

Achievements and Strategic Options

Evaluation of the Extractive Industries Transparency Initiative

Final Report



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The task was carried out by Scanteam in collaboration with Proba Research. This Report is the responsibility of the consultants and does not necessarily reflect the views of EITI's Board or Secretariat, or any other organization or informant referred to. Any errors of fact or interpretation are the responsibility of Scanteam.

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Acronyms and Abbreviations

EITI	Extractive Industries Transparency Initiative
IMF	International Monetary Fund
NEITI	Nigeria Extractive Industries Transparency Initiative
OBI	Open Budget Index
PEFA	Public Expenditure and Financial Accountability
PFM	Public Finance Management
PWYP	Publish What You Pay (CSO)
WGI	World Governance Indicators

1 Executive Summary

Achievements and Strategic Options

During the short period since EITI became operational with an elected Board and Secretariat in 2006-07, EITI has seen an impressive growth in the number of countries that have joined the compact, and in the high-level endorsement that it has received for its Principles and the Standard for transparent revenue management in the extractive industry sector.

Three country studies point to establishment of national EITI systems, innovative reconciliation studies, legal foundations for the work, and public access to information as important Outputs, increased trust, more attention to public sector management at Outcome level while little Impact at societal level can be discerned. This is partly due to the short lifetime of EITI so far, but largely due to lack of links with larger public sector reform processes and institutions.

The lack of societal results is confirmed by testing “Big picture” indicators proposed by EITI. This revealed that there is not any solid theory of change behind some of the EITI aspirations, nor do data show any links at this aggregate level. Results focus should therefore rather be at country level.

But the lack of societal change is also a function of the narrow focus of EITI activities. If the Standard were more in line with its own Principles and if it had more focus on strategic partnerships beyond the sector, EITI would be more likely to reach its objectives. The main Recommendation is thus for EITI to consider a Standard that covers a greater part of the value chain in the sector, combined with a flexible rating scheme that would grade actual performance rather than giving a Yes/No value. EITI should also develop a more rigorous and realistic results framework for global and national levels.

The central governance bodies of EITI – Global Conference, Members’ Meeting, Board, Secretariat – are seen to be largely appropriate in structure, stretched to the limit as far as resources go, and with a need for rethinking task strategies as the organisation grows, mobilizing more funds, while strengthening the support to country implementation. Overall, however, EITI has a structure and organisation that must be considered “very fit for purpose”.

The *purpose and overall aim* of this evaluation is to *document, analyse and assess* the relevance and effectiveness of the EITI, where EITI’s objectives are to strengthen transparency of natural resource revenues recognising that this “*can reduce corruption, and that the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries*” (Articles of Association § 2.2). The evaluation combines an assessment of the EITI results at country and global levels, and whether EITI’s governance and support structures are “fit for purpose”. These include the Board, International Secretariat and the EITI’s policy and procedural framework.

The evaluation builds on an extensive document review (see Annex C), fields visits to three EITI implementing countries (Annexes D-F), participation as observers at international EITI meetings, review of relevant development indicators (Annex G), and interviews with key informants (Annex B). The observations, findings and conclusions thus to a large extent build on the body of knowledge and insight accumulated by the family of stakeholders in the EITI system.

Overall Achievements:

The evaluation finds that the EITI has built an important international brand that is attracting new members and support. The proof is in the EITI’s rapid expansion during recent years. EITI’s accomplishments include:

- EITI stakeholders early on agreed on a set of *Principles* that identify goals related to good governance, development and poverty reduction as EITI's highest aspirations. These aspirations make up an important part of the EITI global brand.
- Since the beginning, key *global actors* – individuals and organisations – have endorsed EITI's Principles and Criteria. This global network has ensured continuous support to the EITI agenda in a vital economic and politically sensitive sector.
- The EITI established a *tripartite partnership* as the guiding principle for governing the initiative. The approach has built broad-based political support and credibility both at national and global levels.
- *Good governance principles* were made operational through a consensus in a focused and targeted area: the extractive industry sector. The focus was manageable to promote, represented an acceptably low risk for the implementing countries and was possible to put into practice.
- The *operational approach*, although limited, allowed for a rapid demonstration of tangible results in the form of financial reconciliation reports, the viability of tripartite governance institutions, the realism in demanding and delivering more transparency and of information-based and participatory debate. Quick wins were thus reaped at the very start.

