of contracts. The national secretariat noted that the Freedom of Information Act will be used to support contract transparency. The Minister of Mines and Energy noted that some licenses were disclosed on the site Togomines.com and confirmed that the publication of contracts was in progress.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **meaningful** progress towards meeting this requirement.

The 2014 EITI Report did not document the government's policy on disclosure of contracts that govern the extractive sector. Although the government does not have a clear written policy on the publication of contracts, there was a strong desire expressed by civil society and government during the International Secretariat's visit towards the publication of contracts. In practice, Ministerial orders and Presidential decrees awarding permits are published in the national gazette. However, the allocation decrees for large mines and hydrocarbons are not yet published and few Ministerial orders for small mining permits are published online.

In accordance with requirement 2.4, the MSG should clarify the government's policy on contract transparency, including relevant legal provisions, actual disclosure practices and any government reforms that are planned or underway. The MSG is encouraged to seek clarification on whether the full text of contracts is published and the dissemination mechanism for such disclosures.

Beneficial ownership disclosure (#2.5)

Documentation of progress

Government policy:

The 2014 EITI Report (ITIE Togo, 2016, s. 39) notes that Togo's current legal framework does not provide for a clear definition or public register of the actual owners of companies bidding, operating or investing in extractive assets. Based on this finding, the Steering Committee adopted the definition provided for in the Fourth Directive on money laundering in the European Union and decided to include politically exposed persons. Politically exposed persons are defined as those who exercise or have exercised important public functions in a foreign country or in Togo.

Actual practice:

Togo does not have an existing register of beneficial owners. Given the lack of a legal framework for beneficial ownership, the Steering Committee decided to disclose the actual ownership data under the EITI Report, for companies included in the scope of reconciliation. The EITI Report (ITIE Togo, 2016, s. 70) discloses some information on the beneficial owners in Togo in Annex 1 of the report. Of the 36 companies included within the scope, two of the companies are publicly listed on the London (RRCC) and Toronto (G&B African) stock exchanges and two of these companies are publicly listed (SNPT and TDE). The report manages to identify physical persons as legal owners for 12 of the remaining 32 companies.

Legal owners of material companies:

Legal owners are disclosed for 21 of the 36 reporting entities in the 2014 EITI Report (ITIE Togo, 2016, s. 70). Two of these 21 companies are state-owned enterprises, SNPT and TdE. All legal owners are not reported for the remaining 15 companies.

Efforts to go beyond the minimum requirements:

Although publication of beneficial owners is not yet an EITI Requirement, the 2014 EITI Report (ITIE Togo, 2016, s. 70) lists physical persons as beneficial owners for five companies, namely ACI Togo, RRCC (publicly listed), SGM, Global Merchants and Togo Carrière. Further investigation is needed and quality assurance mechanisms put in place to determine whether these physical persons identified are indeed the beneficial owners of these companies.

Beneficial ownership roadmap:

Togo published its beneficial ownership (BO) roadmap in December 2016. The total cost of the roadmap was estimated at USD 207,327 with activities covering the period January 2017 to July 2018. The roadmap noted that the national secretariat would create a website dedicated to the disclosure of beneficial ownership information and that the Ministry of Mines and Energy would establish a register of beneficial owners. Activities in the roadmap also included raising awareness, agreeing a national definition and a review of national laws. The roadmap did not indicate the source of funding for planned activities.

Stakeholder views

Company and civil society representatives referred to the current Prime Minister's participation in the mining company, WACEM, highlighting politically exposed shareholders of mining companies. The 2013 EITI Report referred to the Panama Papers website⁴³ that contained the list of Wacem shareholders which included the Togolese State (10%), Kenelm Ltd (40% United Kingdom), Motaparti Prasad (24% Indian CEO of the company), Rafles Holdings (17%), Quartz Ltd (4% United Kingdom) and Private Togolese (5% Togolese). Further investigations led to a list of 78 shareholders of Wacem in Togo, including Selom Komi Klassou, formerly Deputy and First Vice-President of the National Assembly, current Prime Minister, ex-officio Chair of the National Supervisory Council, Abla Bidamon, Minister of Mines and Energy, previously Director of Customs, and ex-officio member of the EITI Steering Committee.

During a meeting of the Steering Committee, company representatives noted that they were hesitant about beneficial ownership provisions since civil society was so avid for information and might use it for sensational purposes. The Auditor General's Office (Cour des Comptes) noted that beneficial ownership information would allow them to know if persons were paying the taxes that they should.

Initial assessment

Implementing countries are not yet required to address beneficial ownership and progress with this requirement does not yet have any implications for a country's EITI status. The MSG has agreed and applied its definition of BO for EITI reporting and made attempts to disclose the beneficial owners of material companies reporting in EITI Reports. The latest EITI Report lists physical persons as beneficial owners for five companies, namely ACI Togo, RRCC (publicly listed), SGM, Global Merchants and Togo Carrière. However, the EITI Report has not clarified the government's beneficial ownership policy. The list of legal owners is not comprehensive in the 2014 EITI Report. The MSG established a BO working group to steer preparations of Togo's three-year roadmap by 1 January 2017.

In accordance with Requirement 2.5, the government is encouraged to clarify the government policy on BO disclosure, and to agree a definition of politically exposed persons for beneficial ownership within the Togolese context, as well as a quality assurance mechanisms for company declarations on beneficial ownership.

State participation (#2.6)

Documentation of progress

With respect to mining companies, according to Article 55 of the Mining Code (ITIE Togo, 2016, s. 27), the state takes a non-paying participation of 10% of the share capital of operating companies, except in artisanal mining and construction materials. This participation cannot be diluted through an increase in social capital.

According to the 2016 EITI Standard, for the purpose of EITI reporting, a SOE is a wholly or majority government-owned company that is engaged in extractive activities on behalf of the government. As such, the TdE, state-owned commercial water company, is not considered an SOE but SNPT, the state-

⁴³ <https://panamapapers.investigativecenters.org/togo/>

owned phosphate company is considered an SOE according to the EITI Standard.

Materiality:

According to the 2014 EITI Report (ITIE Togo, 2016, s. 49), companies and the government reported dividends to the value of USD 5,843,548. Dividends were included in the scope of reconciliation and as such were considered material by the MSG. There were no advances on dividends paid to the government in fiscal year 2014. SNPT's declared contributions to the state following reconciliation was USD 18,647,653 and TdE's declared contributions to the state following reconciliation was USD 1,579,926. The report notes that neither transport company, MM Mining or Togo Rail, made payments during fiscal 2014.

Financial relationship with government:

For the oil and gas sector, the Independent Administrator (ITIE Togo, 2016, s. 21) states that given that there is no operational contract as at 31 December 2014, the contingent participations were unlikely to have a financial impact on the state in 2014.

With respect to the mining and mineral water sectors, the 2014 EITI Report (ITIE Togo, 2016, s. 27) notes two state-owned companies operate in the extractive sector, namely TdE and the SNPT. Both are 100% state-owned and operate in the sector through permits granted to them. It is the understanding of the Independent Administrator that the two companies do not hold interests in other extractive companies and that they are subject to the same duties and taxes as the private companies. The report does not clarify the rules for retained earnings, reinvestment and third-party financing for the SOEs in the country. However, the TdE presents a special case insofar as the companies registered with this company are obliged to pay a fee for taking water from the water table on the boreholes at a price of XOF 100 per cubic meter⁴⁴. These levies are collected by the TdE on behalf of the state, but not repaid to the state.

Government ownership:

For the oil and gas sector, the 2014 EITI Report (ITIE Togo, 2016, s. 21) notes that the state can directly participate in the ownership of the company according to the terms of the contract. It is the understanding of the Independent Administrator that the state reserves the right to free participation in the capital of the operating company with the possibility of an additional contribution after negotiation.

According to the data of the DGMG (ITIE Togo, 2016, s. 27), the state held 10% in eight companies, namely Midnight Sun, Granutogo, SAD, STII, WACEM, MM Mining, ScanTogo Mine and Pomar. The report notes that the state does not hold a 10% participation in artisanal authorisations. However, the situation communicated by the DGMG appears to be non-exhaustive and, in some cases, inconsistent with the data reported by the companies on legal ownership and presented in Annex 1 (ITIE Togo, 2016, s. 70). According to data reported by the companies, the state also holds direct and indirect ownership in the following companies: CTEM Ltd, Voltic Togo Ltd, Global Merchants, Alzema and Togo Rail (indirect participation of 7.5%). The state has a 100% ownership of the state-owned enterprises TdE and SNPT.

⁴⁴ Inter-ministerial Decree No. 31 / MCITDZF / MEMEPT on the fixing of water sales tariffs and signed on 11 October 2001

According to the 2014 EITI Report (ITIE Togo, 2016, s. 30), the state also holds 2% ownership in the West African Gas Pipeline Company Limited (WAPCo)⁴⁵. The company benefits from a five-year tax holiday since the start of production in 2011. From the sixth year, the fiscal revenues will be shared amongst the states according to Article 5 of the « Régime Fiscal Harmonisé » of the GAO treaty. The company has been operating at a loss due to gas shortages and damages to the pipeline in 2012.

Ownership changes:

According to the 2014 EITI Report (ITIE Togo, 2016, s. 28), the DGMG did not provide data on any changes in state ownership during 2014, except for shares acquired free of charge relating to the granting of operating permits in accordance with the regulations in force. It is unclear whether there were no other changes in government ownership or whether this was a deficiency in the DGMG's disclosures. This refers to non-artisanal and construction material licenses and as such refer to licenses granted to Midnight Sun and Alzeera in 2014.

Loans and guarantees:

There is no mention of loans and guarantees by companies to the government in the EITI Report.

Stakeholder views

With respect to the state's free shareholdings in mining companies, the industry constituency noted that the monitoring of the state's 10% share fell under the remit of the Treasury, through the collection of dividends. The OTR noted that it could verify the dividends paid to all shareholders via the company's tax returns, but that it was, in most instances, the company that decided the dividends to be paid to the government.

Development partners and civil society representatives requested further information on the operations of the state-owned phosphate company SNPT. A representative of the Togolese national phosphate company (SNPT) clarified the financial relations between the state and the SNPT. The representative emphasised that SNPT acted like a private sector actor and paid regular dividends to the government, following the same rules as other companies. As such, terms attached to the government's equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest were not applicable. SNPT noted its Board meets annually to verify the accounts and to make recommendations for a decision on dividends to the Supervisory Board. The decision is based on the budget for current and capital expenditure, which is based on factors such as sales provisions and the price of phosphates on the global markets. It was noted that a website did exist, but was not regularly updated.

Civil society representatives emphasised that it was SNPT which decided on its allocations to the state. This could present a conflict of interest if the government was not represented on the supervisory board making this decision. A company representative noted during the Steering Committee meeting that the

⁴⁵ http://www.wapco.org/Traite_relatif.pdf

government participated in the company's General Assembly, but not on its Board. The World Bank noted that component A.5. of the PDGM was concerned with strengthening the governance structures of public enterprises in the mining sector.

Concerning the West African Gas Pipeline Company Limited (WAPCo)⁴⁶, government representatives confirmed that the government had not made any payments linked to losses associated with the West African Gas pipeline since 2012. TdE also confirmed that although it was supposed to levy a tax on behalf of the state, in the absence of regulations for the water code, the actual payments and transfers to the state was zero.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **meaningful** progress in meeting this requirement.

The EITI 2014 Report discloses dividend payments from national companies and mining companies where the state has 10% shares. The 2014 EITI Report provides some information on the prevailing rules and practices regarding the financial relationship between the government, SNPT and TdE, such as the transfer of dividends between the SOE and the state. The report does not clarify the rules for retained earnings, reinvestment and third-party financing for the SOEs in the country. This information is included in the management report and the decisions of the SNPT Supervisory Board communicated with the International Secretariat but is not publicly available. The report declares the level of ownership of the government and SOE in mining, oil and gas companies operating within the country's oil, gas and mining sector. The report does not identify and any changes in the level of ownership during the reporting period. The report has not document whether details about the loan from the World Bank to revive the SNPT. The repayment of this loan from the state budget is not commented on in the 2014 EITI Report.

In accordance with requirement 2.6, the MSG should disclose details regarding the terms attached to the SOE's equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest, for instance on the company's website. The MSG should also provide details on loans and loan guarantees to SNPT.

