



# **Extractive Industries Transparency Initiative (EITI)**

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## **Implementation Lessons Learned: EITI Policy Implications**

**World Bank Group  
Sustainable Development Network vice presidency  
Oil Gas Mining and Chemicals Department  
Policy and Operations Unit (COCPO)**

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## I. EXECUTIVE BRIEF

### Introduction

1. EITI is a global initiative established in 2003 which promotes and supports improved governance in resource-rich countries through the full publication and verification of company payments and government revenues from oil, gas and mining. The international EITI initiative is managed by the EITI Board which is supported by an International EITI Secretariat based in Oslo.
2. The World Bank Group (WBG) supports countries with implementing EITI including with technical assistance funded by a multi-donor trust fund (MDTF) established by donors for this purposes and managed by the WBG. The MDTF Work Plan currently for FY09 – FY10 covers 40+ countries including those just below.
3. At June 2008, some 29 countries have endorsed EITI and are in varying stages of implementation. 23 countries are now formally declared as “candidate” countries, and of these, ten countries have completed and publicized one or more EITI Reports.

### Lessons Learned publication

4. Based on the accumulated experience of this implementation work with countries, and as a key global deliverable of the MDTF work program for FY08, COCPO launched an EITI implementation “lessons learned” publication (*Implementing EITI: Applying Early Lessons from the Field*). The goal of this publication was bring out to best practice, identify common constraints and highlight results and issues emerging from EITI countries’ most recent EITI implementation and reporting cycles, as well as describe result measurement methodologies. The publication is aimed at EITI practioners, bilateral donor agencies, WBG staff, and other EITI users, as a supplement to and supportive of the EITI Source Book and other EITI Board literature.

### Related economic and sector work (ESW) deliverable

5. As a ancillary to the “lessons learned” publication above, this Report is designed to collate the key EITI policy implications which the COCPO team had identified through its work with EITI countries and from EITI implementation experience. The aim is to identify issues and suggestions to be addressed to, and as a contribution to, EITI Secretariat Oslo (and EITI Board) which could help to establish an agenda of policy issues for further consideration.
6. Combined with already well-understood global EITI policy challenges within the EITI Secretariat, the EITI on-the-ground implementation / policy issues accumulated in this Report could help inform the ongoing discussion and help the EITI Secretariat to take the debate forward (and where feasible) prioritize possible future refinements to the Source Book

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## Basis of this Report's Findings and Recommendations

7. This Report was undertaken as a desk review commissioned by the World Bank (prepared by Mr. Sefton Darby, consultant), which built on the *Implementing the EITI – Applying Early Lessons from the Field* publication and focused on areas of EITI policy which have proven unclear or difficult for implementing countries. As an additional step, the World Bank and EITI Secretariat jointly convened EITI implementing firms in a workshop where the goal was to bring together audit firms who have been actively implementing and have direct experience of EITI issues in a working session to identify recurrent implementation and technical issues which impact countries. See Annex.

## Track record of achievement

8. At the outset, **it is important to note that current EITI policy framework has proved itself and serves the Initiative very well.** The very momentum of EITI so far - and that EITI approaches have become the established standard for transparency globally - is testimony to the basic strength and soundness of the EITI policy framework. The framework has emerged through a consensus approach and a negotiated process, and has proved its robustness in how EITI implementation on the ground has progressed in various countries. In particular it is important to recognize and emphasize that the essential format of EITI policy – flexibility which allows countries to adapt to EITI tailored to national circumstances but with a core set of “minimum” principles which make EITI a meaningful enterprise – works well.

9. Given this baseline, this Report therefore aims to make incremental suggestions (rooted in implementation experience) **which build on this record of achievement and help maintains broad policy consistency.** In particular the Report recognizes that it is easier to suggest policy changes than actually carry them out and it is for this reason that this Report makes most of its suggestions in areas where policy requires clarification and refinement (rather than outright change), in order to make the implementation process in countries more efficient and less focused on unhelpful debates on points of interpretation.

## Summary of Findings and Recommendations

10. This Report makes a number of suggestions with regard to key areas of existing EITI policy, which could be refined/clarified without there being perception of EITI “policy expansion” – i.e. they directly address contradictions and imprecision within EITI policy as presently written, rather than proposing significant new policy. In summary, those suggestions are as follows:

*Areas where EITI policy could be revised for clarity:*



- i. The EITI Secretariat might consider to develop, consult on, and publish a revised definitive document which refines and consolidates all EITI policy in one place, as well as provides more guidance for implementing countries to achieve that policy.
- ii. The EITI Secretariat might consider whether EITI policy requires more clarification in the area of material payments to sub-national levels of government and how they can be included as part of an overall EITI process (and with it, guidance on ways in which sub-national representatives or local-level steering committees can be representatively included in EITI national-level stakeholder bodies).
- iii. The EITI Secretariat might clarify current policies on ways to report (i) physical production shares supplemented by information on their values and (ii) any other indirect payments, consistent with EITI policy requirements for EITI reports to be comprehensive statements which include all material payments and revenues.

