

Validation of Chad
Final Validation Report
CowaterSogema Independent Validator
25th March 2019

1. EXECUTIVE SUMMARY

On 25 October 2016, the Board agreed that Chad's Validation under the 2016 EITI Standard would commence on 1 September 2018. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures and applied the Validation Guide in assessing Chad's progress with the EITI Standard for the period from August 2013, when the EITI Standard came into force, to September 2018. The assessment of disclosures is based on the 2016 EITI Report and other relevant information publicly-accessible in Chad. The assessment of the civil society protocol is primarily focused on space for civil society representatives, who are substantially involved in the EITI process in Chad. The assessment considers the extent to which laws, regulations and government policies in force over this period adhered to the civil society protocol.

While the assessment has not yet been reviewed by the MSG, the Secretariat's preliminary assessment is that eight of the requirements of the EITI Standard have not been fully addressed in Chad. Three of these are assessed as unmet with inadequate progress. The recommendations and suggested corrective actions identified through this process relate in particular to civil society engagement (#1.3), MSG governance (#1.4), license allocations (#2.2), license register (#2.3), direct subnational payments (#4.6), subnational transfers (#5.2), and SOE quasi-fiscal expenditures (#6.2). This draft validation report follows on from a quality assurance review of the International Secretariat's initial assessment. The Validator believes that there is one requirement, production data (#3.2) which should be downgraded, making a total of eight requirements of the EITI standards which have not been fully addressed, three of them with inadequate progress.

2. BACKGROUND

Between 1973 and 1975, a consortium of multinational companies¹ discovered oil in varying amounts in the Doba, Doseo and Lake Chad basins. However, a long long-running civil war that began in 1965 intensified with several Libyan interventions in Chad between 1978 and 1987. Exploration activities halted in 1981 after several companies withdrew from the project. In 1989, ExxonMobil became the lead shareholder (40%) and developer of the consortium. A landlocked country, Chad needed significant investment to develop the infrastructure necessary to transport the oil to international markets. In 1996, the Governments of Chad and Cameroon signed a bilateral agreement for the construction and operation of a 1070 km pipeline from multiple oil fields in the southern region of Doba to an export terminal on the Atlantic Ocean in Kribi, Cameroon. In the early 1990s, it was widely recognised that, if managed properly, oil revenues could help alleviate poverty and stem the cycle of violence in one of the poorest countries in the world. The World Bank

¹ Royal Dutch Shell (37.5%), ExxonMobil (25%), Chevron (25%), and Conoco (12.5%), Ian Gary, Nikki Reisch (2005), CHAD'S OIL: MIRACLE OR MIRAGE? Following the Money in Africa's Newest Petro-state, <https://cpb-us-w2.wpmucdn.com/campuspress.yale.edu/dist/8/1581/files/2016/09/36-1-leibold-aligning-incentives-for-development-135x8jh.pdf>, accessed in October 2018.

played an important role in mobilising funding for the pipeline, in exchange for the government's commitment to use oil revenues for poverty reduction. The World Bank launched the Chad-Cameroon Petroleum Development and Pipeline Project in July 2000². Key features of the project included: (i) a legal framework that earmarked oil revenues to poverty reduction projects and future generation funds; (ii) an oversight mechanism to ensure the transparent management of oil revenues; and (iii) a revenue traceability mechanism to ensure that Chad's creditors for the development of the pipeline were paid promptly following the beginning of oil production.

After production began in 2003, Chad's economy grew more rapidly³ and became highly dependent on the oil sector. However, production peaked at 182,000 barrels per day in 2005 and declined steadily thereafter, before stabilising at around 110,000 barrels per day in 2011. Government revenues from the oil sector also increased steadily in the first decade of oil production and peaked in 2012, when the government collected more than USD 2 billion in oil revenues, representing over 66% of total government revenues. At the height of the oil price cycle in 2013-2014, when oil prices averaged more than USD 100, the government borrowed heavily from Glencore to purchase shares in Chevron. Oil prices fell suddenly from USD 106 per barrel in June 2014 to USD 46 in December 2014.⁴ Government revenues collapsed from USD 2 billion per year in 2014 to less than USD 500 million in 2015. The remaining revenues were allocated to debt repayments, leaving Chad heavily indebted with dwindling revenues from the oil sector. Despite debt forgiveness of USD 1.3 billion following Heavily Indebted Poor Countries achievement in 2014, debt sustainability remained a concern. Although the declining trends of oil production were reversed in 2014 with the beginning of production from the Badila-Mangara oil field, government revenues continued to fall and led to debt restructuring with Chad's creditor, Glencore.