Table 2- Summary initial 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)

⁴⁶ http://www.wagp.a.org/Traite_relatif.pdf

Legal framework (#2.1)	The 2014 EITI Report includes a summary description of the fiscal regime, including gaps in the legislation. The report covers the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies. The report also includes information about reforms underway.	Satisfactory progress
License allocations (#2.2)	The EITI 2014 Report indicates the process for awarding or transferring the license(s), and gives information on the award of licenses. Information on transfers were included in the stakeholder consultations. There was no evidence of competitive bidding in 2014.	Satisfactory progress
License registers (#2.3)	The 2014 EITI Report includes the names of licence holders and dates of award and expiry for all the licenses, but does not include information on the dates of application and coordinates for all licenses.	Meaningful progress
Contract disclosures (#2.4)	The government does not have a clear written policy on the publication of contracts including the relevant legal provisions and any reforms that are planned or underway. However, the report gives information on actual disclosure of allocation decrees.	Meaningful progress
Beneficial ownership disclosure (#2.5)	The MSG has agreed and applied its definition of BO for EITI reporting and made attempts to disclose the beneficial owners of material companies reporting in EITI Reports. The latest EITI Report lists physical persons as beneficial owners for five companies. However, the EITI Report has not clarified the government's beneficial ownership policy. The list of legal owners is not comprehensive in the 2014 EITI Report. The MSG established a BO working group to steer preparations of Togo's three-year roadmap by 1 January 2017.	
State-participation (#2.6)	The 2014 EITI Report provides some information on the prevailing rules and practices regarding the financial relationship between the government and SOEs and discloses dividend payments from the government's 10% free carry. The report does not clarify the rules for retained earnings, reinvestment and third-party financing for the SOEs in the country. The report has not documented any information on the loan from the World Bank to	Meaningful progress

	revive the SNPT.	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> • To strengthen implementation, the MSG may wish to discuss and comment on the absence of regulations for the Mining Code, the Water Code and the law on social contributions, and continue its involvement in the revision of the Mining Code. The MSG is also encouraged to disclose information on ongoing reforms of the OTR and the legal and fiscal framework for construction companies in possession of quarrying permits. • To strengthen implementation, the MSG may wish to discuss and comment on whether the statutory provisions for the management and allocation of mining titles are clear, including the timeline for the allocation of permits. • In accordance with Requirement 2.3, Togo should maintain a publicly available register or cadastre system(s) with timely and comprehensive information regarding license holders, coordinates where collated, date of application, date of award, duration of the license and the commodity being produced in the case of production licenses. • In accordance with requirement 2.4, the MSG should clarify the government's policy on contract transparency, including relevant legal provisions, actual disclosure practices and any government reforms that are planned or underway. The MSG is encouraged to seek clarification on whether the full text of contracts is published and the dissemination mechanism for such disclosures. • In accordance with Requirement 2.5, the government is encouraged to clarify the government policy on BO disclosure, and to agree a definition of politically exposed persons for beneficial ownership within the Togolese context, as well as a quality assurance mechanisms for company declarations on beneficial ownership. • In accordance with requirement 2.6, the MSG should disclose details regarding the terms attached to the SOE's equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest, for instance on the company's website. The MSG should also provide details on loans and loan guarantees to SNPT. 		

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

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

Documentation of progress

Overview of the extractive revenues:

The 2014 EITI Report (ITIE Togo, 2016, ss. 18, 1), gives an overview of the extractive industries in Togo, noting that it consists of the hydrocarbons sector; the solid mining sector; and the quarrying sector. It also covers the water sector (groundwater exploitation), the transportation sector and the marketing of precious minerals (downstream).

Exploration:

The 2014 Report (ITIE Togo, 2016, s. 18), states that there were no exploration activities in the oil and gas sector in Togo in 2014. The 2014 EITI Report (ITIE Togo, 2016, s. 22), speaks to four main exploration mining projects: manganese in the Nayega region by SGM Ltd; ilmenite in the Bagbé region by Global Merchants; the Agbandoaoudé gold project by Global Merchants and the Togo gold project in the Abidjandè, Agbandi and AssoumaKondiji regions by Togo Or Ltd.

Stakeholder views

Stakeholders did not cite any additional major exploration work in Togo in fiscal 2014.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress towards meeting this requirement. In accordance with Requirement 3.1, the report discloses an overview of the extractive sector, including any significant exploration activities.

Production data (#3.2)

Documentation of progress

Production volumes:

According to the DGMG in the 2014 EITI Report (ITIE Togo, 2016, s. 29), the exploitation of gold and diamonds in Togo is carried out in artisanal form on several alluvial sites and no industrial exploitation is carried out at the moment. There are no official figures on domestic production. However, according to the DGMG, the production generated by artisanal mining on the national territory remains insignificant compared to the volumes exported. This could not be corroborated by independent studies.

Production was made based on company and DGMG declarations (ITIE Togo, 2016, ss. 10, 60). However, these figures only cover companies included within the scope of reporting and are not uniformly disclosed

for quantity, volumes and types of commodity. The production figures cover 19 companies and there is no information provided by either the government or the company for WAFEX, SOLTRAN, Les Aigles and Voltic Togo Ltd. It is unclear the difference between the latter and the remaining 16 companies which were not included on the list.

The Independent Administrator noted that they were unable to reconcile the quantities and values of production as communicated by the companies and the DGMG. The DGMG does not have any monitoring concerning the valuation of mining production and the quantities carried forward correspond to the declarations made by the companies when paying the mining royalties.

Production values:

Companies were requested to provide information on the volume and value of production. The MSG decided to reconcile production volumes. Production value would be determined by multiplying the production with the annual average price of the minerals.

Location:

The 2014 EITI Report (ITIE Togo, 2016, s. 21) gives information on the main-producing regions (Tabligbo, Hahotoé, Kpogamé, Bassar and Pagala) as well as reserves for bauxite, chromite, iron, limestone, manganese and phosphates. The report also notes the creation of a clinker factory in Sika (90km from Lomé) in 2015.

Stakeholder views

Stakeholders noted that comprehensive production figures for 2014 were not collected for the period under review.

Initial assessment

The international secretariat's assessment is that Togo has made **satisfactory** progress in meeting this requirement.

Togo has no official comprehensive statistics on production. To address this gap, the MSG requested that participating companies and government agencies provide production data, which is reconciled in the EITI Report. The data is disaggregated by commodity. The data is not explicitly disaggregated by region, but this can be calculated as most companies only operate one license. While there are some gaps and concerns about data quality, the issues are addressed transparently in the report.

To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve the collection of production data.

Export data (#3.3)

Documentation of progress

Export volumes:

According to the figures provided to the Independent Administrator by the DGMG (ITIE Togo, 2016, s. 29), exports of gold from Togo exceeded 20 tons for 2014. According to the same source, most of these

substances come from countries bordering Togo. Companies were requested to provide information on the volume of exports and an attempt was made to reconcile export volumes. This was done for eight companies – SNPT, WACEM, Scantogo Mines, WAFEX, SOLTRANS, MM Mining, Voltic Togo Sarl and ACI Togo (ITIE Togo, 2016, ss. 10, 61). The 2014 EITI Report notes that discrepancies could not be reconciled in the absence of a reliable basis for reconciliation.

The quantities declared by the Customs Authorities were approximate and corresponded to the gross weight of parcels exported for gold. The report notes that the Customs and Indirect Duties (CDDI) does not have figures for SNPT exports. The company is exporting the phosphate directly from the terminal it operates and the customs office is not computerised and does not have the necessary means to monitor exports in quantities and value.

Export values:

Companies were requested to provide information on the value of exports and an attempt was made to reconcile export values. This was done for eight companies – SNPT, WACEM, Scantogo Mines, WAFEX, SOLTRANS, MM Mining, Voltic Togo Sarl and ACI Togo. The 2014 EITI Report notes that discrepancies could not be reconciled in the absence of a reliable basis for reconciliation (ITIE Togo, 2016, s. 61). The values reported by mining companies to customs are approximate since export transactions are not taxable. Two companies, SOLTRANS and WAFEX hold marketing authorisations for the precious metals in Togo. The total value of extractive exports in Togo was USD 225,069,400 of which USD 120,377,326 was from the export of phosphates, USD 66,453,720 from the export of clinker and USD 20,712 from the export of gold.

The 2014 EITI Report (ITIE Togo, 2016, s. 61) noted that the value of gold declared to the CDDI was USD 1.86, which is far away from the market price of approximately USD 41.95 per gram in 2014. It states that this practice is likely to undermine the value of exports of mining resources of Togo and does not guarantee a rigorous follow-up of the repatriation of the revenues derived from these exports.

Stakeholder views

During the visit of the International Secretariat, it was discovered that the Togolese Revenue Office (OTR) was an alternative source for information on mineral exports in 2014. This is included in Annex H of the current report. It seemed that this information was not yet available during the visit of the Independent Administrator or that it was unclear that the OTR was a possible source for this information.

Total exports were valued at USD 122,520,740, with a net weight of 492.93 million kilograms. Products exported included bentonite, bitumen, calcium phosphates, cement, gravel, gold, iron, marble, oil and gas, petroleum, propane, refined iron and zinc amongst others. The main exporting companies in terms of value were Winner's Trans for petroleum bitumen at a value of USD 38,770,055, Ciment du Togo for Portland cement at a value of USD 24,000,510 and Wafex for the export of gold to the value of USD 24,000,510.

The OTR confirmed that the price of gold declared to the CDDI of USD 1.86, given the market price of approximately USD 41.95 per gram in 2014, was keeping with the legislative texts in force.

The OTR noted that it had held systematic meetings with the Togolese National Phosphate Company

(SNPT) over the period February to April 2017 and had asked SNPT to reclassify its exports in the SYDONIA software. As such, there now exists an automated customs clearance system and 98% of exports from SNPT now pass through the SYDONIA system.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress in meeting this requirement.

Togo has no official comprehensive statistics on exports. To address this gap, the MSG requested that participating companies and government agencies provide export data, which is reconciled in the EITI Report. The data is disaggregated by commodity. While there are some gaps and concerns about data quality, the issues are addressed transparently in the report.

To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve. The MSG may also wish to discuss the legislative texts which place the current value of gold declared to the CDDI at USD 1.86, and how this could be updated to reflect market prices.

Table 3- Summary initial 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 EITI Report gives an overview of the extractive sector, including on exploration activities.	Satisfactory progress
Production data (#3.2)	Togo has no official comprehensive statistics on production. To address this gap, the MSG requested that participating companies and government agencies provide production data, which is reconciled in the EITI Report. While there are some gaps and concerns about data quality, the issues are addressed transparently in the report.	Satisfactory progress
Export data (#3.3)	Togo has no official comprehensive statistics on exports. To address this gap, the MSG requested that participating companies and government agencies provide export data, which is reconciled in the EITI Report. While there are some gaps and concerns about data quality, the issues are addressed transparently in the report.	Satisfactory progress
Secretariat's recommendations: <ul style="list-style-type: none"> To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve the collection of production data. 		

- To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve. The MSG may also wish to discuss the legislative texts which place the current value of gold declared to the CDDI at USD 1.86, and how this could be updated to reflect market prices.

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.

Assessment

Materiality (#4.1)

Documentation of progress

Materiality and revenue streams:

In the absence of sufficient data for materiality analysis, the Steering Committee adopted the same scope for reconciliation in 2014 as in 2012 and 2013 (ITIE Togo, 2016, s. 11). This approach was adopted for three main reasons. Firstly, the data provided during the scoping phase was incomplete and several public administrations did not report all the necessary information. Thus, the approach was mainly based on sector-specific payments (payments made to the DGMG), whereas the latter do not represent most of extractive revenues in Togo. Secondly, this approach allowed the MSG to consider only the extractive-sector specific payments by public works companies in the quarrying sector. Thirdly, this approach allowed for materiality to be assessed in relation to a target coverage rate for reconciliation.

The MSG noted that all revenue streams related to mining taxation, common law taxation, Subnational Payments, Subnational Transfers and Social Payments. All mining companies included in the reconciliation scope were asked to provide, in addition to the flows mentioned in the declaration form, all flows of payment exceeding USD 9,230 (line 10.1 of the reporting template). All gold marketing companies were retained along with the only transport company 'Togo Rail'. Groundwater companies were selected applying a materiality threshold of USD 18,451. The public administrations were invited to unilaterally disclose revenue collected from companies, not selected within the reconciliation scope, but listed as having extractive activity.

The two exceptions to the 2012 /2013 approach were the exclusion of ENI, which ceased its activities in Togo and no longer had any physical existence in the country, and SONATRAC Togo, which no longer held a license and did not made any payments to DGMG during 2014 (ITIE Togo, 2016, s. 11).

The Steering Committee decided to set the acceptable margin of error for discrepancies between payments from extractive companies' revenues from government declarations at 1% of total extractive revenues as reported by government agencies (ITIE Togo, 2016, s. 46). For the purposes of reconciliation work on payment flows, the Steering Committee retained the threshold of XOF 100 000 (USD 185) from which a gap requires the collection of the necessary supporting documents from the reporting parties to

be able to carry out its analysis and adjustment.

These considerations resulted in a total of 46 revenue streams to be included in the scope of the 2014 EITI Report (ITIE Togo, 2016, s. 41). All revenue streams are described in the report. None of the revenue streams listed in EITI Requirement 4.1.b appear to have been omitted. The materials and presentations forming the basis for the MSG's decision, including detailed minutes of the MSG's discussion are available from 29 March 2016 MSG meeting minutes.

Reporting companies:

Based on the materiality approach described above, 35 companies were identified for inclusion in the scope of reconciliation (ITIE Togo, 2016, s. 73). This included the state-owned phosphate company, SNPT, groundwater companies as well as cement, gravel, marble and sand producers. Thirty-two companies were mineral or water producers; two were gold producers and one was a transport firm.

Materiality of omitted company payments:

The names of the targeted companies indicating which companies reported and which ones did not report are disclosed in the 2014 EITI Report (ITIE Togo, 2016, s. 12). Four of the targeted companies failed to report, namely, SNCTPC, CARMAR Togo, STII and Terra Metaux rares. SNCTPC justified the lack of reporting by noting that it did not consider itself an extractive company since it was a not-for-profit whose main activities were road and bridge construction works. With respect to TERRA Rare metals, a letter from the Minister of Mines and Energy dated 22 February 2013 cancelled the six research permits granted to the company. The Independent Administrator stated in the 2014 EITI Report that given the low contribution of the other three companies, the absence of a declaration should not affect the comprehensiveness of the data presented in this report. Government disclosures confirm the lack of revenues from these four companies, which represents 0.01% of state revenues from extractive companies.

