

Validation of Trinidad and Tobago
Draft Validation Report
Cowater Sogema Independent Validator
28th January, 2019

1. EXECUTIVE SUMMARY

Trinidad and Tobago was designated candidate country in the Board meeting held in March 2011 in Paris together with the EITI Global Conference. Following the Validation report by the firm IPAN in 2014, the Board concluded in February 2015 that Trinidad and Tobago was compliant with the 2010 EITI Standard. On 25 October 2016, the Board agreed that Trinidad and Tobago's Validation under the 2016 EITI Standard was to commence on the 1 September 2018¹. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat followed the Validation Procedures² and applied the Validation Guide³ in assessing Trinidad and Tobago's progress with the EITI Standard.

This draft validation report follows on from a quality assurance review of the International Secretariat's initial assessment. The Validator agrees with the initial assessment that Trinidad and Tobago has met all of requirements of the EITI Standard except for requirement 1.4, 2.2, 2.3, 3.2, 3.3, 4.1, 4.2, 4.4 and 4.9. This report includes a number of recommendations for strengthening EITI implementation and enhancing its contribution to improved governance of Trinidad and Tobago's extractive industries.

2. BACKGROUND

Crude oil and natural gas's contribution to national GDP represented 11.3% and 16.6% in 2016, respectively⁴. The fall in commodity prices caused a sharp reduction of 9.6% in 2016 in the hydrocarbon sector's contribution to the economy⁵. The 2016 EITI Report shows revenues declining to USD 2.8 bn in 2015 and USD 1.1 bn in 2016. On average oil and gas exports declined by USD 3 bn annually during the 2014-2016 period. In 2016, foreign direct investment in the sector reversed to USD 17 m⁶. Trinidad and Tobago ranked 88nd out of 189 countries in the World's Bank's Doing Business Report⁷. Although not updated to 2016, the government estimates that Trinidad and Tobago holds significant reserves of crude oil (410 m barrels as to 2011⁸) and natural gas (22.7 trillion cubic feet as to 2014⁹).

¹ See: <https://eiti.org/BD/2016-18>

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

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

⁴ See: https://www.central-bank.org.tt/sites/default/files/reports/Annual_Economic_Survey_52017.pdf and <https://www.finance.gov.tt/wp-content/uploads/2017/10/Review-of-the-Economy-2017-for-web.pdf>

⁵ See: <https://www.finance.gov.tt/wp-content/uploads/2016/09/Review-of-the-Economy-2016-for-web.pdf> p.19.

⁶ See: https://unctad.org/en/PublicationsLibrary/wir2018_en.pdf p.76

⁷ See: <http://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB16-Full-Report.pdf> p.5

⁸ The latest data on oil reserves has been developed by Netherland, Sewell and Associates of Dallas (NSAI) for the MEEI, as at 31 December 2011.

⁹ The latest data on gas reserves has been developed by Ryder Scott Gas Audits.

Trinidad and Tobago's extractive industries are composed mainly of the hydrocarbon and gas sectors. On oil, Trinidad and Tobago has an active upstream sector of exploration offshore and on land, and production, and a downstream petrochemical sector. On gas, Trinidad and Tobago also has a significant position in the petrochemical and liquefied natural gas (LNG)¹⁰. In fact, the Phoenix Park Gas Processors Limited (PPGPL), one of the largest LNG processing facilities is in Trinidad and Tobago¹¹. BP Trinidad and Tobago, BG Trinidad and Tobago, Shell Group, BHP Billiton, EOG Group dominate the upstream and downstream extractive industries sector. There is an important participation of State-owned companies such as the National Gas Company of Trinidad and Tobago (NGC) and Petrotrin.

While not as important as the oil and gas sector, the mining sector particularly quarrying it is still relevant for the Trinidad and Tobago's economy. The country holds significant reserves of andesite, argillite, chromium, clay, copper, fluorspar, graphite, gypsum, iron, limestone, porcellanitic, sand, quartz gravel and sandstone. All minerals are quarried in the Northern Range, central Trinidad, South eastern and Western Trinidad.

The government estimates that currently there are approximately ninety active mining operations where forty-five of these are sand and gravel quarries¹². In 2013, the recoverable reserves of minerals in Trinidad and Tobago identified by a recently strategic environmental assessment are estimated at 467 Million Metric Tonnes.

This report uses an exchange rate of 1 USD = 6.6 TTD for all figures related to FY 2016.

In line with the Validation Guide, the International Secretariat carried out the first phase of validation—initial data collection, stakeholder consultations, and preparation of their initial evaluation of progress against the EITI requirements (the “Initial Assessment”). CowaterSogema was appointed as the independent Validator to evaluate whether the Secretariat's work was carried out in accordance with the Validation Guide. CowaterSogema's principal responsibilities as Validator are to review and amend the Initial Assessment, as needed, and to summarize its independent review in this Validation Report for submission to the Board through the Validation Committee.

