

# Validation of Zambia

## Report on initial data collection and stakeholder consultation



## Abbreviations

AGO	Auditor General's Office
APR	Annual Progress Report
AZMEC	Association of Zambian Mineral Exploration Companies
BO	Beneficial Ownership
BOZ	Bank of Zambia
CCZ	Council of Churches in Zambia
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
CTPD	Centre for Trade Policy and Development
DA	Development Agreements
EIA	Environmental Impact Assessment
EITA	Extractive Industries Transparency Alliance
EITI	Extractive Industries Transparency Initiative
EITI Board	The International Board of the EITI
EU	European Union
FDI	Foreign Direct Investment
FIC	Financial Intelligence Centre
FSSMAZ	Federation for Small Scale Mining Association in Zambia
GDP	Gross Domestic Product
GSD	Geological Survey Department
IA	Independent Administrator
ICGLR	International Conference on the Great Lakes Region
IDC	Industrial Development Corporation
IMF	International Monetary Fund
MDA	Mineral Development Agreement
MDD	Mines Development Department
MMDA	Mines and Mineral Development Act
MMMD	Ministry of Mines and Minerals Development
MFMP	Ministry of Finance and National Planning
MJ	Ministry of Justice
MOF	Ministry of Finance
MoL	Ministry of Lands
MoLGH	Ministry of Local Government and Housing
MRT	Mineral Royalty Tax
MSG	Multi Stakeholder Group
MUZ	Mine Workers Union of Zambia
MVCMP	Mineral Value Chain Monitoring Project
NGO	Non-Governmental Organisation
NRGI	Natural Resource Governance Institute
OAG	Office of the Auditor General
PACRA	Patents and Companies Registration Agency
PAYE	Pay as You Earn
PEP	Politically Exposed Persons
PLC	Public Limited Company
PS	Permanent Secretary

PWYP	Publish What You Pay
PWYP ZA	Publish What You Pay Zambia
SOE	State Owned Enterprise
ST	Secretary of the Treasury
SWF	Sovereign Wealth Fund
TOR	Terms of reference
TPIN	Tax Payer Identification Number
UMCIL	Universal Mining & Chemical Industries Limited
US\$	United States Dollar
VAT	Value Added Tax
WfC	Women for Change
WHT	Withholding Tax
YAD	Youth Alliance for Development
ZACCI	Zambia Association of Chamber of Commerce and Industry
ZCCM- IH	Zambia Consolidated Copper Mines – Investment Holdings Plc
ZEC	Zambia EITI Council
ZEITI	Zambia Extractive Industries Transparency Initiative
ZEIW	Zambia Extractive Industries Watch
ZHAP	Zambia Humanitarian Actors Platform
ZLA	Zambia Land Alliance
ZMW	Zambian Kwacha – Rebased
ZRA	Zambia Revenue Authority

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## Executive Summary

The Government of Zambia committed to implementing the EITI in 2008 and a multi-stakeholder group – the Zambia EITI Council (ZEC) - was established in early 2009 to oversee EITI implementation. The country was accepted as an EITI candidate in May 2009, and became compliant with the 2011 EITI Rules in September 2012.

On 2 June 2016, the Board agreed that Zambia's Validation under the 2016 EITI Standard would commence on 1 January 2017. 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<sup>1</sup> and applied the Validation Guide<sup>2</sup> in assessing Zambia's progress with the EITI Standard. While the initial assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's preliminary assessment is that requirements 2.2, 2.4, 2.6, 3.2, 4.5 and 7.3 have not been fully addressed in Zambia. The recommendations and suggested corrective actions identified through this process relate in particular to license allocations, contract transparency, state participation, production data, transactions between state-owned enterprises and follow-up on report findings and recommendations. The report also provides a list of recommendations for how the EITI process in Zambia can be strengthened and contribute further to improving extractive sector governance in the country.

The initial assessment exercise has highlighted the progress made and engagement by stakeholders in ensuring that comprehensive and reliable information is made available. In an increasingly challenging environment for minerals-dependent countries like Zambia, there are further opportunities for ZEITI to contribute to more informed policy and public debate, for example, on issues such as tax evasion and transfer pricing. ZEITI has begun playing a coordinating role between government agencies and wider stakeholders on frontier issues such as beneficial ownership disclosure, where Zambia can potentially take a regional lead if the country's EITI beneficial ownership roadmap is implemented. Continuous and sustained engagement by stakeholders, in particular the government, and strengthening links between ZEITI and ongoing government reforms and priorities is essential and will be necessary going forward.

## Overall conclusions

The EITI has helped Zambia improve transparency and accountability in the extractive industries by providing timely and reliable information to the public, including civil society, media and affected communities. ZEITI has provided valuable information along the value chain, identifying gaps and opportunities for strengthening monitoring of production, and improving the understanding of the revenues generated from oil, gas and mining activities. This work is critical to tackling corruption and addressing tax evasion.

It has taken some time for Z EITI to move from the production of reconciliation reports to informing and shaping the policy dialogue in Zambia's mining sector. However, recent strategic discussions within ZEITI

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<sup>1</sup> EITI Validation Procedures: <https://eiti.org/document/eiti-validation-procedures>.

<sup>2</sup> EITI Validation Guide: <https://eiti.org/document/eiti-validation-guide>.

demonstrate the acknowledgement among stakeholders that there is a need to focus beyond the production and dissemination of EITI Reports to become a more active proponent of transparency and improved sector governance.

An example are the recent efforts by ZEITI to place beneficial ownership transparency on the government's agenda, by participating in the beneficial ownership pilot and seeking to understand how to make beneficial ownership disclosure mandatory by law.. It will be important for stakeholders to support the actual implementation of beneficial ownership disclosure, which may require legal and regulatory reforms, decisions related to reporting scope and thresholds, designing and setting up a beneficial ownership registry, and ensuring that the reported information is accurate.

The ZEITI secretariat is also playing an increasingly active role in facilitating discussions on key policy areas, and is developing experience supporting the collection of EITI Report. This can be a starting point for mainstreaming extractives transparency into government systems and ensuring more regular disclosure of data by government agencies and mining companies. Through the regular engagement with the key stakeholders providing, collecting and verifying extractives data, ZEITI has the potential to support the government in moving towards routine disclosures of the data currently provided in EITI Reports.

Zambia's EITI Validation process has so far highlighted opportunities for improvement related to disclosures of information on the extractive sector and the potential use of this data.. It is essential that stakeholders continue to use the ZEITI process to ensure that it can better contribute to address key challenges ahead for Zambia's extractive sector.

## Recommendations

The International Secretariat makes the following recommendations:

- In order to meet requirement 2.2 on license allocation, the ZEC should ensure that the next EITI Report includes comprehensive information on the process of license transfers, licenses transferred during the reporting year, and an explanation of the technical and financial criteria for awarding of licenses for both the mining and petroleum. The ZEC might also consider including the most recent information on the latest licensing rounds to improve the timeliness of the information on license allocations, as well ensuring that there is commentary on any deviations from the license allocation process and on the efficiency of the licensing process.
- In order to meet requirement 2.4 on contract disclosures, the ZEC should make sure that the description of the government's policy regarding contract and license transparency in the next EITI Report is up to date and reflects the MMDA 2015. It should also clarify whether there are any laws or contractual provisions that affect disclosure of contracts in the petroleum sector. Further, the ZEC may wish to consider whether to include any descriptions regarding what information related to individual licenses is publicly available, such as work programmes and environmental impact assessments, and provide links to further information where applicable.
- In order to meet requirement 2.6 on state participation in the extractive sector and requirement 4.5

on transactions related to state-owned enterprises, the ZEC should ensure that an explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises is disclosed, including a description of the rules and practices governing transfers of funds between ZCCM-IH, IDC and the state, and details on retained earnings, reinvestment and third-party financing if applicable. This could include an explanation or reference to ZCCM-IH's dividend policy and further details on transfers made by IDC to the government from its shares in ZCCM-IH. The ZEC should further ensure that the reporting process comprehensively addresses all material payments to SOEs from oil, gas and mining companies and transfers between SOEs and other government agencies.

- In order to meet requirement 3.2 on production data, the ZEC should ensure that the future EITI Reports include information on the progress made by the government in obtaining reliable production figures, and to refer to the existing information provided by the MDD, ZRA and Chamber of Mines.
- With regards to assuring the quality of the data in the EITI Reports (requirement 4.9), the ZEC and Independent Administrator should clearly document the discussion on the options considered and the rationale for the agreed data quality assurances to be provided by reporting entities to the Independent Administrator. The ZEC should ensure that the TORs for the next report outlines the process for collecting data and clearly describes the division of labour between the national secretariat and the Independent Administrator.
- In order to meet requirement 7.3 on lessons learned and follow-up on report recommendations, the ZEC is encouraged to consider ensuring that recommendations in ZEITI Reports to a larger extent address key challenges related to extractive sector governance. Such recommendations could take into account feedback recorded from stakeholders as part of ZEITI's dissemination activities. The ZEC should also consider a more systematic follow-up of the recommendations, for instance by developing a dedicated plan for following up on findings and recommendations from the ZEITI Reports, outlining actions to address the recommendations which can achieve the intended objective.

Further recommendations are made by the International Secretariat to strengthen the EITI process in Zambia:

- Further to the government's engagement with ZEITI, the government is encouraged to ensure that public statements continue to include commitments to extractives transparency and the EITI, and that the EITI continues to contribute to addressing key governance challenges in the extractive sector. The government is further encouraged to ensure that it consistently and actively chairs the ZEC. The government could also consider making company disclosures on extractive sector payments mandated by law, either in a ZEITI Bill or as part of relevant sector reforms.
- Civil society representatives on the MSG should strengthen the collaboration between civil society representatives on the ZEC and the wider constituency and establish a feedback mechanism to ensure consistent exchange of information.

- Further to ZEITI's engagement with artisanal and small-scale miners, the ZEC may also wish to consider how to engage further with the artisanal and small-scale mining sector, as there appear to be opportunities to use the ZEITI to discuss challenges related specifically to small-scale mining, to ensure that the regulatory framework is enforced and also addresses the risks faced by small-scale miners.
- In developing future EITI work plans, it is recommended that the ZEC addresses how ZEC will address the recommendations from EITI reporting and Validation. Future work plans could also do more to ensure that the process is better linked to national strategic priorities, such as informing public debate on the fiscal regime and tax avoidance. The ZEC may wish to ensure that the description of the legal framework is up to date and reflects the latest laws or legal amendments such as the MMDA 2015.
- With regards to data on licenses (requirement 2.3), the ZEC should consider possibilities for including information on the date of application for petroleum licenses in the next EITI Report includes information on the date of application for petroleum licenses. ZEITI and stakeholders are encouraged to continue the efforts made to improve license data made available in the cadastre and to address the gaps identified in the ZEITI Reports. The next EITI Report should include a link to the license cadastre.
- Further to ZEITI's work on beneficial ownership disclosure, the government and ZEC are encouraged to continue making progress on implementation of beneficial ownership disclosure, and to ensure that ZEITI's efforts to disclose beneficial ownership data is linked to ongoing efforts within the government to address key challenges in the extractive sector such as tax evasion and transfer pricing.
- With regards to export data (requirement 3.3), the ZEC may wish to ensure that future reports include total export values or provides a reference to other sources of export data, including Bank of Zambia.
- With regards to the comprehensiveness of the EITI Report (requirement 4.1), ZEITI should ensure that future EITI Reports provide the total revenues received for each of the benefit streams included in the scope of the EITI Report, including payments from companies below the agreed materiality threshold. ZEC may wish to consider the feasibility of disclosing revenue information disaggregated by project in a systematic manner, as this is already being done to some extent. The ZEC is encouraged to continue its discussions on the materiality thresholds and whether to include PAYE figures as part of company payments.
- Further to ZEITI's efforts to provide information on the auditing framework in Zambia, the ZEC may wish to engage more with the Auditor General's Office and ensure that EITI reporting can to a further extent highlights gaps and provide recommendations related to auditing procedures and practices, such as those related to the ability of the Office of the Auditor General to audit mining companies and disclosure of companies' annual financial statements.
- Further to ZEITI's work on mainstreaming EITI disclosures, the ZEC is also encouraged to consider








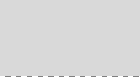

ways to mainstream EITI reporting and discuss whether a mainstreaming feasibility study or exercise could be useful to identify ways forward for embedding disclosure of extractives data in existing government and company systems.

- With regards to information on revenue management and expenditures (requirements 5.1 and 5.3), the ZEC may wish to consider including information on how local authorities spend the direct subnational payments collected from mining companies, or on expenditures from the Environmental Protection Fund.
- With regards to social expenditures (requirement 6.1), the ZEC is encouraged to discuss whether Corporate Social Responsibility payments are considered material and whether these payments could be reconciled. The ZEC may wish to continue collaborating with the Chamber of Mines for systematic reporting and verification of the figures and providing recommendations for how such payments can be overseen by the government. This can help improve the clarity on the nature, value and beneficiaries of such payments.
- With regards to information on the contribution of the extractive sector to the economy (requirement 6.3), the ZEC should ensure that the next EITI Report includes GDP contribution in absolute terms. The ZEC may further want to consider including information on the contribution of the artisanal and small-scale mining sector to the economy.
- Further to ZEITI's discussions on local content, the ZEC might wish to consider whether to include information on local content as part of their next work plan and EITI Report, and take into account the government's local content strategy for the mining sector.
- Further to ZEITI's efforts to disseminate information related to the extractive sector, all stakeholders, including government, civil society and industry are encouraged to continue to disseminate extractive sector data through EITI Reports, with the aim to ensure that the EITI and the information made publicly available about the extractive industries contributes to public debate. The ZEC might want to undertake further capacity building efforts to increase awareness of the EITI process, improve understanding of information and data from the reports, and encourage use of the information by citizens, the media and others.
- The national secretariat is resource constrained and unable to carry out outreach activities as part of the Strategic Plan for 2016-2020. The ZEC could contribute to identifying domestic and external sources of funding where appropriate to ensure timely implementation of the agreed outreach activities.
- With regards to ZEITI plans related to open data, the ZEC is encouraged to make EITI Reports available in a machine-readable and open data format, in accordance with ZEITI's open data policy.

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)				■	
	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	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*

	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

### Overview and background for EITI implementation

In July 2008, the Government of the Republic of Zambia announced the country's intent to implement the EITI. It published a work plan and established a multi-stakeholder working group, the Zambia EITI Council (ZEC), to spearhead the implementation of EITI. Zambia became a candidate country in May 2009. In 2011, the country underwent its first Validation<sup>3</sup>, and the EITI Board declared that meaningful progress had been made but not all requirements were met<sup>4</sup>. Following a review conducted by the International Secretariat<sup>5</sup>, Zambia was declared EITI Compliant with the EITI Rules in September 2012.<sup>6</sup>

The ZEC is composed of stakeholders from the government, mining companies and the civil society organisations and oversees the implementation of the EITI. Each of the three stakeholder groups is represented by six members. The ZEC is chaired by the Secretary to the Treasury, Mr. Fredson Yamba. The ZEC is serviced by a national secretariat which is located in the Ministry of Mines Energy and Water Development. The national secretariat has five full time staff and a part time driver.

### Objectives for implementation and overall progress in implementing the workplan

A ZEITI Strategic Plan (2016-2020) was approved by the ZEC in September 2016.<sup>7</sup> The Strategic Plan identifies priority activities which will be essential in the effective implementation of EITI to achieve its objectives. The plan also takes into account the challenges ZEITI has encountered since its inception in aiming to achieve its goals and objectives. According to the ZEITI Strategic Plan (pp. 5-6), ZEITI will pursue the following objectives:

- Promoting full disclosure of information on the mineral value chain to enhance transparency and accountability in the governance of natural resources;
- Promoting prudent management of revenue from the natural resources to ensure that such revenue contributes towards socio-economic development and improved livelihoods for citizens;
- Disseminating information on the mineral value chain and natural resource governance to create awareness and stimulate informed decision making;
- Monitoring and evaluating the effectiveness of the natural resource governance framework and systems to assess their impact on the socio-economic development of the country; and
- Managing the operations of the ZEITI to ensure efficiency and effectiveness in the

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<sup>3</sup> [http://www.zambiaeiti.org.zm/index.php?option=com\\_docman&Itemid=78](http://www.zambiaeiti.org.zm/index.php?option=com_docman&Itemid=78)

<sup>4</sup> EITI, 23 August 2011, "Decisions on EITI Validation of Mozambique, Tanzania, Zambia" <https://eiti.org/news-events/decisions-eiti-validation-mozambique-tanzania-zambia>.

<sup>5</sup> EITI (2012), "Secretariat Review: Zambia" <https://eiti.org/files/Secretariat%20Review%20Zambia%20-%20final.pdf>

<sup>6</sup> EITI, 19 September 2012, "Zambia declared EITI Compliant", <https://eiti.org/news-events/zambia-declared-eiti-compliant>.

<sup>7</sup> MSG Minutes 27 September 2016, p. 3.

implementation of programmes.

## History of EITI Reporting

Zambia has produced seven EITI Reports since joining the EITI.<sup>8</sup> The periods covered by these reports are from 1 January 2008 until 31 December 2015. The latest EITI Report covers financial year 2015 and was published in December 2016. ZEITI is currently exploring opportunities for supporting the Independent Administrator in collecting EITI data with the aim to reduce costs and mainstream EITI reporting in the future.

## Summary of engagement by government, civil society and industry

The ZEC was established by the government through the Ministry of Mines and Minerals Development at a launch workshop held on 15-16 July 2008. The workshop was attended by stakeholders including government, extractive companies and civil society organisations. At this workshop the government committed to implement the EITI and appointed a senior government official (the Secretary to the Treasury) to lead the process. A costed work plan was agreed, along with Terms of Reference for the ZEC. The current ZEC members is included in Annex A.

There is strong government engagement at the technical level and a broad range of government agencies are represented at the ZEC with regular meeting attendance. The attendance of the Chair is less frequent, although this does not appear to reflect a lack of government engagement on the whole. ZEC has successfully engaged high-level officials beyond the ZEC in EITI implementation. Civil society and industry (in particular the Chamber of Mines) are also actively involved in the EITI process, and the national secretariat has made several efforts to engage stakeholders beyond the ZEC through outreach and dissemination activities.

## Key features of the extractive industry

Zambia has a long history of mining and a large known resource base of copper, emeralds and other deposits, as well as potential for further discoveries.<sup>9</sup> The country is a major producer of copper and cobalt and the mining sector as a whole accounts for about 10% of GDP directly and perhaps as much as half of GDP indirectly.<sup>10</sup> The mining sector is a major contributor to foreign direct investment, and mining tax revenues contribute a significant portion of total government revenue (18% in 2015).<sup>11</sup> The four largest mining companies account for over 85% of copper production in the country, and the mining sector contributed 78% of total exports by value in 2014.<sup>12</sup> However, due to declining commodity prices,

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<sup>8</sup> The reports are available from the ZEITI website: <https://www.zambiaeiti.org/index.php/zambia-eiti-reports>

<sup>9</sup> World Bank (2016). Zambia Mining Investment and Governance Review, <https://openknowledge.worldbank.org/handle/10986/24317>.

<sup>10</sup> Zambia EITI Report 2015, [https://eiti.org/sites/default/files/documents/zeiti\\_2015\\_reconciliation\\_final\\_report\\_23\\_december\\_2016.pdf](https://eiti.org/sites/default/files/documents/zeiti_2015_reconciliation_final_report_23_december_2016.pdf).

<sup>11</sup> *Ibid.*

<sup>12</sup> Zambia EITI Report 2014, <https://eiti.org/document/2014-zambia-eiti-report>.

the contribution to total exports declined to 47% by value in 2015.<sup>13</sup> The sector is also a significant source of formal employment, both directly and indirectly. The first oil exploration licenses under the 2008 Petroleum Act were issued in 2011, but there is still no production.<sup>14</sup>

There have been significant changes in the ownership of the mining sector in recent decades. After a period of nationalisation of the sector that began in the early 1970s, the industry was re-privatised in 2000 following a period of economic decline. Zambia Consolidated Copper Mines Investments Holdings (ZCCM-IH) is a publicly listed majority state-owned company which was privatised in stages during the 1990s. The government has retained minority interests in most of the major mines through ZCCM-IH, which collects dividends and other investment income from its subsidiaries. The long period of nationalisation of mining has influenced public expectations regarding the mining industry in terms of employment and social and economic contribution, particularly in the communities that host mining projects.<sup>15</sup>

In response to declining commodity prices and a general perception that historically the government has not received what it should have for its resources since privatisation, the government has made several changes to the mineral fiscal regime, causing instability for investors. In 2014, the government increased mining royalty rates and temporarily removed the 30% corporate income tax for mining companies with the aim of generating an immediate stream of revenue once mining production starts. The 2015 Zambia EITI Report explains how this “royalty only” regime led to increased production costs for companies, did not boost government revenue, and made revenue collection more complex for revenue authorities (pp. 45-46). As a result, the government made new changes to the tax regime in 2015. The royalty rate was lowered to 9% and corporate income tax of 30% was reintroduced. According to the report, this system will allow for flexibility for companies investing in the mining sector and can help raise government revenues in times of declining copper prices (p. 46).