The 2014 EITI Report (ITIE Togo, 2016, s. 12) notes that SNPT did not submit the receipt details for the amounts declared during reporting. The Independent Administrator was thus unable to reconcile these payments with revenues reported by the various financial authorities. The variances on the reconciliation of SNPT payments were USD 226,897.

Material government entities:

Nine government agencies were included in the 2014 Report. The list of these entities is presented in Section 4.3 of the EITI Report (ITIE Togo, 2016, s. 43). The EITI Report notes that two agencies from previous reporting were excluded, namely the Direction Générale des Hydrocarbures (DGH) due to the halt of petroleum activities in the country and the Autorité de réglementation du secteur de l'électricité (ARSE) which received no payment from extractive companies.

All the government agencies identified for reconciliation submitted declaration forms for each of the extractive companies included in the scope (ITIE Togo, 2016, s. 12). The Tax Authority, Commissariat des Impôts, did not submit the information on subnational transfers to local communities in the mining areas. Thus, these transfers were not considered during the preparation of this report.

Discrepancies:

The MSG decided that an acceptable margin of error following reconciliation was 1% of the total extractive revenue as declared by government agencies. The Independent Administrator would seek investigate further if the discrepancy was over XOF 100,000 (USD 185) (ITIE Togo, 2016, s. 46).

The 2014 EITI Report notes that the total adjusted government revenues amounted to XOF 16,732,429,322 (approximately USD 30,891,295) whilst adjusted company revenues amounted to XOF 16,732,429,322 (ITIE Togo, 2016, s. 48). The total discrepancies amounted USD 56,063 following reconciliation. This amounted to 0.18% of state-declared revenue. The report noted that this discrepancy was below the acceptable percentage established by the Steering Committee.

Full government disclosure:

Requirement 4.1.d of the 2016 EITI Standard states that “unless there are significant practical barriers, the government is additionally required to provide aggregate information about the number of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds”. The government has unilaterally disclosed the revenues from the non-participating entities. Thus, full government disclosure is provided. The government unilaterally reported for 78 companies. These companies are presented in Annex 3 of the report (ITIE Togo, 2016, s. 75), but are not disaggregated by revenue streams.

Assessment of comprehensiveness:

The 2014 Report discloses USD 30,891,295 in total government revenues from the mining, water, commercialisation and transport sectors (ITIE Togo, 2016, s. 11). Thirty-five companies participated, allowing for a reconciliation of 97% of total revenues from the extractive sector. The non-participation of four companies accounts for 0.01% of total government revenues (ITIE Togo, 2016, s. 11). SNPT did not provide receipt details allowing for reconciliation with government authorities amounting to USD 226,897. The report also noted that the Tax Authority, Commissariat des Impôts, did not submit the information on subnational transfers to local communities in the mining areas. Total discrepancies amounted to 0.18% of state-declared revenue.

The Independent Administrator has included an assessment of the comprehensiveness of the 2014 EITI Report, stating that: “In light of the foregoing, we have not identified any material elements that could call into question the comprehensiveness and reliability of extractive sector revenues as reported by the collecting bodies in this report” (ITIE Togo, 2016, s. 11).

Stakeholder views

The Steering Committee and Independent Administrator confirmed that the information obtained during the EITI scoping study was not fully comprehensive and could not be used as a basis for the 2014 EITI Report. Civil society members of the Steering Committee stated that the information contained in the EITI 2013 Report was much more relevant than those obtained during the 2014 scoping study and supported the use of 2013 data. The Togolese Revenue Office (OTR) explained the lack of information for the scoping due to the transition from information managed by the former customs and tax structures, to the OTR. The OTR although established by law in 2012, became operational in 2014 and was still in transition at the time of data collection in 2016.

According to the OTR, this situation would be improved in future EITI Reports and it would be possible to

know in advance mining revenues for a given fiscal year. They noted that this information could also be published online through the SGIO tax system and Sydonia. The Independent Administrator confirmed that he did not identify any significant elements that would call into question the comprehensiveness and reliability of the income declared in the EITI 2014 Report.

Initial assessment

The International Secretariat's assessment is that **Togo** has made **satisfactory** progress towards meeting this requirement.

In accordance with Requirement 4.1, the MSG has considered and agreed an approach to materiality and ensured that all material revenue streams are included in the scope of the 2014 EITI Report. The approach to materiality thresholds and the sectors should ideally have been based on more recent data for 2014 revenues, but systems have since been put in place to ensure that this will be reported on in future EITI Reports. The revenue streams considered material are listed and described in the EITI Report, including the revenue streams listed in provision 4.1.b of the EITI Standard. The MSG has identified the companies making material payments and these companies reported payments in accordance with the materiality definition. Omissions from non-reporting companies account for 0.01% of total state revenue. The MSG has identified the government entities receiving material revenues and these government entities reported receipts in accordance with the materiality definition. Omissions from non-reporting government entities account for 0.18% of total state revenue. The report includes a reconciliation of 97% of government revenues and company payments, including payments to and from the state-owned enterprise, in accordance with the agreed scope. The government has also disclosed the number of total revenues received from each company although this is not disaggregated by revenue stream. The Independent Administrator did not identify any material elements that could call into question the comprehensiveness of extractive sector revenues as reported by the collecting bodies in this report. The International Secretariat therefore concludes that the wider objective of comprehensive disclosure of taxes and revenues has been achieved.

To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve the collection of production data.

In-kind revenues (#4.2)

Documentation of progress

The 2014 EITI Report notes that there was no exploration or production activities in the oil and gas sector in 2014. As such, it follows that there were no in-kind revenues for that sector. With respect to the mining sector, the 2014 EITI Report does not speak to any in-kind payments made by companies to the government.

Stakeholder views

Stakeholders confirmed that in-kind revenues were not applicable in Togo.

Initial assessment

The International Secretariat's initial assessment is that this requirement is **not applicable** in **Togo**.

Barter and infrastructure transactions (#4.3)

Documentation of progress

The 2014 EITI Report (ITIE Togo, 2016, s. 38) notes that interviews and visits made to the various financial authorities and public administrations revealed the existence of the following barter agreements: SNCTPC benefits from a tax exemption on the exploitation of building materials in exchange for carrying out Togolese land development works. This situation constitutes a case of barter in accordance with the EITI Rules and the corresponding flows have been included on the declaration form used during the collection of the data. However, no information has been provided in this respect either on the part of the company or on the part of the Public Administrations retained in the reconciliation perimeter.

Stakeholder views

According to the Independent Administrator, barter agreements in quarry materials exist in the context of road construction with SNCTPC. Government stakeholders confirmed that contracts exist between the Ministry of Public Works and China Road & Bridge Corporation (SNCTPC) for the asphaltting of the Lomé bypass and the reshaping of the Togblékopé-Tsevie Road. In these contracts, quarries and building materials are provided free of charge by the government. Full exemption from taxes, duties, and levies are also granted to the construction company. Company representative sees this as a form of unfair competition as these construction companies sell quarry products on the local market. Decree No. 29/MME/CAB/DGMG/2015 shared with the International Secretariat during the mission notes that this permit is exceptionally granted for the duration of works on this project. The company is also expected to produce quarterly reports on its activities to the General Director of Mines and Geology.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **meaningful** progress in meeting this requirement.

The Steering Committee has not defined any materiality level for infrastructure provisions and barter arrangements. Barter agreements exist and there is no information that these documents are publicly available. There is no evidence that the MSG has discussed the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts.

In accordance with requirement 4.3, the MSG should gain a full understanding of the terms of the relevant barter agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts. The multi-stakeholder group and the Independent Administrator should ensure that the EITI Report addresses these arrangements, providing a level of detail commensurate with the disclosure and reconciliation of other payments and revenues streams.

Transport revenues (#4.4)

Documentation of progress

The 2014 Report (ITIE Togo, 2016, s. 29) gives details on the rights transferred to the holder of a permit

for the transport of hydrocarbons. It also notes that Article 2 of the Mining Code deals with the legal framework for the transport of oil, gas and mining revenues. The report notes that two companies have the right to transport mining goods in Togo, namely, Togo Rail and MM Mining.

The report (ITIE Togo, 2016, s. 29) includes a description of the transport agreements including transportation of minerals by rail:

- Togo rail: Under a concession contract signed between the Togolese State and Togo - Rail on 16 December 2002, the management of Togo's railways was granted to Togo - Rail for 25 years. The specifications of the concessionaire prevail among other things, the rehabilitation of railway infrastructure, the restoration of the railways in a new perspective, the improvement of rail transport, etc. The agreement provides for payment by the company of a 7.5% royalty of the turnover. However, since 2009, the company no longer pays the fee and following the forfeiture of the exclusivity right the State has granted a part to MM Mining. The Independent Administrator notes, however, that no information has been provided in this respect either on the part of the company or on the part of the Public Administrations retained in the reconciliation scope.
- Transport of iron ore by MM Mining: the mining agreement between MM Mining and the Togolese State provides that the company will carry out the technical and commercial exploitation of the railway transport services of the railway network (Lomé-Blitar and Lomé-Kpalimé). However, there are no provisions governing royalties or payments. To date, the company does not use the rails for the transport of iron ore and does not pay as a result of royalties.

The report also gives information on the transport of gas from Nigeria to West Africa by West African Gas Pipeline Company Limited (ITIE Togo, 2016, s. 30). GAO's harmonised tax regime has granted five years of tax exemption since the start of operations of the Gas Pipeline in 2011. GPCL would not be affected by fiscal year 2014.

Definitions of payments and method of calculation

The Togo rail payments are detailed in the 2014 EITI Report (ITIE Togo, 2016, s. 133). Total reconciled government revenues amounted to USD 297,630. Similarly, MM Mining paid a total of USD 177,890 to the government in 2014. However, these taxes were not specific or linked to the 7.5% royalty of the turnover.

Stakeholder views

During stakeholder consultation, inter-ministerial Decree No. 2008-146/PR which allocates rail transport activities to the company Wacem and MM mining, was communicated to the International Secretariat. Although the railways remain the property of the state, MM Mining Ltd would be allowed the use of the northern railway route Lomé-Blitta and the Western route Lomé-Kpalimé, non-exclusively for the transportation of mining goods. Wacem would also have non-exclusive use of the eastern Lomé-Tabligbo route. Wacem was expected to complete the Lomé-Aflao route within one year of the signing of the decree. A concession agreement and contractual requirements were to be agreed within three months of the signing of the decree, but the International Secretariat has not been provided with a copy of these documents.

Government officials noted that the non-payment of royalty fees of 7.5% of turnover was a problem that

should be resolved as quickly as possible. With respect to the transport of cement, company representatives noted that the transport of clinker was done via train and truck. They noted that road transport was not addressed during EITI scoping. According to an African Development Bank document titled "The transport sector in Togo" (2014), in 2010 Wacem had used the railway for a quarter of its clinker production.⁴⁷ However, most of Wacem's production was via the roads. The document also mentioned that SNPT used the railway to transport phosphate to the port.

Initial assessment

The International Secretariat's initial assessment is that this requirement is **not applicable** in Togo in fiscal 2014.

The 2014 EITI Report notes that two companies have the right to transport mining goods in Togo, namely, Togo Rail and MM Mining. It includes a description of the transport agreements including transportation of minerals by rail. The report states that payment of transport-specific taxes amounted to zero in fiscal 2014. As such, there were no material payments made by companies to the government as transport revenues.

To strengthen implementation, the MSG may wish to discuss the cessation of the payment of royalties by the transport companies and the volume of any commodities transported on the railways.

Transactions between SOEs and government (#4.5)

Documentation of progress

At present, Togo does not have a state-owned enterprise (SOE) that operates or holds assets in the hydrocarbons sector (ITIE Togo, 2016, s. 21). Togo has one SOE operating in the water sector, the TdE (ITIE Togo, 2016, s. 28). It distributes running water and collects a tax on water taken from the water table by companies during their excavations. According to the Water Division, 43 companies obtained agreements, but the majority have not made any payments since the Water Division has not requested that they submit the readings of the meters. This is linked to the lack of regulations accompanying the water law. The total amount of the water withdrawal tax in 2014 is XOF 119 700 (ITIE Togo, 2016, s. 50).

Togo also has the national phosphate company, SNPT (ITIE Togo, 2016, s. 28). SNPT was requested to report on payments to government agencies, payments on behalf of extractive companies and submit information on their beneficial ownership in extractive companies. The state was also requested to provide information on beneficial ownership in extractive companies, barter transactions, all transactions with SOEs and criteria used in the allocation of licenses. SNPT disclosed its payments to the government to the value of USD 18,647,653 following adjustments by the Independent Administrator (ITIE Togo, 2016, s. 48). The Independent Administrator noted that SNPT did not provide detailed receipts allowing for more in-depth reconciliation with government figures.

⁴⁷ See: [https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/AfDB - Togo - Note sur le secteur du transport.pdf](https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/AfDB_-_Togo_-_Note_sur_le_secteur_du_transport.pdf)

The report does not refer to any ad hoc transfers.

Stakeholder views

Representatives from SNPT confirmed that the company operated like a private company with no special relationship to the government. The TdE confirmed that it received no payments from water companies in 2014 and that regulations for such payments were not yet adopted.

During the stakeholder consultation, representatives of SNPT provided the International Secretariat with its Board's management report for fiscal 2015. The management report is submitted to the Supervisory Committee which is composed of the Minister of Mines, the Minister of Finance, the Minister of the Economy and the Minister of Commerce. This Supervisory Committee decides on the reallocation of the SNPT's profits and determines the number of dividends paid to the state. The last meeting of the Supervisory Committee on 26 December 2016 took resolutions concerning the 2015 financial year. This allocation of dividends was at a value of USD 2,215,431 for fiscal 2015.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **meaningful** progress in meeting this requirement.