1. Work Performed by the Independent Validator

The Secretariat's Initial Assessment was transmitted to CowaterSogema on 18 January, 2019. Our Validation Team undertook this phase of the Validation process through: (1) In-depth review and marking up of the EITI Assessment by each team member; (2) Detailed review and comments by the Multi-Stakeholder Specialist of Requirements 1 and the Civil Society Protocol; (3) Detailed review and comments by the Financial Specialist of Requirements 4, 5 and 6; (4) Consolidation of reviews and the production of this draft Validation Report, sent to the International Secretariat on the 28 January 2019.

¹⁰ See: <https://publications.iadb.org/bitstream/handle/11319/6681/ICS-BOOK-Transparent-Governance-in-an-Age-of-Abundance.pdf?sequence=1&isAllowed=y> p.256

¹¹ See: <http://www.energy.gov.tt/our-business/oil-and-gas-industry/>

¹² See: <http://www.energy.gov.tt/our-business/aggregates/quarrying/>

2. Comments on the Limitations of the Validation

The Validator carefully reviewed the Secretariat's Initial Assessment and at this stage has no comments on the limitation of the validation process.

3. Comments on the International Secretariat's Initial Assessment

The initial data collection, stakeholder consultations, and drafting of the Initial Assessment were generally undertaken by the International Secretariat in accordance with the 2016 Validation Guide. The data collection took place across three phases. Firstly, from, a 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.

Secondly, a country visit took place from 15 to 19 October 2018. All meetings took place in Port of Spain. 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.

2. GENERAL COMMENTS

• Progress in EITI Implementation

The TTEITI reports have brought together disaggregated revenue data from government agencies and companies, as well as other data from regulatory and monitoring bodies on licensing, production, legal and regulatory regimes, the state-owned companies and mining regulatory practices. TTEITI data is widely recognised as a trusted source of information. EITI data is used in parliamentary debates, media and the academic fora

Stakeholders highlighted the legitimacy brought by the EITI. They value that an independent third party following an established and internationally-endorsed methodology has filled important information gaps. The EITI has institutionalised a practice of tripartite dialogue on extractive industry governance, industry information flows, regulatory and taxation regimes, revenue collection, social and environmental issues in the mining sector, that was not present before the EITI.

TTEITI has crucially identified a number of gaps in revenue collection, monitoring of production, cadastre information, capacity to monitor costs and other aspects of production sharing contracts. Through the EITI Reports and direct engagement, TTEITI has alerted the authorities and competent agencies about these

gaps and the need to address them not only to allow reporting information under the EITI but to ensure optimal revenue take and overall good governance of the extractive sector.

TTEITI Reports have been extensively disseminated online and in public events. The reports are tailored to local audiences and usually use innovative communication efforts. TTEITI piloted the collection of legal ownership data in preparation for future collection of beneficial ownership data. The MSGSC introduced several innovations such as scoping environmental reporting. Civil society groups have suggested collecting environmental information such as carbon emissions and oil spills. These have been discussed with the Environmental Management Authority. An online data portal was also launched as part of the country Open Government Partnership commitments. The MSGSC has started to develop an electronic reporting platform for reporting companies and revenue collection agencies.

- **Impact of EITI Implementation**








Trinidad and Tobago's EITI implementation has been supported by a number of development partners such as the European Union, the British Embassy, the World Bank, the Inter-American Development Bank and others. The government has hosted a national secretariat in the Ministry of Energy. This together has allowed robust implementation with clever communication efforts and crucially a wealth of recommendations identified to address revenue leakages and to improve accountability. However, follow up of these recommendations has been limited. It is clear from this assessment that Trinidad and Tobago will benefit from strengthening a number of areas: first, working closely with the government and other state agencies in ensuring that reforms are implemented to address the gaps identified throughout the TTEITI's work. Second, ensuring that future reporting is done in a timelier, more cost-effective manner. Finally, the government should ensure the financial sustainability of EITI implementation. As many of the reforms needed will demand strengthening of government systems, TTEITI should ensure that all opportunities to mainstream EITI disclosures are seized. Stakeholders and development partners are also invited to explore future support for civil society organisations. This will allow reinvigorating the constituency and enabling them to play a more vigorous role in addressing implementation challenges.

The Independent Validator's Assessment of Compliance

Figure 1 – Validator's assessment

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

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. |

3. DETAILED FINDINGS

The Validator does not disagree with the findings of the Initial Assessment.

4. RECOMMENDATIONS

The International Secretariat has identified nine corrective actions that Trinidad and Tobago should undertake to address shortcomings in meeting EITI Requirements, as well as 11 strategic recommendations that Trinidad and Tobago is encouraged to consider for strengthening implementation.

