Validation of Country Guinea
Draft Validation Report
Cowater-Sogema Independent Validator
5th December 2018

1. EXECUTIVE SUMMARY

While rich in natural resources, Guinea ranks 182 out of 188 in UNDP's human development index, with an annual per capita income lower than USD 500. Strengthening good governance, particularly in the mining sector, is a key component of Guinea's new economic and social development strategy for 2016-2020. In that context, the EITI Standard is of key relevance to Guinea, with implementation continuing amidst the democratic transition in 2010 and the Ebola epidemic in 2014.

Since 2010, the Government of Guinea has developed an ambitious reform agenda for the mining sector, with a revision of the mining code in 2011 and 2013, which now requires all mining license-holders to participate in EITI reporting and respect the EITI principles. Guinea's mining code includes strong requirements with regards to the mining industry's social and environmental obligations, and its contribution to local development. However, in the context of weak institutional capacity, implementation of these mining sector reforms has been a challenge. While the mining sector has been buoyant since 2016, driven by a rapid growth in the production of bauxite, social tensions in mining regions remain high because of environmental degradation and limited economic impact.

The government of Guinea committed to implement the EITI in April 2005, towards the end of the Lansana Conté regime, and the Multi-Stakeholder Group (MSG) was formed in June 2006. Guinea was accepted as an EITI Candidate in September 2007 and declared compliant with the EITI Rules in July 2014.

On 25 October 2016, the EITI Board agreed that Guinea's Validation under the 2016 EITI Standard would commence on 1 July 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 Guinea's progress with the EITI Standard. The recommendations and suggested corrective actions identified through this Validation relate in particular to MSG governance, licence allocation, infrastructure provisions and barter arrangements, direct subnational payments, quasi-fiscal expenditures by state-owned enterprises, follow-up on recommendations, and evaluation of outcomes and impact of EITI implementation.

This draft validation report follows on from a quality assurance review of the International Secretariat's initial assessment. The initial assessment suggested there were seven requirements of the EITI standard which where satisfactory progress had not been met. This validator review suggests there is one additional requirement where progress should be downgraded from satisfactory to meaningful, meaning there are eight requirements where progress is not satisfactory.

2. BACKGROUND

Guinea has a subsoil rich in mineral resources. The main mining substances extracted are bauxite, approximately 40 billion tonnes in reserves; gold approximately 1,000 tonnes in reserves; and diamonds between 25 and 30 million carats in reserves[1]. The main geographical areas affected by mining activity are

[1] 2015 EITI Report, available here

the northwest zone for bauxite; the northeast zone for gold and the southeast zone for diamonds and iron ore. According to the World Bank, Guinea possesses large reserves of bauxite representing about one-third of total global resources. Production of bauxite is comparable to countries such as China, whose reserves are only 15% of Guinea's endowment. There is enormous scope for increasing the value derived by the country from these natural resources[2]. Currently, Guinea has the lowest alumina-to-bauxite production ratio of all major producing countries, exporting 95% of its bauxite in raw form. In January 2018, Guinea approved USD 2.8 billion Chinese bauxite and aluminium investments[3]. Guinea is not an oil and gas producer and offshore exploration activities were unable to determine the presence of hydrocarbons in the reserve.

Guinea is home to the world's largest known untapped deposit of highest quality iron ore in Simandou. This project has been marred by a legacy of corruption and mismanagement in the allocation of mining licences towards the end of the Lansana Conté regime in 2008. Rio Tinto, which held a 46.6 stake and committed to develop the Simandou project, indicated it would sell its participation to Chinalco in November 2016[4]. Chinalco currently owns 80 percent of the project with the Government of Guinea holding the remaining 20 percent. In a context of low iron-ore prices and limited infrastructures in Guinea, there have been recurring questions concerning the economic viability of the project.

The mining sector, particularly bauxite, contributed significantly to Guinea's recovery from the Ebola crisis in 2014 and 2015. Revenue mobilization improved to 15.4% of GDP in 2017 (up from 15% in 2016), because of higher mining revenues and direct tax revenues. Mining tax revenues were 2.9% of GDP (up from 2.2% in 2016), reflecting buoyant activity[5]. According to the World Bank, mining accounted for 35% of GDP and about 80% of exports in 2015. [6]

The government of Guinea committed to implement the EITI in April 2005, towards the end of the Lansana Conté régime. The Multi-Stakeholder Group (MSG) was formed in June 2006. The country was accepted as an EITI Candidate on 27 September 2007. Guinea was declared compliant with the EITI Rules in July 2014.