SNPT disclosed its payments to the government to the value of USD 18,647,653 following adjustments by the Independent Administrator. Although SNPT comprehensively disclosed its payments to the government, it did not provide detailed receipts allowing for more in-depth reconciliation with government figures.

In accordance with requirement 4.5, the MSG should ensure that SNPT provides the detailed information requested by the Independent Administrator allowing for more in-depth reconciliation with government figures.

Subnational direct payments (#4.6)

Documentation of progress

Direct payments to municipalities and prefectures correspond to the prefectural fees applicable to extractive companies and which are provided for in the deliberations of the special delegations of the councils of the prefectures. These deliberations are governed by Law No. 64-12 of 11 July 1964 on the reorganisation of the Councils of the Administrative District of Togo. This is managed by the special delegations of municipalities and mining prefectures. Direct subnational flows were disclosed by both companies and the state. Companies declared USD 14,397 (XOF 7,798,500) whilst the government declared USD 7,661 (XOF 4,150,000). This resulted in a discrepancy of USD 6,735 which could not be reconciled.

Stakeholder views

The Independent Administrator confirmed that some local government representatives had participated in reconciliation, but that this participation was not complete to allow for further explanation of discrepancies in the EITI Report.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress towards

meeting this requirement.

Prefectural fees applicable to extractive companies are paid directly to the municipalities and prefectures. Direct subnational flows were disclosed by both companies and the state. There is a case for concluding that this requirement as “not applicable”, given that the total payments are small. However, the MSG considers these payments significant and has agreed to include these payments within the scope of the report. Local government participation was not comprehensive. However, due care must be paid so that the cost of further clarification on this issue does not exceed the value of the payments themselves.

To strengthen implementation, the MSG may wish to continue requesting that companies disclose their sub-national payments to local government agencies, whilst pursuing systematic government disclosure through reforms to local government public financial management systems.

Level of disaggregation (#4.7)

Documentation of progress

In accordance with Requirement 4.7 of the 2016 EITI Standard, the 2014 EITI Report (ITIE Togo, 2016, s. 17) notes that data was reported by company, by revenue streams and by reporting public entities. Company reporting templates were included in the report and provide fully disaggregated data per company and revenue stream (ITIE Togo, 2016, s. 114). For each declared amount, the reporting entities submitted details per payment and receipt.

With respect to project level reporting, the Independent Administrator noted that most of the companies selected in the conciliation perimeter operated a single project and had therefore submitted declarations per project (ITIE Togo, 2016, s. 17). However, SNPT operated two mines, namely Hahotoé in Vo and Kpogamé in the Zio prefecture, and was not able to produce a declaration by project. The production of the two mines was processed at the company's plant in Kpémé and subsequently exported, making a declaration per project impossible. However, since it was the same ore for the same plant, this could be viewed a single production project.

Stakeholder views

Stakeholders did not present any opposing views on the issue.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress in meeting this requirement. The financial data disclosed is disaggregated by individual company, government entity and revenue stream.

To strengthen implementation, the MSG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of sector-specific levies and taxes ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board⁴⁸.

⁴⁸ <https://eiti.org/BD/2017-14>

Data timeliness (#4.8)

Documentation of progress

The 2012 EITI Report was published in December 2014, the 2013 Report in July 2015, and finally the 2014 Report in December 2016. As such, the last two Reports relate to exercises within two fiscal years.

Stakeholder views

Stakeholders did not present any opposing views on the issue.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress towards meeting this requirement. Togo has produced timely EITI Reports in accordance with provision 4.8 of the EITI Standard.

Data quality (#4.9)

Documentation of progress

Terms of Reference for the Independent Administrator:

The 2014 Report (ITIE Togo, 2016, s. 40) noted that the ToRs for the Independent Administrator were agreed on 30 March 2015. The work was carried out in accordance with the Terms of Reference included in the Request for Proposals and were approved by the Steering Committee (EITI-Togo 2016).

The ToRs for the 2014 EITI Report were generally consistent with the standard ToRs agreed by the EITI Board (as of March 2016). The ToRs confirmed the need for the MSG and Independent Administrator to agree materiality thresholds for selecting companies and revenue streams during the inception phase.

Appointment of the Independent Administrator:

The Terms of Reference relating to the recruitment of an Independent Administrator, as adopted by the Steering Committee on 30 March 2015, specified that EITI-Togo wished the Independent Administrator to undertake work to determine the scope of application related to the definition of materiality and income streams to be covered.

According to the minutes of the 21st Regular Meeting of the Steering Committee on 30 March 2015, Mr. Amekudzi, Chief, Administration and Capacity Building Unit, Technical Secretariat, gave a brief presentation of the ToRs for the 2014 EITI Report. Members commented on the substance of the document. They pointed out that ENI no longer operated in Togo and that it should no longer be included in the list of reporting companies for the 2014 Report. These comments would be considered in finalising the document. The ToRs were adopted subject to these comments and those to be sent afterwards by some members.

In the 22nd Regular Meeting of the Steering Committee on 3 November 2015, it was noted that the recruitment of the Independent Administrator for the 2014 EITI Report could not be fully discussed. The members considered that since the Independent Administrator had already been recruited, they had only to take note of the situation. The technical secretariat explained that the recruitment of the Independent

Administrator had followed all the necessary steps since the adoption of the Terms of Reference by the Steering Committee until the recruitment through the Notice of Expression of Interest and the Request for Proposal. The recruitment was carried out according to the national procurement procedures under the supervision of the National Directorate of Public Procurement Control (DNCMP).

Agreement on the reporting templates:

The Independent Administrator prepared a standalone inception report for the 2014 EITI Report and the scoping options were presented to the MSG at its meeting on 30 March 2015 (ITIE Togo, 2016, s. 40). Reporting templates were included in the EITI Report. The MSG had also received feedback prior and during this meeting from the Independent Administrator on the templates.

Confidentiality:

The 2014 EITI Report did not comment on the procedures, if any, agreed with the Independent Administrator for safeguarding confidential information.

Review of audit practices:

The 2014 Report (ITIE Togo, 2016, s. 37) noted the auditing procedures for companies according to the OHADA legislation⁴⁹. It noted that Togo requires oil, gas and mining companies to certify their annual accounts. However, this does not extend to the joint ventures of PSC, since this information is audited at the level of each partner. Public limited companies which do not launch a public issue of shares, shall be bound to appoint an auditor and an alternate auditor whilst those that do launch a public issue shall appoint at least two auditors⁵⁰. According to Article 376 of the Uniform Act of OHADA, the appointment of an Auditor is compulsory if one of the following three thresholds is respected: share capital exceeds approximately USD 18,461 (XOF 10 million); turnover exceeding approximately USD 461,548 (XOF 250 million); and the permanent staff is more than 50 persons.

On government auditing practices, the 2014 Report (ITIE Togo, 2016, s. 37) noted that the Auditor's Court (Cour des Comptes) is responsible for public agencies and companies. It assists the Parliament and the government in the control of the execution of the budget laws. It carries out all the studies of finances and public accounting requested by the government, the National Assembly or the Senate. The Cour des Comptes is expected to produce a report on the implementation of and compliance with the financial law, through a bill and general statement of compliance. The audit and control chamber is responsible for the preparation of this bill.

The report did not appear to comment on whether these procedures are implemented in practice.

Assurance methodology and data reliability assessment:

To ensure the reliability and completeness of the data reported in the 2014 EITI Report (ITIE Togo, 2016, s. 40), the Steering Committee agreed the following measures for mining companies. Reporting templates submitted by the extractive companies selected for reconciliation must be: signed by a person authorised to represent the extractive company; supported by the details of payments (receipt by receipt) for all amounts reported in the template; supported by certified financial statements for the fiscal 2014 for

⁴⁹ Article 702 of the Uniform Act of Commercial Companies Law and the OHADA Economic Interest Grouping

⁵⁰ <http://www.droit-afrique.com/images/textes/Ohada/AU/OHADA%20-%20AU%20Societes.pdf>.

companies domiciled in Togo; and certified by an external auditor who attests that no item has been brought to his/her attention which is likely to call into question the reliability of the deferred payments by the company. The auditor may be the auditor of the company or an auditor appointed for the occasion.

In terms of compliance with the procedure and the assessment of reliability by the Independent Administrator, 15 companies did not provide certified reporting templates, namely Pomar, Voltic Togo Ltd, CECO BTP, RRCC, G&B African Resources, Colas, STII, Carmar Togo, SNCTPC, CTEM Ltd, GER, GTOA Ltd, Etoile du Golfe, EBOMAF SA and ADEOTI. The 2014 EITI Report (ITIE Togo, 2016, s. 12) stated that companies that did not submit certified reporting forms totalled 2% of total reconciled revenues declared by government reporting agencies. The report also noted that only one company, Midnight Sun, had been audited according to international standards. All financial authorities had submitted their certified statements by the Supreme Audit Institution (Cour des Comptes). The declaration submitted by the CNSS had been certified by its statutory auditors.

The Independent Administrator included an assessment of the reliability of data in the 2014 EITI Report (ITIE Togo, 2016, s. 12), stating that: "In light of the foregoing, we have not identified any material elements that could call into question the comprehensiveness and reliability of extractive sector revenues as reported by the collecting bodies in this report."

Reconciliation methodology and application of international standards:

The Independent Administrator noted that the preparation of the 2014 EITI Report was carried out by adhering to the International Standards and Related Services (ISRS) standards and more precisely Standard 4400 on "Financial information review missions based on agreed procedures" IFAC Code of Ethics (ITIE Togo, 2016, s. 7). The methodology used by the Independent Administrator in the 2014 EITI Report **in pages 15-17 of the report**. The report notes that the work was carried out in accordance with the included Terms of Reference and in the Request for Proposals and as approved by the Steering Committee.

Sourcing of information:

In general, the 2014 Togo-EITI Report is sourced throughout. It does not indicate any authorship beyond the Independent Administrator.

Summary data:

All EITI Reports from 2010-2014 have been published in machine-readable format on the EITI-Togo website.⁵¹

Recommendations:

The 2014 EITI Report (ITIE Togo, 2016, s. 64) stated that, without calling into question the reliability and completeness of the income data reported in this Report, the Independent Administrator had identified findings and recommendations for improving the implementation of the EITI process in Togo. The report includes recommendations related to fiscal 2014, but as well follow-up on recommendations from

⁵¹ <https://drive.google.com/drive/folders/0B361RU22DTPfRlhYQUImQ0tZUmM>

previous EITI Reports.

Stakeholder views

According to various stakeholders on the MSG, the selection of the Independent Administrator was made by the national secretariat, according to the rules of public procurement. This was then submitted to the Steering Committee for approval.

With respect to companies' audited accounts, in the 2014 EITI Report, the Independent Administrator noted that only one company had been audited in accordance with international standards. The Independent Administrator explained that the type of audit applied by the company was requested in the declaration form. When a company does not specify its audit methodology, it is considered as non-compliance with international audit practices. However, company representatives from the state-owned phosphate company, noted that their accounts were audited in accordance with International Financial Reporting Standards (IFRS).

The representatives of the Supreme Audit Institution (Cour des Comptes) stated that they had verified the government declarations for the 2014 EITI Report. The Court des Comptes had produced annual reports from 2009 to 2014. On 12 January 2017, the Settlement Act of 2014 was deposited with the National Assembly. The Court of Auditors' methodology for certifying the state's declarations included participation in the meeting for agreeing EITI reporting templates with the Steering Committee. They then did a material control of the figures utilising receipts and other supporting documents, etc. In the case of irregularity of the parts of the administration, they noted that there was verification with the government agency and in early EITI Reports, conducted enquiries with the company in question.

The Cour des Comptes also has the mandate to verify the accounts of state enterprises. The Court has already audited Togo Electricity, the Water Board, the University of Lomé and Togo's embassies abroad. However, no audit for SNPT has been planned.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress towards meeting this requirement.

In accordance with Requirement 4.9, the MSG endorsed the selection of the Independent Administrator, although the group could be more engaged in the recruitment of the Independent Administrator. The Independent Administrator and the MSG agreed the reporting templates and the ToRs to produce the EITI Report, which were consistent with the standard ToRs. The reconciliation of payments and revenues has been undertaken by an Independent Administrator, appointed by the MSG, and applying international professional standards. The EITI Report provided a review of audit procedures in the country but did not speak to actual practice, although it does document whether reporting companies and government entities had their financial statements audited. Although all government agencies had their reporting templates certified, 15 companies amounting to 2% of total reconciled revenues did not provide certified reporting templates. SNPT didn't submit detailed receipts to allow the Independent Administrator to reconcile payments by this company with the declarations of various government entities. SNPT represented approximately 60% of reconciled revenues whilst its discrepancies represented less than 1% of reconciled revenues. The report provides a clear statement from the Independent Administrator on the

reliability of the (financial) data presented, including a summary of the work performed by the Independent Administrator and the limitations of the assessment provided.

