



Submitted by: Validation Committee on: 20 April 2018

Validation of Togo

For decision For discussion For information

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| The Validation Committee recommends that the EITI Board agree that Togo has made meaningful progress in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Togo will be requested to undertake corrective actions before the second Validation on <date of Board decision + 18 months>. |

validation of Togo

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**Supporting documentation**

Final Validation report [[English](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_final_en.pdf) | [French](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_final_fr.pdf)].

MSG comments on the draft Validation Report and initial assessment [[English](https://eiti.org/sites/default/files/documents/msg_comments_1.02.2018_en_1.pdf) | [French](https://eiti.org/sites/default/files/documents/msg_comments_1.02.2018_fr.pdf)].

Draft Validation report [[English](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_first_draft_en.pdf) | [French](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_first_draft_fr.pdf)].

Initial assessment by the International Secretariat [[English](https://eiti.org/sites/default/files/documents/togo_validation_initial_assessment_en.pdf) | [French](https://eiti.org/sites/default/files/documents/togo_validation_initial_assessment_fr.pdf)].

**Has the EITI competence for any proposed actions been considered?**

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](https://eiti.org/document/standard#r8-3)) addresses [EITI Validation deadlines and the consequences](https://eiti.org/document/standard#r8-3) following Validation.

**Financial implications of any actions**

The recommendation implies a second Validation commencing in late-2019. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time and travel (if needed).

**Document history**

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| Draft Board Paper reviewed by the Validation Committee | 26 January 2018 |
| Board Paper (for discussion) reviewed by the Board | 13 February 2018 |
| Updated draft Board Paper reviewed by the Validation Committee | 26 March 2018 |
| Validation Committee agreement on a Board Paper  | 20 April 2018 |

# Board statement on the Validation of Togo

The Validation Committee recommends that the EITI Board takes the following decision:

*Following the conclusion of Togo’s Validation, the EITI Board concludes that Togo has made meaningful progress overall in implementing the EITI Standard.*

*In taking this decision, the EITI Board commends the efforts of the Government of Togo on progress made in using the EITI to enhance transparency and accountability in the country’s extractive industries. The EITI Board notes that the EITI has contributed to bring valuable information to the public domain and improve the country’s statistics, particularly on employment and production. EITI implementation has contributed to accelerate tax reforms in the mining. It has also led to improved oversight of subnational transfers to local authorities. The Board encourages the government to enshrine transparency requirements in regulations for the new mining code, including provisions related to beneficial ownership disclosure.*

 *The Board notes Togo’s efforts to go beyond the requirements of the EITI Standard in disclosing voluntary social expenditures (6.1). The Board also notes the government’s efforts in using the EITI to bring more transparency in the marketing of precious minerals, transportation, and groundwater exploitation.*

*To put the EITI process on a stronger footing, the Board encourages Togo to improve the governance of the EITI Steering Committee by clarifying rules and procedures for constituency nominations and representation. The Board also encourages Togo to enhance transparency of state owned companies (SOEs) managing state participation in the extractives sector, by providing more information on the financial relationship between the state and SOEs. The Board encourages the MSG to work with the Office Togolais des Recettes to develop a procedure for regular and systematic disclosure of disaggregated data on mining revenues. The Board determines that Togo will have 18 months, i.e. until <date of Board decision + 18 months> before a second Validation to carry out corrective actions regarding the requirements relating to MSG governance (1.4), EITI workplans (1.5), contract transparency (2.4), state participation (2.6), barter agreements (4.3), SOE transactions (4.5) and subnational transfers (5.2). The Board strongly encourages Togo to address corrective actions related to MSG governance (1.4) as a priority. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Togo’s multi-stakeholder group may request an extension of this timeframe, or request that Validation commences earlier than scheduled.*

*The Board’s decision followed a Validation that commenced on 1 April 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG’s comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG’s comments. The final decision was taken by the EITI Board.*

## Background

The Government of Togo committed to implementing the EITI in December 2009 and a multi-stakeholder group was created in March 2010. The country was accepted as an EITI candidate in October 2010, and became compliant with the 2011 EITI Rules in May 2013.

The Validation process commenced on 1 April 2017. In accordance with the Validation procedures, an initial assessment [[English](https://eiti.org/sites/default/files/documents/togo_validation_initial_assessment_en.pdf) | [French](https://eiti.org/sites/default/files/documents/togo_validation_initial_assessment_fr.pdf)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report [[English](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_first_draft_en.pdf) | [French](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_first_draft_fr.pdf)]. Comments from the MSG were received on 1 February 2018 [[English](https://eiti.org/sites/default/files/documents/msg_comments_1.02.2018_en_1.pdf) | [French](https://eiti.org/sites/default/files/documents/msg_comments_1.02.2018_fr.pdf)]. The Independent Validator reviewed the comments and responded to the MSG, before finalising the Validation Report [[English](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_final_en.pdf) | [French](https://eiti.org/sites/default/files/documents/asi_validation_report_togo_final_fr.pdf)].

The Validation Committee reviewed the case on 26 January 2018 and presented a paper for discussion at the Board’s 39th meeting in Oslo on 13 February 2018. Following receipt of MSG comments and finalisation of the Validation report, the Validation Committee reviewed the case again on 26 March 2018. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below.

The Committee also agreed to recommend an overall assessment of “meaningful progress” in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.

…

iv.   **Meaningful progress**. The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

The Validation Committee agreed to recommend a period of 18 months to undertake the corrective actions. This recommendation takes into account that the challenges identified are relatively significant and seeks to align the Validation deadline with the timetable for Togo’s 2016 and 2017 EITI Reports.

## Assessment card

The Validation Committee recommends the following assessment:

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| **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) |  |   |   |   |   |



## Corrective actions

The EITI Board agreed the following corrective actions tobe undertaken by Togo. Progress in addressing these corrective actions will be assessedin a second Validation commencing on <date of Board decision + 18 months>:

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. 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.
4. 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.
5. 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.
6. 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.
7. 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.

The government and the MSG are encouraged to consider the other recommendations in the Validator’s Report and the International Secretariat’s initial assessment, and to document the MSG’s responses to these recommendations in the next annual progress report.