Results at Country level:

The three country studies in *Gabon, Mongolia and Nigeria* found important achievements in the form of *Outputs and Outcomes* that are attributable to EITI. Impacts at the *Societal* level are more difficult or not possible to identify. Among the country-level findings:

- Appropriate core governance structures and EITI procedures are in place and functioning, although aspects of representativity merit attention. Multi-Stakeholder Groups are a legitimate arena for dialogue, disagreement and clarification amongst groups that historically have had little or no interactions.
- National Secretariats are in place and servicing the multi-stakeholder groups well, but capacity varies considerably from one country to another and is a serious constraint on the range and quality of actions that can be undertaken.
- EITI's focus on financial reconciliation has been a successful strategic entry-point into a key sector of the economy. It has been possible to build and strengthen consensus around greater democratic insight and control of resources, strengthened the voice and legitimacy of civil society in this process, and provided a major contribution to factual, verifiable knowledge in the public domain. Quality of data, regularity, timeliness and comprehensibility vary across countries and need to be addressed
- The reconciliation reports also showed that weak institutional capacity and systems on the government side represent the major challenge, though the identification of legislative, regulatory and institutional weaknesses have allowed governments to target remedial action.
- Validation has been more complex, time-consuming and less predictable and clear than country actors had expected but is being sought and assiduously pursued.

- International support has been important both in political and technical-financial fields but late and inadequate. The slow processing and the limited funds from the Multi-Donor Trust Fund have been criticized.
- EITI has created some links to broader governance reform processes, but largely within the sector. In some countries, EITI was embedded as an element in broader reform, but EITI has not been a significant driver for change. Broader reforms and expanded EITI implementation beyond the sector have rather been a result of national political decisions.
- While *transparency* has improved, *accountability* does not appear to have changed much, in part because necessary political, legal and institutional improvements have in most cases not been put in place. But another reason is that most EITI outreach is simple dissemination activities and not support for social actors to empower them to apply EITI data for increased accountability purposes.
- There are thus few indications that EITI programmes are so far having impact on dimensions such as governance, corruption, poverty reduction or other objectives stated in EITI's *Articles of Association*.

Results at Global Level:

A number of so-called “Big Picture” indicators have been proposed as a means of tracking longer-term effects of EITI activities around the globe. These are meant to measure the societal changes that EITI wishes to promote, where country results can be aggregated to the global level.

Tests of 13 such indicators along seven societal change dimensions show no such links to EITI activities, however (see Annex G). There are a number of reasons why such a result should not surprise, however:

- A fundamental challenge is that EITI does not have a detailed theory of change (causality chain) that can explain how it is to contribute to societal transformations. Such a chain would allow for more careful specifications of the choices made to reach the end result. The fundamental flaw in this is that the selection of interventions supported by EITI were not identified based on most probable contributions to such societal changes, but instead were agreed to as those operational interventions all the parties could agree to.
- EITI is also a very recent global phenomenon. The kinds of societal changes hoped for are the result of many interventions over long time. Expecting any quantifiable impact from interventions that are only a few years old is in any case not realistic.
- Country context matters. Since the situations in EITI implementing countries vary a lot, aggregating to global level runs the danger of “washing out” performances in some countries that may in fact be quite good.

Rather than try to identify aggregate (global) measures of EITI impact, the organisation should for the time being focus on identifying the good results at national level. There is thus a need for a better, more comprehensive and consistent results framework for achievements at national levels, and for building a global knowledge management system around this.