Proven reserves are about 1.5 billion barrels, which makes the Chadian reserves the tenth largest in Africa. The mining sector has so far been negligible, with artisanal gold mining and exploration for uranium being most prominent.

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.

² See a detailed description of the World Bank project: World Bank, The Chad Cameroon Petroleum Development and Pipeline Project, http://web.worldbank.org/archive/website01210/WEB/0_CO-15.HTM, accessed in October 2018.

³ 33% in annual economic growth in 2003. World Bank, The Chad Cameroon Petroleum Development and Pipeline Project

⁴ MacroTrends, WTI Crude Oil Prices, 10 Year Daily Chart, <https://www.macrotrends.net/2516/wti-crude-oil-prices-10-year-daily-chart>, accessed in October 2018.

1. Work Performed by the Independent Validator

The Secretariat's Initial Assessment was transmitted to CowaterSogema on 24th 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 4th February 2019 ; (5) Response to comments sent by the MSG and received by the Validation Team on 18th March 2019.

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. Prior to the visit, 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.

A country visit took place on 8-11 October 2018. All meetings took place in N'Djamena. The Secretariat met with the MSG and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the MSG. In addition to meeting with the latter 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 were able to freely express their views and that requests for confidentiality were respected.

Finally, the International Secretariat prepared a report making an initial assessment of progress against requirements in accordance with the Validation Guide. The initial assessment did not include an overall assessment of compliance. The report was submitted to the Validator, with the National Coordinator (NC) also receiving a copy.

2. GENERAL COMMENTS

- **Progress in EITI Implementation**

Chad announced its intention to implement the EITI in 2007. A Presidential decree established the MSG in December 2007, but appointment of members to the High National Committee (Haut Comité National, HCN) was delayed until February 2010. Chad was admitted as a Candidate Country on 16 April 2010. The Board declared Chad compliant with the EITI Rules in October 2014.

In October 2012, Chad published its first Report covering the 2007, 2008 and 2009 fiscal periods, which did not meet the requirement for regular and timely reporting, according to the first Validation completed in May 2013 under the EITI Rules.⁵ The second and third EITI Reports covering 2010 and 2011 were published on 15 May 2013, but these reports also failed to meet EITI Requirements related to comprehensiveness and reliability according to the first Validation under the EITI Rules. The 2012 EITI Report, published in March 2014, sought to address corrective actions requested by the EITI Board. Chad has subsequently published EITI Reports every year for 2013 to 2016 within two years of the end of the fiscal period covered. The most recent report covering 2016 data was published in August 2018.

EITI implementation is primarily driven by a small and dedicated group of civil society representatives, company representatives and government officials including staff at the national secretariat.

- **Impact of EITI Implementation**

The EITI has clearly contributed to bringing transparency in the petroleum and mining sector in Chad. EITI Reports are a trusted source of information for all stakeholders. EITI reporting and subsequent debates have contributed to gradually changing a mindset of information retention towards one of information sharing between government agencies. As a result, the public now has access to more information on contracts, oil-backed loans and sales agreements, sensitive issues that used to be considered taboo.

EITI reporting has contributed to improving government systems, which in turn helps the government and civil society to monitor the cost of production and transport, the sale of revenues collected in-kind and the transfer of proceeds to the treasury. Chad has gradually extended the scope of EITI reporting, first to the transport sector, then to the domestic oil refinery. Chad has moved beyond the minimum requirements of describing the fiscal regime and confirming company payments to also verifying that companies have met their contractual obligations in their payments to government for key revenue flows. Chad also continues to make efforts to publish all valid extractives contracts within 90 days of their signature. More recent EITI Reports include detailed information on the sale of oil on behalf of the state, the cost of production and transport, the repayment of oil-backed loans and other associated fees.

Despite these achievements, a deteriorating space for civil society and weak capacities of journalists are







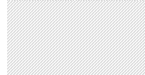
⁵ CAC75 (May 2013), Republic of Chad Validation Report, https://eiti.org/sites/default/files/documents/2013_chad_validation_report_-_en_with_payment_certificate.pdf, accessed in September 2018.

limiting the use of EITI data to inform public debate. Reduced government funding for EITI implementation is also a concern. Reporting gaps and areas of improvements relate to the licensing process, subnational transfer of revenues earmarked to the producing regions and expenditures that are not recorded in the national budget.

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

This section highlights areas where the Validator disagrees with the findings of the Initial Assessment or requires further clarification.

Requirement 3.2. should be downgraded to meaningful. This is due to the absence of data, or even estimates, relating to the mining sector, in addition to the failure to disaggregate production value by consortium.