Table 4- Summary initial 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)	The MSG has considered and agreed an approach to materiality and ensured that all material revenue streams are included in the scope of the 2014 EITI Report. The report includes a reconciliation of 97% of government revenues and company payments. The government has also disclosed total revenues received from each company.	Satisfactory progress
In-kind revenues (#4.2)	The EITI Report and stakeholder views have confirmed the absence of in-kind revenues as per requirement 4.2. of the EITI Standard.	Not applicable
Barter and infrastructure transactions (#4.3)	Barter and infrastructure agreements exist in Togo, but documentation linked to this is not publicly available and has not been extensively disclosed by the MSG.	Meaningful progress
Transport revenues (#4.4)	The report includes a description of the transport agreements including transportation of minerals by rail. The report states that payment of transport-specific taxes amounted to zero in fiscal 2014.	Not applicable
Transactions between SOEs and government (#4.5)	The SOE, SNPT, disclosed its payments to the government. Although SNPT comprehensively disclosed its payments to the government, it did not provide detailed receipts allowing for more in-depth reconciliation with government figures.	Meaningful progress
Subnational direct payments (#4.6)	The 2014 EITI Report discloses payments by companies and receipts by local government units. Where possible, these flows are also reconciled. This process could be	Satisfactory progress

	better detailed in EITI Reports.	
Level of disaggregation (#4.7)	In accordance with Requirement 4.7 of the 2016 EITI Standard, the 2014 EITI Report notes that data was reported by company, by revenue streams and by reporting public entities.	Satisfactory progress
Data timeliness (#4.8)	Data covering financial year 2014 was published by the end of 2016, in accordance with the EITI's timeliness requirements.	Satisfactory progress
Data quality (#4.9)	The IA and the MSG agreed ToRs to produce the EITI Report consistent with the standard ToRs and agreed upon procedures issued by the EITI Board, and applied this ToRs and procedures in practice. The report provides a clear statement from the Independent Administrator on the reliability of the (financial) data presented, including a summary of the work performed by the Independent Administrator and the limitations of the assessment provided.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> • To strengthen implementation, the MSG is encouraged to continue discussions with companies and the OTR on how to improve the collection of production data. • To strengthen implementation, and in accordance with the global trend toward EITI mainstreaming, the OTR could consider disclosing disaggregated data on mining revenues prior to reconciliation work. • In accordance with requirement 4.3, the MSG should gain a full understanding of the terms of the relevant barter agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts. The multi-stakeholder group and the Independent Administrator should ensure that the EITI Report addresses these arrangements, providing a level of detail commensurate with the disclosure and reconciliation of other payments and revenues streams. • To strengthen implementation, the MSG may wish to discuss the cessation of the payment of royalties by the transport companies and the volume of any commodities transported on the railways. • In accordance with requirement 4.5, the MSG should ensure that SNPT provides the detailed information requested by the Independent Administrator allowing for more in-depth reconciliation with government figures. • To strengthen implementation, the MSG may wish to continue requesting that companies disclose their sub-national payments to local government agencies, whilst pursuing systematic government disclosure through reforms to local government public financial management systems. 		

- To strengthen implementation, the MSG may wish to consider the extent to which it can make progress in implementing project-level EITI reporting of sector-specific levies and taxes ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board (add a link).

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 2014 EITI Report (ITIE Togo, 2016, s. 34) noted that in Togo, all mining taxes are collected by the financial authorities and allocated to the state budget. All payments by extractive companies to the state are done according to the state budget revenue collection regime, whereby all payments are in cash and deposited to the unique account entitled general budget. The report explained that revenues from the extractive sector lose their identity once they are credited to the Treasury's unique account. As such, their use cannot be traced to public expenditures. Payments by extractive companies are made to several financial authorities, mainly the Togo Revenue Office (OTR) for ordinary taxes and the DGMG for specific payments. The revised Mining Code does foresee a fund for the development and promotion of petroleum activities, but this disposition is not yet in effect.

There is no reference to international standards on revenue classification systems such as the IMF Government Finance Statistics Manual as is encouraged by the EITI Standard.

Stakeholder views

MSG representatives confirmed that payments by extractive companies were made to several financial authorities, mainly the Treasury through the Togo Revenue Office (OTR), for ordinary taxes and the DGMG for specific payments.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress in meeting this requirement.

All revenues collected by the financial authorities are deposited in the single account of the Treasury. As a result, revenues from the extractive sector lose their identity as soon as they are credited to the Treasury's single account. Their uses cannot therefore be traced back to public spending or investments.

Subnational transfers (#5.2)

Documentation of progress

During scoping, the MSG noted that although these payments were not material and that it was not currently feasible to reconcile these revenues, these would be unilaterally declared by the government. The 2014 EITI Report (ITIE Togo, 2016, s. 34) noted that the current Mining Code does not provide for rules on the sharing of mining taxes with the municipalities and localities of the mining sites. The regulations allowing for the disbursement of the transfer describe the amounts to be transferred to each municipality. Ordinary taxes are collected by the Tax Authority (CI) and then repaid partially or fully to the local communes and prefectures, namely the professional tax (TP), area tax (TF) and waste disposal tax (TEO). Half of the TP and TF go back to the communities. The TEO is determined yearly based on the finished properties and properties under construction where a waste disposal service is operational. TP, TF and TEO amounted to USD 1,709,398, USD 116,106 and USD 6,985 respectively.

The CI determines monthly the share of each community in these receipts and sends a payment slip to the Receiver General of the Treasury, who transfers the share of each community to their account opened with the Treasury. The allocation of this income in the budget of the local authorities is not done by nature of tax and per company, so the prefectures receive a global amount. As such, the reconciliation of subnational transfers is technically unfeasible. As a result, the Steering Committee decided to include them in the EITI 2014 report through a unilateral declaration from the CI (ITIE Togo, 2016, s. 34).

Additionally, the CDDI collects the infrastructure protection tax (TPI), 80% of which goes to the national budget and 20% to the SAFER account; and lastly the tax on the marketing of precious stones and materials which goes to both the DGD and DGMG (4.5% of the market value of exports) (ITIE Togo, 2016, s. 34). It is not clear the amounts transferred for the other subnational transfers mentioned in the report, namely TP, TPI and the tax on the marketing of precious stones and materials.

For the CI, receipts for the payment of taxes in communes and prefectures are not centrally centralised and cannot be accessed through their tax collection and tracking system (ITIE Togo, 2016, s. 34). Similarly, certain taxes and duties such as TP, TF and TEO are generally recorded manually in the services of the CI. The 2014 EITI Report recommendations note that the Tax Authority was to send an explanatory note on the matter (ITIE Togo, 2016, s. 64).

Stakeholder views

Representatives of local government units indicated that they receive a global figure from the central government, but it was not clear how this transfer was calculated. They noted that the Togolese Revenue Office (OTR) sent a statement whilst the Treasury disbursed the funds. Representatives of local government units also expressed confusion when payments were stopped. The OTR noted that it was possible to have disaggregated transfers per local community, but this is often not demanded by the local government units. They also noted that the formulas for these transfers could also be disclosed.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **meaningful** progress towards meeting this requirement.

The 2014 EITI Report documents statutory mandatory revenue sharing requirements. During scoping, the MSG had discussed and decided to unilaterally report these transfers, although not material. The regulation describes the amount to be transferred to each sub-national government unit but the formula is not yet disclosed by the OTR. The EITI report does not highlight discrepancies between what should have been transferred and the amount actually transferred. Subnational entities receive a global amount without identification, making it impossible to identify the company and the nature of the payments.

In accordance with requirement 5.2, the MSG should liaise with the OTR to disclose the revenue sharing formula for any transfers between national and subnational government entities that are related to revenues generated by the extractive industries, including any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.

Additional information on revenue management and expenditures (#5.3)

Documentation of progress

The 2014 EITI Report (ITIE Togo, 2016, s. 31) notes the legal framework for budgeting in Togo – Law no 2008-019 of 29 December 2008 and law no 2014-13 of the l’Union Economique et Monétaire Ouest Africaine (UEMOA). It outlines the steps in budget preparation such as the time sequence, the budget discussion, adoption, execution and monitoring. The report notes that monitoring and checks are carried out by the Supreme Audit Institution (la Cour des Comptes), Audit Inspectorate (IGF) and the State Inspectorate (IGE). The Cour des Comptes creates a report on the execution of the financial laws and a general statement on their compliance. This is done through the passing of a bill which is submitted to the National Assembly by the government. The bill is tabled and then distributed at least by the end of the year following the fulfilment of the budget.

Stakeholder views

The representatives of the Supreme Audit Institution, the Cour des Comptes, confirmed that this was accurate.

Initial assessment

Reporting on revenue management and expenditures is encouraged, but not required, by the EITI Standard and progress with this requirement will not have any implications for a country’s EITI status.

It is encouraging that the MSG has made some attempt to including information on the budget-making process and **audit processes** in the EITI Report. To strengthen implementation, the MSG may wish to include any links to publicly available information on budgeting, expenditures and audit reports on the relevant government websites.

Table 5 - Summary initial 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’)
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		provisions)
Distribution of revenues (#5.1)	The 2014 EITI Report notes that in Togo all mining taxes are collected by the financial authorities and allocated to the state budget, except for royalties, registration fees and specific fixed duties paid to the DGMG. The MSG did not discuss possible mechanisms that could be put in place to establish the traceability of extractive sector revenues.	Satisfactory progress
Sub-national transfers (#5.2)	The report covers the main subnational transfers, but the actual revenue sharing formula used and the discrepancies between the amount transferred and the amount calculated were not clear to stakeholders.	Meaningful progress
Information on revenue management and expenditures (#5.3)	It is encouraging that the MSG has made some attempt to including information on the budget-making process and audit processes the EITI Report.	
<p>Initial conclusions and recommendations:</p> <ul style="list-style-type: none"> • In accordance with requirement 5.2, the MSG should liaise with the OTR to disclose the revenue sharing formula for any transfers between national and subnational government entities that are related to revenues generated by the extractive industries, including any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity. • To strengthen implementation, the MSG may wish to include any links to publicly available information on budgeting, expenditures and audit reports on the relevant government websites. 		

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 (SOE quasi-fiscal expenditures, social expenditures and contribution of the extractive sector to the economy).

6.2 Assessment

Social expenditures (#6.1)

Documentation of progress

The 2014 EITI Report states that the MSG during scoping decided to include both mandatory and voluntary social payment regardless of their materiality (ITIE Togo, 2016, s. 42). It noted that compulsory contributions for social projects cover contributions provided for by mining or petroleum agreements, or

by any commitment made by the company to the state or local populations. Payments on projects were to be reported by the extractive companies based on payments made in their accounts. The MSG chose to include all compulsory social payments, irrespective of their size, through unilateral declarations by extractive companies.

The 2014 EITI Report (ITIE Togo, 2016, s. 63) also noted that voluntary contributions for social projects cover all voluntary contributions in-kind and in cash made by extractive companies towards local development. This included health-related activities, the construction of schools and roads, market gardening and support infrastructures for agricultural activities. The Steering Committee chose to include all voluntary social payments, irrespective of their importance size, through unilateral declarations by extractive companies.

The 2014 EITI Report (ITIE Togo, 2016, s. 63) noted that the total number of social payments amounted to USD 13,189 for in-kind contributions and USD 134,480 for cash contributions, totalling USD 147,670. This is included by beneficiaries in Annex 4 of the report (ITIE Togo, 2016, s. 77). Information includes the name of the beneficiary of social payments, the municipality or region, date of payment, description of projects and its costs for in-kind payments. This information is provided for four companies namely WACEM, Scantogo Mines, MM Mining and POMAR.

Stakeholder views

Civil society representatives noted that comprehensive information on mandatory social expenditure would be facilitated by contract transparency. Representatives of SNPT noted that they had done infrastructure work in the areas in which they operated, but this was not reflected in their declarations on social expenditures.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has gone **beyond** the EITI requirements on social expenditures.

The 2014 EITI Report documents the MSG's definition of materiality with regards to mandatory social expenditures. There was no evidence of mandatory social payments in the legal and regulatory texts or the government and company declarations in 2014. With respect to voluntary social expenditures, the report includes the name of the beneficiary of social payments, the municipality or region, date of payment, description of projects and its costs for in-kind payments for four companies namely WACEM, Scantogo Mines, MM Mining and POMAR. This is a unilateral disclosure of the companies.

SOE quasi-fiscal expenditures (#6.2)

Documentation of progress

The EITI Report (ITIE Togo, 2016, s. 73) stated that similar to private companies, SNPT was asked to unilaterally disclose its quasi-fiscal expenditures, such as payments for social services, public infrastructure, subsidies on fuel or for servicing the national debt, regardless of their size. There was no further mention of quasi-fiscal expenditures in the report and there were no declarations on this by SNPT in the report.

Stakeholder views

SNPT confirmed that they did not perform any quasi-fiscal expenditures. Even if they were fully owned by the government, they were operating as any other commercial company and their social spending was purely CSR related. It is noted that the company did not disclose any mandatory or voluntary social expenditures in 2014.

Initial assessment

The International Secretariat's initial assessment is that this is **not applicable** for **Togo**. Stakeholder consultations have confirmed that quasi-fiscal expenditures do not occur in the extractive sector in Togo.