## 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 Standard<sup>16</sup>. 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

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<sup>13</sup> Zambia EITI Report 2015.

<sup>14</sup> *Ibid*,

<sup>15</sup> World Bank (2016), Zambia Mining Investment and Governance Review.

<sup>16</sup> See also <https://eiti.org/validation>.

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 ZEC 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.

#### 2. Country visit

A country visit took place on 20-25 February 2016. All meetings took place in Lusaka. 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 was prepared by ZEITI, with inputs and suggestions from the International Secretariat and is outlined in Annex D.

### 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: Emine Isciel (Country Manager) and Ines Schjolberg Marques (Country Manager).



## Part I – MSG Oversight

### 1. Oversight of the EITI process

#### 1.1 Overview

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

#### 1.2 Assessment

##### Government engagement in the EITI process (#1.1)

###### Documentation of progress

The Multi-Stakeholder Launch Workshop of 15-16 July 2008 included a keynote speech by Hon. Dr. Kalombo T. Mwansa MP, Minister of Mines and Minerals Development (MMMD) entitled “*Why Zambia has adopted EITI- and expectations from EITI*”. The speech specifically committed the government to enhancing transparency and accountability in the mineral sector and stated that implementation of EITI is key component of this commitment. It is reported that this speech was transmitted on the Television on news of 15 July 2008. As a follow-up to the workshop, a press release was issued on 16 July 2008 by the Deputy Minister MMMD, Hon. Maxwell M. B. Mwale which reiterated that implementation of EITI is key component of the Government’s commitment to transparency and accountability. Continuing commitment by the Government through EITI process has been publicly restated in the following:

- Speech by President Rupiah Banda at the re-opening of Munali Nickel Mine on 26 March 2010 stating that Zambia attained EITI candidate status in May 2009.
- Speech by Hon. Maxwell M. B. Mwale, Minister of Mines and Minerals Development at the 53rd Copperbelt Mining, Agricultural and Commercial Show, Kitwe on 29 May 2010, reported in The Post newspaper, stated that Zambia has subscribed to EITI aimed at enhancing transparency and good governance in the sector.
- Speech delivered by the Permanent Secretary of MMMD at the Launch Workshop for Preparation of the First EITI Report, Chingola, 27 August 2010, which reaffirmed the Government commitment to implement EITI.
- Half page advertisement in the Times of Zambia on 15 March 2011 reiterating the Government’s commitment to EITI.
- Quote by Hon. Felix Mutati, Minister of Finance reported in the Post newspaper 25 September 2016.
- All Zambia EITI Reports have been launched by high level government officials who have reiterated Governments commitment to the implementation of EITI in Zambia.

At the Multi-Stakeholder Launch Workshop of 15-16 July 2008, the Permanent Secretary of MMMD presented proposals which had been widely discussed in relevant government departments, with representatives of the media and Zambia Chamber of Commerce and Industries, for the structure of the ZEC. The key part of this proposal was that the chairperson of the ZEC should be the Secretary to the Treasury in Ministry of Finance and National Planning (MFNP). This proposal was accepted and agreed by the workshop participants.

ZEC is currently chaired by the Secretary to the Treasury, Mr. Fredson Yamba. Attendance of the Chair of the ZEC at their meetings was relatively low throughout the 2015 and 2016, and seems to happen mostly at special events such as report launches. While he chaired one out of three meetings in 2015, he did not take part in any ZEC meetings during 2016. The ZEC meetings are usually chaired by a civil society representative who is the vice-chair of the ZEC in the absence of the Chair. The appointment of the vice chair to be a civil society representative was approved by the multi-stakeholder group.

The government has six members on the ZEC (MFNP, MMMD, Ministry of Justice, Zambia Revenue Authority and Bank of Zambia). Minutes from ZEC meetings confirm that government representatives regularly attend and engage in ZEC activities including development of the annual work plans, EITI reporting templates and EITI Reports, annual progress reports and dissemination activities. The national secretariat has made various efforts in engaging relevant government stakeholders in the implementation of EITI which was evident during consultations with key government stakeholders during Validation mission. One example is Zambia's work on beneficial ownership disclosure

The government has also followed up on the recommendations from the EITI Report. The lack of reliable production data, as highlighted in several EITI Reports contributed to the decision by the government to establish a project to support the data collection and monitoring of production (see section on *Production data* (#3.2) in Part II of the initial assessment) and to task the Office of the Auditor General to follow up on the discrepancies identified in the EITI Reports (see section on *Lessons Learned and follow-up on recommendations* (#7.3) in Part III of the initial assessment). More recently, the government has played a supportive role in ZEITI's efforts to advance beneficial ownership disclosure (see section on *Beneficial ownership disclosure* (#2.5) in Part II of the initial assessment).

The ZEC is serviced by a national secretariat located in the Ministry of Mines Energy and Water Development. The secretariat has five full time staff including a part-time driver and is funded by the government. The national secretariat has played a key role in linking EITI activities to ongoing efforts within government and ensuring that there is follow-up from the government has followed up on the findings and recommendations from EITI reporting.

With regards to funding of the EITI process, funding from the government has increased over time. The budgeted contribution for 2016 from the government was 17.5% of the total work plan budget, while a World Bank grant would cover most of the remaining cost. Almost 57% of the total costs were allocated to the production of the EITI report, to be covered by the World Bank. Due to delays in signing and disbursing the grant agreement, with disbursements beginning only in 2017, the government covered about a fifth of the cost for the report which was already produced by then.

## Stakeholder views

Government officials stated that EITI was useful to create awareness about transparency and other emerging issues such as beneficial ownership among government agencies and that it worked as an “coordination mechanism”. Several government representatives on MSG confirmed that the attendance of the Chair is less frequent, but that this did not reflect lacking government engagement on the whole. Another government representative not on MSG added that EITI is “a serious voice in Zambia which everyone listens to” and that ZEITI meetings and outreach activities had benefited them in their work.

Industry representatives noted that while there was clear government commitment to ZEITI, there had been a decline in public statements emphasising the importance of ZEITI for the government, and that a sign of going beyond facilitating the process would be welcome. It was noted that when the Chair was not present, proxies would often be inconsistent and that it was important that proxies are able to make decisions. Civil society stakeholders expressed similar views underlining that there was clear government commitment, while also noting low attendance by the Chair in ZEC meetings.

## Initial assessment

The International Secretariat’s initial assessment is that **Zambia** has made **satisfactory** progress in meeting this requirement. A broad range of government agencies are represented on the ZEC, and regularly attend meetings. The attendance of the Chair is less frequent, but this does not seem to reflect lacking government engagement on the whole. The ZEC has also engaged several key government agencies and high-level officials beyond the MSG in the EITI implementation and outreach activities.

## Industry engagement in the EITI process (#1.2)

### Documentation of progress

Most of the mining companies in Zambia are organised through their affiliation to the Chamber of Mines. Currently, the Chamber of Mines hold 4 seats while the Association of Zambian Mineral Exploration Companies (AZMEC) and the Federation for Small Scale Mining Association in Zambia (FSSMAZ) are also represented with one member each.

The Chamber’s role is to ensure that its members give full attention to the EITI process by disclosing information to the consultants engaged in the reconciliation of their payments to the government. Of the 37 companies included in the 2015 reconciliation, all submitted the requested information except one company despite several efforts by the Independent Administrator and the ZEITI secretariat to obtain information from them.

The Chamber’s council is used as a platform to communicate EITI findings and results. Chamber of Mines has also published much of the requested information directly from their website, including CSR payments, production and employment figures on a regular basis.<sup>17</sup> It has also worked to help explain

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<sup>17</sup> <http://mines.org.zm/database-dashboard/>

government policy to the industry, e.g. publication of “A Guide to understanding Mineral Royalty Tax (MRT)” in February 2016.<sup>18</sup>

The ZEC members representing the industry regularly attended meetings during 2015 and 2016. Mining companies have shown strong commitment to EITI implementation and been involved in the design, implementation and monitoring of activities. The Chamber also contributed to USD 100,000 in 2012 to support ZEITI implementation.

### Stakeholder views

An industry representative from the Chibuluma Mines submitted written input as part of the stakeholder consultation stating that “the work of the ZEITI fits in very well with our philosophy of operating our mine safely, environmentally friendly, cost effectively to the satisfaction of all stakeholders whilst enhancing shareholder value. The community within which we operate forms one of our major stakeholders and as such information that helps the community understand the performance of the mine helps in consolidating our social license to operate. The ZEITI is able to put out the contribution the mine is making to the government treasury, local government and through various CSR programs undertaken by the company. The putting out of this information is very helpful in our engagements with the community. On a broader scale the ZEITI work has enabled the Zambia Chamber of Mines assist Government in coming up with an equitable mining taxation policy”.<sup>19</sup>

An industry representative on the ZEC explained that they ensure that the work plans of the Chamber of Mines is aligned with the ZEITI work plan to enhance the EITI process and further support the implementation of the initiative in Zambia. One industry representative noted that companies comply with EITI reporting despite this not being mandated by law.

According to representatives from the ASM sector, there are opportunities to use the ZEITI to discuss challenges related specifically to small-scale miners and to ensure that the regulatory framework addresses the risks they face. A government representative involved in EITI implementation explained that engagement with ASM representatives through ZEITI to encourage reporting on production had been more positively received as it was perceived as less threatening than ZRA.

Civil society represented on the ZEC noted that there was clear industry commitment to ZEITI underlining active engagement of industry in ZEC meetings.

Some MSG members mentioned that Zambia had witnessed an increase in Chinese investment. Most Chinese-owned mines are not members of the chamber and it has been difficult to access information from such companies without company disclosures being mandated by law.

### Initial assessment

The International Secretariat’s initial assessment is that **ZEITI** has made **satisfactory** progress in meeting

<sup>18</sup> <http://www.azmec.co.zm/wp-content/uploads/2016/04/Guide-to-Mineral-Royalty-Tax-ZCM.pdf>

<sup>19</sup> Jackson Sikamo, Chibuluma Mines Plc, “Zambia Extractive Industries Transparency Initiative (ZEITI) February 2017”, submitted by email on 17 February 2017.

this requirement. Companies are fully and effectively engaged in the EITI process. The government has ensured an enabling environment for company participation.

## Civil society engagement in the EITI process (#1.3)

### Documentation of progress

Civil society is actively involved in the EITI process. During 2015, after expiry of tenure, changes were made to the organisations that sit on the Zambia EITI Council (ZEC) and six new civil society representatives were nominated at a civil society meeting. The six civil society representatives are:

- i. Centre for Trade Policy and Development (CTPD)
- ii. Caritas Zambia
- iii. Women for Change (WfC)
- iv. Zambia Land Alliance (ZLA)
- v. Council of Churches in Zambia (CCZ)
- vi. Mine Workers Union of Zambia (MUZ)

The civil society decided not to include traditional leaders in their constituency and recommended that traditional leaders should be included under the government sector as these leaders now have a Ministry of Chiefs and Traditional Affairs.

*Expression:* From every indication, civil society has been outspoken on many key issues in how the sector is managed from their dissatisfaction over the lack of attendance of the Chair in MSG meetings<sup>20</sup> to the demand to disclose beneficial owners of mining companies in Zambia to enhance transparency.<sup>21</sup> Minutes from ZEC meetings, news articles, press release and participation in events indicate that civil society is clearly able to speak freely about the EITI process without restraint or coercion and also actively take part in dissemination of information on the EITI implementation in Zambia. ed to the management of the extractives sector. On January 2016, twelve civil society organisations (CSOs) working on issues pertaining to extractive industries in Zambia have called on the Government to implement the publication of beneficial ownerships of mining companies to enhance transparency.<sup>22</sup>

### Operation:

According to the Freedom of the World 2017 country profile on Zambia,<sup>23</sup> freedom of association is

<sup>20</sup> <http://www.osisa.org/other/regional/session-3-civil-society-eiti-progress-impacts-and-challenges>.

<sup>21</sup>

[http://www.actionaid.org/sites/files/actionaid/press\\_releases/cso\\_statement\\_eiti\\_beneficial\\_ownership\\_final\\_0.pdf](http://www.actionaid.org/sites/files/actionaid/press_releases/cso_statement_eiti_beneficial_ownership_final_0.pdf).

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[http://www.actionaid.org/sites/files/actionaid/press\\_releases/cso\\_statement\\_eiti\\_beneficial\\_ownership\\_final\\_0.pdf](http://www.actionaid.org/sites/files/actionaid/press_releases/cso_statement_eiti_beneficial_ownership_final_0.pdf).

<sup>23</sup> Freedom House, Freedom in the World 2017 – Zambia: <https://freedomhouse.org/report/freedom->

guaranteed by law. However, non-governmental organisations are required to register and reregister every five years under the 2009 NGO Act<sup>24</sup>, which has been signed into law but not implemented. After a group of CSOs challenged the Act and the provisions on registration in the Zambian High Court in 2014,<sup>25</sup> an agreement was reached between the government and CSOs to negotiate out of court resulting in a suspension of the registration provision. Civil society has been calling for the repeal of the NGO Act, and the government has signalled that a revision of the law is ongoing.<sup>26</sup>

There does not appear to be any restrictions on civil society related to domestic and foreign sources of funding. Civil society receives support from international partners<sup>27</sup> and the Zambian Governance Foundation was established in 2009 with the aim of supporting Zambian civil society organisations and channelling funding from donors.<sup>28</sup>

*Association:* The right to freedom of association is guaranteed by the Constitution (Article 11: Fundamental Rights and Freedom).<sup>29</sup> Some concerns have been raised that the government has used the Public Order Act to prevent civil society and in particular members of the political opposition from exercising their right to associate.<sup>30</sup> Despite such concerns, civil society groups engaged in the EITI process appear to freely collaborate with each other as well as with other local NGOs not directly represented on the ZEC as well as with international groups. Publish What You Pay (PWYP)-ZA has been represented on the ZEC and is an affiliate of PWYP International. The Publish-What-You-Pay coalition has a strong presence in Zambia as a widely based consortium of local and internally recognized CSOs with substantial representation of faith-based groups in addition to the union movement and media and policy development NGOs. In addition to PWYP, there are different civil society platforms that engage with the EITI and to discuss sector challenges:

- The Zambia Extractive Industries Watch (ZEIW), a consortium of civil society and community based organizations working in the sector, and supported by the World Bank;
- The Extractive Industries Transparency Alliance (EITA), an alliance of NGOs working in the sector, also

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world/2017/zambia.

<sup>24</sup> <http://www.parliament.gov.zm/node/3757>

<sup>25</sup> Freedom House, Freedom in the World 2014 – Zambia: <https://freedomhouse.org/report/freedom-world/2014/zambia>

<sup>26</sup> See for example Lusaka Times (5 May 2016), “Government revises NGO Act”, <https://www.lusakatimes.com/2016/05/05/government-revises-ngo-act/>

<sup>27</sup> See for example the GIZ programme “Civil society participation in governance reform processes and poverty reduction” (2015-2018) <https://www.giz.de/en/worldwide/20824.html>, or the EU’s country roadmap for engagement with civil society 2015 – 2017 [https://eeas.europa.eu/sites/eeas/files/csos\\_roadmap\\_outline\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/csos_roadmap_outline_en.pdf).

<sup>28</sup> <http://zambiagovernance.org/about/about-us/>

<sup>29</sup> Article 11.b. guarantees “freedom of conscience, expression, assembly, movement and association”, Zambia's Constitution of 1991 with Amendments through 2009, [https://www.constituteproject.org/constitution/Zambia\\_2009.pdf?lang=en](https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en).

<sup>30</sup> CIVICUS and Zambia Council for Social Development (March 2017): “Zambia: Joint Submission to the UN Universal Periodic Review 28th Session of the UPR Working Group”, <http://www.civicus.org/images/Zambia.JointUPRSubmission.pdf>.

supported by the World Bank;

- The Civil Society Organizations EITI Forum, a coalition of NGOs supported by the World Bank and Oxfam, established by the University of Zambia;
- The Copperbelt Civil Society – EITI Forum, a coalition of NGOs based in the Northern, Luapula and Copperbelt regions of Zambia, established by the University of Zambia;
- The North Western Civil Society – EITI Forum, a coalition of faith-based NGOs based in the north-western region of Zambia, established by the University of Zambia;

*Engagement:* Civil society is involved in the design, implementation, monitoring and evaluation of the EITI through participation in ZEC meetings, dissemination events etc. The minutes from ZEC meetings testify to the active engagement of CSO representatives in the planning and delivery of EITI process. In the absence of the ZEC Chair, civil society representatives have been given the position as chair for most of the ZEC meetings in 2015-2016. As part of their input to the reporting process, civil society has produced analysis reports which have been taken into account for the production of subsequent reports.<sup>31</sup> The advocacy by civil society representatives on beneficial ownership disclosure, through statements and engagement on the ZEC, is likely to have contributed to the implementation of beneficial ownership disclosure.<sup>32</sup>

### Stakeholder views

Civil society representatives on the ZEC did not express any concerns related to the ability to participate fully and freely in the EITI process, and appeared to consider themselves as a key driver in the process. Civil society representatives highlighted in particular the campaigning around Solwesi which had resulted in the passing of a by-law to share direct payments from mining companies with local communities in the municipality as a key achievement to which ZEITI had contributed (see section on *Impact analysis* in Part III). Civil society representatives also highlighted their contributions to the discussions on beneficial ownership as having played a role in ensuring that ZEITI was making progress in placing this on the government's agenda.

Civil society organisations not on the ZEC highlighted that there was a lack of capacity among civil society, in particular those working at the local level, to engage fully in the process and understand the technical nature of the EITI data.

The national secretariat noted the importance of civil society representatives' involvement in their outreach activities to gain credibility, build networks with wider civil societies and reach out to local

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<sup>31</sup> For instance the CTPD report on "CSO Perspectives on the 2012 and 2013 EITI Reports for Zambia", and the "Analysis of 2014 Zambia Extractive Industry Transparency Initiative Report" (available in print, not online).

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[http://www.actionaid.org/sites/files/actionaid/press\\_releases/cso\\_statement\\_eiti\\_beneficial\\_ownership\\_final\\_0.pdf](http://www.actionaid.org/sites/files/actionaid/press_releases/cso_statement_eiti_beneficial_ownership_final_0.pdf).

communities.

## Initial assessment

The International Secretariat's initial assessment is that **Zambia** has made **satisfactory** progress in meeting this requirement. Civil society is fully and actively engaged in ZEITI process and able to speak freely on transparency and natural resource governance issues. The government has ensured that there is an enabling environment for civil society participation and made several efforts to engage civil society beyond ZEC in the design and implementation of the EITI in Zambia.

## MSG governance and functioning (#1.4)

### Documentation of progress

#### Zambia EITI Council composition and membership:

The ZEC was first established at the Lusaka Workshop in 2008. Attendees, invited primarily from government, civil society organisations and active mining companies, were asked to discuss proposals on the composition of the ZEC, draft Terms of Reference and a work plan.<sup>33</sup> Proposals at the workshop suggested that government should be represented, in addition to the chairperson from MFNP, by one senior representative each of the MMMD, MJ, ZRA and the Bank of Zambia. The commitment of the three constituent groups to work together to implement the EITI process was formalised in a Memorandum of Understanding signed on 27 August 2010, in which the primary obligations of each group was specifically stated. The signatory for the CSOs was Transparency International Zambia, and the signatory on behalf of the extractive industries was the President of the Chamber of Mines. Each of the three constituencies are free to propose their own representatives, although the initial launch workshop agreed a set of general guidelines as to how certain constituencies would be represented in each group.

#### Terms of Reference for the MSG:

ZEC currently consists of 18 members and operates under TORs approved on 21<sup>st</sup> March 2011. Each of the three stakeholder groups are represented by six members. The functions of ZEC (para 7.0-7.18) are specified as the formulation of guidelines on implementation, making decisions, preparing updates, considering proposals reports, establish committees, ensure dissemination of information and update stakeholder institutions on its decisions and execution of its task. The TOR does include provisions on the responsibility of MSG members to have capacity to carry out their duties. The TOR from 2011 include a provision that the ZEC should approve the costed work plans and budgets of the ZEITI (para 7.7) but do not state the frequency with which these shall be prepared nor have any requirements that the ZEC should monitor progress against approved work plans. The 2011 TOR also contain provision for production of the reconciliation report including appointment of Independent Administrator (para 10.4) and the TOR for the IA. Para 7.10, 10.3 and 10.6 in the 2011 TOR include reference to MSG's responsibility to "approve the validation reports and any other reports from consultants".