Areas where a debate needs to be launched to address a key policy issue:

- iv. The EITI Secretariat might consider to initiate a discussion on ways to clarify the tensions and contradiction between those EITI policies which seek mandatory company participation, and those which establish the primacy of adherence to existing contracts and laws – noting that while regulatory change may be necessary, certain countries have shown it is possible in practice for these issues to be solved for instance in the way EITI data is collected by and reported to the Administrator.
- v. Building on recent discussions between audit firms who work on EITI (see Annex), the EITI Secretariat might consider convening a sub-group of board members and audit experts to consider the issue raised, including (i) the appropriate auditing standards which should be used by administrators / auditors involved in non-audit reconciliations of EITI payments and revenue data; (ii) the appropriate auditing standards which government EITI statements should meet and; (iii) ways to better involve government supreme audit bodies in EITI processes.
- vi. Though a matter of judgment in most cases, that the EITI Secretariat considers options for establishing definitions of what constitutes a material revenue stream, as well as a material company.
- vii. Although ordinarily a matter of financial management procedures at country level, for the EITI Secretariat to consider adding text to future Source Book editions on the need for high standards of budget and expense procedures and transparency in



the operations of national EITI secretariats themselves, as part of the overall EITI costed work plans

Areas where more capacity building is required:

- viii. The EITI Secretariat might consider options for providing more guidance and capacity building for extractive industry companies – both national and international. Lack of company understanding of EITI and less-than-full effort to engage with the EITI process has been a weak point in EITI implementation.

Clarifying the validation process:

- ix. EITI policy on the candidacy process (originally called the pre-validation process) could be clarified and consolidated, as the policy in this area (made over time by the EITI Board) is not immediately clear to those new to the Initiative.
11. Finally, the Report concludes by recommending that the EITI Board and Secretariat assess whether the voice of implementing countries in the policy-making process is optimal and consider developing a process which better includes implementing countries in the process. The perception exists that in the dynamics of policy making, the views of implementing countries– both board members and non-board members – remain the least influential constituency on the Board, despite their being the most important player in implementation and in the ultimate aims of EITI.



## II. DETAILED FINDINGS AND RECOMMENDATIONS

### Recommendation 1: Refining and consolidating “EITI policy”

1. The Extractive Industries Transparency Initiative has evolved over the more than five years that it has been in existence. The core statements of policy which have been agreed at international EITI meetings and conferences over that time have been:

- ③ The EITI Principles – agreed at Lancaster House in June 2003.
- ③ The EITI Criteria – agreed in London in March 2005.
- ③ The EITI Sourcebook – agreed in London in March 2005.
- ③ The EITI Validation Guide – agreed in Oslo in October 2006.

2. The EITI Principles and Criteria represent the ongoing core pillars of the Initiative. Beyond that, each iteration of policy has been both more descriptive (i.e. detailed) as well as more prescriptive (i.e. establishing standards for the Initiative). This approach has been very successful insofar as it has allowed the Initiative to advance policy at the rate at which all stakeholders feel comfortable, and it has enabled the Initiative to “learn through doing” – i.e. policy has been heavily influenced by implementation experience, rather than simply being a product of high level negotiations between different stakeholder groups.

3. However, a number of problems have arisen with this iterative policy process. Firstly, there is a perception in some countries that they have been asked to commit to a moving target. Some early adopters – e.g. Azerbaijan and the Kyrgyz Republic – developed EITI models which will struggle with the most recent iteration of EITI policy as laid out in the EITI Validation Guide. Secondly, there is considerable confusion as to exactly what EITI policy really is. Despite the numerous references to it being only an “illustrative guide”, many stakeholders have treated the EITI Sourcebook as defined EITI policy. The EITI Validation Guide is clearer and more prescriptive, but it is essentially an evaluation framework rather than a policy guide – it provides clear goals for countries to aim for, but doesn’t (in the way that Sourcebook does) provide much discussion on how a country should achieve those goals. Thirdly, much confusion over EITI policy comes from the sheer diversity and range of national EITI programs which have emerged – some of which contain elements which go beyond the core EITI criteria. This diversity to shape EITI into something which is distinct and relevant for each country is a core strength of EITI, but it also adds some confusion.



Finally, policy confusion exists because the policy exists in multiple locations and documents. A newcomer to the EITI, for example, would have to interpret EITI Board minutes to correctly determine policy on the candidacy process.

4. While recognizing that this process can never be final, **the EITI Secretariat and EITI Board might consider producing either (i) a short document which revises EITI policies in need of revision; or (ii) a revised and comprehensive source of consolidated EITI guidance** which:

- ③ Clearly states what EITI policy is, as based on the core EITI Criteria and Validation Guide, and bringing in any decisions made by the EITI Board which have the force of policy;
- ③ Clearly states what EITI policy is as regards “core EITI” and other actions which, whilst useful for improving transparency and accountability, are “voluntary”. This approach might include restating the requirements of the EITI Validation Guide in those terms and go on to discuss (similar to the current Sourcebook) how countries might go about achieving such policy.
- ③ Addresses existing drafting contradictions between the different primary documents and, very importantly, establishes a generally accepted terminology around oft-confused EITI terms (e.g. clarifying the confusion that occurs around terms like auditors vs. administrators vs. reconcilers vs. aggregators).

5. The original EITI Sourcebook was based on research of four countries, none of which had – at the time of publication – produced an EITI report. With the large number of countries which have subsequently joined the Initiative, not to mention ten countries which have produced EITI reports, considerable material exists on which to base a new comprehensive publication which summarizes both policy and guidance. Further building blocks for such a document already exist – with the existing policy documents, minutes of EITI Board meetings, and publications by organizations such as the World Bank and the Revenue Watch Institute on how EITI is being implemented.