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

Documentation of progress

The EITI Reports include a section on the impact of the extractive sector on the economy. In terms of Requirement 6.3, the report captures the following data:

- i. According to the 2014 EITI Report (ITIE Togo, 2016, s. 35), the extractive sector contributed 2.9% to GDP in 2014.
- ii. The 2014 Report (ITIE Togo, 2016, s. 35) noted that the sector contributed 2.6% to the state's revenues.
- iii. The extractive sector contributed 31.6% to Togo's total exports in 2014 (ITIE Togo, 2016, s. 35).
- iv. The 2014 EITI Report (ITIE Togo, 2016, s. 36) noted that there were no official statistics on employment in the sector at the macroeconomic level. As such, the report relied on figures reported by companies which estimated at 4,385 employees. It was noted, however, that 12 companies did not report this information.
- v. The 2014 EITI Report (ITIE Togo, 2016, s. 21) gave information on the main-producing regions (Tabligbo, Hahotoé, Kpogamé, Bassar and Pagala) as well as reserves for bauxite, chromite, iron, limestone, manganese and phosphates. The report also noted the creation of a clinker factory in Sika (90km from Lomé) in 2015.

Informal sector

The 2014 EITI Report (ITIE Togo, 2016, s. 23) noted artisanal activity has been defined and covered by the Mining Code in Article 21 as follows: "Artisanal activities are prospecting, research and exploitation activities carried out in a non-mechanised manner by persons physical or moral of Togolese or foreign nationality ". The report stated that formally, the right to undertake artisanal activities can only be acquired by virtue of an artisanal authorisation granted by the Director General of Mines and Geology. The report also included information on small-scale authorisations. One artisanal authorisation was granted in 2014 to Rohi Sarl⁵².

The report (ITIE Togo, 2016, s. 23) noted that artisanal mining in Togo concerns mainly gold. The

⁵² Reference number 0310/MME/DGMG/DDCM/2014

production generated by artisanal mining on the national territory remains insignificant compared to the volumes exported. However, it is the understanding of the Independent Administrator that the vast majority of the volumes exported came from countries bordering on Togo. However, the 2014 EITI Report notes that there is no available study to confirm this.

Stakeholder views

Government representatives acknowledged the lack of employment on a national level. The World Bank representatives confirmed that a study on artisanal mining had been included as part of their project.

Initial assessment

The International Secretariat's initial assessment is that **Togo** has made **satisfactory** progress towards meeting this requirement.

The EITI 2014 Report provided information on the contribution to the GDP, the tax contribution and the contribution to Togo's exports in absolute and relative terms. Togo has no official comprehensive statistics on employment in the sector. To address this gap, the MSG requested that participating companies and government agencies provide employment data. The data is disaggregated by reporting company and is estimated as 4,385 persons in absolute terms. The report does not include information on the extractive industry employment as a percentage of total employment, however, however, the provision of data on total employment in Togo is not within the remit of the EITI. While there are some gaps and concerns about data quality, the issues are addressed transparently in the report.

To strengthen implementation, the MSG is encouraged to continue exploring opportunities to improve employment statistics.

Table 6- Summary initial 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 2014 EITI Report discloses the nature and value of discretionary social expenditures, including identifying the beneficiaries.	Beyond
SOE quasi-fiscal expenditures (#6.2)	Stakeholder consultations have confirmed that quasi-fiscal expenditures do not occur in the extractive sector in Togo.	Not applicable
Contribution of the extractive sector to the economy (#6.3)	The 2014 EITI Report discloses details about the contribution of the extractive sector to the economy in terms of GDP, total government revenue, exports and producing regions. Togo has no official comprehensive statistics on	Satisfactory progress

	employment in the sector. To address this gap, the MSG requested that participating companies and government agencies provide employment data. While there are some gaps and concerns about data quality, the issues are addressed transparently in the report.	
<p>Initial conclusions and recommendations:</p> <ul style="list-style-type: none">• To strengthen implementation, the MSG is encouraged to continue exploring opportunities to improve employment statistics.		

Part III – Outcomes and Impact

7. Outcomes and Impact

7.1 Overview

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

7.2 Assessment

Public debate (#7.1)

Documentation of progress

Comprehensibility:

Communications strategy: Due to budget constraints in 2015, the communications strategy focused on updates to the EITI-Togo website, with the addition of the video section in particular (ITIE Togo, 2016). The 2014 annual activity report confirms the EITI-Togo website as the primary communications channel for EITI information, alongside interviews to the local press (ITIE Togo, 2015). Dissemination of the 2012 and 2013 EITI Reports was scheduled for Q4-2015 (ITIE Togo, 2015).

The 2011 EITI Report was disseminated in roadshows in Lomé, in the capitals of Togo's five administrative regions (Atakpamé, Dapaong, Kara, Sokodé and Tsévié) and in nine mining communities (Vogan, Kpémé, Anfoin, Davié, Tabligbo, Lilicopé, Hahotoé, Pagala et Bangéli) in 2013 (ITIE Togo, 2014).

Vulgarisations: In addition to publishing the 2010 EITI Report in English⁵³ in March 2012, EITI-Togo published a 30-page simplified summary report for 2010⁵⁴ prepared by the Independent Administrator, Moore Stephens, and translated it into two local languages (Ewé⁵⁵ and Kabiyè⁵⁶). It also published a one-page list of tables summarising the 2010 EITI Report.⁵⁷ These communications materials have been circulated to the offices of prefectures and local communes for dissemination (ITIE Togo, 2014). The national secretariat has also prepared billboards, cartoons and theatre plays for the vulgarisation of key EITI findings, which are accessible on the websites of EITI-Togo and the government as well as being disseminated in trainings covered by radio and TV channels.⁵⁸

⁵³ <http://itietogo.org/web/wp-content/uploads/2013/12/Rapport-Final-ITIE-Togo-version-Anglais.pdf>

⁵⁴ <http://itietogo.org/web/wp-content/uploads/2013/12/Rapport-ITIE-Togo-2010-version-simplifiee-finale.pdf>

⁵⁵ http://itietogo.org/web/wp-content/uploads/2013/12/Rapport_ITIE_TOGO_Ew%C3%83%C2%A9.pdf

⁵⁶ http://itietogo.org/web/wp-content/uploads/2013/12/Rapport_ITIE_version_Kabiy%C3%A8_pdf.pdf

⁵⁷ http://itietogo.org/web/wp-content/uploads/2013/12/Rapport-ITIE_version-affiche.jpg

⁵⁸ <http://itietogo.org/videos/>

Promotion:

Press coverage of EITI activities in Togo appears to focus on the main findings of EITI Reports upon publication and the holding of capacity building workshops (mainly for reporting entities) in the capital city and the regions. In 2016, press coverage focused on the main findings of the 2012-2013 EITI Reports⁵⁹ and concerns over insufficient information on exports of artisanal-mined gold and phosphates.⁶⁰ Press clippings collected by the EITI-Togo national secretariat revealed that there was a spike in press coverage in 2012, with 14 press articles about the EITI, compared to two each in 2009 and 2010, three in 2011, five in 2014 and four in 2016.

The 2014 annual activity report noted that the MSG had reached out to most major media to grant hour-long interviews, including Radio Victoire and Radio Ephphatha (ITIE Togo, 2015), as it did in 2013 (ITIE Togo, 2014).

There is also evidence that EITI-Togo has leveraged missions by the International Secretariat to gain more media attention in the local press, as was the case for visits in 2014, 2015 and 2016 (ITIE Togo, 2015) (ITIE Togo, 2015) (ITIE Togo, 2016). EITI-Togo held a workshop to train journalists on the EITI Standard in 2013, facilitated by CSO members of the EITI to ensure a better understanding of the information included in EITI Reports (ITIE Togo, 2014). Civil society representatives on the Steering Committee were tasked with developing their communications strategy in 2014, although they had not yet started drafting it as of 10 April 2014 (ITIE Togo, 2014).

Beyond MSG interactions with the press, the 2013 annual activity report noted that the government held a national debate on the impact of EITI implementation in Togo, an event with 300 participants supported by the ADB and chaired by the Prime Minister and broadcast live on national TV (ITIE Togo, 2014).

EITI-Togo produced an 11-minute documentary⁶¹ on the regional francophone African workshop held in Lomé on 18-20 May 2011. The Steering Committee also discussed launching EITI-Togo Awards of USD 20,000 a year at its 10 April 2014 meeting (ITIE Togo, 2014)

Roadshows: The MSG led roadshows on the 2011 EITI Report to the capitals of Togo's five administrative centres in 2013 (ITIE Togo, 2014).

The MSG has also undertaken outreach and dissemination in mine-affected communities, including roadshows to nine communities in 2013 (ITIE Togo, 2014)

Workshop reports: EITI-Togo has focused on producing reports on dissemination events and capacity building workshops, both in written and in video formats, as well as the annual progress report as key channels for publicly accounting to their different constituencies. While EITI-Togo does not appear to

⁵⁹ <http://www.republicoftogo.com/Toutes-les-rubriques/Finances/ITIE-le-Togo-s-adapte-aux-normes-de-transparence;>
<http://www.savoirnews.net/Pour-plus-de-transparence-ITIE> , <http://news.alome.com/h/87271.html>

⁶⁰ [http://www.togotopinfos.com/2017/01/12/itie-que-nous-cachent-les-exploitations-de-phosphate-et-dor-au-togo/;](http://www.togotopinfos.com/2017/01/12/itie-que-nous-cachent-les-exploitations-de-phosphate-et-dor-au-togo/)
<http://news.icilome.com/?idnews=832359&t=itie--mystere-persistant-autour-des-exportations-d-or-et-des-phosphates-au-togo>

⁶¹ <https://youtu.be/b48iNTd4ol>

have published reports on capacity building workshops in 2015, there is extensive evidence of trainings in 2013 and 2014.

The MSG organised three training workshops in 2014, one in Tsévié and a four-day workshops in Lomé for reporting entities in May 2014. The MSG hosted a third workshop for reporting entities on the 2012-2013 EITI Reports in October 2014, moderated by the Auditor General (Cour des Comptes) (ITIE Togo, 2015). The MSG had previously organised capacity building trainings for EITI stakeholders on 27 December 2012 and 15 January 2013, including government agencies, extractive companies, civil society, the media, judges, the Inspectorate General of Finance and the Auditor General (ITIE Togo, 2014). The government also organised two training sessions for the Auditor General (Cour des Comptes) in July 2013, supported by France's Auditor General to improve magistrates' standards regarding their auditing of government accounts (ITIE Togo, 2014). In addition, MSG members from all three constituencies attended various international trainings in Abidjan, Accra, Brussels, Dakar, Douala and Ouagadougou in 2013 (ITIE Togo, 2014).

Public accessibility: The EITI-Togo Steering Committee and national secretariat have been proactive in ensuring the public accessibility of EITI information through online channels, in hard copy through dissemination and outreach events and through alternative channels such as cartoons and theatre.

Online: Beyond the EITI-Togo website, the national secretariat also maintains the EITI-Togo Facebook page⁶², launched in October 2010 with 275 likes as of April 2017. While EITI-Togo does not maintain an official Twitter handle, National Coordinator Kokou Didier Agbemadon has maintained an active social media presence⁶³.

The national secretariat has also posted three documentary videos of country visits and trainings by the International Secretariat in 2013 and 2015 on the EITI-Togo website.⁶⁴ It has also posted three short documentary videos about capacity building workshops in Togo.⁶⁵

Theatre: To bridge the literacy divide, EITI-Togo has also led vulgarisation of key messages from EITI Reports through street theatre in 2012, based on the 2010 EITI Report. There are three videos of this theatre on the EITI-Togo website, including a 14-minute video on the general benefits of transparency ("Transparence oblige"⁶⁶), an 18-minute video on "the war of numbers"⁶⁷ and a 17-minute video titled "We're sick of it".⁶⁸ Alongside its regional roadshows in 2013, the Steering Committee also organised for folk choirs to perform songs on themes related to transparency, corruption and the need to be accountable (ITIE Togo, 2014).

⁶² <https://www.facebook.com/itietogo/>

⁶³ <https://twitter.com/KVdDidier>

⁶⁴ https://youtu.be/75Fn6_MCgpg , <https://youtu.be/PjXW2wMEf14> . and <https://youtu.be/ruNs86PqG24>

⁶⁵ <https://youtu.be/FCWd8p4034c> , <https://youtu.be/XIH0LxeDiVk> and <https://youtu.be/Ge0cEAIGQFs>

⁶⁶ <https://youtu.be/DoH63CAZzB0>

⁶⁷ <https://youtu.be/0krJJoJbGGU>

⁶⁸ <https://youtu.be/o1mCLP5toZc>

Usability of data: While EITI-Togo has been proactive in simplifying messages to broaden its audience, efforts to improve the usability of data, through online portals for instance, have remained limited to producing machine-readable EITI data. The EITI-Togo website⁶⁹ provides a database of general information sheets about extractive companies (including water companies) operating in Togo, although the information provided is limited to cursory license and contact information.

According to Togo's 2013 annual activity report, the Steering Committee implemented a new IT system, the Extractives Resources Management Information System (known by its French acronym SIGRE), to provide public access to EITI information (administrative, legal, fiscal, technical...) from both companies and government receiving entities. The Steering Committee approved the project, awarded to a company named SOGESTI, at its 10 April 2014 meeting (ITIE Togo, 2014).

Open data policy: The Steering Committee agreed Togo's EITI open data policy in December 2016 and published it on the EITI-Togo website⁷⁰ (ITIE Togo, 2016). However, the open data policy only refers to plans to develop an online reporting portal in 2017 as a means of regularly collecting data from the sector, and it does not refer to broader government policy and standards on open data. In addition, the policy does not cover key required concepts such as access, release and re-use of EITI information.

Stakeholder views

Institutional partners in Togo noted that the EITI is a good tool for access to information, raising public awareness on the state-owned enterprises and the gold sector more generally. Stakeholders within and outside the capital have cited efforts to make the EITI Reports more understandable such as theatre sketches on mining sites, including that of SNPT. Civil society representatives noted that they were active in the dissemination activities of the EITI Report.