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<sup>33</sup> The initial invitation came from the Ministry of Mines who has been responsible for setting up the secretariat and the initial sign up steps for candidacy application to EITI.



The internal governance rules and procedures of ZEC (para 6.0-6.18) includes provisions on the MSG to consist of an equal tri-partied representation of members from government, extractive companies, and civil society and decide the total number of members. Decision making by consensus or through voting by simple majority. There is no mentioning of the right or impediment of any MSG member to table an issue for discussion and MSG members can suggest items for discussion during the MSG meetings. The TOR include provisions on procedures for nominating and changing MSG members. The period of tenure for members is 3 years or as decided by ZEC. A list of ZEC members is included in Annex A.

In accordance with the TORs for ZEC, ZEC shall decide the frequency of its meetings. 8 meetings of ZEC have been held and formally minuted in 2015 and 2016. An agenda of a ZEC meeting shall be presented to the Chair and members at least 5 working days prior to the meeting. The TOR also include provisions on record keeping and the approval of ZEC meeting minutes.

The national secretariat's role (para 9.0-9.13) are specified as preparing and take minutes, organize workshops, disseminating EITI information, preparing the work plan and budget and assisting the Independent Administrator and Validator.

The TORs do not include provisions on the MSG's practice with regards to per diems for attending MSG meetings. However, the national secretariat explained that ZEC-members receive per diems which are paid in accordance with government policy on allowances.<sup>34</sup>

#### Government membership:

During 2015, after expiry of tenure, changes were made to the organisations that sit on the Zambia EITI Council (ZEC). Government is represented by the Chairperson who is the Secretary to Treasury (ST) in the Ministry of Finance (MOF), and a representative each of the MMMD, MOF, Ministry of Justice, Bank of Zambia, the Zambia Revenue Authority and Ministry of Local Government and Housing. Although relevant government agencies are represented on the ZEC, various efforts have been made to reach out to government agencies not represented on the MSG, often through ZEITI's report dissemination activities. Consultations on emerging issues where it is necessary to involve other state institutions seem to happen on an ad hoc basis. For instance, on beneficial ownership disclosure, ZEITI has organised consultations and workshops with state actors for inputs and outreach.

#### Company membership:

The Chamber's policy for representation on the ZEC is explicit, in that it nominates the current President, the current Vice-President and the General Manager, and elects two other members to form the committee of the Chamber. Currently, the Chamber of Mines hold 4 seats while the Association of Zambian Mineral Exploration Companies (AZMEC) and the Federation for Small Scale Mining Association in Zambia (FSSMAZ) are also represented with one member.

#### Civil society membership:

During 2015, after expiry of tenure, changes were made to the organisations that sit on the Zambia EITI

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<sup>34</sup> Public Service Management Division Circulars B21 of 2016 constitutes Government policy on payment of allowances.

Council (ZEC) and six new civil society representatives were nominated. See requirement 1.3 for more information. According to civil society representatives on the ZEC, quarterly feedback is provided to its wider constituency, often through email. Annual meetings are also held to discuss EITI related issues. There are also various civil society platforms that engage with the EITI. There appears to some inconsistency on consultation between civil society representatives on the ZEC and the wider constituency, indicating a lack of a mechanism for communication with wider civil society stakeholders.

### Stakeholder views

Civil society representatives on the ZEC explained that the ZEC was a “fair platform” and that decision-making is conducted in an inclusive way which treats each constituency as an equal partner. They confirmed that decision-making rules and TORs for ZEC were followed and that invitation to participate in the group was open and transparent, with each stakeholder group being adequately represented. They added that there was sufficient notice of meetings and timely circulation of documents prior to their debate and proposed adoption. Civil society representatives on the ZEC were also pleased with the written records which reflect MSG discussions and decisions adequately.

Civil society representatives on MSG explained that a draft Terms of Reference for civil society representation in ZEITI had been discussed broadly with Zambian civil society. During 2015, two members from six different institutions were nominated. The representatives explained that they provide quarterly feedback to their wider constituency, often through emails. The CSO representatives on ZEC also said that Zambian civil society has annual meetings to discuss EITI related issues.

Civil society representatives outside ZEC expressed that there is no mechanism to compel their representatives to report back to them and that their voice is usually not being represented in ZEC meetings. Furthermore, they raised some concerns regarding the draft Terms of Reference for election of CSO representatives on ZEC highlighting that the mandate, period and reporting mechanism is yet not clear and satisfactory.

In the absence of feedback mechanism, the national secretariat has facilitated meetings to involve wider civil society organisations in the implementation of ZEITI. One example is the workshop to develop the work plan where civil society organisations beyond MSG was invited to attend. The secretariat will also be funding another CSO meeting in March 2017 for civil society to discuss and adopt the terms of reference for civil society representation on the ZEC.

Chamber of Mines representatives on the ZEC explained that they are elected by companies to represent them on the MSG. They use platforms provided by the chamber to disseminate reports and to raise awareness about EITI. Several companies on ZEC expressed that MSG members are involved in decision-making as outlined in the TORs for ZEC. For example, they have been responsible for approving work plans, appointing the IA and discussing the content of the EITI Reports. One company representative on the ZEC said that “it is very clear that the ZEITI will continue to be a very good vehicle for broad stakeholder engagement with the final aim being ensuring that revenue collection is optimised whilst utilisation of that collected revenue is properly applied to reduce poverty”.

Several representatives noted the absence of the chair in ZEC meetings explaining that they did not consider this to be an obstacle to make important decisions or undertake important activities. Several

representatives on MSG explained that ZEC meetings are usually chaired by a CSO representative who is the vice -chair of the ZEC in the absence of the Chair. The appointment of the vice chair to be a CSO representative was approved by the multi-stakeholder group and most representatives seemed pleased with this solution.

### Initial assessment

The International Secretariat's initial assessment is that **Zambia** has made **satisfactory** progress towards meeting this requirement. It was evident during the stakeholder consultations that ZEC members have a clear understanding of TORs for the ZEC and appointment of representatives. Decision-making is conducted in an inclusive way which treats each constituency as a partner. The TORs for the ZEC are followed and the invitation to participate in the group is open and transparent, with stakeholders being adequately represented.

## Workplan (#1.5)

### Documentation of progress

The ZEC work plans for 2014-2016<sup>35</sup> and a detailed implementation plan for 2017-2018<sup>36</sup> are available on the ZEITI website. ZEITI has also produced a strategic plan for 2016-2020, with the aim of deepening the impact of the EITI process by linking it to various policy priorities for the government and to create linkages between the ZEITI Secretariat, the Chamber of Mines, and civil society.

The 2014-2016 work plan agreed by the ZEC in March 2014 lists the following objectives:

- Move towards full adoption of the EITI Standard by end of 2014
- To contribute towards enhanced accountability and transparency in the management of revenue collected from the extractive industries
- Create public awareness of EITI implementation in Zambia
- To monitor and evaluate the effectiveness of the mining sector in order to assess their impact on the socio-economic development of the country.
- To manage the operations of the ZEITI in order to ensure efficiency and effectiveness in the implementation of programmes.

To some extent, these establish "EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries" (Requirement 1.5a). Enhanced accountability and transparency in the management of revenues from the extractive sector reflect some of the government's

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<sup>35</sup> <http://www.zambiaeiti.org/index.php/ct-menu-item-13/zambia-eiti-work-plan>.

<sup>36</sup> <http://zambiaeiti.org/wp-content/uploads/2017/06/ZEITI-Implementation-Plan-2017-and-2018.xlsx>

priorities set out in its development plan in the past years.

The work plan lists the planned activities to achieve the ZEITI objectives, expected outputs, responsible party, timeline, and costs. The activities are measurable and time bound. The plan assesses and outline plans to address any constraints including action to be taken to overcome these constrains. It also outlines MSG's plans for implementing the recommendation from EITI Reporting. MSG is using the Annual Progress Report to monitor the work plan. According to MSG minutes, several objectives of the work plan have also been subject to discussion during meetings in 2015 and 2016. According to the Annual Progress Report 2015<sup>37</sup>, there has been overall progress in achieving the broader objectives of the work plan for 2015, underlining that some activities related to increase revenue transparency within Zambia and mainstreaming are still not met.

The work plan does to some extent reflect the scope of activities ZEITI performs, for instance more recent activities related to beneficial ownership and to production data (through the Mineral Value Chain Monitoring Project). Currently the EITI focuses mostly on mining. There have been some discussions amongst stakeholders and the ZEC regarding extending the scope to include forestry, although this is not reflected in the work plan.

Most noticeable in several ZEITI documents are the efforts made to accelerate setting up the EITI legal framework for EITI implementation which is also reflected in the work plan. For instance, one clear ongoing activity for the MSG is "Zambia EITI Bill/Policy as law enacted". Due to lack of a clear legal framework, obtaining information from some mining companies and government agencies has been a challenge for civil society, and there is no legal ground to enforce company reporting, in particular companies that are not members of the Chamber of Mines. At the time of the stakeholder consultations, a study was being conducted to review the legal and institutional requirements of beneficial ownership reporting in Zambia.

The work plan contains some plans to address recommendations from previous EITI Reports. (See section on *Lessons Learned and follow-up on recommendations (#7.3)* in Part III of the initial assessment for details on implementation of report recommendations).

## Stakeholder views

The ZEC informed the initial assessment team that a draft work plan is developed by the national secretariat which ensures that national priorities are reflected before sharing and consulting it with ZEC members. ZEC members confirmed that the work plan reflects the results of consultation and that opportunities are provided to give inputs. ZEC members also informed that in addition to ZEC meetings, workshops are arranged with the aim to update and discuss work plans.

Both industry and civil society representatives explained that they align their own work plans with the ZEITI work plan to strengthen efforts. Several representatives on MSG expressed ownership and

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<sup>37</sup> Zambia EITI 2015 Annual Progress Report, <https://eiti.org/document/zambia-2015-annual-progress-report>.

commitment to the ZEITI work plan.

### Initial assessment

The International Secretariat's initial assessment is that **Zambia** has made **satisfactory** progress towards meeting this requirement. ZEITI's work plan is result of consultations with key stakeholders and endorsed by the ZEC, and is made publicly available. Both industry and civil society align their own work with the ZEITI work plan which indicate commitment to EITI implementation.

**Table 1 – Summary initial assessment table: MSG oversight**

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)	A broad range of government agencies are represented on the ZEC, and regularly attend meetings. The attendance of the Chair is less frequent, but this does not seem to reflect lacking government engagement on the whole. The ZEC and national secretariat have also successfully engaged key government agencies and high-level officials beyond the ZEC in the EITI implementation.	Satisfactory progress
Company engagement (#1.2)	Companies are fully and effectively engaged in the EITI process. The government has ensured an enabling environment for company participation.	Satisfactory progress
Civil society engagement (#1.3)	Civil society is fully and actively engaged in ZEITI process and able to speak freely on transparency and natural resource governance issues. The government has ensured that there is an enabling environment for civil society participation and made several efforts to engage civil society beyond ZEC in the design and implementation of the EITI in Zambia. Civil society which are not directly involved in the ZEC cited inconsistent delivery of information from their representatives underlining the lack of mechanism for communication.	Satisfactory progress
MSG governance and functioning (#1.4)	Decision-making is conducted in an inclusive way which treats each constituency as a partner. TORs for ZEC are being followed and	Satisfactory progress

	invitation to participate in the group is open and transparent, stakeholders are adequately represented.	
Work plan (#1.5)	ZEITI's work plan is result of consultations with key stakeholders and endorsed by the ZEC. Both industry and civil society align their own work plans with the ZEC work plan to strengthen efforts of its implementation which indicate commitment to EITI implementation.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• The government is encouraged to ensure that public statements continue to include commitments to extractives transparency and the EITI, and that the EITI continues to contribute to addressing key governance challenges in the extractive sector. The government is further encouraged to ensure that it consistently and actively chairs the ZEC. It could also consider making company disclosures on extractive sector payments mandated by law, either in a ZEITI Bill or as part of relevant sector reforms.</li> <li>• Civil society representatives on the MSG are encouraged to strengthen the collaboration between civil society representatives on the ZEC and the wider constituency and establish a feedback mechanism to ensure consistent delivery of information.</li> <li>• The ZEC might also want to consider how to engage further with the ASM sector, as there appears to be opportunities to use the ZEITI to discuss challenges related specifically to small-scale mining, to ensure that the regulatory framework is enforced and also addresses the risks faced by small-scale miners.</li> <li>• In developing future EITI work plans, it is recommended that the ZEC ensures to include plans for implementing the recommendations from the Validation and the EITI reporting. Future work plans could also do more to ensure that the process does more to link to national strategic priorities, such as informing public debate on the fiscal regime and tax avoidance in the sector.</li> </ul>		

## 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.

#### 2.2 Assessment

##### Legal framework (#2.1)

###### Documentation of progress

###### Legal/fiscal framework and roles of government agencies:

The 2015 EITI Report explains the legal (p. 29 for petroleum and p. 34 for mining) and the fiscal regime (p. 30 and p. 39), including detailed description of the changes to the tax regime in 2015 which meant lowering the minerals royalty rate and reintroducing the corporate income tax (p. 45). The roles and responsibilities of government agencies involved in the management of the extractive sector are outlined on p. 29 for petroleum and p. 34 for mining.

###### Degree of fiscal devolution:

On fiscal devolution, the report explains that the Mines and Mineral Development Act (MMDA) 2008 mandates the Minister of Finance to establish a mineral royalty sharing mechanism, without specifying what this mechanism should be (p. 52). The report notes that the section on the mineral royalty sharing mechanism was removed from the 2015 Act, although the somewhat outdated introduction based on the MMDA 2008 has been carried over from past EITI Reports.

###### Reforms:

Regarding the petroleum sector, the report explains that after implementation of the MMDA 2008, it was realised that the act had inadequacies which needed to be addressed with regards to the petroleum sector before any commercial discovery would be made. The government has engaged a consultant to assist with the review which highlighted unclear mode for state participation in the sector, lack of clarity if the fiscal regime and clear licensing system for blocks reserved for Government (p. 30).

###### Recommendations:

The report recommends that a ZEITI Bill is enacted to institutionalise EITI in Zambia and to enforce collection of information from companies (p. 82). An assessment of impact of EITI in Zambia from 2016



notes that “Zambia also seeks to back the EITI by law to legally pivot EITI so that disclosure of all extractive sector revenues paid and received will become mandatory.”<sup>38</sup>

## Stakeholder views

An industry MSG representative on the MSG noted that the report covered the changes in the fiscal regime and shows how these have affected investment in the sector. A representative from the Chamber of Mines explained that they used this information in their lobbying on the industry view on the fiscal reforms and other industry concerns. An MSG member from trade union also added that the report helped explain the effects of tax policy changes on revenue collection.

Zambia Chamber of Mines has used EITI data to advocate for more equitable mining taxation policy. A mining company representative on the MSG stated in a written comment to the International Secretariat that ZEITI had “enabled the Zambia Chamber of Mines assist Government in coming up with an equitable mining taxation policy. Discussions started in October 2014 drew very heavily on the ZEITI reconciliation reports which were available at the time. A summary of the reports indicated that it was not necessarily the change in tax policy which resulted in increased government collections but volume of production and the copper price had a major effect. This meant that the taxation policy needed to be one which ensured that mining companies continued to invest and increased their production and production efficiencies.” A presentation was made on this issue using ZEITI data to the Minister of Finance, which was followed by modifications to the tax regime.

## Initial assessment

The International Secretariat’s initial assessment is that **Zambia** has made **satisfactory progress** in meeting this requirement. The 2015 EITI Report describes the legal framework and fiscal regime governing the extractive industries including 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. There are parts of the report that refer to laws that have been replaced, such as the MMDA 2008.

## License allocations (#2.2)

### Documentation of progress

#### *Licensing allocation/transfer process:*

The 2015 Report includes a brief description of the process for licence allocation for the oil and gas sector (p. 30) and mining sector (p. 46-47) including information regarding relevant laws and the institutions with authority to grant oil, gas and mineral licences. For mining the description refers to the MMDA 2008, and it is not clear whether this reflects any changes since the 2015 amendments of the law. The MMDA

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<sup>38</sup> ZEITI Impact Assessment, p. 34, <http://mineralproductionmonitoring.co.zm/wp-content/uploads/2017/06/Final-Impact-Assessment-report.docx>.

2015 (Division 3 - Mining Licence) details the procedures for allocation of licenses.<sup>39</sup>

According to the report, the Director of Mines Development Department is responsible for granting mineral rights. Licences are granted by the Minerals Cadastre, but bidding may be undertaken in areas where known mineral resources exist. The report states that “normally prospecting licences for mineral resources are granted by the Geological Survey Department” (p. 47). However, the Mining Act 2015 mandates the Cadastre to administer all licenses. Petroleum exploration licenses are awarded by tendering and is administered by the Petroleum Technical Committee with guidance from the Ministry of There is no information on the process for transferring licenses.

License allocations and transfers in reporting year:

Regarding information about recipients of mining licences, the 2015 EITI Report refers to Annex 5 (p. 48) which is available online on ZEITI website.<sup>40</sup> Link or reference to information about Zambia’s licence register is missing. Information on transferred licenses are not included. The report notes that according to the GSD, ten petroleum exploration licenses have been issued to date (p. 66). No exploration licenses appear to have been allocated during the reporting year.

Technical and financial criteria:

There is no information provided regarding technical and financial criteria used in the allocation of licenses. This has not been referred to in past ZEITI Reports (2013 and 2014). The MMDA 2015 outlines the technical and financial criteria in general terms for exploration (Section 22) and production (Section 31), although are not referred to in the report. According to representatives from the Mining Cadastre, the regulations for the MMDA 2015 which would specify technical and financial criteria are still being developed.

Bidding process:

According to the 2015 EITI Report there were no bid processes launched during 2015, however the report lists the names of petroleum companies that were previously granted exploration licenses (p. 31). The 2013 report did not include a full listing of applicants from which the winners were selected.

Non-trivial deviations:

There is no mentioning of any deviations from the applicable legal and regulatory framework governing license transfers and awards.

Commentary on efficiency:

The report does not comment on the efficiency of the licensing system.

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<http://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Mines%20and%20Minerals%20Act,%202015.pdf>

<sup>40</sup> <http://zambiaeiti.org/index.php/data/file/34-annex-5-mining-rights>

## Stakeholder views

A representative from the Mining Cadastre noted that the EITI had contributed to ensuring that the 2013 Minerals Policy included aspects on transparency related to licensing. Accessibility of information on the expiry of licenses had also improved in the last years. The Mining Cadastre has established an online portal where companies can register to apply for and renew licenses, and the portal contains a video explaining all administrative aspects of the licensing process.<sup>41</sup>

Regarding technical and financial criteria, representatives from the cadastre explained that there were no specific criteria but that companies applying for licenses were required to submit a programme of operations outlining the plans on how to undertake the activity, and the Technical Committee would assess the license applicants on that basis. Representatives from the Mining Cadastre as well as from the industry emphasised that while there might not be clarity regarding the technical and financial criteria used in the allocation of licenses, the process was comprehensive and there were several stages where companies had to report that they were fulfilling the conditions in their work programmes. An industry representative highlighted the requested information at the stages of license application as reflective of the types of criteria the Technical Committee considered in the allocation process. Several industry representatives stated that the licensing process itself was clear and transparent, while one industry representative noted that some companies with limited capacity to operate a license were at times granted licenses.

According to representatives from the Mining Cadastre confirmed that there had been no bidding rounds for petroleum exploration licenses and no award of petroleum licenses in 2015. Regarding mining licenses awarded in the reporting year, the representatives pointed out that while these are not listed, this information could be obtained from the online cadastre by clicking on the license areas and checking the award date.

Mining Cadastre representatives stated that there had been some deviations from the license process in the past which had resulted in licenses being revoked, but that there had not been any deviations in the more recent years including 2015. It was added that most of the revoked licenses had related to failure to comply with conditions in the work programme rather than licenses not being awarded in accordance with the legal and regulatory framework.