Guinea has produced 12 EITI Reports covering fiscal years between 2005 and 2016. The first EITI Report, covering the mining sector, was published in 2007. The last EITI Report, covering 2016, was published in June 2018. It was Guinea's first EITI Report based on the 2016 Standard. Additional details on Guinea's EITI Reports are provided in Annex C.

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"). Cowater Sogema was appointed as the independent Validator to evaluate whether the Secretariat's work was carried out in accordance with the Validation Guide. Cowater Sogema'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] World Bank Guinea Country Partnership Framework – May 2018 – accessed here on 18/09/2018

[3] Guinea approves new Chinese bauxite investment, Reuters, January 2018, available here

[4] Guinea's mining Minister says there will be Simandou deal accessed here on 18/09/2018

[5] World Bank Guinea country overview, access here on 18/09/2018

[6] World Bank Guinea Country Partnership – May 2018 – accessed here on 18/09/2018

1. Work Performed by the Independent Validator

The Secretariat's Initial Assessment was transmitted to Cowater Sogema on 17th November, 2018. 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 3rd December 2018.

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, 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 9-14 September 2018. All meetings took place in Conakry. 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 can freely express their views and that requests for confidentially are 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**

There have been regular high-level government statements in support of the EITI and consistently strong government engagement on the MSG. Implementation of the EITI has contributed to making mining sector governance more consultative. Trust among stakeholders has gradually improved. Civil society has played an active role in the dissemination of EITI data. It has also used the EITI process to improve disclosures on subnational direct payments, an issue of particular concern in Guinea. Civil society has played an active role in supporting EITI implementation and in the dissemination activities. It has grown in capacity and confidence to influence the EITI process.

The key challenges identified through this Validation include improving disclosures regarding direct subnational payments, licence allocation, and quasi-fiscal expenditures by state-owned enterprises. There is a lack of a clear framework for follow-up on EITI recommendations and for the documentation of outcomes and impact of EITI implementation in Guinea. There is a need to update Guinea EITI's governance documents and practices to align them with the 2016 EITI Standard and meet stakeholder demands for effective representation. The industry constituency lacks clear procedures to choose and nominate its representatives to the MSG and to coordinate with companies that are not members of the MSG. While there have been improvements in civil society's coordination for their participation on the MSG, the code of conduct civil society adopted in 2017 has still not been made public.

With significant improvements in EITI reporting over the recent year, the time is right for Guinea EITI to shift the focus from financing EITI reports to supporting reforms to enable systematic and regular disclosure of EITI data through government systems. This will ensure better timeliness and cost effectiveness of EITI implementation in the longer term. As a starting point, a costed Guinea EITI work plan for 2019 and onwards could plan steps to mainstream EITI implementation in company and government systems within three to five years. While the Government of Guinea has been reliant on donor funding for the preparation of the EITI Reports, it will be necessary to raise funding to move towards regular and systematic disclosures through primary government and company information sources, leveraging Guinea's burgeoning open data and open government community.

There is also scope for Guinea EITI for strengthening linkages between the EITI and key reforms such as the implementation of the Local Economic Development Fund (FODEL). The suggested corrective actions and recommendations later are intended to support Guinean stakeholders in these endeavours.

- **Impact of EITI Implementation**

The EITI has helped Guinea improve transparency and accountability in the extractive industries by providing timely and reliable information to the public, including civil society, media and communities living in mining areas. Guinea EITI has provided valuable information along the value chain, identifying gaps and opportunities for strengthening monitoring of social payments and subnational direct payments. The development of an exemplary contract transparency portal and reforms in the licensing system have been implemented in recent years. Implementation of the EITI has also contributed to strengthening the newly established Cour des Comptes' mandate in auditing revenues from the extractive sector. EITI reporting has grown more comprehensive over the years, expanding to the oil and gas sector and to state-owned enterprises. The EITI has become a channel for the government to communicate on on-going reforms. The number of articles quoting or referencing EITI data has grown over the past four years. EITI data is being used for budget revenue forecasts and to improve domestic resource mobilisation. The EITI is also used by the newly established Cour des Comptes in its audit of the mining sector and of public finance.