#### Recommendation 2: Defining “sub-national government” and payments types

6. One area of clarification that comes up is what constitutes “sub-national government” for the purposes of EITI reporting. This is of considerable significance as it governs whether EITI is applied purely at a national / federal Initiative, or whether EITI should include payments to and receipts by sub-national levels of government. At present the practice in implementing countries has largely been that sub-national implementation is out of the core scope of the EITI, though there have been some notable exceptions (e.g. Ghana). But if one were to apply EITI’s own materiality standards (i.e. that all material payments should be included in the EITI process), that might suggest that (i) inclusion or all payments including voluntary payments regardless of who paid to and/or (ii) sub-national reporting should be a fundamental part of the EITI wherever





payments to sub-sovereign levels of government are significant. For this reason **The EITI Secretariat might consider whether it would be helpful to provide greater clarity in the area of (i) material payments to sub-national levels of government and how they can be included as part of an overall EITI process and (ii) type of payments regardless who paid to.** Related to this guidance on ways in which sub-national representatives or local-level steering committees can be representatively included in EITI national-level stakeholder bodies might be considered.

### Recommendation 3: Dealing with non-cash payments and volumes

7. EITI policy has taken an inconclusive view on the issue of how to report non-cash payments from companies to government. These payments tend to be in two categories:

- ③ Payments of physical production share of oil or gas in which hydrocarbons are provided to the government for (i) immediate marketing and monetization (by the operator of the field; by an independent marketing agency; or by a state marketing agency or oil company); or (ii) provision to local industries, often at a subsidized rate (e.g. to local refineries to supply the local petrol market or, in the case of gas, to local gas or power companies for domestic consumption).
- ③ Indirect payments of non-cash goods and services – e.g. the development of infrastructure or the provision of local social services.

8. Existing EITI policy allows production share to be reported purely in terms of physical amounts (e.g. tonnes or barrels of oil), whilst indirect payments are stated in the EITI Sourcebook as being out of the scope of the EITI. The problem with this existing approach is that it contradicts other aspects of EITI policy. The EITI Criteria, Sourcebook, and Validation Guide all – for example – place heavy emphasis on EITI reports being “publicly accessible, comprehensive, and comprehensible”, something which is difficult to achieve unless a monetary value is given to production shares. The vast majority of citizens in developing countries cannot readily convert tons of oils of various grades into a monetary figure (the comprehensibility test). Nor, given the very significant variations in how production share is marketed and disposed of (different marketing and transportation arrangements; price differences; grade differentials etc. lead to considerable variations in the price of a shipment of oil and consequent arbitrage opportunities), is it easy to equate reported physical quantities with the principle of such representing a “comprehensive” statement of government receipts.

9. Given that revenues from the monetization of production share are often the single largest extractive industries revenue stream, present policy guidance may not ensure that the true value of that revenue streams are reported. Similarly with regards to reporting of indirect payments, practice may vary e.g. the development of public infrastructure and the provision of services by the company concerned and treated as offsets against production-related payments. Social expenditures are also often counted as a business expense (thus reducing corporation tax liability), or may well be delivered



by a company in return for a lower rate of production royalty. In short, whilst the payments are indirect, they are often directly linked to production and (importantly) may well be “material”.

10. The difficulty here is that if the idea of EITI being a comparative process involving both government agencies and companies is deemed paramount (which it is not anywhere in EITI policy, though some companies believe it to be), then it is difficult to incorporate these issues into an EITI reporting process. Companies (except those who are also involved in marketing a government’s production share) which do nothing but pass on physical production cannot be involved in determining what the eventual price was. Similarly, it can be difficult to find a comparative value for company provided public goods and services, when no government agency is receiving those good and services.

11. In this context, **The EITI Secretariat might consider establishing a working group of Board members and experts to devise proactive approaches for EITI reporting in these circumstances**, so that reporting of volumes under production-sharing contracts are also supplemented by additional information of the monetized values of those production-sharing arrangements (and of other indirect payment arrangements) and the basis of such reported monetized values.

#### Recommendation 4: Auditing standards and the involvement of supreme audit bodies

12. One of the most notable areas of EITI policy which is being applied in such a variable manner as to significantly undermine the policy is that of the application of auditing standards and the verification of company and government EITI statements by their respective auditors. This is partly because the policy is slightly vague, but largely because governments and companies may be disregarding the policy perhaps in view of the additional work required or higher costs. Different audit companies appointed as EITI administrators appear to have different views on this issue, and whilst several have stated that ISRS 4400 and ISRS 4410 (regarding “Engagements to perform agreed upon procedures regarding financial information” and “Engagements to compile financial statements”) are the appropriate standards to be used in the reconciliation of payment and revenue figures, this still does not resolve the lack of application of standards to company and government EITI statements of figures (i.e. completed templates). A recent symposium of audit firms addressed this issue in detail (see Annex).

13. The issue of policy clarity could be addressed in future EITI policy documents if the EITI Secretariat and EITI Board believed this was a priority and **considered convening a working group of board members and audit experts to address the key issues in this area**, inter alia including:

- ③ The appropriate auditing standards to be used by administrators / auditors involved in non-audit reconciliations of EITI payments and revenue data?