In the analysis of the previous EITI Report covering 2014, civil society organisations have noted that the report “lacked description of the technical and financial criteria used in awarding licenses, a gap in the desired transparency. As such, the thought is that the report requires full information about the licensing committee, its consortium members as well as criteria of consideration.” The analysis further commented that there is limited public accessibility to information on licensing in the EITI Report as there were no links or references to further information.<sup>42</sup>

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<sup>41</sup> <https://portal.miningcadastre.gov.zm/>

<sup>42</sup> Publish What You Pay Zambia and Caritas Zambia, Analysis Of 2014 Zambia Extractive Industry Transparency Initiative Report, p. 13.

## Initial assessment

The International Secretariat's initial assessment is that Zambia has made **inadequate progress** towards meeting this requirement. While the report includes an overview of the licensing process, it is uncertain to what extent the information reflects any changes resulting from the MMDA 2015, and there are gaps related to the process of license transfers, licenses transferred during the reporting year, and an explanation of the technical and financial criteria for awarding of licenses. ZEC might also wish to consider including the latest information on licensing rounds, including those taking place after the reporting year covered in the report, and to ensure that there is commentary on any deviations from the license allocation process and on the efficiency of the process.

## License registers (#2.3)

### Documentation of progress

#### Data on licenses held by material and non-material companies:

Zambia has a publicly available mining license cadastre administrated by the Mines Development Department (MDD). The cadastre covers information on all licenses in the mining sector, including those that make non-material payments to the government, and appears to be updated on a daily basis. The online cadastre includes application, grant and expiry date of the license, the commodities produced, details on the geology and the size of the area. It does not list the license coordinates for each license, although it allows users to hover over areas of the map and see what the coordinates are at any location on the map. It is therefore possible to use the cadastre to locate the areas covered by a license using coordinates. In addition, the cadastre includes artisanal mining rights and covers restricted areas and national parks. The 2015 EITI Report does not include a link to the online cadastre.<sup>43</sup>

Annex 5 to the 2015 EITI Report (available on ZEITI website<sup>44</sup>) contains the following information regarding each of the mining licenses pertaining to companies covered in the EITI Report: (i) License code, (ii) name of company and share in license, (iii) license type, (iv) status of the license, (v) application, grant and expiry date, (vi) area and map reference. There is no information on commodity type, although data on commodities produced are available from the license cadastre.

With regards to petroleum licenses, these are listed in Annex 4, which contains the following information regarding each of the mining licenses pertaining to companies covered in the EITI Report: (i) name of the license holder, (ii) block and license number, (iii) date of grant and (iv) expiry date. Date of application/submission of bid is not included.

#### Recommendations:

In the recommendations, the Independent Administrator noted that the Mining Cadastre does not have up-to-date information regarding the extractive companies who hold active licenses (p.82), and that the register does not include Tax Identification Numbers making it difficult to reconcile the information with from ZRA data. The IA recommends that "the register should be kept up to date all the time to avoid

<sup>43</sup> <http://portals.flexicadastre.com/zambia/>

<sup>44</sup> <http://www.zambiaeiti.org/index.php/ct-menu-item-13/2015-zeiti-report-annexes>

wrong contact details on file and the related consequences. The register should be updated to include Tax Identification Numbers for each of the company in the register to enable ease of reconciliation with ZRA information.” The report does not document any efforts to address the gaps. The online cadastre notes on the front page that “the Zambian Ministry is currently undertaking a data validation exercise of all tenements in the Zambian mining sector”.

Improving license transparency is one of the objectives in the ZEITI work plans from 2016-2018, and ZEITI has been in discussions with stakeholders on how to make Environmental Impact Assessment reports available through the mining cadastre.

### Stakeholder views

One industry representative noted the importance of the license data provided in the report, and that the list was important for industry when considering applying for new licenses. It was also useful to see who were the license holders and in which areas licenses were easily renewed.

Several stakeholders from all stakeholder groups noted their satisfaction with the license cadastre.

### Initial assessment

The International Secretariat’s initial assessment is that Zambia has made **satisfactory progress** towards meeting this requirement. Comprehensive information on the licenses held by material and non-material companies is included in the mining cadastre. We note that data on the date of application / submission of bid is not available for petroleum licenses, but consider it disproportionate to consider the requirement unmet on this factor alone.

## Contract disclosures (#2.4)

### Documentation of progress

Contract types in Zambia include large scale prospecting licences for exploration activities and large scale licences for production activities in mining, while for the petroleum sector there are petroleum exploration licenses.

In the mining sector, the report states that the terms for mining license holders are outlined in the MMDA 2008 and contracts are no longer executed. The report notes that once passed, this act “ruled that no special agreements should be entered into by the government for the development of large scale mining licenses and annulled the development agreements concluded under the previous act. Mining companies now operate under a common legislative framework regulated primarily by the Mines and Minerals Development Act 2008” (p. 34). Information on mining licenses can be obtained from the online mining cadastre.<sup>45</sup> It is not clear whether the passing of the MMDA 2015 resulted in any changes to this policy.

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<sup>45</sup> <http://portals.flexicadastre.com/zambia/>

The report notes that no contract has been signed to date in the petroleum sector as companies are still in exploration phase and hold exploration licenses (p. 68). The report does not comment on whether terms for petroleum licenses and agreements are set out in the Petroleum Act 2008 or whether companies will be able to enter into production sharing agreements with the government for petroleum production.<sup>46</sup> The act does however not allow for this and indicates that the petroleum sector is governed by a royalty system.

### Stakeholder views

Representatives from all stakeholder groups were in agreement that there were no existing contracts as the Minerals Development Agreements had been concluded. One civil society representative not on the ZEC noted that there had previously been calls to make past Mineral Development Agreements public.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **meaningful progress** towards meeting this requirement. While the ZEITI Report explains that there are currently no active contracts in the mining sector, the references to the MMDA 2008 does not make it clear whether the information is up to date and whether there are any changes resulting from the passing of the MMDA 2015. It is also not clear from the report whether there are any possibilities for entering into contracts with the government with regards to the exploration or production of petroleum, if so, whether there are any laws or contractual provisions that would affect disclosure of contracts in the petroleum sector.

## Beneficial ownership disclosure (#2.5)

### Documentation of progress

In accordance with the transitional agreement, the requirement that EITI Reports cover the government's policy and MSG's discussions on disclosure of beneficial ownership (requirement 2.5.b.i) will come into force on 31 December 2017.

The 2015 Report explains the EITI Requirement related to disclosure of beneficial owners by 2020 without documenting government's policy or ZEC's discussions and planned activities underway related to beneficial ownership disclosure. Since Zambia was one of the pilot countries in the collection of information on beneficial ownership, the 2014 EITI Report produced in 2015 contained information on beneficial ownership. The report only managed to document one beneficial owner out of the 38 reporting companies. At the MSG meeting 21 December 2016, the MSG approved the beneficial ownership roadmap. At the time of the drafting of the initial assessment, a consultant was undertaking legal and institutional review for beneficial ownership disclosure in Zambia.

### Stakeholder views

A statement made by CTPD endorsed by 12 civil society organisations in January 2016 calls for the

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<sup>46</sup> <https://www.ecolex.org/details/legislation/petroleum-exploration-and-production-act-2008-no-10-of-2008-lex-faoc117604/>.

government to adhere to beneficial ownership transparency in line with the EITI Requirements:

*“It is the position of civil society that the great strides made in Zambia on EITI implementation be upheld and that Zambia embraces reporting on beneficial ownership in full in its EITI reporting. This means our expectations are that all Zambia EITI reports will ensure that information about extractive companies’ beneficial owners is made wholly and unreservedly available to the general public for scrutiny. In addition, this will entail that the EITI reports for Zambia disclose all beneficial owners of respective extractives companies in their natural persons to ensure that the general public is well informed about all economic players in this economy who directly or indirectly ultimately own or control corporate entities.”<sup>47</sup>*

ZEITI’s work on improving collection and availability of beneficial ownership data was welcomed by government agencies such as the ZRA, and several government representatives noted that this would be beneficial for ZRA and their transfer pricing unit as the information currently held on legal ownership structures was not comprehensive. A representative from the Mining Cadastre also expressed that beneficial ownership disclosure in accordance with EITI would support due diligence in the licencing process, as company ownership information was currently requested by PACRA for such checks. Several stakeholders noted that since PACRA already collects some of the relevant information, it appeared to be the natural place for a potential beneficial ownership register to be located.

A representative from the Financial Intelligence Unit (FIC) noted the importance of beneficial ownership information as required by the EITI for investigation of financial crimes, due to the significance of the extractive sector and potential implications of money laundering. It was noted that the beneficial ownership data required by the EITI was closely linked to the work of the FIC, as this entailed monitoring financial flows to identify who ultimately benefits and understand relationships between beneficiaries and legal entities. A representative from FIC noted the positive engagement it had had with ZEITI with regards to beneficial ownership disclosure and the role ZEITI had played in creating awareness among government agencies about the need for beneficial ownership information and identifying who would need to be involved. This was particularly in with regards to the need for a commonly agreed definition of beneficial ownership, identifying the necessary legal instruments for enforcing disclosure and verifying the data once disclosed.

An industry representative on the ZEC noted that due to the complicated structures of companies which often varied between companies, the ultimate owners if shareholders was not always known to the operating company. Industry representatives noted that they were not against it, but that comprehensive disclosure could be complicated and would need input from companies.

A media representative explained that there was increasing public interest in knowing who owns the mining companies in the country and the progress being made in disclosing this information.

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[http://www.actionaid.org/sites/files/actionaid/press\\_releases/cso\\_statement\\_eiti\\_beneficial\\_ownership\\_final\\_0.pdf](http://www.actionaid.org/sites/files/actionaid/press_releases/cso_statement_eiti_beneficial_ownership_final_0.pdf)

## 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 published its roadmap by the deadline of 1 January 2017 as required.

## State participation (#2.6)

### Documentation of progress

#### SOEs and financial relationship with government:

Zambia Consolidated Copper Mines Investments Holdings (ZCCM-IH) is the only SOE in the mining sector in Zambia and is a publicly listed majority state-owned company. ZCCM-IH has its primary listing on the Lusaka Stock Exchange and secondary listings on the London Stock Exchange and the Euronext Stock Exchange in Paris. The company collects dividends and other investment income from its subsidiaries which operate in the mining sector. In 2015, the Industrial Development Corporation (IDC) was created to oversee performance and accountability of all the SOEs, with the aim to maximise the value of government shareholding. IDC is the majority shareholder in ZCCM-IH with a 60.3% stake.

The 2015 EITI Report includes a description of the SOEs, their mandates and a brief explanation of the prevailing rules and practices regarding financial relationship between the company and the government and SOEs (p. 54-57). ZCCM-IH's dividend policy is not explained in the report but is described on the company website<sup>48</sup> and in the ZCCM-IH Annual Report 2015I, p. 9.<sup>49</sup>

ZCCM-IH's annual audited financial reports are publicly available and include information on reserves, the names of operating companies, royalties, and dividends.<sup>50</sup> The World Bank's Zambia Mining Investment and Governance Review notes that ZCCM-IH "operates within a framework of international governance standards and accountability to its shareholders and the stock markets where it is registered".<sup>51</sup>

There are no SOEs operating in the petroleum sector.

#### Government ownership:

The 2015 EITI Report explains that through its shareholding in mining associate companies, ZCCM-IH serves as an entity holding the government's minority interests in privatised mining companies. The government participation in the mining industry is through a 77.7% shareholding in ZCCM-IH, which in

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<sup>48</sup> <http://www.zccm-ih.com.zm/dividend-policy/>

<sup>49</sup> <http://www.zccm-ih.com.zm/investor-center/annual-reports/>

<sup>50</sup> *Ibid.*

<sup>51</sup> World Bank (2016), Zambia Mining Investment and Governance Review, <https://openknowledge.worldbank.org/bitstream/handle/10986/24317/Zambia0mining00review000final0report.pdf?sequence=6&isAllowed=y>



turn has a 10-20 % shareholding in most major mining companies. Details on ZCCM-IH investment portfolio including shares in mining companies can be found in the report (pp. 54-55). A list of licenses held by ZCCM-IH, which also includes petroleum licenses, are listed (pp. 56-57). The report does not clearly outline the rules and practices regarding transfer of funds between the ZCCM-IH, IDC, and the state.

#### *Ownership changes:*

In 2015, the government transferred all shares held in ZCCM-IH to IDC.<sup>52</sup> This also included shares separately held by the government through the Ministry of Finance in another mining company, Kagem Mining Limited. The transfer of ownership of this company is not explained in the 2015 report, although it is detailed in the 2014 EITI Report on p. 105.<sup>53</sup>

#### *Loans and guarantees:*

The report includes a description of funding arrangements offered by ZCCM-IH to mining subsidiaries and summarises the terms of the transactions (pp. 55-56). The 2014 EITI Report also describes financing and loans offered by the government to fund ZCCM-IH investment activities (Section 6.5.2, pp. 105-106).

### Stakeholder views

Stakeholders consulted did not express any particular view related to the disclosure of ZCCM-IH, apart from expressing that there appeared to be a high level of transparency around ZCCM-IH's operations and ownership, in particular due to the company being publicly listed. The Independent Administrator noted that there had been no challenges in obtaining the necessary information from ZCCM-IH.

Representatives from ZCCM-IH confirmed that there had not been any changes or transfers of shares held by ZCCM-IH in the reporting year.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **meaningful progress** in meeting this requirement. The EITI Report provides an overview of state participation in the sector including level of ownership held by ZCCM-IH in mining companies, changes in the level of ownership and funding arrangements provided to by the ZCCM-IH to mining companies. ZCCM-IH's annual audited financial reports are publicly available and include information on licenses held, reserves, licenses held, the names of operating companies, royalties and dividends. The EITI Report does not clearly outline the rules and practices regarding transfer of funds between the ZCCM-IH and the state, and there is limited information on the recently established IDC and how dividends are managed.

The ZEC should ensure that an explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises is disclosed, including a description of the rules and practices governing transfers of funds between ZCCM-IH, IDC and the state, and details on

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<sup>52</sup> <http://www.luse.co.zm/wp-content/uploads/2015/09/ZCCM-IH-Announcement-Transfer-of-GRZ-shares-to-IDC-SENS.pdf>

<sup>53</sup> [https://eiti.org/sites/default/files/documents/2014\\_zambia\\_eiti\\_report.pdf](https://eiti.org/sites/default/files/documents/2014_zambia_eiti_report.pdf)

retained earnings, reinvestment and third-party financing if applicable. This could include an explanation or reference to ZCCM-IH's dividend policy and further details on transfers made by IDC to the government from its shares in ZCCM-IH.

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)
Legal framework (#2.1)	The 2015 EITI Report describes the legal framework and fiscal regime governing the extractive industries including 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. There are parts of the report that refer to laws that have been replaced, such as the MMDA 2008.	Satisfactory progress
License allocations (#2.2)	While the report includes an overview of the licensing process, it is uncertain to what extent the information reflects any changes resulting from the MMDA 2015, and there are gaps related to the process of license transfers, licenses transferred during the reporting year, and an explanation of the technical and financial criteria for awarding of licenses.	Inadequate progress
License registers (#2.3)	Comprehensive information on the licenses held by material and non-material companies is included in the mining cadastre. Information on petroleum licenses does not include date of application.	Satisfactory progress
Contract disclosures (#2.4)	While the ZEITI Report explains that there are currently no active contracts in the mining sector,	Meaningful progress

## Validation of Zambia: Report on initial data collection and stakeholder consultation

	the references to the MMDA 2008 does not make it clear whether the information is up to date and whether there are any changes resulting from the passing of the MMDA 2015. It is also not clear from the report whether any laws or contractual provisions affect disclosure of contracts in the petroleum sector.	
Beneficial ownership disclosure (#2.5)	ZEITI begun disclosing information on beneficial ownership through its participation in the EITI beneficial ownership pilot in 2015. A beneficial ownership roadmap has been published, and ZEITI has begun making concrete steps towards implementing beneficial ownership disclosure.	N/A
State-participation (#2.6)	The EITI Report provides an overview of state participation in the sector including level of ownership held by ZCCM-IH in mining companies, changes in the level of ownership and funding arrangements provided to by the ZCCM-IH to mining companies. ZCCM-IH's annual audited financial reports are publicly available and include information on licenses held, reserves, licenses held, the names of operating companies, royalties and dividends. The EITI Report does not clearly outline the rules and practices regarding transfer of funds between the ZCCM-IH and the state, and there is limited information on the recently established IDC.	Meaningful progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>The ZEC may wish to ensure that the description of the legal framework is up to date and reflects the latest laws or legal amendments such as the MMDA 2015.</li> </ul>		

- The ZEC should ensure that the next EITI Report includes comprehensive information on the process of license transfers, licenses transferred during the reporting year, and an explanation of the technical and financial criteria for awarding of licenses for both the mining and petroleum sectors in accordance with EITI Requirement 2.2. The ZEC might also consider including the most recent information on the latest licensing rounds to improve the timeliness of the information on license allocations, as well ensuring that there is commentary on any deviations from the license allocation process and on the efficiency of the licensing process.
- The ZEC should ensure that the next EITI Report includes information on the date of application for petroleum licenses. ZEITI and stakeholders are encouraged to continue the efforts made to improve license data made available in the cadastre and to address the gaps identified in the ZEITI Reports. The next EITI Report should include a link to the license cadastre.
- The ZEC should make sure that the description of the government's policy regarding contract and license transparency in the next EITI Report is up to date and reflects the MMDA 2015. It should also clarify whether there are any laws or contractual provisions that affect disclosure of contracts in the petroleum sector. Further, the ZEC may wish to consider whether to include any descriptions regarding what information related to individual licenses is publicly available, such as work programmes and environmental impact assessments, and provide links to further information where applicable.
- The government and ZEC are encouraged to continue making progress on implementation of beneficial ownership disclosure, ensuring that ZEITI efforts to disclose beneficial ownership data is linked to ongoing efforts within the government to address key challenges in the extractive sector such as tax evasion and transfer pricing.
- The ZEC should ensure that an explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises is disclosed, including a description of the rules and practices governing transfers of funds between ZCCM-IH, IDC and the state, and details on retained earnings, reinvestment and third-party financing if applicable. This could include an explanation or reference to ZCCM-IH's dividend policy and further details on transfers made by IDC to the government from its shares in ZCCM-IH.

### 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

The 2015 EITI Report contains an overview of the oil and gas (p. 29) and mining sectors (pp. 34-48). For the petroleum sector this is focussed on petroleum exploration and related license rounds. For mining, this includes an explanation of the history of mining production, a summary of the main mining activities related to the most significant commodities (copper and cobalt, manganese, uranium, coal and gold) and projects with estimated reserves and production capacity (pp. 29-34).

#### Stakeholder views

A CSO representative not on the ZEC explained that the ZEITI Report provided a useful overview of the key operations in the sector, and that they had experienced that parliamentarians used the report. There had been a case where a parliamentarian had become aware of the companies operating within their constituency upon scrutinising the report.

#### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **satisfactory progress** towards meeting this requirement. The report provides an overview of the extractive sector, including exploration activities and estimates of mineral reserves.

### Production data (#3.2)

#### Documentation of progress

The 2015 EITI Report provides information regarding production volumes by commodity (copper, coal, emeralds, gold), but not production values (pp. 11-12). The information provided is not disaggregated by province. The information is from the 2015 MOF Economic Report and is provided by MMMD, and there are no further details on how these have been calculated. More detailed analysis of the production trends of each commodity, as well as production volumes presented by the major copper, gold and coal mines (pp. 12-13). The 2015 ZEITI scoping study provided an overview of the production volumes by the ten largest mines, disaggregated by mineral and level of processing on p. 17.

The 2012 ZEITI Report documented lack of monitoring of production data declared by the companies. The report explained that the production data provided by MMMD was based on self-declarations submitted by the extractive companies. The MMMD did not have its own procedures and systems to collect and control production data reported by mining companies. The production data disclosed by the Mines Development Department for the large-scale mining sector in 2012 was based only on copper concentrates and/or total cathodes produced. As a result, it was not possible to provide explanations with regards to the discrepancies arising between the production quantities provided by the mining companies and those declared by the Mines Development Department. The 2012 EITI Report recommended that the Ministry of Mines develops procedures and systems to collect and control production data. It also suggested to compare the production volumes declared extractive companies with the measurements made by Ministry of Mines throughout the year.

The report describes the various ongoing efforts by the government and international partners to establish systems for collection and verification of production data, including the Mineral Value Chain Monitoring Project (MVCMP) hosted by ZRA (pp. 37-38) and the Mineral Production Monitoring Support Project (MPMSP) under supervision by MMMD (pp. 39-40).