Company representatives of the Steering Committee stated the EITI Reports facilitate dialogue on the sector within the country. Civil society members stated the use of beneficial ownership to denounce cases of corruption in the mining sector, also citing the sit-ins of 30 and 31 August 2016 in front of the Ministry of Justice on the governance of the sector.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **satisfactory** progress in meeting this requirement.

EITI disclosures, including the EITI Report, are comprehensible, have been actively promoted and are publicly accessible. The reports have tangibly contributed to public debate on the extractive industries in Togo. Civil society and the print media have actively contributed to the dissemination of EITI Reports. EITI Reports are public and available in both hard and soft copies. The MSG has agreed a policy on the access, release and reuse of EITI data.

The country is encouraged to consider placing less focus on the dissemination of the report and greater

⁶⁹ <http://itietogo.org/entreprise/eni-togo/>

⁷⁰ <http://itietogo.org/web/wp-content/uploads/2013/12/Donn%C3%A9es-ouvertes.pdf>

emphasis on the findings and recommendations for the sector.

Data Accessibility (#7.2)

Documentation of progress

The Togo EITI data policy notes that the national EITI body will consult with reporting entities in January 2017 to agree procedures for the regular reporting of data on the sector. EITI Reports are accessible to the public in open data formats. EITI Reports from 2010-2014 were published in machine-readable format and published on the EITI website⁷¹.

Stakeholder views

The representative of the Central Bank of West African States (BCEAO) confirmed that they had used the open data from EITI-Togo for their internal analysis. MSG representatives noted that the EITI Reports for the 2012-2014 were available on the EITI-Togo website and this was also reflected in their open data policy. The 2012 EITI Report has also been translated into Ewé and Kabiye, which are the most widely spoken dialects in Togo.

Initial assessment

Requirement 7.2 encourages the MSGs to make EITI Reports publicly accessible in open data formats. Such efforts are encouraged, but not required, and are not assessed in determining compliance with the EITI Standard. The EITI-Togo data is available in machine-readable format through the EITI global website, drawing on summary data tables completed by the national secretariat.

The MSG has made efforts to make the EITI Reports machine readable, and has produced summary data templates enabling EITI data to be compared with other publicly available data, aimed at improving public understanding of the data and information from the reports. There is no evidence that the MSG has decided to reference national revenue classification systems or enabled automated EITI disclosures as encouraged by the EITI Standard.

Lessons learned and follow-up on recommendations (#7.3)

Documentation of progress

Follow-up: While Togo's annual progress reports have provided some updates on follow-up on recommendations, the 2015 annual progress report noted the difficulties in tracking different government ministries' implementation of EITI recommendations, given the lack of follow-up about actions to be undertaken at each Ministry's level (ITIE Togo, 2016).

There is some evidence of the National Supervisory Council's discussion of recommendations from past EITI Reports and Validation. At its 25 March 2013 meeting, the Council discussed the status of follow-up on recommendations from the 2011 EITI Report (ITIE Togo, 2013). The Council has also regularly discussed the status of follow-up on decisions from its previous meetings, such as on 14 June 2013 (ITIE Togo, 2013). The Steering Committee discussed establishing a subcommittee to follow up on past EITI

⁷¹ <https://drive.google.com/drive/folders/0B361RU22DTPfRlhYQUImQ0tZUmM>

recommendations at its 7 February 2013 and 23 December 2014 meetings (ITIE Togo, 2013) (ITIE Togo, 2014). At its 3 November 2015 meeting, the Steering Committee asked the national secretariat to provide it with occasional briefings on the substance of previous EITI recommendations to enable the Steering Committee to efficiently oversee their implementation and ensure that required correction be enacted to reduce irregularities in EITI reporting (ITIE Togo, 2015). The Steering Committee also committed to becoming more active in following up with individual government entities on the status of implementation of past EITI recommendations (ITIE Togo, 2015). At its 12 February 2016 meeting, the Steering Committee called for an increase in per diems for its members to properly motivate them and ensure that a subcommittee on follow-up on EITI recommendations be established (ITIE Togo, 2016).

Of the 14 past EITI recommendations tracked in the 2014 EITI Report, the Independent Administrator found that 12 were “in-progress”⁷² and two had not been followed up on.⁷³ All the follow-up activities on past recommendations were marked as undertaken by government entities, with little apparent implication of the MSG aside from coordination by the National Coordinator. In its 2015 annual progress report, the MSG noted the 2013 EITI Report’s assessment that “recommendations from past EITI Reports and Validation have not been implemented” (ITIE Togo, 2016, p. 14).

Discrepancies:

There is evidence of the Steering Committee having discussed the reasons for discrepancies prior to publication of the 2011 EITI Report at its 7 February 2013 meeting (ITIE Togo, 2013) and ahead of the 2013 EITI Report at its 30 March 2015 and 3 November 2015 meetings (ITIE Togo, 2015) (ITIE Togo, 2015). The level of discrepancies declined markedly between the 2010 and 2011 EITI Reports, even if the value of extractive revenues themselves fell 50% in the same period. The value of revenues covered in the EITI Report declined because, whereas companies reported all their activities (including non-extractives) in the 2010 EITI Report, they only reported extractives-related payments in the 2011 EITI Report (ITIE Togo, 2013). However, discrepancies rebounded in the 2012 and 2013 EITI Reports, “enormous” variances that the Steering Committee explained were due to the lack of preparation for data collection for these EITI Reports (ITIE Togo, 2015). There is no evidence in meeting minutes of MSG discussions of recommendations ahead of publication of the 2014 EITI Report.

Reforms: Togo implemented tangible EITI-related reforms following publication of its first EITI Report, covering 2010. Ahead of the 2011 EITI Report, the government strengthened its oversight of extractive revenues by requiring the Auditor General (Cour des Comptes) to audit 2011 extractive revenues, causing discrepancies to decline by over 99% between the 2010 and 2011 EITI Reports (EITI, 2013).

Togo’s 2015 annual progress report highlighted the implementation of reforms as a result of EITI recommendations on the part of the Tax Department (Commissariat des Douanes et Droits Indirects et

⁷² The “in-progress” recommendations were: introduce receipts for all payments to Treasury; lack of adequate controls on exports; lack of statistics on the extractives sector; lack of a mining cadaster; lack of a beneficial ownership register; publication of contracts; payments related to water production not yet implemented; lack of database of extractives companies; lack of follow-up with state-owned enterprises; lack of database for government entities; lack of disaggregation of extractives revenues in the TOFE; and insufficient traceability of direct subnational payments.

⁷³ The two past recommendations that had not been followed up related to weak response rate from companies and lack of engagement as well as challenges of customs code.

Commissariat des Impôts and Office Togolais des Recettes), and the Department of Mines and Geology (Direction Générale des Mines et de la Géologie) (ITIE Togo, 2016). The creation of the independent Tax Department (Office Togolais des Recettes) in 2012 following up on recommendations from the 2010 EITI Report, was highlighted as an important reform, alongside improvements in the management of tax information and the roll-out of the Single Tax Identification Number for a better tracing of payments (ITIE Togo, 2016). Meanwhile in 2015, the Department of Mines and Geology launched a project on the development and governance of the mining sector, which the MSG considers having addressed all recommendations of past EITI Reports (ITIE Togo, 2016).

The Steering Committee has also highlighted the development of a five-year mining development and governance technical assistance project at the Ministry of Mines to 2020 as a key outcome of follow-up on EITI recommendations (ITIE Togo, 2016) (World Bank, 2015). The project, supported by a USD 15m World Bank IDA loan, aims to build capacities amongst the main technical, financial and environmental regulators in the sector, namely the Department of Mines and Geology, the National Environmental Management Agency and the Treasury (World Bank, 2015).

Stakeholder views

Civil society representatives of the MSG noted that the OTR was a major recommendation of the EITI which was put into practice. Government representatives affirmed the effectiveness of the body, clarifying that the OTR was not involved in revenue collection, which was done through a private bank.

The Independent Administrator recommended conducting a study on the artisanal mining sector in the latest EITI Report issued in December 2016. According to the World Bank's PDGM representatives, there would be an ongoing study on artisanal and small-scale mining. The terms of reference were shared with the International Secretariat during its visit. The call for proposals was made in June 2016 and will include estimates of domestic production relative to declared exports; stakeholder inventories; the level of remuneration and the legal framework. The PDGM also confirmed that USD 7.5 million is available for the establishment of a mining cadastre and the geological data banks in Togo. The objective is to establish a modern, computerised cadastral system with procedures for granting mining permits. A study on the state of the mining cadastre is underway and a final report is expected in June 2018.

In the 2014 EITI Report, the Independent Administrator found that the quantity of phosphates exported by SNPT (Société Nouvelle de Phosphate du Togo) was not monitored by the Customs and the General Directorate of Mines (CDDI). Indeed, the quantities reported differed from one department to another since the company exports phosphate directly from the terminal it operates. This terminal has a customs office, but the office was not computerised. Additionally, not all export operations of the SNPT were registered on the customs system "Sydonia".

However, since the publication of the EITI Report, a series of working meetings have been organised between Customs Office and SNPT. It was decided that SNPT should now complete any customs declaration through an authorised customs broker, with permanent access to Sydonia. The follow-up of SNPT's exports using this system became effective in January 2017, following the publication of the EITI Report. SNPT exports are now available in real time. The Customs Authority noted that for first quarter of 2017, the quantity of phosphates exported was 151,412 tons with a value of USD 13,967,425.

Finally, in previous Reports, the Independent Administrator had found that mining companies use "9999" as a temporary custom code. According to customs officials, since the establishment of the OTR, companies currently have been assigned a unique tax identification number.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **satisfactory** progress in meeting this requirement.

The government and MSG has made progress to act upon lessons learned, identifying, investigating and addressing the causes of any discrepancies in EITI reporting, and progress in responding to the recommendations made by the Independent Administrator. The 2015 Progress Report of EITI-Togo mentioned that there has been no real monitoring of the actions that each entity should perform, however, the recommendations made by the Independent Administrator in the EITI Report have been resolved through government's reforms. Implementation of report recommendations included the creation of the Togolese Revenue Office, which enabled the establishment of the Tax Identification Number (TIF) and the PDGM's reforms in mining governance and tax administration.

Outcomes and impact of implementation (#7.4)

Documentation of progress

The Steering Committee appeared to have used annual activity and progress reports as a means of tracking outcomes and impacts of EITI implementation, albeit inconsistently. While the 2014 annual activity report (pp. 14-15) assessed three types of EITI impacts (economic, regulatory and social), the 2015 annual progress report did not refer to any impacts linked to EITI implementation aside from those linked to follow up on EITI recommendations (p. 13).

The 2015 annual progress report provided a narrative overview of activities completed in 2015 (pp. 4-5), a general overview of progress against the seven general EITI Requirements (pp. 11-12), a cursory overview of reforms linked to EITI recommendations (p. 13), an overview of activities related to meeting work plan objectives (pp. 7-12) and an overview of strengths and weaknesses of EITI implementation in Togo (pp. 13-14). However, the 2015 annual progress report did not provide a detailed assessment of progress against each EITI Requirement nor did it detail efforts to follow up on specific EITI recommendations. In addition, the overview of weaknesses in EITI implementation did not refer to any activities to overcome these constraints (ITIE Togo, 2016).

The 2014 annual activity report provided the same cursory assessment of progress in meeting the seven general EITI Requirements (pp. 18-20) and work plan objectives (pp. 17-18) as well as a summary of activities (p. 6), but provided more information on follow-up on EITI recommendations (pp. 20-22) and a more detailed narrative of efforts to strengthen engagement from stakeholders (ITIE Togo, 2015, pp. 12-14, 17, 20-21, 23).

Stakeholder views

The Steering Committee noted that the issue had been discussed during the self-assessment meeting in preparation for the country's Validation. The Steering Committee met for five days from 13 to 17 March

2017. This activity was financed by the African Development Bank and took place in Kpalimé, 120 kilometres from Lomé.

The Steering Committee noted that it was the role of the National Supervisory Council to define the strategic direction of the EITI-Togo and maximise the impact of the EITI on the government systems. However, the National Supervisory Council has not been operational since the government reshuffle in 2015.

Initial assessment

The International Secretariat's initial assessment is that Togo has made **meaningful** progress in meeting this requirement.

The Steering Committee used annual progress reports and Validation self-assessments to document the impact of the EITI. Although this was done for the 2014 annual progress report, this was not done in the 2015 annual progress report. Additionally, the body mandated to ensure that the EITI has an impact on the government systems, the National Supervisory Council, has not met since 2014.

In line with requirement 7.4, the MSG should consistently include in its annual progress report, an assessment of progress with meeting and maintaining compliance with each EITI Requirement and an overview of the MSG's progress in addressing the recommendations from reconciliation and Validation in accordance with Requirement 7.3.

Table 7 - Summary initial assessment table: Outcomes and impact

EITI provisions	Summary of main findings	Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions)
Public debate (#7.1)	The EITI Reports are comprehensible, actively promoted through varied channels, publicly accessible and have tangibly contributed to public debate on the extractive industries.	Satisfactory progress
Data accessibility (#7.2)	EITI-Togo has published data in machine-readable format and summaries of EITI Reports in accessible infographic format.	
Lessons learned and follow up on recommendations (7.3)	The MSG and the government have taken steps to act upon EITI recommendations which have positively impacted mining revenue governance in Togo.	Satisfactory progress
Outcomes and impact of implementation (#7.4)	The Steering Committee used annual progress reports and Validation self-assessments to document the impact of the EITI. However, these assessments are not systematically done.	Meaningful progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> In line with requirement 7.4, the MSG should consistently include in its annual progress report, an assessment of progress with meeting and maintaining compliance with each EITI Requirement and an overview of the MSG's progress in addressing the recommendations from reconciliation and Validation in accordance with Requirement 7.3. 		