- ③ The appropriate auditing standards which government EITI statements should meet – and the role of the National Auditor (in virtually all reporting countries the supreme audit body is not involved in the EITI process)?
- ③ How better to involve government supreme audit bodies in EITI processes (including use of private sector professional firms under the oversight of the supreme audit body)?
- ③ How to encourage more regular company auditor verification of companies' EITI declarations (this action is already required by the EITI validation guide, but it is erratically applied)?. Such a step remains, perhaps, an efficient and cost-effective ways of enhancing credibility to company EITI declarations, as sign-off by company's independent auditors would have more weight.

#### Recommendation 5: Identification of discrepancies

14. The EITI Criteria and Validation Guide both require EITI processes to identify and explain discrepancies between statements of company payments and statements of government revenues. In virtually all countries which have reported thus far, this has been a very significant task, even though discrepancies are in most cases explained away as misunderstandings by the relevant organizations as to what should be reported under the EITI. Some audit companies (for example in Mongolia) have stated that extensive explanations of such discrepancies is an unfeasibly time consuming and expensive task. Other audit companies have stated that it is simply not possible to accurately determine whether discrepancies are occurring for the reasons that companies and governments say they are happening without carrying out a full audit process.

15. Given that the majority of national EITI programs involve reconciliations rather than audits, if this is the case, it would make redundant a significant element of one EITI Criteria. **The same working group suggested above might also consider whether it is necessary or possible to develop processes to assure that discrepancies in EITI reconciliations (which do not involve full audits) are adequately identified and explained in the EITI Reports.**

#### Recommendation 6: Materiality issues

16. The issue of what constitutes a material payment or a material company is a controversial issue in all implementing countries, and one which has been debated by companies and regulatory bodies long before the advent of EITI. Added to this, there is some confusion in EITI Policy as to what constitutes materiality. The EITI Sourcebook establishes that it possible for there to be both material and immaterial payments (a material payment is described as being one whose “omission or misstatement could distort the final EITI report”), as well as material and immaterial companies (though no definition is provided). The EITI Validation Guide makes reference to “material”



payments and revenues in its indicators (numbers 14 and 15) but no definition is provided, nor is any mention made of the possibility of there being material and immaterial companies.

17. Whilst it would be very difficult to achieve consensus as to what a material payment is, **the EITI Secretariat might consider establishing definitions of what constitutes a material revenue stream, as well as a material company.** Establishing the definition of a material revenue stream (for instance a formulation such as. “constitutes more than x% of all extractive industry payments to all levels of government”) could usefully make the national EITI processes more efficient. Similarly establishing a definition of what a material company is could also help yield efficiencies.

18. The key issue here is to maintain a appropriate trade off between the costs and benefits of reporting and reconciling. Many EITI countries have already established their own levels of revenue stream and company materiality, so elaborating policy in this area would be building on country experience. Whilst some might perceive defining materiality levels as an attempt to exclude certain payments or companies, experience shows that in EITI processes with fixed EITI budgets, removing minor revenue streams or companies from consideration frees up the resources of the appointed administrator / auditor to focus more closely on significant companies and revenue streams.

#### Recommendation 7: Transparent Financial Management in national EITI Secretariats

19. Ordinarily, how national EITI Secretariats manage their own financial procedures of their own operations would be a matter of financial management procedures at country level. However given the very essence of EITI as a transparency initiative, and potential for reputational risks of any mishaps in this respect, the need for national EITI Secretariats to adopt and maintain high standards of financial probity in their operational budgets and expense procedures and financial reporting transparency is a useful reminder in EITI policies. Accordingly, **the EITI Secretariat may consider adding language in any refinement of the Source Book about the financial operations of national EITI secretariats themselves to be fully disclosed as part of the overall EITI costed work plans,** and for all funds managed by national EITI Secretariats to be used and managed under sound financial management principles of economy, efficiency and transparency.

#### Recommendation 8: Company participation in EITI processes

20. From very early on in the EITI process there has been a basic tension between two key guiding principles (original EITI Principles 2003), where principle 6 requires EITI to be “set in the context of respect for contracts and laws” whilst principle 11 requires “that payments’ disclosure in a given country should involve all extractive industry companies operating in that country.” This tension is repeated in the EITI Criteria (2005) which state that “[the EITI] approach is extended to all companies



including state-owned enterprises” whilst the EITI Sourcebook, published at the same time, states that “particular care should be taken to balance the presumption of disclosure under the EITI with the concerns of companies regarding commercial confidentiality.”

21. In practice this tension is successfully addressed in many countries, such as by arrangements where data declarations are made to the Administrator only, who then reports the data in aggregated form to meet EITI criteria and ensure Agreements are not breached. Yet the tension does remain in other countries where existing contracts in the extractive industries retain confidentiality clauses which prevent the disclosure of any data without the permission of both parties (i.e. company and government). If unaddressed such a situation risks EITI essentially remaining a “voluntary voluntary” initiative in some countries where both governments (as is their sovereign right) and companies participate of their own volition. In EITI implementation this has led in countries such as Kazakhstan to significant numbers of extractive industry companies – including those represented on the EITI Board – to absent themselves from the EITI process (though this may be changing).