### Stakeholder views

Several government and industry representatives explained how publication of reliable production figures had been a major challenge since privatisation of the mining sector in the early 2000s. The government had been relying on company reports for reliable production data, and the relevant government agencies would provide inconsistent data from different sources. A government representative explained that disagreement among government agencies on minerals production figures had had a negative effect on the verification of royalty to be paid by mining companies. There was no correlation between production data collected by MMMD and calculations on production (based on exports) for royalty purposes at ZRA. Civil society members noted how it had been challenging to scrutinise information on royalty payments in the past when the source of production data used as basis for calculation was unclear.

Government representatives from ZRA explained that the MVCMP had worked to establish mechanism to report on production from the mine and across the value chain, with the aim of supporting information-sharing across institutions. The MVCMP was set up at ZRA with support from Norway after identifying that there was no framework for monitoring production and that there were potential revenue losses related to exports not having been recorded as produced. A government representative explained that an aim for the future would be to also improve monitoring related to production costs.

A development partner and government representative explained that the MPMSP is supporting the MMMD to verify production data reported by the mines. At the beginning, several institutions had different figures as companies reported on final and intermediate products interchangeably (e.g. copper and copper concentrates). The MMDA 2015 and a revised MMMD reporting template requires companies to report more detailed information on both final and intermediate products to avoid confusion. The ZEITI national secretariat and a government representative explained that they were integrating their work plan activities to collaborate on improving the disclosure of the collected production figures.

A government representative from ZRA explained that since the initiation of these projects the government now had figures on production values for base minerals (i.e. copper, gold and cobalt), while this is more difficult for gem stones as the initial value (“reserve price”) reported to GSD for calculating preliminary royalties is often lower than the auction price. According to government representatives the aim was for 2016 production data to be published in 2017 and that statistics on production would be made available to the public on a regular basis. On dissemination of production data to relevant stakeholders, government agencies expressed opportunities for ZEITI to be involved as they were considered a credible source of information by the public.

Civil society members of the ZEC noted the improvements in accurate production data since implementation of EITI, and that while there were still differences in figure made available by MMMD, ZRA and the National Statistics Office, ZEITI was perceived by civil society stakeholders as the most reliable. An ZEC member from trade union expressed that the data included in the report on production was valuable for communities, and that it was positive that it included not only copper but also coal and

gold. Media representatives explained that while in the past companies had appeared unwilling to provide production figures to the public, ZEITI's focus on this had increased awareness and better monitoring of production data. It was noted that ZEITI and CSOs such as PWYP had helped ensuring that such information was accessible.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **meaningful progress** towards meeting this requirement. The EITI Report provides information on production volumes by commodity, and documents the government's effort to collect reliable information on production values, which should be available for the next EITI reporting cycle.

### Export data (#3.3)

#### Documentation of progress

The 2015 EITI Report shows total export value by commodity (p. 14-15), but not total export volumes. The source for the export values is the Bank of Zambia Report 2015. Further analysis on each of the major exported commodities (copper, cobalt and gold) and trends compared to the previous year includes export volumes for each commodity and average realised prices. There is no further detail on calculation of these values in the EITI Report.

#### Stakeholder views

Representatives from government agencies noted that there were less challenges related to collecting export data compared to production figures and that Bank of Zambia also published these regularly.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **satisfactory progress** in meeting this requirement. The total export values are disclosed by commodity, and export volumes are disclosed for each of the major commodities exported. The ZEC may wish to ensure that future reports provide a reference to other source of export data, including Bank of Zambia.

**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 provides an overview of the extractive sector, including exploration activities and estimates of mineral reserves.	Satisfactory progress
Production data (#3.2)	The EITI Report provides information on production volumes by commodity, and documents the government's effort to collect reliable information on production values, which should be available for the next EITI reporting cycle.	Meaningful progress
Export data (#3.3)	The EITI Report discloses total export values by commodity and volumes of the main commodities exported.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• The ZEC should ensure that the future EITI Reports include information on the progress made by the government in obtaining reliable production figures, and to refer to the existing information provided by the MDD, ZRA and Chamber of Mines.</li> <li>• The ZEC may wish to ensure that future reports include total export values or provides a reference to other source of export data, including Bank of Zambia.</li> </ul>		



## 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.

### 4.2 Assessment

#### Comprehensiveness (#4.1)

##### Documentation of progress

Section 5 of the 2015 ZEITI Report on “Determination of the reconciliation scope” (p. 63-72) details the process related to establishing the reporting threshold, revenue streams and the scope of reporting entities to be included in the reconciliation exercise.

##### Materiality thresholds and rationale

The 2015 ZEITI scoping study proposed a materiality threshold of ZMW 2 million (approximately USD 231,481) based on the total revenue figures from the extractive sector in 2015 presented by ZRA. This was higher than the materiality threshold used for the 2014 report, which was ZMW 1 million. The 2015 EITI Report explains that the companies paying taxes above the threshold represent 99.62% of the total revenue collected by ZRA and other government agencies from companies operating in the extractive sector. The report explains that the companies that paid less than ZMW 2 Million but above ZMW 1 million only represents 0.13% of the total payments, and that due to the immaterial nature of these payments (below 1%) this does not significantly affect the comprehensiveness of the ZEITI Report. The 2015 scoping study and tables on p. 67 in the 2015 ZEITI Report outlines the options considered for determining the threshold. ZEC meeting minutes from 16 June 2016 note that “ZEITI emphasised to BDO that the formulation of the materiality threshold would be relooked at to ensure that it is not just duplicated from previous scoping reports.”

As a result of the scoping analysis, the ZEC decided in its meeting on 27 September 2016<sup>54</sup> that company making total payments in excess of ZMW 2 million would be considered material and were required to report all payments regardless of the size of individual revenue streams. There is in effect no materiality threshold for each revenue stream. According to this threshold, 36 mining companies was selected for the 2015 reconciliation exercise (pp. 67-68). There is no explicit description of the rationale for establishing the threshold, although the reasoning for setting the threshold is as noted above documented throughout the 2015 Scoping study and the final ZEITI 2015 Report and appears to be based on the past reporting practice, cost, feasibility and relative size of the payments compared to the total revenue.

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<sup>54</sup> ZEC Meeting minutes, 27 September 2016

### Revenue streams

The 2015 EITI Report lists and describes the 23 revenue streams that were included in the reconciliation scope (p. 20). The IA proposed to maintain the list of payment flows selected for the 2013 and 2014 reconciliation and recommended that VAT refunded to mining companies by ZRA would be reflected in the government revenue figures to ensure an accurate presentation of the net contribution of mining companies to the budget (p. 64).

### Reporting companies

All companies operating under an exploration licence in oil and gas or a mining licence and which make payments to the government entities above ZMW 2 million were required to report their payments in accordance with the EITI Standard. The initial selection resulted in 37 mining companies operating in Zambia (listed on p. 71). The final number of companies considered for the 2015 Report was 33 companies (compared to 40 companies in 2014). The following companies were dropped: Chantente Mining Services, China Cobber Mines Limited, Uniturtle Industries (Zambia) Limited, Sable Transport Limited and Zambezi Portland (see rationale on pp. 14-15). China Copper Mines and Zambezi Portland were dropped because of a court case that was ongoing at the time of data collection, resulting in suspension of activities. There is no clear rationale given for why Uniturtle Industries was not included. The 2015 EITI Report states that Sable Transport was later dropped after it was established that the payments made to ZRA relating to the mining activities were below the ZMW 2 million threshold and that the majority of the payments made were from non-mining activities. Sable Transport is not included in list of unilateral disclosure but is listed under remaining differences after reconciliation (p. 80).

### Reporting government entities

Government entities that were required to report for the 2015 EITI Report are presented on p. 72. Based on the list of mining companies and payment streams included in the scope, all government entities involved in revenue collection were requested to report. All government entities submitted reporting templates (p. 16), and there is no indication that any of the reporting entities did not comprehensively fill in the reporting templates which are included in Annex 2 of the report.

### Discrepancies

The report describes the process of clarifying any initial discrepancies in the reported templates (Section 6.1.2 Adjustments made to the initial reported payments, p. 77). The final unreconciled discrepancies of payments amounted to ZMW 124,443,203, representing 1.39% of total payments reported by government entities. The discrepancies are outlined in detail by company, government entity and revenue stream in section 6.1.3 Summary of unreconciled discrepancies (pp. 78-81). The report notes that a total positive difference of ZMW 108,868,644 relates to four companies that failed to report while government agencies reporting on the received revenue (p. 78). The overview of discrepancies per revenue flow (p. 79) suggests that reporting of Pay- As-You-Earn was one of the main cause for the discrepancies, followed by reporting on Import Value-Added Tax. The discrepancies are further investigated by the General Auditors' Office (see section on Data quality 4.9 of the initial assessment).

### Full government disclosure

The 2015 ZEITI Report does not provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of the report. The report provides a list of all the companies that made payments below the materiality thresholds and the total payments made by these companies in the reporting year (pp. 24-28). This data is not disaggregated by revenue stream, but the total payments are disclosed and the coverage of the reconciliation exercise can be calculated. . This effectively means that the full government disclosure is provided, but only disaggregated by company and not by revenue stream.

### Stakeholder views

During the consultation with the ZEC, an industry representative explained that the IA would as part of the reporting process propose a materiality threshold to the ZEC, providing alternatives and reasoning for why setting a higher or lower threshold and the related value/cost. It was added that for the last two reports there had been no objections to the proposed threshold. The Independent Administrator confirmed this process and that the rationale for selecting a higher materiality threshold had been discussed and agreed for the 2015 EITI Report, based on lessons learned from the past reporting exercises.

A CSO representative on the ZEC explained that CSOs would have preferred a lower threshold as this would help ensure that the total revenue figures reported would be more accurate, but had taken costs and challenges related to lack of legal basis for requiring this into consideration when agreeing this within ZEC. A government representative noted that the inclusion of PAYE in the report was misleading as this was not tax paid by companies but by the employees, and should not be included in the reconciliation and total revenue figures.

### Initial assessment

The International Secretariat's assessment is that Zambia has made **satisfactory progress** towards meeting this requirement. The ZEC has documented its discussions and rationale for selecting a materiality threshold which has resulted in comprehensive reconciliation of the payments and revenues in the extractive sector. ZEC is encouraged to continue its discussions on the materiality thresholds and whether to include PAYE data.

## In-kind revenues (#4.2)

### Documentation of progress

The 2015 report does not mention in-kind revenues. The scoping report notes that as part of the data compilation for the report, the Independent Administrator examined "the existence of social transfers, infrastructure provision, barter type arrangements and other in-kind payments in the Zambian extractive sector" (p. 13). There are no further references to this issue.

### Stakeholder views

Government representatives from BOZ, MOF, MMMD and ZRA confirmed that there were no in-kind

payments from the extractive sector in Zambia. The Independent Administrator noted that they had verified that in-kind revenues had not been collected in 2015.

### Initial assessment

The International Secretariat's initial assessment is that EITI Requirement 4.2 on in-kind revenues is **not applicable** in Zambia.

## Barter and infrastructure transactions (#4.3)

### Documentation of progress

According to the 2015 report "no payment flows related to barter arrangements involving infrastructure works as set out in EITI requirement 4.1d have been identified. The MOF has confirmed that there were no barter arrangements in 2015 through a letter dated 15 December 2016, reference MF/IDM/101/24/94 and signed by the permanent secretary" (p. 65).

### Stakeholder views

Government representatives from BOZ, MOF, MMMD and ZRA confirmed that they were not aware of any transactions related to barter and infrastructure agreements. Government agency representatives further noted that there were no longer any active mining agreements in Zambia as license terms are determined in accordance with the MMDA 2015, which would make such agreements unlikely to be made in Zambia.

### Initial assessment

The International Secretariat's initial assessment is that EITI Requirement 4.3 on barter and infrastructure transactions is **not applicable** to Zambia.

## Transport revenues (#4.4)

### Documentation of progress

The 2015 ZEITI Report does not mention payment flows related to transportation. The Annual Progress Report 2015 states that "Zambia does not receive any transportation revenue of minerals, oil and gas from other countries" (p. 17).

### Stakeholder views

Government representatives from BOZ, MOF, MMMD and ZRA stated that they were not aware of any revenue related to transportation of oil, gas and mining in Zambia. One government representative mentioned that only toll fees would possibly apply to the provision, although this would not be specifically related to the extractive sector.

### Initial assessment

The International Secretariat's initial assessment is that EITI Requirement 4.4 on transport revenues is **not applicable** to Zambia.

## Transactions between SOEs and government (#4.5)

### Documentation of progress

The 2015 report lists the revenue streams to be reported by SOEs as receiving entities, namely ZCCM-IH and IDC (p. 65), which consisted of dividends of shares held by the SOE, price participation fees, revenues from the sale of SOE shareholding and from transfers of mining rights. These are in addition to the revenue streams that apply for all companies, which ZCCM-IH was required to report on (described on p. 70). ZCCM-IH reported having transferred valuation fees, PAYE, company income tax, VAT, withholding tax and property rates (ZEITI 2015 Draft Report, p. 101).

The report describes the transfers made by ZCCM-IH to the government, which includes paying “taxes to various Government Entities in accordance with prevalent laws” and also “dividends to the government shareholder” (p. 51). In addition, the company is entitled to dividends from the private companies in which it holds shares as well as price participation fees from companies, under arrangements dating back to the privatisation of the industry. These transfers are also described on p. 71 and outlined in the diagram on p. 51.

The report explains that IDC pays taxes to the ZRA and distributes dividends to its shareholders (p. 57), although this will include investments across the country's industrial sectors and not only the mining sector.

Revenues collected and transferred by SOEs to be included in the reconciliation scope are listed on p. 65. The revenues collected by ZCCM-IH and IDC from extractive companies are reconciled, and ZCCM-IH is included as a receiving entity in the reconciliation of payments and taxes to the government (included in the table “Reconciliation between mining companies and government entities”, p. 76). Dividends collected by ZCCM-IH and IDC in 2015 are presented in the table under “Analysis of ZCCM-IH receipts” (p. 21). The companies in which ZCCM-IH holds shares are listed in the report (pp. 54-56), and the summaries for each of the companies explain that the majority of these did not declare dividends in the reporting year. Payments made by ZCCM-IH to local councils are also included in the table on revenue collected by local councils (p. 22).

No dividends were paid from ZCCM-IH to the state in 2015. The reconciliation did not include transfers from IDC to the state.

### Stakeholder views

A representative from ZCCM-IH explained that most of ZCCM-IH's revenue were dividends from mining, and that ZCCM-IH only had declared dividends once in 2014.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **meaningful progress** in meeting this requirement. As noted at requirement 2.6, the EITI Report does not clearly outline the rules and practices regarding transfer of funds between the ZCCM-IH and the state, and there is limited information on the recently established IDC and how dividends are managed.

## Subnational direct payments (#4.6)

### Documentation of progress

The 2015 ZEITI Report reconciles property rates and annual business fees paid by companies directly to local councils and recorded by the Ministry of Local Government and Housing (MOLGH). The report notes that while these payments are financially immaterial, these are included in the scope of the reconciliation because they are important to the areas served by local councils (pp. 64-65). An overview of local council receipts is provided showing what was received by local councils by each company (pp. 22-23).

### Stakeholder views

Industry representatives on the ZEC confirmed that there were no sector specific subnational direct payments made by extractive companies, although that in many communities, the property rates and annual business fees from mining companies were significant in terms of the contribution at the local level.

Several stakeholders from government, industry and CSO explained how communities in Solwesi had used the information from EITI Reports to advocate for the passing of a by-law to share 10% of the direct payments from mining companies with local communities, to be spent on social services. This had also initiated discussions in other regions on revenue sharing from mining, such as Mufulira. Media representatives explained that by showing the payments made to the local level, communities could hold the local authorities accountable, as was seen in places like Solwesi.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **satisfactory progress** towards meeting this requirement. There are direct payments within the scope of the agreed benefit streams from companies to subnational government entities, and although the report establishes that these are not material, the ZEC decided to reconcile property rates and annual business fees paid by companies directly to local councils due to their importance to Local Councils.

## Level of disaggregation (#4.7)

### Documentation of progress

The revenue data is disaggregated by individual company (pp. 18-19), government agency (p. 21) and revenue flow (p. 20). Unilateral disclosure is disaggregated by company (p. 24). The revenue data is not systematically disaggregated by project, although some of the largest companies (including Kansanshi Mining PLC, Mopani Copper Mines PLC and Konkola Copper Mines PLC) are companies set up to operate mines and therefore report their payments individually.

### Stakeholder views

An industry representative on the ZEC explained that the EITI Report contains more aggregated data (i.e. by revenue stream) than other available revenue data, and that this was useful in raising awareness regarding sources of revenue contribution. For example, this was useful for the Chamber of Mines to respond to claims that certain contributions not having been made by mining companies.

### Initial assessment

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

### Data timeliness (#4.8)

#### Documentation of progress

The 2015 ZEITI Report was published in December 2016, less than one year after the end of the financial year and well in advance of the deadline in accordance with provision 4.8. Previous reports have typically been published close to the "two-year" deadline.

#### Stakeholder views

According to Zambian law, revenues collected by government agencies can only be disclosed after approval in Parliament. The national secretariat explained that in order to produce timely reports, exemptions had been made for ZEITI to allow for the use of audited data from the Officer of the Auditor General before it goes to parliament. This exemption from the law had enabled ZEITI to produce timely reports. In addition, the MSG has appointed IA for two years/reports to reduce the time and cost of the procurement process. A representative from the national secretariat underlined that production of timely reports is a high priority to the secretariat and that the secretariat is supporting the IA in data collection.

Industry stakeholders on the ZEC noted that there had been challenges in the past related to timeliness of reporting and certain companies not having submitted reporting templates on time, while this had improved in the past two years.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **satisfactory progress** towards meeting this requirement. The 2015 EITI Report was published well ahead of the deadline and ZEITI is making continuous efforts to improve timeliness of reported information.

### Data quality (#4.9)

#### Documentation of progress

##### Appointment of the Independent Administrator (IA)

On 15 December 2015, the MSG agreed to appoint BDO East Africa as the IA for Zambia's 2014 and 2015 ZEITI Reports. The appointment was done through tender with Terms of Reference in line with World Bank procurement procedures (outlined in the ZEC meeting minutes from 15 December 2015). ZEC members signed a document approving the contract for the IA for the 2014 and 2015 ZEITI Reports, which included the evaluation report of the submitted bids. The approval was done by signature, and the date of signatures range between 23-25 November 2015.

The IA was appointed for two reports to address the challenge of the long procurement process which had delayed ZEITI reporting in the past. The IA had a short timeframe to produce the 2014 report by,

with preliminary findings being presented to the ZEC at their meeting on 15 December 2015. ZEC meeting minutes from 2015 and 2016 document that members expressed discontent with the limited time provided to for ZEC to review the report, which resulted in further revisions being made to the report by the IA after ZEC approval. ZEC meeting minutes from 2016 indicate that ZEC agreed measures with the national secretariat to prevent the situation from reoccurring.<sup>55</sup> ZEC meetings were also held more regularly in 2016 to discuss the inception and draft reports, and comments raised by ZEC members were addressed in the 2015 report.

#### Terms of Reference (TORs) for the Independent Administrator

The TOR for the IA agreed by the ZEC for the 2015 Report is based on the Standard TORs agreed by the EITI Board (based on the 2013 Standard) with minor modifications (shifting of the sections on SOE transactions). There are no major deviations to the Standard TORs.

Some companies sent reporting templates to the national secretariat ahead of the scoping phase, as reporting companies are becoming used to the ZEITI reporting process and complete the templates as part of their annual reporting. For 2015 these were passed on to the Independent Administrator, which then followed up, request clarifications and/or reissued the templates where necessary, to address any gaps. Several companies resubmitted their templates following the training workshop with the Independent Administrator (held on 30 September 2016) to make clarifications.

The Independent Administrator also distributed and collected templates from reporting entities that did not submit any templates in advance. This mainly included new companies that had not participated in the reconciliation in the past. These companies submitted their reports directly to the Independent Administrator with copy to the national secretariat.

The national secretariat provided support to the Independent Administrator in the collection of data for the 2015 report, mostly with regards to company outreach and following up on missing or incomplete reporting templates. Some of the work the national secretariat assisted with is outlined in the report, and included reaching out to companies in the request for data submission, following up by phone or email, and issuing a public notice in the press urging companies to submit information (p. 15-16). For the 2016 ZEITI Report, ZEITI is planning to have the national secretariat play a larger role in the collection of data by sending out the templates to companies that were in the scope of the previous reporting process, using the same templates as for the previous cycle. Although this appears likely to lead to duplication of work, the national secretariat considers this to be more efficient in terms of company outreach and reviewing reporting template. It is also expected to help avoid delays due to procurement as the process can begin ahead of the appointment of an Independent Administrator.