Although there is strong potential for the EITI to have a positive impact in the governance of Guinea's mining sector, the EITI's potential has yet to be fully realised. It appears that the MSG's sole function has been to provide oversight of the production of EITI Reports, focusing on compliance with the EITI Standard, rather than to address issues and inform reforms that are particularly relevant in Guinea.

The Independent Validator's Assessment of Compliance

Figure 1 – Validator's assessment

EITI Requirements		LEVEL OF PROGRESS				
Categories	Requirements	No progress	Inadequate	Meaningful	Satisfactory	Beyond
	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Workplan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	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)					
	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 1.2. (Industry Engagement in the EITI process) should be downgraded from satisfactory progress to meaningful progress. This is partly due to the limited implementation of laws (particularly Article 122 of the 2011 Mining code which requires all mining license-holders to participate in EITI reporting and respect the EITI principles). In addition, there is a lack of engagement with industry beyond the MSG, and a general lack of engagement beyond the issue of EITI reporting.

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 Guinea make even greater use of the EITI as an instrument to support reforms.

1) In accordance with requirement 1.4b, the MSG should update the 2012 Decree and Ministerial Order on MSG membership, and the June 2018 ToR to ensure that they align with the 2016 EITI Standard. The industry and civil society constituencies should develop, publish and implement procedures for an inclusive, fair, and transparent nomination of their representatives on the MSG. The MSG may also wish to consider options to broaden industry participation on the MSG. The MSG may wish to clarify the MSG governance framework, which is currently described over four different documents. It may wish in particular to combine the Ministerial Order on the composition of the MSG, the Internal Rules and the ToR into a single document.

2) In accordance with Requirement 2.2, Guinea should ensure that the detailed technical and financial criteria for both license awards and transfers be publicly accessible. In light of significant public concern over the legacy of non-trivial deviations from statutory licensing procedures, Guinea should ensure that its approach to publicly disclosing non-trivial deviations be commensurate with the number of licenses awarded and transferred in the year under review.

3) In accordance with Requirement 4.3, Guinea should assess the existence of any barter arrangements or infrastructure provisions during the scoping phase for its next EITI reporting cycle to ensure disclosure of any agreements, or sets of agreements involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities. Guinea should gain a full understanding of the terms of the relevant agreements and contracts, the parties involved, the resources that 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.

4) In accordance with Requirement 4.6, Guinea should ensure that information on extractives company direct payments to subnational governments, where material, be comprehensively disclosed and reconciled with each local government's receipts of these payments.

5) In accordance with Requirement 6.2, Guinea should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal and develop a reporting process with a view to achieving a level of transparency on all types of quasi-fiscal

activities linked to extractives revenues commensurate with other payments and revenue streams. To strengthen implementation, Guinea is strongly encouraged to consider the extent to which routine publication of SOEs' annual audited financial statements would help promote greater trust in the quality and comprehensiveness of public disclosures of quasi-fiscal expenditures.

6) In accordance with Requirement 7.3, the MSG should introduce a systematic and structured mechanism to track and follow up on recommendations, with a clear timeframe and clear responsibilities for following up. The MSG should also take a more proactive role in formulating its own recommendations. The MSG may also wish to include Validation, as a means of ensuring closer attention to implementation. The MSG may also wish to consider utilising the Supervisory Committee to follow-up on recommendations from past EITI Reports and Validation as a means of ensuring the sustainability and continued effectiveness of follow-up channels.

7) In accordance with requirement 7.4, the MSG should consider using the annual progress report to evaluate the impact of the EITI, beyond describing outputs and outcomes of workplan activities. The MSG should also undertake an impact assessment with a view to identify opportunities for increasing the impact of implementation in Guinea. Greater effort could also be made to canvass the broader constituencies for input in assessing the outcomes and impact of EITI implementation through the annual progress report.

***