Corrective actions

1. In accordance with **Requirement 1.4.a.ii** and considering that the MSGSC agreed rules on August 2018 that allow CSOs to nominate their own representatives to the MSG, it is required that the CSO constituency conduct a process to nominate representatives to the MSG that is open and transparent. Other constituencies are encouraged to conduct a similar process.
2. In accordance with **Requirement 2.2.a**, TTEITI is required to disclose the requisite information of the oil and gas licenses transferred in the fiscal year covered. This includes: description of the process of transferring the license, technical and financial criteria used, information of the recipient (s) of the license transferred, and any non-trivial deviations from the applicable legal and regulatory framework. For the mining sector, Trinidad and Tobago is required to disclose the above information about mining licenses awarded or transferred to material companies in the period covered by the EITI Report.
3. In accordance with **Requirement 2.3.b**, the government is required to maintain a publicly available register or cadastre system with the information listed in this requirement for both oil and gas and mining licenses. If the required information is made publicly available through the EITI Report, the MSGSC must ensure that the information is comprehensive. If any significant legal or practical barriers prevent the disclosure of information regarding licenses pertaining to non-material companies, these should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome them.
4. In accordance with **Requirement 3.2.**, TTEITI is required to include in future reporting the value of the production of each mineral. TTEITI is encouraged to discuss with the government whether there has been progress in improving the monitoring of both oil and gas and mining production.
5. In accordance with **Requirement 3.3**, TTEITI is required to publish in future reporting, in addition to the volumes, the value of exports by commodity, and, when relevant, by region of origin. It should also state clearly when minerals have not been exported. TTEITI should include in future reports a clear explanation of the methodology followed to calculate export volumes and values.
6. In accordance to **Requirement 4.1.d**, TTEITI is required to include in future reports aggregate information about the amount of total government revenues received from each of the benefits streams agreed in the scope. In accordance with **Requirement 4.1.a**, TTEITI is required to document the omission of revenues streams, ensuring that the comprehensiveness of the EITI Report is not affected. This includes that the MSGSC should consider the size of the revenue streams relative to total revenues.
7. In accordance **with Requirement 4.2**, TTEITI is required to disclose the volumes and revenues received from the sale of the state's participation in the sector. The published data must be disaggregated by individual buying company.

8. In accordance with **Requirement 4.4**, if they are considered material future reporting should include all the information needed such as tariffs, individual companies paying for this service, volumes transported and if practicable reconciling such payments.
9. In accordance with **Requirement 4.9.b.iii** and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator must ensure that the future report include an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards.

Strategic recommendations

1. To strengthen implementation of **Requirement 1.1**, the government is encouraged to finalise reforms that address findings and recommendations from EITI Reports. It is also essential that core funding for the TTEITI work plan is provided by the government.
2. To strengthen implementation of **Requirement 1.2**, the government is encouraged to enact EITI-specific legislation waiving tax confidentiality provisions and making EITI reporting mandatory would create a more sustainable legal environment for EITI implementation over the long term. Before this solution is implemented, the companies are encouraged to find a more permanent and less lengthy solution to the confidentiality hurdle
3. To strengthen implementation of **Requirement 1.3**, it is highly recommended that CSOs involved in EITI implementation develop guidelines for systematically engaging with the broader constituency and seek opportunities for increased capacity-building and consultations.
4. To strengthen implementation of **Requirement 1.5**, and in accordance with Requirement 1.5.b the MSGSC is strongly encouraged to renew the work plan to include steps to mainstream EITI implementation in company and government systems and to reflect the results of consultations with key stakeholders.
5. To strengthen implementation of **Requirement 2.4** and in light of the high demand from stakeholders in the country for a better understanding of the terms that regulate most operations in the extractive sector, Trinidad and Tobago is encouraged to make contracts or contractual terms available for all oil, gas and mining contracts corresponding to companies operating in the country.
6. To strengthen implementation of **Requirement 2.5** and prepare for full disclosure of beneficial ownership by 2020, it is recommended that Trinidad and Tobago consider piloting beneficial ownership reporting with the non-publicly listed companies in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. Trinidad and Tobago may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory. For publicly listed companies, the pilot could include a link to the stock exchange where they are listed.
7. To strengthen implementation of **Requirement 2.6** on state participation it is recommended that TTEITI include in future disclosures a clear explanation of the policy regarding the capacity of the state to provide financing to all companies operating in the extractive sector and clearly describe the terms associated with the guarantees provided to loans to the SOEs
8. To strengthen EITI implementation of **Requirement 4.8** and TTEITI's contribution to public debate, TTEITI is recommended to undertake efforts to systematically disclose information required by the EITI in a timelier manner.

9. To strengthen EITI implementation of **Requirement 7.2** and to improve the cost efficiency of future reports, Trinidad and Tobago is encouraged to make progress with the plans for automated reporting and ensuring that government agencies could disclose systematically the information required in the EITI Standard.
10. To strengthen implementation of **Requirement 7.3** and to increase the impact of EITI implementation on the good governance of extractive industries, the government of Trinidad and Tobago is encouraged to implement the necessary reforms to address the gaps in government systems identified in TTEITI Reports.
11. To strengthen implementation of **Requirement 7.4**, TTEITI is encouraged to regularly discuss, document and assess the impact of EITI implementation in achieving the set goals.