With this approach, it is foreseen that the Independent Administrator would be able to make changes to the final reporting template after the scoping phase, in case the Independent Administrator and the ZEC have agreed to any further information to be included (or excluded). It is envisaged by the national secretariat that the Independent Administrator will reissue the final templates for direct submissions to

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<sup>55</sup> ZEC meeting minutes from 4 February 2016 and 16 June 2016.



themselves. Reporting entities would also have the opportunity to review earlier submitted templates after making clarifications during the training workshops held by the Independent Administrator.

### Agreement on the reporting templates

The ZEC agreed the reporting templates at the same time as approving the inception report at its meeting on 16 June 2016. No changes were made to the template following the 2014 ZEITI reporting process.

### Review of audit practices

Section 3.6, "Audit and Assurance Practices in Zambia" (p. 58) summarises the prevailing audit and assurance practices in Zambia for companies, while the audit and assurance procedures for government agencies are described as part of the budget process in Section 3.3, "Collection and Distribution of the Extractive Revenues" (p. 49). Audit practices are also described in the Annual Progress Report 2015 (p. 15).

On company auditing, the Companies Act requires every company to appoint qualified auditors within 3 months after incorporation and yearly at their annual general meeting. Annual financial statements of extractive companies are not systematically available to the public except for listed companies (p. 58). The report explains that the Zambia Revenue Authority does not require companies to have audited accounts for tax purposes (p. 58). Regarding government entities, the letter requested from the Auditor General was submitted and it was confirmed that the accounts of the Government Entities for 2015 were audited under International Standards (p. 16). The section describing government auditing procedures (p. 49) explains that the Annual Financial Report is made available on the Ministry of Finance website.

### Assurance methodology

The assurances applied to ensure the reliability of the reported data are described in Section 4.4, "Reliability and Credibility of Information Reported" (p. 62) and were as follows:

- All reporting entities were requested to submit templates signed by a senior official and to submit the breakdown of payments and receipts date by date and by receipt.
- All reporting companies were requested to provide confirmation of the truth and fairness of the information disclosed in the template from their auditors, and that the information disclosed was prepared in accordance with the template instructions.
- Government entities were requested to obtain confirmation from the Auditor General that the transactions reported in the template were in accordance with instructions issued by ZEITI, were complete and in agreement with the accounts of Government for the year 2015.
- The Auditor General was also required to provide a letter confirming that the accounts of the government entities were audited in accordance with international standards.

- For any changes made to the original information reported on the templates, government entities and companies were requested to provide supporting documentation.

The assurances were the same as agreed for the 2014 EITI reporting cycle. In the 2015 scoping report, the IA recommends that “all reporting templates submitted by extractive companies or by ZCCMIH should be certified by an external auditor or by their statutory auditors”. The report explains that “mainly due to the challenges faced in external auditors providing audit certificates over the years, the Zambia EITI Council (ZEC) made a decision to obtain audit certificates for some of the companies and where these are not available ZEC will rely on management sign off to ascertain validity of the information” (p. 16). It is not clear from the report whether this was agreed by the ZEC and the IA, or if it was decided by ZEC alone.

Compliance with the assurances requested is summarised on p. 16, and Annex 2: “Tracking table of certified declaration forms”<sup>56</sup> provides an overview by company and government entity. All the 34 companies included in the reconciliation scope which returned the reporting templates submitted their reporting templates signed by senior management. The report notes that only six of the reporting companies submitted a certified reporting template signed by external auditor, but only lists four companies (p. 16). The list includes the total payments made by each of the companies (amounting to ZMW 3,003,728,204 in total), and the report explains that these payments accounted for 34% of total extractive revenue disclosed by the government. (This was an improvement from the 2014 ZEITI Report, where six companies having made payments of ZMW 1,439,889,149, constituting 14.5% of the revenue disclosed by the government).<sup>57</sup>

The report notes that despite lacking audit certification for company reporting templates, 34 of the 36 reporting companies submitted templates signed off by management, and provided supporting documents in form of receipts and other payment supporting documents in addition to providing detailed payments information with receipt numbers, payment dates, payment types and the currency of payment. Of the 36 companies in the scope of the report, 15 had their 2015 financial accounts audited (Annex 2).

All government entities submitted reporting templates signed by authorised officers.

### Data reliability assessment

According to the IA, despite the fact that most of the companies had not submitted certified reporting templates but provided supporting documentation, “these supporting documents and detailed breakdown of the transactions increased the confidence in the reliability of the information that was reported and reconciled” (p. 16). Regarding the comprehensiveness of the reconciliation, the IA comments the companies that paid less than ZMW 2 Million but above ZMW 1 million only represents 0.13% of the total payments, and that the due to the immaterial nature of these payments (below 1%) this does not significantly affect the comprehensiveness of the ZEITI Report (p. 68).

<sup>56</sup> <http://zambiaeiti.org/index.php/data/file/31-annex-2-certification-of-templates>

<sup>57</sup> 2014 Zambia EITI Report, p. 13, [https://eiti.org/sites/default/files/documents/2014\\_zambia\\_eiti\\_report.pdf](https://eiti.org/sites/default/files/documents/2014_zambia_eiti_report.pdf).

### Sourcing of information

The contextual information provided is clearly sourced and includes references to government agencies, IMF, Chamber of Mines and some news outlets, among others. In many cases links to further information is provided. The only evident omission is a direct link to the online cadastre.

### Report recommendations

The recommendations in the report (pp. 82-83) relate mostly to facilitating the EITI reporting process which can also lead to technical improvement in data collection and sharing (i.e. enacting a ZEITI law to make company reporting easier to enforced, ensuring that company contact details are up to date and that the cadastre includes tax identification numbers). It is also recommended that the ZEITI report and the specific EITI report by the Office of the Auditor General should be discussed in parliament (p. 83). These recommendations were also raised in 2014. The report notes where no action has been taken, and points to government agencies that should have taken action, without commenting further on the actions taken.

For past reporting cycles, ZEITI has engaged the Office of the Auditor General to investigate the unresolved discrepancies in the report. This is done by following up on and verifying the amounts reported by the reporting entities, including the physical verification of the necessary documentation by undertaking an audit trail procedures of all the figures in the report. The Auditor General's Office produces a report to highlight their findings on the causes of the discrepancies and recommendations for future reporting as well as corrections or amendments to be made in the report.

### Electronic data files

Zambia has submitted the summary data templates for 2014 and 2015 to the International Secretariat. These files have been published together with the ZEITI Reports on the ZEITI website.<sup>58</sup>

## **Stakeholder views**

An industry representative explained that a draft reporting template had been circulated to companies for consultation when a change was made, as was done when beneficial ownership was incorporated as a new aspect for inclusion in the ZEITI Report in 2014.

A civil society member of ZEC noted that for the 2014 report, very few of the reporting companies had submitted a template certified by an external auditor. An industry representative on the ZEC explained that this had been a challenge for EITI data collection although this had improved in the more recent reports. During the meeting with ZEC the national secretariat explained that for companies that had not provided certified reporting templates, the ZEC had agreed to rely on management sign-off, and it had been suggested that companies would include this in the TORs for the companies' external auditors. A representative from the Chamber of Mines further added that some companies had started to do this

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<sup>58</sup> <https://www.zambiaeiti.org/index.php/data>

already and that the Chamber was including this in their EITI outreach to their members.

The Independent Administrator confirmed that they considered the support from the national secretariat in data collection enhances the efficiency of the process and allows the IA to dedicate more resources to reporting entities that were not previously part of the scope. The Independent Administrators stated that they did not have any issues with the approach. According to Zambian law, revenues collected by government agencies can only be disclosed after approval in Parliament. The National Coordinator explained that in order to produce timely reports, the Auditor General's Office had made an exemption for ZEITI to use the audited data for the reconciliation before it had been considered in Parliament. This exemption from the law has enabled ZEITI to produce timely reports. In addition, he explained that the ZEC had appointed IA for two years/reports to reduce the time and cost of the procurement process. He underlined that production of timely reports was a high priority and that the national secretariat is supporting the IA in data collection. The secretariat is planning to send reporting templates to companies based on the previous year's report before appointing the IA in order to meet the deadline. Members of the national secretariat explained that they had established good relationships with the industry and that companies have appointed focal points which enables the ZEITI and the IA to collect data more efficiently.

Regarding auditing practices, representatives from the Office of the Auditor General highlighted the lack of a mandate for them to audit private mining companies, and inquired regarding how ZEITI could support them in highlighting the gaps and identifying solutions, either through EITI reporting or the ZEC multi-stakeholder platform.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **satisfactory progress** on this requirement. The EITI Report provides a clear account of the reporting procedures and an assessment of the reliability of the data. It is not immediately clear from the EITI Report whether the procedures were decided by the ZEC or agreed together with the IA based on the IA's recommendations. However, consultations with the IA document their satisfaction with the procedures, underpinning their overall assessment as presented in the report. For the next EITI Report, the ZEC and IA should clearly document the discussion on the options considered and the rationale for the agreed data quality assurances to be provided by reporting entities to the IA.

There is potential for ZEITI to embed the disclosure of information on the extractive sector in existing government systems by encouraging more regular disclosures by key stakeholders such as ZRA and the Chamber of Mines, and the national secretariat is already seeking ways to support the data collection for the EITI Report by working with the relevant reporting entities. Future EITI Reports could also further highlight and comment on gaps related to auditing procedures and practices, such as the lack of a mandate of the Office of the Auditor General to audit private mining companies and the lack of disclosure of annual financial statements by companies.

### Table 4- Summary initial assessment table: Revenue collection

## Validation of Zambia: Report on initial data collection and stakeholder consultation

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 discussions and rationale for selecting a materiality threshold is documented and has resulted in comprehensive reconciliation of the payments and revenues in the extractive sector.	Satisfactory progress
In-kind revenues (#4.2)	The 2015 scoping study and consultations with government agencies confirm that the Zambian government does not collect revenues from the extractive sector in-kind.	Not applicable
Barter and infrastructure transactions (#4.3)	The 2015 EITI Report, written documentation from the Ministry of Finance and consultations with government agencies confirm that there are no barter and infrastructure agreements related to the extractive sector in Zambia.	Not applicable
Transport revenues (#4.4)	The Annual Progress Report 2015 and consultations with government agencies confirm that the Zambian government does not collect material revenues from transportation of commodities from the extractive sector.	Not applicable
Transactions between SOEs and government (#4.5)	The report describes and reconciles the transfers made by mining companies to ZCCM-IH, as well as taxes and fees paid by ZCCM-IH to the government. As noted at requirement 2.6, the EITI Report does not clearly outline the rules and practices regarding transfer of funds between the ZCCM-IH and the state, and there is limited information on the recently established IDC and how dividends are managed.	Meaningful progress

## Validation of Zambia: Report on initial data collection and stakeholder consultation

Subnational direct payments (#4.6)	The EITI Report provides an overview of the payments made by extractive companies to subnational government entities, and notes that these are below the materiality threshold. The report reconciles the subnational direct payments that the ZEC considers to be important to local councils (property rates and annual business fees) despite these being below the materiality threshold.	Satisfactory progress
Level of disaggregation (#4.7)	The EITI Report contains revenue data disaggregated by individual company, government agency and revenue flow. Unilateral disclosure is disaggregated by company.	Satisfactory progress
Data timeliness (#4.8)	The 2015 EITI Report was published well ahead of the deadline and ZEITI is making continuous efforts to improve timeliness of reported information.	Satisfactory progress
Data quality (#4.9)	The EITI Report and the Independent Administrator confirms that the agreed data assurances were met and that the data provided is reliable. It is not immediately clear from the EITI Report whether the procedures were decided by the ZEC or agreed together with the IA. However, consultations with the IA document their satisfaction with the procedures, underpinning their overall assessment as presented in the EITI Report.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>• ZEITI should ensure that future EITI Reports provide the total revenues received for each of the benefit streams included in the scope of the EITI Report, including payments from companies below the agreed materiality threshold. ZEC may wish to consider the feasibility of disclosing revenue information disaggregated by project in a systematic manner, as this is already being done to some extent.</li> </ul>		

- The ZEC is encouraged to continue its discussions on the materiality thresholds and whether to include PAYE figures as part of company payments.
- The ZEC should ensure that an explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises is disclosed, including a description of the rules and practices governing transfers of funds between ZCCM-IH, IDC and the state, and ensure that the reporting process comprehensively addresses all material payments to SOEs from oil, gas and mining companies and transfers between SOEs and other government agencies.
- For the next EITI Report, the ZEC and IA should clearly document the discussion on the options considered and the rationale for the agreed data quality assurances to be provided by reporting entities to the IA.
- The ZEC should also ensure that the TORs for the next report outlines the process for collecting data and clearly describes the division of labour between the national secretariat and the Independent Administrator.
- The ZEC may wish to engage with the Auditor General's Office and ensure that the EITI Report identifies and highlights any gaps related to the existing auditing framework and practices.
- The ZEC is also encouraged to consider ways to mainstream EITI reporting and discuss whether a mainstreaming feasibility study or exercise could be useful to identify ways forward for embedding disclosure of extractives data in existing government and company systems.

## 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 2015 EITI Report provides some information on how revenues are allocated and the Zambian budget process (pp. 49-50). It states that ZRA collects over 98% of all Zambia's taxes from the mining sector and

that the other payments from the mining sector are made to local councils, where mining companies are based, to MoL and to the MMMD. MoF also collects certain revenue streams related to government shares in mining companies or transfer of shares. Which revenues are collected by which agency is outlined in a diagram on p. 50. Section 3.3.3. on “Mining Revenues Management” indicates that all the revenue collected is deposited to the consolidated account under the Public Finance Act 2004 unless otherwise stated.

The Annual Progress Report 2015 further confirms that all tax revenues are collected by ZRA and deposited in the consolidated account, which contains revenue from all the sectors of the economy. It adds that “the revenue from the extractive industry is not ring-fenced and therefore the allocation in the budget does not distinguish the sources of the revenue by tax source. However, only the payments such as property rates and business annual fees which are directly paid by mining companies to local councils located in mining areas can be tracked” (Annual Progress Report 2015, p. 16). The 2015 EITI Report also describes the framework related to contributions to the Environmental Protection Fund, which ‘lodges’ contributions as deposits to be spent by the government in case it is necessary to undertake the rehabilitation of mining areas where the mining licence holder fails to do so. The report explains that once the license expires, the company is refunded the amount deposited if no rehabilitation costs have been incurred. The contributions made by each company to the Environmental Protection Fund during the reporting year are disclosed (p. 51).

There is no reference to national or international revenue classification systems in the report.

## Stakeholder views

Civil society representative stated that they were interested in knowing where revenue from the mining sector would be allocated and what it was spent on. One civil society member noted that while it could be challenging to monitor once deposited to the state account, the payments made by companies to local councils would be easier to track.

## Initial assessment

The International Secretariat’s initial assessment is that Zambia has made **satisfactory progress** in meeting this requirement. The 2015 EITI Report and the Annual Progress Report 2015 describes the distribution of revenues and explains that only revenues collected by Local Councils are not deposited into the consolidated account.

## Sub-national transfers (#5.2)

### Documentation of progress

Information regarding sub-national transfers is included in the 2015 EITI Report (p. 54). The report refers to the MMDA 2008 section which mandates the Minister of Finance to establish a mineral royalty sharing mechanism, without specifying what this mechanism should be (p. 52). The report notes that this leaves a gap with regards to determining what modality and percentage should be applied, and has therefore not been formally implemented and subnational transfers did therefore not take place. This issue has also been noted in past ZEITI Reports (2012-2013). The report notes that the section on the mineral royalty sharing mechanism was removed from the 2015 Act.



### Stakeholder views

An industry representative on the ZEC stated that they were interested in a revenue sharing mechanism. Another representative noted the need for more accountability of the management of funds received from mining and distribution at the local level. Civil society explained that while there had been much lobbying for the establishment of a revenue sharing mechanism, the removal of this section in the MMDA 2015 had resulted in the shift of now advocating for sharing of direct subnational payments as Solwesi had proved this to be more efficient.

### Initial assessment

The International Secretariat's initial assessment is that EITI Requirement 5.2 on sub-national transfers is **not applicable** in Zambia.

## Additional information on revenue management and expenditures (#5.3)

### Documentation of progress

The 2015 ZEITI Report states that contributions by mining companies lose their identity once they are deposited into the consolidated fund. Their use cannot therefore be tracked to public investment/expenditure (p. 52). The report includes a brief description of the country's budget and audit processes (p. 58).

### Stakeholder views

Stakeholders consulted did not express any views related to any additional information on revenue management and expenditures than those raised under Distribution of revenues (5.1).

### Initial assessment

It is encouraging that the ZEC has made some attempts to including information on the budget-making process in the ZEITI Report. EITI Requirement 5.3 is encouraged and the International Secretariat has therefore not provided an initial assessment.

**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' provisions)
Distribution of revenues (#5.1)	The 2015 EITI Report and the Annual Progress Report 2015 describes the distribution of revenues and explains that only revenues collected by Local Councils are not deposited into the consolidated	Satisfactory progress

## Validation of Zambia: Report on initial data collection and stakeholder consultation

	account.	
Sub-national transfers (#5.2)	The 2015 scoping study and consultations with government agencies confirm that sub-national transfers of revenue from the extractive sector do not occur in Zambia.	Not applicable
Information on revenue management and expenditures (#5.3)	The 2015 EITI Report summarises how revenues from the extractive sector are managed and outlines the process for the budget making in Zambia.	
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>The ZEC may wish to consider including further information on how Local Councils spend the direct subnational payments collected from mining companies, or on expenditures from the Environmental Protection Fund.</li> </ul>		

## 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 2015 EITI Report contains information on social expenditures (p. 59). Corporate social responsibility payments are voluntary in Zambia. Companies were requested to report corporate social responsibility payments and transfers made during 2015 unilaterally. These amounts have not been reconciled nor have the recipients been identified. A table on p. 59 illustrates the amounts reported by extractive companies, which indicates that some of these payments are above the materiality threshold of ZMW 2 million. The Chamber of Mines has begun disclosing CSR payments disaggregated by project/payment type on their website for some of their members,<sup>59</sup> although the information is older than that covered by the 2015 Report.

##### Stakeholder views

Representatives from government and industry on the ZEC and the Chamber of Mines confirmed that there were no mandatory social payments for mining companies in Zambia. A government representative explained that there was no responsible agency overseeing Corporate Social responsibility (CSR) payments in Zambia, and that there was therefore little clarity on the nature, value and beneficiaries of such projects.

A civil society representative on ZEC expressed that the data included in the report on CSR expenditure was valuable for communities. Another civil society representative explained that although the report includes information on CSR payments made in cash and in-kind, communities were not able to see what it leads to as it does not break down what it is used. Another CSO member noted that these payments were difficult to verify, in particular in-kind contributions that were not monetised. Yet another CSO member explained that there was little accountability regarding CSR payments as these were tax deductible and therefore often were large, although this did not mean that the contribution was significant. It was noted that ZEITI Report had helped identify the need to scrutinise these payments and how they were spent. An analysis by civil society representatives on the 2014 EITI Report recommended that “the EITI needs to develop a monitoring and verification mechanism tool to clearly help reconcile

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<sup>59</sup> <http://mines.org.zm/corporate-social-responsibility/>

these payments via CSR for more accountable reporting.”<sup>60</sup>

One industry representative noted that it would be useful if ZEITI could help manage expectations regarding CSR and that the responsibilities for social services should lie with the government rather than with mining companies.

### Initial assessment

The International Secretariat’s initial assessment is this requirement is **not applicable**. There are no mandatory social payments in Zambia. It is welcome that voluntary CSR payments are reported per company both in cash and in-kind. There are opportunities for ZEITI to reconcile material CSR payments and providing recommendations for how such payments can be overseen by the government.

## SOE quasi fiscal expenditures (#6.2)

### Documentation of progress

The 2015 EITI Report does not mention quasi-fiscal expenditures by SOEs, SOE subsidiaries or SOE JVs. Past reports do not refer to such payments. ZCCM-IH’s Annual Report 2015<sup>61</sup> summarises the company’s corporate social responsibility projects on p. 21 and reports on two donations and social contributions amounting to ZMW 20,000 and ZMW 10,000. The report states that ZCCM-IH contributed a total of ZMW 95,200 in CSR payments (about USD 110,000).

### Stakeholder views

Representatives from ZCCM-IH stated that the SOE did not make quasi-fiscal expenditures such as subsidies, but that CSR contributions and donations were made occasionally depending on the budget. According to one of the representatives these payments were included in the annual reports.

### Initial assessment

The International Secretariat’s initial assessment is that EITI Requirement 6.2 on SOE quasi fiscal expenditures **not applicable** in Zambia.