22. Mandatory participation may be difficult to implement for a variety of reasons including legislative/regulatory, business environment and even the size of industry and number of operating companies **The EITI Secretariat may consider initiating a debate as to how these principles might be better reconciled and options explored** such as (i) if a company is unable to report, for the EITI report to note this and detail the reason given and/or (ii) for EITI reports to contain information permitting the readers to judge the completeness of company coverage in a given country

23. Related to this, **the EITI Secretariat might consider ways to provide more guidance and capacity building for companies.** In some of the EITI implementing countries it is the extractive industry companies which have the least understanding of the EITI process; have uneven attendance at stakeholder group meetings; and commit the least amount of resources to EITI implementation. It may be that some companies see EITI as simply being another area of compliance – they will follow it but they are not used to the EITI process which gives them a significant stake in shaping it.

24. The EITI Guide for Business just issued will go a long way to addressing this, but more effort be required from donors and from national Secretariats to even out their capacity building programs and guidance provision which have traditionally focused only on governments and civil society groups. The EITI Secretariat and donors such as the World Bank should consider holding training / guidance events specifically targeted at companies doing business in resource rich countries, or the consultancy companies that advise those companies.

#### Recommendation 9: Clarifying and consolidating the validation process



25. The Board and Secretariat's pre-validation process (subsequently renamed "candidacy process") during 2007 and 2008 raised a number of issues on the assessment of whether a country is an "EITI Candidate Country" or not. During that process a number of decisions were made by the Board. Important amongst these, for example, was the need for EITI work plans to be (at least initially) ratified by stakeholders other than Government. This meant that aspects of Validation Indicator 5 (forming a multi-stakeholder working group), previously outside the set of four sign-up indicators, now do need to be taken into account (in effect) as part of the "sign-up" group of indicators. Similarly, the description of Indicator 1 (a public commitment to EITI) could be made more explicit as to the basic definitions of what this public commitment entails. **Recognizing that this will be a dynamic and on-going process, the EITI Secretariat might consider ways to consolidate these validation procedures** in EITI core policy documents rather than global stakeholders having to keep abreast of EITI Board documents.

#### Other issues for consideration

26. Other issues that have emerged in some countries which the EITI Board may wish to consider or elaborate on in future EITI policy documents include:

- ③ Does an EITI Champion have to be based in government? At present the assumption is that they do, though some countries are keen to have an independent champion. Related to this is the question of whether the EITI Champion is always the chairperson the national stakeholder group, or whether the two positions can be held by separate individuals.
- ③ Whilst the principle of multi-stakeholder oversight of EITI processes is well established in all EITI policy documents, the way in which national steering groups are selected remains one of the most controversial in implementing countries. The tension comes about because there are inevitably more stakeholders in an EITI process than can be housed in a functional steering group; because different stakeholder groups participate with different degrees of enthusiasm; and because there are wildly variable levels of knowledge of the extractive industries and public finances amongst the stakeholders. No amount of elaboration of policy at the international level will remove this tension, but one could perhaps avoid continuous tension by making a small addition to the Indicator Assessment Table for Validation Indicator 5 (regarding establishment of steering groups) which establishes the principle of membership being annually reviewed and renewed. This will help address a relatively common situation with stakeholder groups, whereby representation is often determined by the lobbying skills of the individual or group concerned, rather than their actual involvement in the issues, actual representation of a broader group of stakeholders, or ability to engage with the EITI process.



- ③ The EITI Validation Guide states that “the validator should contact all the companies required to fill in forms at the start of the validation, inform them of the requirement to complete the form and request that the forms be returned to the validator”. Whilst this requirement will be possible in many countries, it may well be impractical in others. In Kazakhstan, for example, this will require that the validator will have to potentially contact approximately a hundred companies. The Board may wish to consider whether it is reasonable for a country to fail its validation process if there is a less than satisfactory return of company validation forms.

A final recommendation: EITI implementing countries’ voice

27. The creation of Reports such as this, not to mention the World Bank’s recent publication on EITI implementation lessons learned, is evidence of perhaps the most fundamental problem facing the development of EITI policy today; namely, that implementing countries are the only stakeholder group on the EITI Board who require other organizations (whether it be the Bank or the EITI Secretariat) to tell their story for them. This is a less than perfect scenario. The EITI governance do structures of course have a presence of implementing countries. In practice it is observed however that a coherent and/or unified implementing country voice on the EITI Board is not present (as is the case with other stakeholder groups). One consequence of this may therefore be a perception that key policy debates are generally carried out and shaped by representatives of companies and civil society groups, rather than the implementing countries - perhaps the most important stakeholders in the overall EITI process.

28. The EITI Board may wish to consider if these perceptions have merit and if so begin a debate on optimal ways to address this issue (possibly to be concluded before the next international EITI Conference at which new Board members will be selected). Options that may be considered may include (i) increasing the number of implementing country representatives on the Board (given the large growth in candidate countries) but thereby also forgoing the hitherto “even” representation between the three main stakeholder groups or (ii) establishing a system of country constituencies whereby an implementing country on the Board would in fact represent 4-6 non-Board member implementing countries (although a more costly process to manage and coordinate).