EITI as Organisation and Global Standard:

- The EITI Governance structure is fairly complex yet appropriate and functions well given the highly political and challenging nature of the sector. The latest Global Conference in March 2011 with 1,000 participants from 80 countries reveals an organisation with high political profile and support, truly global reach, the establishment of a standard and existence of a brand that is credible.
- The Global Conferences and Members' Meetings are highly successful but suffer the consequences of their success so some enhancements are possible.
- Leadership and sponsorship is at the highest political level. One of the most impressive achievements is the virtually universal acceptance and support EITI has mobilized from the international community, private sector and civil society.
- The Board has operated in a participatory and including manner and continues to take decisions based on consensus. 2010 was a demanding year due to the large number of validation processes, yet the Board and in particular its Validation Committee have been able to carry out the needed reviews. As the number of EITI implementing countries grows, the Board needs to find solutions to strengthen these countries' role and voice in the organisation.
- The former Chair played an important role in developing EITI reach and profile, and due to his international network and prestige has been instrumental in opening doors, advancing the EITI agenda, and making the brand known and supported, with much support also from the Board including its Alternate members. Secretarial support for this important function should continue. The strength of the brand and the strategic partnerships have been seen as key success factors in outreach and advocacy.
- The EITI International Secretariat and its budget have remained stable during the full three years of operations despite the rapid growth in membership. The Secretariat is functioning at the limits of its human and financial capacity. Funding remains heavily dependent on donors, and it would be desirable for a number of reasons that increased funding needs could increasingly be met from the private sector and better-off EITI member states.
- The Secretariat is asked to strengthen its support to country implementation while also paying more attention to maintain and strengthen the EITI standard and its verification. An important issue is which tasks the organisation will wish to have as direct responsibilities and which can be out-sourced.
- The EITI Criteria as the basis for verifying EITI compliance fall short of the EITI Principles. They make current EITI implementation too limited for reaching the objectives expressed in the *Articles of Association* and agreed in the EITI Principles. Gradually narrowing the gap between Principles and the operational Criteria/"Global Standard" is probably fundamental for continued EITI relevance and future impact. Thus the two dimensions of EITI as a global standard – the standard itself, and how it is certified (the validation) – require Board attention in the period to come. EITI should ensure that its standards and validation remain forward looking, flexible, in line with its Principles.

- EITI's strategy is ripe for review. A number of issues have been raised regarding the areas of EITI's attention in the years ahead, not least of all how it is going to develop and defend the Global Standard with an increasing membership and a policy of out-sourcing many of the critical support functions. A particular challenge will be to find the right approach to EITI outreach and thus its growth strategy, which will undoubtedly still contain *ad hoc* opportunities but also more targeted approaches.
- Human resources and office management should be strengthened, with better administrative routines and procedures developed. The vulnerability to staff turnover in a small yet highly flexible organisation is a risk that needs to be addressed. A medium-term human resources development strategy that may include both international and national level needs may provide EITI with a rational approach to skills and knowledge development that may ensure resource efficiency.
- The *overall assessment* is that EITI's governance structures and organisation are "very fit for purpose" but that there are areas that need to be strengthened in terms of capacity and management attention, there are fundamental strategic choices and policies that need to be revisited, where the standard and the validation system is one, and the EITI Board and Secretariat will meet increasing demands as EITI continues to grow while they are already operating at the very limits of existing capacity.

Strategic options and future direction:

The main recommendation is that the EITI move towards a more broad-based Standard in line with EITI Principles with a revised certification scheme based on a scaling system that provides performance incentives.

Furthermore developing comprehensive results frameworks for tracking EITI performance at national and at international level is recommended. Such results frameworks should include more rigorous theories of change that can justify the indicators included. The Secretariat should help countries both establish such frameworks and build the basic capacity needed to use them, including through guidance materials, as is done today.

It is recommended that the EITI Board assess the existing strategies related to use of external partners and outsourcing and also consider the option of building more in-house capacity for support to countries and standard setting and management. EITI international is expected to strengthen its support to country implementation while also paying more attention to maintain and strengthen the EITI standard and its verification. This will require more resources, and one question will be which tasks the organisation will wish to maintain as direct responsibilities and which can be out-sourced. More in-house capacity will strengthen the EITI international's knowledge management.

2 Objectives and Approach of Evaluation

The *purpose and overall aim* of this evaluation is to *document, analyse and assess* the relevance and effectiveness of the EITI, where EITI's objectives are to strengthen transparency of natural resource revenues recognising that this “*can reduce corruption, and that the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries*” (EITI Articles of Association, Art. 2.2).