The SOE operating in the mining sector, ZCCM-IH does not appear to make material quasi-fiscal payments. There is only evidence of smaller social contributions being made, which are disclosed in the company’s annual report. The next EITI Report should clearly state whether quasi-fiscal expenditure exists, make links to the information made available by ZCCM-IH expenditure.

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<sup>60</sup> Publish What You Pay Zambia and Caritas Zambia, Analysis Of 2014 Zambia Extractive Industry Transparency Initiative Report, p. 21.

<sup>61</sup> <http://www.zccm-ih.com.zm/investor-center/annual-reports/#archive>

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

### Documentation of progress

The 2015 ZEITI Report provides a brief overview of the contribution of the extractive industry to the economy. During 2015, the mining sector remained the country's major productive industry with very high contribution in exports and government revenue but progressively lower contribution in investment, GDP and employments (pp. 11 and 35).

- GDP: The size of the extractive industries was 10% of total in 2015 (p. 11).
- Government revenue: The percentage of total government revenues generated from extractive industries was ZMW 9.07 billion in absolute terms or 18 % in 2015 (p. 11).
- Exports from the extractive industries constituted USD 10,793 million in absolute terms or 47 % of total exports in 2015 (pp. 11 and 13).
- Employment in the extractive industries constituted about 23,000 employees or 0.8 % of the total employment in 2015 (p. 36).

The 2015 ZEITI Report notes key regions and areas where the production is concentrated. Additional information and trend analysis of foreign direct investment in the sector is also provided (pp. 35-36). The report does not mention the contribution of informal sector activity.

### Stakeholder views

A ZEC representative from Chamber of Mines noted the importance of the information provided in the report on investments, employment, revenue contribution and how this has improved since the privatisation of the sector. A high-level government representative noted that EITI information had helped increase the focus on need for local content in the mining sector. A civil society representative on the ZEC expressed that the employment figures in the report was of particular interest as there was interest in understanding whether citizens were being employed, and that information on local content was useful. Another ZEC civil society representative noted that the report should not rely on secondary sources for employment figures, as these did not appear to be reliable and up to date, but that it should provide raw data.

### Initial assessment

The International Secretariat's initial assessment is that Zambia has made **satisfactory progress** towards meeting this requirement. Information related to the contribution of the extractive sector to the economy is adequately presented.

**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 2015 EITI Report confirms that mandatory social payments do not exist in Zambia. Voluntary social payments made by companies in cash and in-kind are reported by company.	Not applicable
SOE quasi fiscal expenditures (#6.2)	The SOE operating in the mining sector, ZCCM-IH does not appear to make material quasi-fiscal payments. There is only evidence of smaller social contributions are made, which are disclosed in the company's annual report.	Not applicable
Contribution of the extractive sector to the economy (#6.3)	The 2015 EITI Report adequately discloses information related to the contribution of the extractive sector to the economy.	Satisfactory progress
<p>Secretariat recommendations:</p> <ul style="list-style-type: none"> <li>• The ZEC should discuss whether CSR payments are considered material and whether these payments should be reconciled. The ZEC may wish to continue collaborating with the Chamber of Mines for systematic reporting and verification of the figures and providing recommendations for how such payments can be overseen by the government. This can help improve the clarity on the nature, value and beneficiaries of such payments.</li> <li>• The ZEC should ensure that the information on the contribution of the extractive sector to the economy in the next EITI Report includes GDP contribution in absolute terms. The ZEC may further want to consider including information on the contribution of the artisanal and small-scale mining sector to the economy.</li> <li>• The ZEC might wish to consider whether to include information on local content as part of their next work plan and EITI Report, and take into account the government's local content strategy for the mining sector.</li> </ul>		

## 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

The MSG has made various efforts to ensure that EITI Reports are comprehensible and publicly accessible. All EITI Reports including summary data templates are available on the Zambia EITI website in English.<sup>62</sup> The website is also linked to key government and company websites. The ZEITI Secretariat also runs an active Facebook account which has more than 3000 followers.<sup>63</sup>

Most EITI Reports published by ZEITI are in PDF format and are not machine-readable. The data from 2013 EITI Report is available in an open data format and so are all the annexes for the 2015 EITI Report. The structure of the 2015 Report, in particular the executive summary, could be made more comprehensible and easier to follow for people who might not be familiar with the sector.

There is ample evidence from the records available that a country-wide dissemination campaign has been made. Approximately 4000 copies of the 2014 EITI Report and a summary report full were distributed countrywide through workshops after the official launch by the Minister of Mines and Mineral Development. In order to enhance public awareness of EITI in Zambia, ZEITI targeted all the provinces to engage all relevant stakeholders including the mining communities and the general public in 2015 and 2016. Government representatives also participate in wider ZEITI dissemination activities. For example, the Minister of Mines and Mineral Development addressed the participants of a media training in late 2016, where the importance of beneficial ownership disclosure was emphasised. Following the training, a WhatsApp group was created for all the media participants together with the Permanent Secretary at the MMMD, to make it easier for journalists to ask questions on government policy directly.

The ZEC has also been involved in the ZEITI Reports dissemination. During the ZEC meeting 16 June 2016, The Council of Churches Zambia (CCZ) offered to use their church infrastructure and nationwide network

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<sup>62</sup> <http://www.zambiaeiti.org/>.

<sup>63</sup> <https://www.facebook.com/zambiaeiti/>.

for EITI dissemination activities. The Chamber of Mines also pledged to work closely with ZEITI. The dissemination of EITI information is also done through professional platforms such as the annual meeting for Accountants. With increasing work by ZEITI on beneficial ownership disclosure, ZEC is also aiming to Law Association of the Zambia and other relevant institutions. The 2014 EITI Dissemination Report (published in December 2016) demonstrates that ZEITI, with engagement by both the national secretariat and the ZEC, has contributed to vibrant discussions regarding the management of the mining sector.<sup>64</sup>

ZEITI has conducted television, radio and print-based discussions on the findings of the 2011 reconciliation report. The radio programmes also included a local language segment of recorded materials from the dissemination workshops. The reports were extensively published in the both private and state newspapers. The national secretariat produced branding materials such as t-shirts, caps and pens for the Zambia EITI to be used during the community engagements and dissemination of the Reconciliation reports.

During 2014, the ZEITI Secretariat managed to collaborate with the mining companies in disseminating the EITI reports. The companies disseminated the ZEITI Report in various media at their own cost. Association of Zambian Mineral Exploration Companies (AZMEC) also made the 2014 EITI Report available on their website.<sup>65</sup> During 2015, dissemination workshops to all ten provinces of Zambia to mainly discuss revenue and non-revenue issues affecting communities in areas where extractive industries are located. These workshops were undertaken jointly with CSOs and the Chamber of Mines (Annual Progress Report 2015, p. 4).

According to the impact assessment conducted in 2016, the national secretariat has been heavily constrained by poor funding and therefore limited in its outreach campaigns. The assessment further notes that CSOs also have a resource challenge and are unable to effectively carry out their outreach programs.<sup>66</sup> Outreach activities targeted at leaders at various levels in the communities have been undertaken for the past years. For example, workshops for councillors and members of Parliament have been organised in collaboration with civil society organisations.

The impact study also states that a growing number of CSOs are planning activities related to ZEITI because they have become better informed about ZEITI activities. The number of mining companies participating in the ZEITI reconciliation process has also increased since the inception of EITI in Zambia (ZEITI Impact Study, p. 22). In addition to an expansion of the scope of reporting companies, this might also be due to increased awareness among companies resulting from outreach by ZEITI and the Chamber of Mines.

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<sup>64</sup> 2014 EITI Dissemination Report (December 2016), <http://zambiaeiti.org/wp-content/uploads/2017/06/2016-Dissemination-Report-Final-Edition.doc>.

<sup>65</sup> <http://www.azmec.co.zm/extractive-transparency-initiative/>

<sup>66</sup> ZEITI Impact Assessment, pp. 23-24, <http://mineralproductionmonitoring.co.zm/wp-content/uploads/2017/06/Final-Impact-Assessment-report.docx>.



On 21 December 2016, the MSG agreed on a policy on the access, release and reuse of EITI data.<sup>67</sup>

### Stakeholder views

Several stakeholders consulted noted that ZEITI had contributed to policy discussions by providing reliable information. Industry representatives cited the use of ZEITI data in advocating for stabilisation of the mineral royalty regime, and civil society representatives referred to Solwesi and now other communities such as Mufilira in the lobbying for revenue sharing by-laws (see section on Impact analysis).

Representatives from both industry and government explained how ZEITI had been a useful platform to communicate and disseminate information to the public and in particular to affected communities, as ZEITI was perceived as 'neutral' or 'independent'. A representative from ZRA noted the credibility of the EITI with regards to disseminating information and that "once EITI says something, people listen".

One civil society member of ZEC explained that they have workshops with communities analysing the results of the EITI Reports once these are published. These workshops have increased the understanding of EITI data among CSOs in the communities and led to better advocacy work on extractives. Journalists explained that there is high interest in extractive sector in communities and their concern relates to transparency, mining agreements, environmental degradation and CSR.

The national secretariat explained that ZEC conducts dissemination workshops in all the ten provinces in Zambia after each EITI Report is launched. According to their experience, most mining communities are interested in CSR expenditures and sub national transfers to the local authorities. The secretariat also explained that the dissemination of EITI reports involves radio and television programmes. In terms of radio productions, the engagement has been largely with community radio stations in mining areas. In future, programmes will also be encouraged non-mining areas. The secretariat explained that efforts have been made to disseminate EITI findings in local languages but this has been challenging in terms of illiteracy and prioritization of languages (72 languages in Zambia).

Several ZEC members highlighted that although dissemination activities and various efforts have been made by its members and in particular by the national secretariat, more is needed in order to create public debate and reach out to affected areas. According to ZEC-members, ZEITI has included in its work plan to produce thematic reports/sector reports to target specific audiences and to make the reports even more attractive to users.

Feedback from stakeholders as recoded in the 2014 EITI Dissemination Report<sup>68</sup> suggests that dissemination of ZEITI could focus more on the contribution of the mining sector to the country and key governance challenges, rather than emphasising the scope of the reconciliation.

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<https://eiti.org/document/zambia-open-data-policy>

<sup>68</sup> 2014 EITI Dissemination Report (December 2016), <http://zambiaeiti.org/wp-content/uploads/2017/06/2016-Dissemination-Report-Final-Edition.doc>.

## Initial assessment

The International Secretariat's initial assessment is that ZEITI has made **satisfactory progress** in meeting this requirement. There is ample evidence from the records available that a country-wide dissemination campaign has been made and EITI reports actively promoted. The ZEC has agreed on a policy to the access, release and reuse of EITI data.

## Data Accessibility (#7.2)

### Documentation of progress

Most EITI Reports published by ZEITI are in PDF format and are not machine-readable. Data from the 2013 EITI Report is available in an open data format together with all the annexes from the 2015 EITI Report on ZEITI website. Summary data templates are also available online. In 2016, the MSG agreed in its open data policy on objectives to further improve accessibility of EITI data in line with the EITI Requirement 7.2.b. There is limited information in the policy document on concrete measures to be taken to achieve this objective.

There is limited evidence of discussions related to the recommendations in provision 5.1b regarding references to revenue classification systems. The 2015 ZEITI Report summarises and compares the share of each revenue stream to the total amount of extractive revenue. The analysis of the receipt by financial flows contribution in graph 3 and 4 show that the top 5 taxes contributed 85,39 % of the total Government extractive revenues collected by government (p. 19).

According to Zambia's 2015 Annual Progress Report, report summaries are prepared for all ZEITI reports which are used during the dissemination workshops, especially in the rural areas (p. 17). Approximately 4000 summary reports of the 2014 EITI Report were distributed countrywide through workshops.

During 2014, the ZEITI organized a retreat for the ZEC members from the civil society sector. The main objective of the retreat was to improve understanding of the reports and discuss how civil society can improve its engagement in the EITI process.

In 2016, the ZEITI Secretariat organised a media-training for 25 journalists with the aim to increase awareness and understanding of EITI Reports. One of the key outputs of the workshop was the formation of the ZEITI Journalists network. To this end, a WhatsApp group has been activated where key government sources including the Permanent Secretary for the Ministry of Mines and Minerals Development is part of the group to exchange information.

### Stakeholder views

ZEC members explained that it has made various efforts to disseminate and make the reports accessible. Several members underlined that the reports are technical and comprehensive which might be an obstacle for people who are not part of the sector. In addition to produce summary reports, ZEC has included in their work plan to produce thematic reports on a quarterly basis, target specific audiences and make the data easier to handle for outsiders.

On capacity building, journalist explained that they had been part of a training organized by the national secretariat on EITI. One journalist mentioned that he/she had not reported on EITI or extractive matters prior to the training but that it had enabled her/him to understand and make use of EITI data. The journalists also informed that WhatsApp group was created which includes national secretariat members, journalist and Permanent Secretary.

### Initial assessment

Requirement 7.2 is encouraged and the International Secretariat has therefore not provided an initial assessment. The ZEC has made attempts to making EITI data accessible to the public, produced brief summary reports and is now planning thematic reports to attract audiences. More efforts could be made to undertake capacity-building efforts, such as the training they had for journalists, to increase awareness of the EITI process, improve understanding of information and data from the reports, and encourage use of the information by citizens, the media and others.

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

### Documentation of progress

#### *Recommendations from the Independent Administrator*

The TORs for the Independent Administrator for the 2014 and 2015 reports specifically task the IA with analysing and proposing recommendations, and the 2014 and 2015 EITI Reports had similar and to some extent overlapping recommendations. The ZEITI Reports have generally provided recommendations aimed at facilitating the EITI reporting process, rather than on improving wider sector governance. The recommendations have been quite few and focussed either on the need to mandate company disclosures through an EITI law or on data collection gaps and minor discrepancies. As also tasked in the TOR, the IA commented on the progress in implementing those measures (5.3.e).

Aside from recommendation from EITI reporting, the 2014 EITI Dissemination Report also include various useful recommendations from stakeholders which relate to how the EITI can contribute more to address key sector challenges.<sup>69</sup>

#### *Follow-up on the recommendations*

The 2015 Annual Progress Report lists all the recommendations made in the 2014 Report and provides a brief overview of the response to recommendations from the reconciliation. A challenge which has been highlighted in past ZEITI Reports was the need to improve data management of mineral production figures (see Production data, #3.2). As a result, the Mineral Value Chain monitoring Project under the ZRA and the Mineral Production Monitoring Support under MMMD have been set up to help the government

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<sup>69</sup> 2014 EITI Dissemination Report (December 2016), <http://zambiaeiti.org/wp-content/uploads/2017/06/2016-Dissemination-Report-Final-Edition.doc>.

address the problem.

Although action has either been taken or next steps been identified for all the recommendations, in some cases the intended objective has not been fully addressed. This is for example the case for the recommendation which relates to the issue that some companies are not fully complying with EITI reporting requirements. The ZEC aims to resolve this by mandating CSOs to lead the dissemination process of EITI reports. According to the APR 2015, “this action will help in bridging the differences between the two sectors as mining companies will now be confident that the EITI information is actually being used and disseminated to the public”.<sup>70</sup>

In other cases, the ZEC’s response to the recommendations does not refer to action taken but planned. For example, for the first recommendation which relates to the enactment of a ZEITI law, the ZEC suggests that it will convene a meeting between the Ministry of Mines and Cabinet Office in mid-July to revive the drafting process of the EITI legislation.

On discrepancies, the APR states that the Office of the Auditor General will follow up on the discrepancy.

The Office of the Auditor General has for the past couple of reporting cycles been tasked to investigate the unresolved discrepancies in the ZEITI Reports. This is done by following up on and verifying the amounts reported by the reporting entities, including the physical verification of the necessary documentation by undertaking an audit trail procedures of all the figures in the report. Proposals have been made by the ZEITI Secretariat to include EITI information in the official report for the Auditor General which is a report presented to the Parliament annually.<sup>71</sup>

## Stakeholder views

The ZEC explained that there was no formalized way of following up on the recommendations but that this is an issue for further discussion as part of ZEITI’s Strategic Plan for 2016-2020. Some members said that they did not see the necessity to formalize the follow-up on the recommendations from the EITI Reports and that they were pleased with the ad-hoc way of working on these and reporting through APR and to some degree the work plans. Several examples were given on how recommendations had been followed up successfully, such as on addressing irregularities in tax identification numbers held by the ZRA and Mining Cadastre and improving monitoring of production. Some MSG members added that the clear indication of who is responsible for the follow up had been helpful for achieving results.

## Initial assessment

The International Secretariat’s initial assessment is that Zambia has made **meaningful progress** in meeting this requirement. The ZEC has considered the recommendations from the EITI reporting, but this approach has been ad hoc. Greater clarity is needed on the role of the IA and the MSG in generating recommendations, and the role of the MSG in following up. The plans to revisit this in relation to ZEITI’s

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<sup>70</sup> Annual Progress Report 2015, p. 20.

<sup>71</sup> Annual Progress Report 2015, pp. 20-22.

Strategic Plan for 2016-2020 is timely.

## Outcomes and impact of implementation (#7.4)

### Documentation of progress

The ZEC has produced an Annual Progress Report (APR) covering 2015, which is made publicly available.<sup>72</sup> The report gives a detailed overview of activities undertaken by the ZEC which are linked to the 2015 work plan objectives (APR 2015, pp. 7-14). The APR contains an assessment of achievement and accomplishment against the 2015 work plan objectives and activities, notably on: i) EITI implementation, ii) awareness raising, and iii) company and government engagement and giving EITI a legal status. Where the APR documents “unmet”, a rationale for the delay or lack of fulfilment with the objective is described.

The 2015 APR provides an assessment of progress with meeting most of the EITI Requirements, including issues such as revenue management and expenditure (5.3), transportation payments (4.4), discretionary social payments (6.1), ad-hoc subnational transfers (5.2), beneficial ownership (2.5) and contracts (2.4) (pp. 14-20). The report also includes a brief overview of ZEC’s response to recommendations from the reconciliation and an assessment of progress/status against each recommendation (p. 20).

The APR also contains a section identifying strengths (dissemination through Chamber of Mines and CSOs) and weaknesses (lack of legislation to disclose beneficial ownership) of EITI implementation in Zambia (p. 21). The APR describes several platforms, identified for bringing together the ZEC and other stakeholders, which have provided opportunities for dissemination of the EITI information for feedback to ZEITI on their activities. One platform is the annual Alternative Mining Indaba which is organized by civil society provides space for dialogue and feedback from various stakeholders on the governance of the extractive sector. Another notable platform that has grown in relevance to the implementation of the EITI is the annual CSR forum which is normally organized by the Chamber of Mines. There is no description on efforts to made specifically related to strengthening stakeholder engagement (pp. 24-25).

### Stakeholder views

Stakeholders did not voice any particular opinions regarding the APR, apart from stakeholders represented on ZEC (industry and civil society) noting that their constituencies had provided input to the report drafted by the national secretariat.

### Initial assessment

The International Secretariat’s initial assessment is that Zambia has made **satisfactory progress** in meeting this requirement. The ZEC has reviewed the outcomes and impact of EITI implementation on natural resource governance through the production of annual progress reports, agreed by the ZEC and made publicly available.

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<sup>72</sup> Zambia EITI Annual Progress Report 2015, [https://eiti.org/sites/default/files/documents/2015\\_zambia\\_eiti\\_annual\\_activity\\_progress\\_report\\_0.pdf](https://eiti.org/sites/default/files/documents/2015_zambia_eiti_annual_activity_progress_report_0.pdf).

**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)	There is ample evidence from the records available that a country-wide dissemination campaign has been made and EITI reports actively promoted. The ZEC has agreed on a policy to the access, release and reuse of EITI data.	Satisfactory progress
Data accessibility (#7.2)	ZEC has made attempts to making EITI data accessible to the public, produced brief summary reports and is now planning thematic reports to attract audiences. Some capacity building efforts and trainings have been undertaken to increase awareness of the EITI process, improve understanding of information and data from the reports, and encourage use of the information by citizens, the media and others.	
Lessons learned and follow up on recommendations (7.3)	Action has been taken on most recommendations from EITI Reports, however in some cases the intended objective has not been fully addressed.	Meaningful progress
Outcomes and impact of implementation (#7.4)	The ZEC has published Annual Progress Reports in line with EITI Requirement 7.4.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ul style="list-style-type: none"> <li>All stakeholders, including government, civil society and industry are encouraged to continue to disseminate extractive sector data through EITI Reports, with the aim to ensure that the EITI and the information made publicly available about the extractive industries contributes to public debate.</li> <li>The national secretariat is constrained by limited funding and is unable to carry out outreach</li> </ul>		

activities as part of the Strategic Plan for 2016-2020. The ZEC could contribute to identifying domestic and external sources of funding where appropriate to ensure timely implementation of the agreed outreach activities.