*Joint EITI Secretariat – World Bank Technical Workshop  
on EITI Auditing and Reconciliation Issues (Paris, April 1, 2008)*

**Suggestions to the EITI Secretariat:**

**Introduction**

EITI has come a long way since its inception in 2002, with 15 reconciled reports from ten countries having been published by now. However, during its implementation a number of technical and general issues have arisen, which sometimes resulted in inefficiencies and delays, and even potential inconsistencies in EITI Reports. This experience underlined the urgent importance of an exchange of opinions and experiences from those people and organizations that have so far worked on EITI reconciliation and audits at the country level.

**Purpose of the workshop**

For this purpose, the World Bank and the EITI Secretariat jointly convened a workshop on 1 April that brought together the audit / reconciliation firms which had provided services on EITI at country level, in order to:

Firstly,

act as a forum that convenes practitioners to discuss and exchange information on the more problematic and/or recurrent issues that have been arising when performing EITI audit/reconciliation work and which relate to EITI policy issues or principles (or where implementation guidance may help to smoothen EITI implementation); and

Secondly,

prioritise the issues in a way that follow-up actions or guidance may be considered by the EITI Secretariat if feasible.

**Key Issues:**

Already prior to the workshop, it emerged that the key issues would center around the fact that EITI Reports vary a great deal in scope and size due to, notably, differing sizes of the country / EI sector, and differing multi-stakeholder expectations. This, of course, gives rise to the question of what standards should be set, and whether there was any merit in a 'core / minimum' standard. The case for doing the latter would then have to be weighed against the fact that differences in scope are the essence of the type of country-driven process that EITI perceives itself to be.



## **Outcome: Points for Consideration by EITI Secretariat / Board**

Having convened and discussed on 1<sup>st</sup> April in Paris, the group agreed on the following conclusions, and would like to propose them to the EITI Secretariat and Board for information and, where applicable, for consideration:

### **1. Scope of the EITI process:**

Issue: What is the precise scope of the EITI process, and how to deal with the fact that stakeholders often still expect the administrators to perform full audits?

Outcome of the discussions:

The group agreed that the payment and revenue reconciliation process is not an audit according to international auditing standards. This is simply due to the fact that a full audit service, given the complexities of the industries involved, is out of scope, both financially and given its duration. Given stakeholders' expectations of the administrator (who are frequently generally best known for their audit work) this best be made clear in the implementation process for expectations management purposes. One key practical implication from this would be to refer to 'examiners' rather than 'auditors', or use the term 'administrators' consistently, in the EITI Sourcebook.

### **2. ToRs for validators:**

Issue: How to improve the ToRs for the validators to acknowledge better the real circumstances of the reconciliation process?

Outcome of the discussions:

As for the core ToRs for validators, the group suggested that the EITI Secretariat provide a statement for the validation process not to be a repeat of the previous auditing or data reconciliation processes, thus keeping these processes clearly apart. The group also suggested to reiterate, in such ToRs, that where reconciliation is not done to auditing standards, validators should note the clause on page 19 of the validation guide: "Where figures submitted for reconciliation are not to audited standards, the multi-stakeholder group is content with the agreed way of addressing this".

### **3. The definition of the Administrator's role in practice:**

Issue: How to avoid confusion in the definition (and expectations) of the Administrators task which lies at the core of EITI disclosure and reporting?

Outcomes of the discussion:

This topic generated considerable discussion and debate among the EITI practitioners present, focused in particular on the depth of follow-up or verification work on reported EITI data (needing to be carried out by an Administrator) implied by the EITI Criteria and Source Book guidance.

No consensus was reached, and the distinct positions on this are summarized below. It should be noted there was common agreement that the phrase “reconciliation” as written in the EITI literature did imply (in accepted audit professional practice) a detailed follow-up and verification (by the Administrator) of discrepancies which emerge in the reported data. Also it was also clear that the EITI literature on this matter and the word “reconciliation” used therein is not likely change soon.

The core of the difference therefore was whether such detailed “reconciliation” work was feasible at all for an Administrator within scopes of most national EITI processes, the size and complexity of their EI sectors and the available financial resources (for the Administrators’ task).

One view-point (and practice) was that the more in-depth and detailed reconciliation work as not only possible but essential for credible national EITI processes (and thus important that the necessary funding investments be made by national EITI committees to allow this depth of work). In this view, any perceived difficulties of conducting the more in-depth verification work implied by the term “reconciliation needed to be revisited and if cost constraints was an issue, then that was the problem to be addressed since reporting of unresolved discrepancies would not yield credible EITI processes.”

The alternate view-point (and practice) was that Administrators had to adopt methods more feasible and suited to the circumstance in discharging their Administrator role, such as matching and comparing of data reported, perhaps with some (but not in-depth) verification of any discrepancies. In this view, a credible EITI process required that data-reporting entities to be more accountable for submitting accurate EITI data to minimize discrepancies (such by requiring certifications of submissions rather than for expectations to be placed on the Administrator to verify any data discrepancies fully). Continuing this view it was felt that the phrase ‘ rapprochement ’ (as used in the French version of the Source Book) more closely described the extent of the data verification implied in the Administrator’s role (as compared to the in-depth verification work implied otherwise).

#### **4. Core vs. non-core EITI, and country ownership of EITI processes:**

Issue: How and whether to mark a distinction between ‘core’ and ‘non-core’-EITI, and ensure comparability of EITI reports?