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

Impact

Public understanding

The main impact of the EITI-Togo is the provision of statistics and data on the mining sector. There are no official government statistics on employment and production in the mining sector in Togo. However, the EITI attempts to fill this gap by providing data on production and employment for companies participating in the reporting process. With respect to employment, this information is segregated between local and foreign employees and includes some data on employment by sub-contractors.

Strengthening government systems

The recommendations of the EITI Reports have accelerated the implementation of tax reforms in the mining sector. Temporary identification numbers for mining companies delivered by the Customs Authority no longer exist following a recommendation by the EITI that mining companies be appropriately identified. The tax coordination office, OTR, has set up unique tax identifiers per company and rations.

At the institutional level, the EITI has contributed to the appropriation by the Court of Auditors of the audit of revenues from the extractive sector. At the regulatory level, stakeholders also claimed that the EITI has led to the promulgation of Law No. 2015-006 of 28 July 2015, establishing the High Authority for Prevention and Fight against Corruption and Related Offenses, the Law on Access to Public Information, and the Law on Transparency.

Beneficial ownership

Togo is also the most affected country of the continent by tax evasion according to the NGO Global Financial Integrity⁷⁴. The preparation of the beneficial ownership road map has been combined with public debates on the ownership in mining companies of political figures in Togo revealed by the Panama papers. The OTR, through provisions in the general tax code, is well positioned to collect beneficial ownership information from companies as well as asset declarations from high-ranking government officials.

Constructive engagement

Prefectures such as Vo are located on the site of the national phosphate company, SNPT. The EITI raised a real debate on the social contribution of mining companies in the producing regions. These debates culminated in the promulgation of a national Law No. 2011-008 of 05 May 2011 on compulsory extractive industry contributions in the context of local and regional development. Sub-national governance is also linked to the issue of artisanal mining, since most of artisanal mining activities take place outside the capital. Along with the World Bank, EITI actors are working towards the formalisation of the sector. The

⁷⁴ <http://www.gfintegrity.org>

EITI Reports now include a description of the legal and regulatory framework for the ASM sector and gives an overview of new licenses granted. The EITI Report is now being used to highlight key issues in the sector such as the fact that the vast majority of the volumes exported came from countries bordering on Togo. EITI Reports are being used continue the debate on this issue.

Sustainability

Funding and Institutionalisation

The EITI-Togo is established by Presidential decree and the EITI Champion is the Prime Minister. Prior to 2014, the donor for EITI-Togo was the World Bank through the MDTF, which also financed EITI Reports. However, since 2015, the state has fully funded EITI Reports. Each year, direct government funding varies from USD 180,000 to USD 240,000 depending on the country's budgetary conditions. As for indirect financing, the African Development Bank is participating in the EITI under budget support in Togo for USD 761,554. New negotiations are underway with the World Bank for additional financing of USD 300,000 for 2017 and 2018.

Annexes

Annex A - List of MSG members and contact details

List of EITI National Supervisory Council members 2009-2015

1. Kwesi Séléagodji AHOOMEY-ZUNU, Président (Gouvernement), Premier ministre
2. Adji Otèth AYASSOR Vice-président (Gouvernement), Ministre de l'économie et des finances
3. Dammipi NOUPOKOU Membre (Gouvernement), Ministre des mines et de l'énergie
4. André JOHNSON Membre (Gouvernement) Ministre de l'environnement et des ressources forestières
5. Bernadette Essossimna LEGZIM-BALOUKI, Membre (Gouvernement), Ministre du commerce et de la promotion du secteur privé
6. Gilbert BAWARA Membre (Gouvernement), Ministre de l'administration territoriale, de la décentralisation et des collectivités locales
7. Assogba Komi OHOUKOH, Membre (Gouvernement), Secrétaire d'Etat chargé de l'Industrie
8. Kossi TENOU Membre (Administration Publique) Directeur national de la BCEAO
9. Michel KEZIE Membre (Industrie extractive) Directeur Général de la SNPT
10. Monsieur ADOLEHOUME Membre (Industrie extractive) Administrateur de SCANTOGO Mines
11. GBEGBENI Antoine Lekpa, Membre (Industrie extractive) Directeur Général de la TdE
12. Amétépé Kossi GLE Membre (Industrie extractive) Directeur Général de Clever Eau Minérale
13. Viwonou DOGBE-TOMI Membre (Industrie extractive) Directeur Administratif à Togo Rail
14. Augustin SIZING Membre (Société Civile) Président de l'Observatoire Togolais des Médias
15. Abalo Essrom KATAROH Membre (Société Civile) Président de la Ligue des indépendants pour la transparence

List of EITI Steering Committee (MSG) members 2009-2015

1. ABLY-BIDAMON Dèdèriwè Président Gouvernement Ministre des Mines et de l'Energie
2. GNARO Badawasso Vice-président AP S.G. / Ministère Economie & Finances
3. AWIKODO Tomdjaou Membre AP Commissariat des Douanes et Droits Indirects
4. AKAPOVI Comlan Picard José Membre AP BCEAO-Lomé
5. ANIKO Malou Saou F. Membre AP Ministère du Commerce
6. ASSIH-EDEOU Paloukimondome Membre IE MM MINING
7. ATTITSO Kokou Membre AP Direction des Industries
8. BOURHIM Mohamed Membre IE Eau VOLTIC
9. DEDJI Affo Tchitchi Membre AP SP-PRPF/MEF
10. DOKOE Tonou Membre IE SNPT
11. GBENGBERTANE Banimpo Membre AP DGMG
12. EZA Koffi Membre AP SP/APBEF
13. HEMAZRO Anani Membre IE Togo Carrière
14. KLEGBE Kete Yawo Membre SC UNSIT
15. MAWU Komi Membre SC UJIT
16. PANKAJ Narayanan Membre IE WACEM
17. MANDJE Enongandé Abla Membre SC WANEP-TOGO
18. TAKPA Koolaba Membre SC UONGTO
19. TCHALA Akomola Idrissou Membre AP MATDCL/DATF
20. TCHANDAO Piabalo Membre SC EDITOGO
21. TODZRO Mensah Membre SC FONGTO

22. ADOYI Esso-Wavana Membre AP Commissariat des Impôts
23. TSAKADI Ayawa Membre IE BB/Eau Vitale
24. Honorable APEZOUKE Assou Membre SC Assemblée nationale
25. Honorable KPOGO Kodjo Alphonse Membre SC Assemblée nationale

List of EITI National Supervisory Council members 2016-2018

1. Komi Selom KLASSOU Président Gvt Premier ministre
2. Sani YAYA Viceprésident, Gvt, Ministre de l'économie et des finances
3. Dèdèriwè ABLYBIDAMON, Membre Gvt Ministre des mines et de l'énergie
4. André JOHNSON Membre Gvt Ministre de l'environnement et des ressources forestières
5. Bernadette Essossimna LEGZIM-BALOUKI, Membre Gvt Ministre du commerce, de l'industrie, de la promotion du secteur privé et du tourisme
6. Payadowa BOUKPESSI Membre Gvt Ministre de l'administration territoriale, de la décentralisation et des collectivités locales
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11. Aharé Jacques M'BATA Membre IE Directeur Général de la Société du patrimoine en eau et assainissement en milieu urbain et semi-urbain (SP-Eau)
12. Amétépé Kossi GLE Membre IE Président de l'association des producteurs d'eau
13. Monsieur Anani HEMAZRO, Membre IE Comptable, représentant le Directeur Général de Togo Carrière
14. Kodjo Edjinam Nulagnon LOGO, Membre SC Secrétaire général du Syndicat des journalistes indépendants du Togo (SYNJIT), représentant les associations des journalistes du Togo
15. André Kangni AFANOU Membre SC Directeur exécutif du Collectif des associations contre l'impunité (CACIT) pour la durée

List of EITI Steering Committee (MSG) members 2016-2018

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16. PITASSA Moise P. Membre IE Eau Crystal
17. GNAMAKOU Amevi Laurent Membre IE APIET
18. TSOLENYANU Gilbert Membre SC Synergie des Travailleurs du Togo

19. NAPO Kitchéou Membre SC ONG COMINTES
20. BOYINDJO Awoussi Membre SC ONG Dimension Humaine
21. SOGADJI Emmanuel Yao H. Membre SC LCT
22. CHAKBERA Adji Membre SC Radio Lomé
23. AYEIGNON Tovalou Kossi Blaise Membre SC Journal l'œil d'Afrique
24. Honorable APEZOUKE Assou Membre SC Assemblée nationale
25. Honorable KPOGO Kodjo Membre SC Assemblée nationale

Annex B – MSG meeting attendance

Figure 3 - attendance by constituency grouping

AVERAGE:	2013	2014	2015/2016	TOTAL:
Government	55 %	66 %	58 %	60 %
Industry	67 %	36 %	64 %	55 %
Civil Society	70 %	57 %	69 %	65 %

GOVERNMENT PARTICIPATION IN MSG MEETINGS:	2013/ 9 meetings	2014/ 5 meetings	2015-2016/ 4 meetings	TOTAL 18 meetings
Ministre des Mines (MME), Président	56 %	80 %	50 %	61 %
Ministère de l'Economie et des Finances	56 %	80 %	50 %	61 %
Douanes/ Customs Authority	89 %	80 %	100 %	83 %
Banque Centrale des États de l'Afrique	67 %	100 %	75 %	78 %
Ministère du Commerce	44 %	60 %	25 %	44 %
Suivi des Politiques de Réformes et des	22 %	60 %	25 %	33 %
DIRECTION GENERALE DES MINES ET DE ASSOCIATION PROFESSIONNELLE DES	100 %	60 %	75 %	83 %
IMPÔTS	20 %	40 %	25 %	29 %
MINISTERE DE L'ADMINISTRATION	44 %	60 %	50 %	50 %
Direction des Hydrocarbures	33 %	40 %	100 %	39 %
Average:	75 %	n/a	n/a	75 %
	55 %	66 %	58 %	

INDUSTRY Participation in MSG meetings:	2013	2014	2015-2016	TOTAL
POMAR Togo	n/a	n/a	100 %	100 %
TdE	n/a	n/a	50 %	50 %
SCANTOGO	n/a	n/a	50 %	50 %
TGC S.A.	n/a	n/a	100 %	100 %
Eau Crystal	n/a	n/a	100 %	100 %
APIET	n/a	n/a	0 %	0 %
MM Mining	33 %	0 %	0 %	19 %
Eau Voltic	89 %	40 %	50 %	69 %
SNPT	89 %	60 %	50 %	69 %
WACEM	67 %	0 %	100 %	50 %
Togo Carrière	56 %	80 %	100 %	69 %
AVERAGE	67 %	36 %	64 %	

Civil Society Participation in MSG	2013	2014	2015-2016	Total
Synergie des Travailleurs du Togo	n/a	n/a	50 %	50 %
ONG COMINTES	n/a	n/a	0 %	0 %
ONG Dimension Humaine	n/a	n/a	50 %	50 %
LCT	n/a	n/a	100 %	100 %
Radio Lomé	n/a	n/a	100 %	100 %
Journal l'œil d'Afrique	n/a	n/a	100 %	100 %
Assemblée nationale	78 %	100 %	100 %	89 %

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Union des journalistes Indépendants du	44 %	0 %	0 %	25 %
Union Nationale des Syndicats	0 %	0 %	50 %	6 %
Union Des Organisations Non-	100 %	80 %	100 %	94 %
Société Nationale des Éditions du Togo	78 %	80 %	50 %	81 %
Fédération des Organisations Non-	89 %	40 %	100 %	75 %
West Africa Network for Peacebuilding	100 %	100 %	100 %	100 %
AVERAGE	70 %	57 %	69 %	

Annex C – Cost of EITI Reports

Figure 4 - Cost of EITI implementation 2013-2014

N°		FINANCING 2013		FINANCING 2014		
		Allocated amount	Amount disbursed	Allocated amount	Amount disbursed	Balance
1	Salaries	35 340 000	35 340 000	78 660 000	50 641 219	28 018 781
2	Operations	57 722 054	51 106 383	41 340 000	35 340 000	6 000 000
3	Investment	50 000 000		100 000 000	63 749 673	36 250 327
TOTAL		143 062 054	86 446 383	220 000 000	149 730 892	70 269 108

FINANCING 2015			FINANCING 2016			
Allocated amount	Amount disbursed	Balance	Allocated amount	Amount disbursed	Balance	%
35 796 000	35 340 000	456 000	37 740 000	35 340 000	2 400 000	25
84 204 000	59 606 044	24 597 956	110 000 000		110 000 000	40
78 000 000	0	78 000 000	50 000 000		50 000 000	35
198 000 000	94 946 044	103 053 956	197 740 000	35 340 000	162 400 000	100

Annex D - List of stakeholders consulted

Figure 5 - Stakeholders consulted during the initial assessment

Name	Contact
Members of the MSG	
Monsieur ABLY-BIDAMON Dèdèriwè Ministre des Mines et de l'Énergie, Président du Comité de pilotage	
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Validation of Togo: Report on initial data collection and stakeholder consultation

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Annex E - List of reference documents

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