- The ZEC might want to undertake more capacity building efforts to increase awareness of the EITI process, improve understanding of information and data from the reports, and encourage use of the information by citizens, the media and others.
- The ZEC is encouraged to make EITI Reports available in a machine-readable and open data format, in accordance with ZEITI's open data policy.
- The ZEC is encouraged to consider ensuring that recommendations in ZEITI Reports to a larger extent address key challenges related to extractive sector governance. Such recommendations could take into account feedback recorded from stakeholders as part of ZEITI's dissemination activities. The ZEC could also consider a more systematic follow-up of the recommendations, for instance by developing a dedicated plan for following up on findings and recommendations from the ZEITI Reports, outlining actions to address the recommendations which can achieve the intended objective.

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

Based on the key documentation made available by ZEITI and on the stakeholder consultations, the following impacts seem to be most significant:

***Influencing policy:*** Several industry representatives explained that information from ZEITI Reports had been useful in lobbying for changes to the tax regime. The Chamber of Mines and company representatives made a presentation to the Ministry of Finance following the 2013 amendment to the fiscal regime. This was based on data from 2008-2012 ZEITI reports to demonstrate that increasing the royalty rates would not necessarily lead to more revenue and that incentivising increased production would be more efficient. The ZEITI data indicated that the increase in revenue was tied to increase in production and copper prices and not to raised royalty rates. From 2010-2011, revenue had increased while the royalty rates had been stable, while from 2011-2012, the royalty rates were doubled while the revenue collected remained the same. The Chamber of Mines made a public presentation to MOF which was followed by the decision to stabilise the mineral royalty regime. An industry representative noted that this would have difficult without an independent source of information such as ZEITI.

***Building trust:*** ZEITI can be credited with building trust in the extractive sector between government, companies, and civil society that is conducive to constructive exchanges within and outside of the ZEC. Several stakeholders highlighted the value of ZEITI in trust-building amongst the three stakeholder groups, as well as the credibility resulting from the tripartite cooperation. For instance, a government representative noted how ZEITI was an important channel of communication between the government and the artisanal and small-scale mining sector, as ZEITI could initiate conversations related to reporting on production and revenues with small-scale miners in the way that the ZRA would not be able to. An industry representative also stated that the dissemination and outreach events in communities were much more credible when civil society representatives were present, which significantly facilitated discussions between industry and community members.

According to journalists there were many benefits of implementing EITI, including more willingness to share information and disclose payments and less tension in the affected communities. Previously, communities were more suspicious but EITI Reports have enabled communities to understand better tax revenues. Journalists themselves have used the reports to write articles, or use some of the data in TV and radio programmes.

***Improving industry engagement:*** Stakeholders noted a shift in engagement with industry and investors, which have become more open and transparent through ZEITI participation. This had resulted from more interaction with companies both at the MSG level and through the reporting process. The ZEITI reporting process has encouraged publication of data by companies, and the Chamber of Mines now regularly publishes relevant information including on CSR, production and employment. One industry representative noted that the EITI had been a catalyst for companies to fulfil their CSR obligations.

***Raising awareness in affected areas:*** Using EITI data as a basis, Solwesi community members successfully lobbied local authorities to pass a by-law ensuring that 10% of revenues go to social services.



Communities in Solwesi used the information from EITI Reports which disclosed what mining companies were paying directly to the local authorities to advocate for the passing of a by-law to share 10% of the direct payments from mining companies with local communities, to be spent on social services. This has also spilled-over and initiated discussions in other regions on revenue sharing from mining, such as Mufulira.

*Strengthening monitoring of production:* Discrepancies related to production figures revealed in EITI reporting have led to strengthening the monitoring of the minerals industry in Zambia. EITI Reports have identified several gaps related to the available production data and the discrepancies among the figures provided by government agencies. As a result, the government with support from partners has initiated various projects related to monitoring and verifying information along the production value chain with the aims of fighting corporate tax evasion by improving monitoring systems and of tracking mineral resources throughout the value chain, from extraction to exportation. The capacity of the Ministry of Mines and Mineral Development has been further strengthened to effectively monitor mining activities and mineral production, and to share the information with relevant agencies in order to facilitate the mobilisation of the appropriate levels of domestic revenue.

*Providing information to help identify risks of corruption and anti-money laundering:* The FIC explained that they use EITI Reports in their work to combat money laundering and other serious offences in order to ensure integrity and transparency in the financial system. By checking the payments in the EITI Reports against recorded transactions, the FIC can identify discrepancies and analyse suspicious transactions. Government representatives also highlighted the convening role ZEITI had played so far in raising awareness on beneficial ownership, which had led to much progress with regards to establishing an enabling legal framework for disclosure. It was highlighted that beyond raising awareness on this among key government agencies, mining companies and civil society, ZEITI could also contribute to inform wider stakeholders working with companies such as lawyers, auditors and company secretaries and administrative staff who have access to beneficial ownership information. It was noted that ZEITI's credibility would make them more suitable than other actors to play this convening role.

## Annexes

### Annex A - List of MSG members and contact details

#### CHAIR

Fredson K. Yamba MoF [fkymba@yahoo.co.uk](mailto:fkymba@yahoo.co.uk) [fredson.yamba@mofnp.gov.zm](mailto:fredson.yamba@mofnp.gov.zm) 0977 873772

#### GOVERNMENT

1. Mr. Francis Chilunga	GRZ- MOJ	<a href="mailto:franchilunga@yahoo.com">franchilunga@yahoo.com</a>	0977-422994
2. Mrs. Dorica Kafunya	GRZMOJ(Proxy)	<a href="mailto:doricakafunya@gmail.com">doricakafunya@gmail.com</a>	0971 008140
3. Mr Kayula Chimfwembe	GRZ- MOF	<a href="mailto:kayula08@gmail.com">kayula08@gmail.com</a>	0965-726668
4. Ms. Margaret Chikuba	GRZMOF(Proxy)	<a href="mailto:margmoonga@gmail.com">margmoonga@gmail.com</a>	0966-503287
5. Mr. Brian Simukoko	GRZ- MLGH	<a href="mailto:bcksims@yahoo.com">bcksims@yahoo.com</a>	0977-615311
6. Ms. Banji Chisumpa	GRZ- MLGH(Proxy)	<a href="mailto:vebanc@yahoo.co.uk">vebanc@yahoo.co.uk</a>	0976-443880
7. Mr. Hambani Ngwenya	GRZ- ZRA	<a href="mailto:NgwenyaH@zra.org.zm">NgwenyaH@zra.org.zm</a>	0977-828238
8. Mr. Daniel Chirwa	GRZZRA(Proxy)	<a href="mailto:ChirwaD@zra.zm">ChirwaD@zra.zm</a>	0955-903563
9. Mr. Paul M. Chanda	GRZ- MMMD	<a href="mailto:mbotwapm@yahoo.com">mbotwapm@yahoo.com</a>	0977-824987
10. Mrs Njekwa Malama	GRZMMMD(Proxy)	<a href="mailto:njekwasmalama@hotmail.com">njekwasmalama@hotmail.com</a>	0966-752245
11. Dr. Jonathan Chipili	GRZ- BOZ	<a href="mailto:jchipili@boz.zm">jchipili@boz.zm</a>	0964 646989
12. Peter Zgambo	GRZBOZ(Proxy)	<a href="mailto:pzgambo@boz.zm">pzgambo@boz.zm</a>	0967 533014

#### MINING COMPANIES

13. Mr. Joseph Kanyama	MS- FSSMAZ	<a href="mailto:kanyamajoseph@yahoo.com">kanyamajoseph@yahoo.com</a>	0977-873559
14. Mr. Jordan Mbulo	MSFSSMAZ(Proxy)	<a href="mailto:Jordanmbulo78@gmail.com">Jordanmbulo78@gmail.com</a>	0973 671677

## Validation of Zambia: Report on initial data collection and stakeholder consultation

15. Ms. Maureen Dlamini	MS- CMZ	<a href="mailto:jangulom@mines.org.zm">jangulom@mines.org.zm</a>	0974-779833
16. Talent Ng'andwe	MS-CMZ(Proxy)	<a href="mailto:Talent.ngandwe@gmail.com">Talent.ngandwe@gmail.com</a>	0977-381309
17. Mr. David Patterson	MS- CMZ		
18. Mr. Shula Shula	MSCMZ(Proxy)	<a href="mailto:sshula@mines.org.zm">sshula@mines.org.zm</a>	0979-004929
19. Mr. Jackson Sikamo	MS- CMZ	<a href="mailto:Jackson.sikamo@chibuluma.com">Jackson.sikamo@chibuluma.com</a>	0966-780887
20. Mr. Nathan Chishimba	MS- CMZ	<a href="mailto:NChishimba@barrick.com">NChishimba@barrick.com</a>	

**CIVIL SOCIETY ORGANISATIONS**

22. Ms. LumbaSiyanga	CSO- WFC	<a href="mailto:lusiyanga@hotmail.com">lusiyanga@hotmail.com</a>	0978 885792
23. Ms. Jane Chirwa	CSOWFC(Proxy)	<a href="mailto:Janechirwa79@yahoo.com">Janechirwa79@yahoo.com</a>	0977-261361
24. Rev. Suzanne M. Mutale	CSO- CCZ	<a href="mailto:Suzannematala@gmail.com">Suzannematala@gmail.com</a>	0977 806092
25. Rev. Petson Kabale	CSO- CCZ(Proxy)	<a href="mailto:petsonKabs@yahoo.co.uk">petsonKabs@yahoo.co.uk</a>	0978-509225
26. Ms. Isabel Mukelebai	CSO- CTPD	<a href="mailto:Isabelmukebai@ctpd.org.zm">Isabelmukebai@ctpd.org.zm</a>	0977 181220
27. KangwaMuyunda	CSOCTPD(Proxy)	<a href="mailto:musolemuyunda@gmail.com">musolemuyunda@gmail.com</a>	0978260058
28. Mr. MtwaloMsoni	CSO- CaritasZambia	<a href="mailto:Mtwalomsoni@gmail.com">Mtwalomsoni@gmail.com</a>	0978-961972
29. Ms. Jesinta kunda	CSO- ZLA	<a href="mailto:Jesintak2002@yahoo.com">Jesintak2002@yahoo.com</a>	0976 679881
31. Ms. Nsama Nseniwe	CSO-ZLA(Proxy)	<a href="mailto:nsemiwensama@yahoo.com">nsemiwensama@yahoo.com</a>	0966 922822
32. Mr. Leornard Phiri	CSO- MUZ	<a href="mailto:phirileonard@yahoo.com">phirileonard@yahoo.com</a>	0977-679300
33. Mr. Yewa Kumwenda	CSO- MUZ		

## Annex B – MSG meeting attendance

21 December 2016 – 5<sup>th</sup> meeting –Chairperson, Government 4, Industry 3, Civil Society 4

27 September 2016- 4<sup>th</sup> meeting- Government 3, Industry 4, Civil Society 3

16 June 2016- 3<sup>rd</sup> meeting- Government 3, Industry 5, Civil Society 6

4 March 2016- 2<sup>nd</sup> meeting- Government 2, industry 5 and Civil Society 6

4 February 2016- 1<sup>st</sup> meeting- Government 3, Companies 5 and Civil Society 5

15 December 2015- 3<sup>rd</sup> meeting- Government 4, Companies 3 and Civil Society 6

21 May 2015- 2<sup>nd</sup> meeting- Government 3, Companies 3 and Civil Society 3

24 March 2015- 1<sup>st</sup> meeting Government 6 Companies 3 and Civil Society 2

## Annex C – Cost of EITI Reports

Year	EITI Report	Cost	
2014/2015	2012, 2013 and 2014 ZEITI Reports	USD 350,181	European Union and World Bank
2016	2015 ZEITI Report	USD 151,400	World Bank and Government of Zambia
<u>Source: Zambia EITI Annual Progress Reports</u>			

## Annex D - List of stakeholders consulted

### National secretariat

Siforiano S. Banda, Head/National Coordinator, ZEITI Secretariat

Kaonga Mazaba, Project Administrative Officer, ZEITI

Ian Mwiinga, Communications Officer, ZEITI

Emmanuel Sibongo, Accountant, ZEITI

### Government

Pumolo Akapelwa, Assistant Director - Mining Audit, Zambia Revenue Authority

Paul M. Chamda, Permanent Secretary, Ministry of Mines and Minerals Development

Doren Chila, Ministry of Mines and Minerals Development

Charles Chiweta, Senior Budget Analyst, Ministry of Finance

Andrew Kazilimani, Director Projects, ZRA

Kafula Kolonga, Bank of Zambia

Tabila Mazhamo, Mining Cadastre at Ministry of Mines and Minerals Development

Chitalu K. Mulenga, Senior Economist – Tax Policy, Zambia Revenue Authority

Kenneth Munkombwe, Assistant Director – Project Management, Zambia Revenue Authority

Saviour Simwanza, Team Leader- MVCMP, Zambia Revenue Authority

Chris B. Yaluma, Cabinet Minister, Ministry of Mines and Minerals Development

Teddy Yambayamba, Mining Cadastre at Ministry of Mines and Minerals Development

Mercy Zulu, Senior Documentalist, Ministry of Mines and Minerals Development

John Mafuta – Director Revenue Audits, Office of the Auditor General

Sally Ross – Acting Director – Planning and Information, Office of the Auditor General

G. Chanda – Assistant Director (Non Tax Revenue), Office of the Auditor General

M .Bukolo - Principal Auditor (Non Tax Revenue), Office of the Auditor General

W.Bwalya – Senior Auditor (Revenue), Office of the Auditor General

Cynthia Matimba - Senior Auditor (Planning and Information), Office of the Auditor General

### **Parliament**

Richard Musukwa, Government Chief Whip, Patriotic Front

### **Industry**

Mubiana Akakandelwa, Head - Corporate Affairs, Konkola Copper Mines

Hobson Bwalya, small-scale miner and member of Federation of Small Scale Miners Associations of Zambia

Joseph Gofy Kanyama, President, Federation of Small Scale Miners Associations of Zambia

Edith Kanyemba, small-scale miner and member of African Women's Entrepreneurship Program/  
Association of Zambia Women in Mining

Loveness Miyoba Jendeenda, small-scale miner and member of Association of Zambia Women in Mining

Mbulu Jordan, General Secretary, Federation of Small Scale Miners Associations of Zambia

Mary Nlande Lubemba, small-scale miner and member of Association of Zambia Women in Mining/  
Federation of Small Scale Miners Associations of Zambia

Mary Audrey Mtonga, Kamon Mine Company and member of Association of Zambia Women in Mining

Martford Mumba, small-scale miner and member of Federation of Small Scale Miners Associations of Zambia

Pauline S Mundia, small-scale miner and member of Association of Zambia Women in Mining

Talent Ng'andwe, Chief Executive Officer (Acting), Chamber of Mines

Shula Shula, Economist, Chamber of Mines

Jackson Sikamo, Board Chairman – Country Manager, Chibuluma Mines Plc / Metorex

### **Civil Society**

Howard Chewes, Centre for Trade Policy and Development (CTPD)

Namo Chyuma, Country Director Zambia, Environment Africa

Morgan Kabwe, Ecodev

Yewa Kumwenda, Assistant Director- Research and Productivity, Mineworkers Union of Zambia

Suzanne Matala, General Secretary Reverend, Council of Churches in Zambia

Mtwalo Msoni, National Coordinator, Publish What You Pay Zambia (Caritas Zambia)

Kangwa Muyunda, Centre for Trade Policy and Development (CTPD)

Emmanuel Muma, Trade Policy Programmes Assistant, Centre for Trade Policy and Development (CTPD)

Simon Mwamba, Zambia Humanitarian Actors Platform (ZHAP)

Mwiya Mwandawande, Extractive Industries Transparency Alliance (EITA)

Thuli M Nkomesha, Zambia Humanitarian Actors Platform (ZHAP)

Marriot Nyangu, Policy Center Zambia

Lumba Siyanga, Women for Change

Andisen C. Zulu, Council of Churches in Zambia

### **Independent administrators**

Gertrude Moono, Manager - Audit, BDO Zambia

Godsave Nhekede, Audit Partner, BDO Zambia

### **Development partners**

Pamphile Sebahara, Head of Research, Training and Documentation Department, ICGLR

Ron Smit, Team Leader, Mineral Production Monitoring Support to Ministry of Mines and Minerals Development



**Media**

Chulu Kabanda, Zambia Daily Mail

Jeff Kapembwa, Zambia Informer

Lusa Kilale, GFM Radio

Kennedy Mupeseni, Times of Zambia

Augustine Sichula, Radio Pheonix

Evans Sinjela, 5FM Radio

## Annex E - List of reference documents / Bibliography

### Workplans and Annual progress reports:

- Zambia EITI 2014-2016 Work Plan, <https://eiti.org/document/zambia-eiti-20142016-work-plan>.
- Zambia EITI Strategic Plan 2016-2020. *Not published.*
- ZEITI Communications Plan 2014-16. *Not published.*
- Zambia EITI 2014 Annual Progress Report, <https://eiti.org/document/zambia-eiti-2014-annual-progress-report>.
- Zambia EITI 2015 Annual Progress Report, <https://eiti.org/document/zambia-2015-annual-progress-report>.

### EITI Reports, Summaries, Validation Report and Secretariat Review:

- 2015 Zambia EITI Report, <https://eiti.org/document/2015-zambia-eiti-report>.
- 2014 Zambia EITI Report, <https://eiti.org/document/2015-zambia-eiti-report>.
- 2013 Zambia EITI Report, <https://eiti.org/document/2013-zambia-eiti-report>.
- 2012 Zambia EITI Report, <https://eiti.org/document/2012-zambia-eiti-report>.
- 2011 Zambia EITI Report, <https://eiti.org/document/2011-zambia-eiti-report>.
- 2010 Zambia EITI Report, <https://eiti.org/document/2010-zambia-eiti-report>.
- 2009 Zambia EITI Report, <https://eiti.org/document/2009-zambia-eiti-report>.
- 2008 Zambia EITI Report, <https://eiti.org/document/2008-zambia-eiti-report>.

### Legal documents and ToRs related to EITI implementation:

- ToRs for 2014 and 2015 EITI Reports. *Not published.*
- ToR for Zambia EITI Council. *Not published.*

### Other documents online:

- Zambia Open data policy <https://eiti.org/document/zambia-open-data-policy>

### Meeting minutes:

- Minutes of the ZEC meeting held on 15th March, 2015 at the Geological Survey Department Board room at 10:30 hours. *Not published.*
- Minutes of the ZEC meeting held on 21 May, 2015 at the Geological Survey Department Board room at 10:30 hours. *Not published.*
- Minutes of the ZEC special meeting held on 24th December, 2015 at the Geological Survey Department Board room at 10:30 hours. *Not published.*
- Minutes of the ZEC meeting held on 4 February, 2016 at the Geological Survey Department Board room at 10:00 hours. *Not published.*
- Minutes of the ZEC meeting held on 4 March, 2016 at the Geological Survey Department Board room at 10:00 hours. *Not published.*
- Minutes of the ZEC meeting held on 16th June, 2016 at the Geological Survey Department Board room at 10:00 hours. *Not published.*
- Minutes of the ZEC meeting held on 27 September, 2016 at the Geological Survey Department Board room at 10:00 hours. *Not published.*
- Minutes of the ZEC meeting held on 21<sup>st</sup> December, 2016 at the Geological Survey Department Board room at 10:00 hours. *Not published.*

### Secondary literature:

- Enhancing mining's contribution to the Zambian economy and society [http://zambiaeiti.org/wp-content/uploads/2017/05/ICMM-Zambia-Report\\_2014.pdf](http://zambiaeiti.org/wp-content/uploads/2017/05/ICMM-Zambia-Report_2014.pdf)
- NRGi (2016), Transfer Pricing in the Mining Sector in Zambia, [https://resourcegovernance.org/sites/default/files/documents/nrgi\\_zambia\\_transfer-pricing-study.pdf](https://resourcegovernance.org/sites/default/files/documents/nrgi_zambia_transfer-pricing-study.pdf).
- Proposed NRGi Technical Advice to Zambia Extractive Industries Transparency Initiative, September 2016. *Not published.*
- Impact assessment of Extractive Industries Transparent Initiative implementation in Zambia (2009-2015), <http://mineralproductionmonitoring.co.zm/wp-content/uploads/2017/06/Final-Impact-Assessment-report.docx>.