Outcome of the discussions:

A major issue seems to be to clarify in-country what the particular EITI exercise will be about (i.e. the scope of the EITI implementation process). Again, how to meet the diverging expectations of stakeholders seems to be crucial. But this should be a country-specific process and therefore should only to a limited extent be guided by unified propositions (i.e. policy guidelines). Given the status of country ownership, individual countries are free how far they go with their process. For example, in case a country concludes it wants to go for a full audit (incl. government audit), then this would reach beyond core EITI. While the core (i.e. that what is required by the Validation Guide) is mandatory, the space around the core (which could also include other sectors – e.g. forestry in the case of Liberia) is open to individual decision.

Hence, some participants suggested that the core EITI exercise, as clearly defined in the Sourcebook, should be the concern of one report, while any non-core EITI activities should go into a separate report or into annexes to the report. This, according to the participants, would minimize the risk for administrators not fulfilling core EITI goals because of highly ambitious national definitions of EITI.

The variability of the scope of EITI and of EITI reports will likely have to remain and is indeed a conscious choice, but given especially administrators' discomfort with the current situation the Secretariat might consider providing guidance on this aspect where needed. General guidance on the nature of 'core EITI' is provided by p. 17 of the validation guide, stating that "The EITI criteria require that "all material oil, gas and mining payments to government" and "all material revenues received by governments from oil gas and mining companies" are published."

## **5. Expectations management of what EITI means.**

Issue: How to manage in-country expectations of the EITI process early on, in particular among NGOs and firms?

Outcome of the discussions:

Several administrators stressed that more expectations management in national stakeholder groups was necessary, notably to (i) keep NGO expectations from being too high; (ii) conversely, help companies get a prior realistic picture of the effort EITI requires from them. The group agreed that government has a key role to play as a facilitator in such expectations management, mediating the expectations of both the CSOs and the companies. Technical assistance from the World Bank-administered Multi-Donor Trust Fund to train the Multi-Stakeholder Working Group (MSWG) in auditing issues may be called for in order to obtain reasonable TORs for the administrator.

## **6. ToRs for multi-stakeholder group: quality issues.**

Issue: How to ensure quality ToRs for the multi-stakeholder group?

Outcome of the discussions:

Several participants raised the issue of quality of the ToRs of the MSWG. It was suggested that some general best practice guidance on ToRs be provided from the Secretariat, and to then have the MDTF provide more money for ToR capacity building. It was also proposed to involve the administrators already at the ToR writing stage. A longer-term contract (e.g. a 3 year period) for the administrator might be helpful to increase coherence of the process. This might also increase the possibility of the country to stick to the agenda (as there are less fractions), especially with regard to the 2 year period between reaching candidate status and the requirement to get validated.

## **7. Data quality:**

Issue: How to ensure quality of the data provided to the administrator?

Outcome of the discussions:

Participants stressed that the data provided to administrators should have been audited, and that it should be a requirement for the administrator to have access to the auditors of the data (and this also to be included in the TORs). It is proposed that this is to be facilitated by the relevant authority (Ministry) writing a letter to the company (sent by the administrator), saying that audited declarations are needed. Legal questions will likely have to be resolved in this question, possibly in the context of the legal analysis / consultancy by which many EITI implementing countries assess the need to change the legal framework to allow for effective EITI implementation. The disincentive effect for company participation of such actions must be borne in mind. A view was expressed that not all companies saw the data reporting process as a priority.

## **8. Who reports among consortium or Joint Venture (JV) of EI firms?**

Issue: In a consortium or JV of EI firms, which of the EI firms should report the data to the EITI administrator?

Outcome of the discussions:

On the question of who is responsible for providing financial information to the administrator in situations where there is a consortium or JV involved, managed by a lead operator. This has proved an issue in some countries but a useful principle (or good practice) that has emerged in such cases is that "the payment-maker provides the reporting". I.e., the lead operator of the JV/consortium provides the EITI data to the administrator for almost all payments made by that lead operator (namely most operating payments to government from the

## **ANNEX: EITI audit firms workshop April 1, 2008 - Workshop Outcomes Report**

production) while each individual consortium/JV member company will report on payments that they make themselves (for that JV) - usually corporate / income tax.

The participants agreed that while the above mentioned issues needed urgent resolution, the tension between consistency / guidance vs. country ownership in the EITI implementation process was overall a 'healthy' one to the process. The key point to bear in mind may likely be that despite the inevitable variability of (i) reporting of countries, (ii) scope (due to country ownership), and (iii) report quality and length, a variability of approach could and should be aimed at by having all participant countries treat their work as EITI, rather than some aiming at EITI and others as EITI ++ (on which workshop participants were briefed).

In closing, it was stressed repeatedly that guidance for EITI implementation, notably the Sourcebook, appeared to be successful. It was suggested that for those additions or revisions needed – in line with the above suggestions - supplementary guidelines or a glossary of terms (e.g. 'auditing', 'reconciliation') be issued.

Also, overall it was agreed that these kind of meetings were very helpful in increasing knowledge of the issues, and should be repeated regularly.

Background documents to the meeting (1. List of Participants; 2. Agenda; 3. Discussion Points) are provided in the Attachments to this Report.