4. RECOMMENDATIONS

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

- In accordance with Requirement 1.3 and the Civil Society Protocol, Chad is required to ensure adequate space for civil society to actively, fully and effectively participate in the EITI process, without fear of reprisal. It is recommended that adequate safeguards be implemented to effectively remove provisions of laws and regulations (e.g. Ordonnance 23) that curb civil society's ability to operate freely. It is recommended that the scope of the provisions in the presidential decree to protect civil society members of the MSG is expanded to include legal protections for all civil society actors substantially involved in the EITI process.
- In accordance with Requirement 1.4, Chad should ensure that procedures set out in the 2018 Decree are implemented in practice. Chad should ensure each constituency publishes its procedures for nominating and changing MSG members and ensure that MSG members have the capacities to carry out their duties. The MSG should clarify its policy and practice of per diems and ensure that it does not create conflicts of interest. Chad should ensure that there is sufficient notice of meetings and timely circulation of documents prior to their debate and proposed adoption. Chad must ensure that all MSG discussions and decisions are adequately documented and is encouraged to publish them online. Chad is also encouraged to provide adequate training to new MSG members, to provide adequate funding to EITI implementation and to ensure that the MSG operates in a favourable environment to carry out its mandate as per Art.24 of the 2018 Decree, in order to allow Chad EITI to fulfil its mandate. Given its central role in the petroleum industry in Chad, it is also recommended that Glencore designates its representative to the MSG to ensure that the industry is adequately represented.
- In accordance with Requirement 2.2, Chad should ensure that the information on licenses awarded and transferred in both sectors is publicly accessible. Chad is required to disclose the technical and financial criteria used to award or transfer licenses. In the case of licenses awarded by bidding process, Chad is required to disclose the list of applicants and the bid criteria. In addition, Chad is encouraged to disclose comprehensive and timely information about licenses awarded before and after the year under review. Chad is encouraged to include additional information on the allocation of licenses in EITI reporting, including commentary on the efficiency and effectiveness of licensing procedures.
- In accordance with Requirement 2.3, Chad is required to maintain a publicly available register or cadastre system, providing comprehensive data on licenses for all oil, gas and mining companies. In addition to its stated plans for strengthening the cadastre, Chad might wish to build on the map

currently available on the MPE website. In the interim, Chad should ensure that future EITI reporting provide the information set out under Requirement 2.3.b, including coordinates and dates of application and expiry, for all licenses held by material mining, oil and gas companies. EITI reporting should also document the government's efforts to strengthen its cadastral system.

- In accordance with Requirement 4.6, Chad is required to reconcile and disclose revenues collected at the local level where material. Chad should allocate the adequate means to reach out to subnational governments and associate them to the reporting and reconciliation process. Chad should also disclose figures from companies that operate in producing regions and are required to make subnational direct payments as per the regulatory framework. Chad should also clarify in which areas payments are made directly to the treasury in the absence of a local government.
- In accordance with Requirement 5.2, Chad should ensure that effective subnational transfers are disclosed by government agencies, where material. Chad should provide the specific revenue-sharing formula for calculating statutory shares to individual local governments, the value of executed transfers per local government and an assessment of deviations with the value of subnational transfers calculated according to the formula. Chad is encouraged to ensure that any material discretionary or ad hoc transfers are also disclosed and where possible reconciled. In light of the dissolution of the CCSRP in April 2018 and its mandate to report on the disbursement and allocation of the 5%, Chad is encouraged to clarify which government agencies are tasked with these prerogatives from 2017 onwards. Chad is also encouraged to engage with local governments receiving extractives subnational transfers with a view to reconciling subnational transfers with a view to reconciling such payments and enhance outreach to local communities.
- In accordance with Requirement 6.2, Chad is required to develop a reporting process for fuel subsidies and national debt servicing that are not recorded on the national budget. Chad should undertake a comprehensive review of all expenditures of oil revenues, which are not recorded on the national budget. Chad should develop a reporting process for these expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams. In particular, it is recommended that Chad designs appropriate reporting templates that can capture the volume and value of crude oil delivered to the refinery for electricity production as well as the amount of electricity and equivalent value delivered to the state.
- In accordance with Requirement 7.1, Chad should ensure that EITI reporting is comprehensible, including by ensuring that it is written in a clear, accessible style, and that executive summaries or thematic sub-reports are made available and translated into Arabic. Chad should also ensure that adequate funding is available for outreach events, including to regions and communities hosting extractive activities, and that local stakeholders benefit from capacity building activities aiming at improving their understanding of the management of the oil sector. Chad should also encourage government agencies, companies and civil society to fully engage in disseminating EITI Reports, including bilaterally. To strengthen implementation, Chad is encouraged to improve public accessibility of key information on the management of the extractives through systematic disclosure of information required under the EITI Standard through routine government and company systems.