*Attachment I: List of Participants*

*Workshop on EITI Auditing and Reconciliation  
The World Bank, Paris, April 01 2008*

|    | <b>Name</b>                  | <b>Company</b>   | <b>Country audited</b> |
|----|------------------------------|--|------------------------|
| 1  | Ismael Nabe                  | Richard Michel & Nabe                                      | Guinea                 |
| 2  | Nargiz Alizadeh              | Moore Stephens   | Azerbaijan             |
| 3  | Philippe Mongin              | Ernest & Young   | Mauritania, Gabon      |
| 4  | Anton Melard de Feuarent     | Ernest & Young   | Mauritania, Gabon      |
| 5  | Jules Alain Njall Bikok      | Mazars Cameroon  | Cameroon               |
| 6  | Richard Michel               | Independent Consultant                                     | Guinea                 |
| 7  | Dominique Meizou             | KPMG France  |                        |
| 8  | Pascal Ghazi                 | KPMG France  |                        |
| 9  | Chris Nurse                  | Hart, UK   | Nigeria                |
| 10 | Manuel Hutama (via TC)       | Deloitte Touche  | Kazakhstan             |
| 11 | Des Crane (inputs via email) | Crane and White  | Mongolia               |
|    |                              |  |                        |
|    | Plus:                        |  |                        |
|    | Eddie Rich                   | EITI Secretariat, Oslo                                     |                        |
|    | Andre Ufer                   | World Bank, Oil, Gas and Mining Policy and Operations Unit |                        |
|    |                              |  |                        |
|    | Georg Caspary                | World Bank   |                        |
|    | Anwar Ravat                  | World Bank   |                        |

*Workshop on EITI Auditing and Reconciliation  
The World Bank, Paris, April 01 2008*

**AGENDA**

|               |  |
|---------------|--|
| 08:30 – 09:00 | <b>Registration and Breakfast</b>  |
| 09:00 – 09:15 | <b>Introduction</b><br>World Bank and EITI Secretariat Oslo  |
| 09:15 – 10:30 | <b>Tour de Table: Country Experiences and Challenges</b>   |
| 10:30 – 10:45 | <b>Coffee</b>  |
| 10:45 – 12:00 | <b>Discussion and Weighting of Technical Issues</b>  |
| 12:00 – 12:45 | <b>Lunch</b>   |
| 12:45 – 14:15 | <b>Discussion and Weighting of Practical / General Issues</b><br>(e.g. relation with the multi-stakeholder groups, questions of TORs etc.) |
| 14:15 – 15:00 | <b>Discussion of Solutions and Implementation Possibilities</b>  |
| 15:00 – 15:15 | <b>Coffee</b>  |
| 15:15 – 16:45 | <b>Discussion of Solutions and Implementation Possibilities</b>  |
| 16:45 – 17:00 | <b>Wrap-up and Closure</b><br>EITI Secretariat Oslo  |

*Attachment III:*

*EITI Auditing and Reconciliation Workshop – Potential Discussion Points  
(Handed to Participants Prior to Workshop)*

**1. Technical Issues**

|                                   |   |
|-----------------------------------|---|
| <b>The Legal Environment</b>      | Are there confidentiality clauses that disallow the disclosure of EI data on third parties, and how does this affect the data collection?   |
|                                   | Is the obligatory disclosure (for companies) clearly defined, i.e. is there legal backing for the audit companies' inquiries? This in the end might lead to discussion on how to increase the official status of the EITI process, as a legally binding process |
| <b>Revenues and Payments Data</b> | How better to include data from smaller partners in consortia, or from remotely operating companies?  |
|                                   | Also in the realm of consortia, who is reporting? The lead operator, or several / all firms involved?   |
|                                   | How reliable is company data in the first place, especially for non-international companies that do not adhere to International Auditing Standards (while this question has of course also to be addressed for government data)?                                |
|                                   | What could be done in case of inexplicable revenue discrepancies?   |
|                                   | How to best account for the government's production share, especially when NOCs are involved?   |
|                                   | How reliable are NOC data in general, since blurring between two government entities could be particularly easy to do?  |
|                                   | Valuation issues (e.g. exchange rate differences, transfer payments)  |
|                                   | Do different reporting templates pose difficulties for the reconciliation of data (e.g. the "other items" reporting line)?  |
| <b>Reporting formats</b>          | Appropriateness   |



*EITI Auditing and Reconciliation Workshop – Potential Discussion Points  
(Handed to Participants Prior to Workshop)*

**2. Practical & General Issues**

|   |   |
|---|---|
| <b>TORs, Budget and Costs</b>           | Can accurate costs estimated beforehand?  |
|   | How do various obstructions and/or political unwillingness increase costs, and what influence does this have on the quality or reports                                      |
|   | Is the scope of the EITI process clear to everyone (i.e. to all stakeholders)? How do TORs and expectations differ, and how does this influence the work of the audit firm? |
| <b>The Multistakeholder Environment</b> | Are there conflicts of interest regarding the oversight function by the government, which, at the same has also the highest stakes with regard to the EI rents?             |
|   | How to move between the diverging interest of the stakeholders involves (gov., CSOs, companies), especially when each one is trying to exert pressure on the firm?          |
|   | How to improve information exchange and collaboration between the stakeholders?   |
|   | Can / should the auditor also take on a developmental role when dealing with the non-expert MSWG? What lessons can be shared from these experiences?                        |
|   |   |