These expected effects are at a level of societal change and are the results of longer-term processes. The evaluation is not to identify attributable results at this level, but has divided the evaluation into three levels of results identification:

- **Societal changes** as reflected in available “big picture indicators” proposed by an EITI Working Group for Outcome indicators. The TOR asks the evaluation to look at the larger contributions that the EITI is making. It notes that when it comes to ensuring sustainable development and reducing poverty levels, the evaluation is not expected to establish causation but rather *to provide context, establish benchmarks and indicate directional change of key development outcomes such as fight against corruption, governance and accountability of the extractive sector*. The evaluation team presents the result of the assessment in Chapter 5 and in Annex G of this report.
- **EITI attributable changes** that are both at the direct Output and at the measurable Outcome levels. These are the results of the direct actions undertaken by the EITI Board and the Secretariat at a global level but even more a function of the work undertaken at country level. Identification of documentable results at country level in Gabon, Mongolia and Nigeria constitute important parts of the evaluation. The evaluation team presents the result of the evaluation in Chapter 4 and 6 of this report and in Annexes D: Country Case Gabon, E: Country Case Mongolia and F: Country Case Nigeria.
- **EITI “fit for purpose”** analysis that looks at the EITI as an organisation and how well it is structured to address the issues it has been set up to tackle. This concerns both the overall governance structure of the EITI, its secretariat, the tools and policies that have been developed, and the funding for its activities. The evaluation team presents the results of the evaluation in Chapter 6 and 7 of this report.

Within this framework, the evaluation provides an independent assessment of the results of the global EITI initiative, policy framework and structures, and impact wherever possible.

2.1 Methodology

Societal changes have been reviewed using a “difference of differences” approach on available indicators. Performance of the *EITI candidate countries* and *EITI compliant countries* has been compared with a relevant reference group with non-implementing resource-rich countries.

Data availability and quality has presented a constraint. The team has carried out a review of available data and taken stock of best options on indicators based on relevance and available data for the relevant countries. The report includes comments to the Working group on Process and Outcome indicators proposed big picture indicators and the approach to the performance monitoring and measurement based on these data.

Attributable change is based on three country cases, using various sources to establish documentable results produced. Three countries were to be selected for field work, where selection criteria included (i) all countries had to be resource rich, (ii) all should have produced a draft validation report and at least two reconciliation reports (to ensure sufficient documentary evidence), (iii) at least one should be a mining country, (iv) at least one should be non-African, (v) at least one should be Francophone, (vi) it would be helpful if one was a recently emerging resource rich country, (vii) the sizes of the countries in terms of population should cover the spectrum from small to large. Based on this, Gabon, Mongolia and Nigeria were selected, where Mongolia at the time was a compliant country with Gabon and Nigeria with “close to compliant” status. Three sources of information have been used:

1. *Document Reviews:* The evaluation team reviewed available country-level documentation before going to the field. During the field work, team members requested further material such as minutes of meetings, internal memos, articles in media reporting on EITI activities etc, to ensure that the team would have as complete an inventory of written material relevant to the country study as possible.
2. *Stakeholder Interviews:* Three sets of interviews have been carried out (see Annex B):
 - a. The most important were those of in-country stakeholders during the field work. Team members spoke with local EITI office staff including the national coordinator and members of the Multi-Stakeholder Group (MSG) covering government, businesses and civil society representatives. To the extent possible, team members further spoke with representatives from government, oil and mining industries, civil society, academia and the media who are not on the MSG, and with funding agencies supporting the local EITI efforts.
 - b. External resource persons involved in the key EITI tasks of reconciliation and validation have been interviewed, usually the team leaders and the independent administrator for these exercises.
 - c. International staff of EITI engaged in these countries and other informants who have particular insights into country-level results have also been interviewed.
3. *Validation of Findings with Stakeholders:* The draft country reports were circulated to national stakeholders for comment and revised based on these.

The country case reports provide information on a consistent set of parameters of relevance to the evaluation so that comparisons can be made and lessons derived from these that are valid for the overall evaluation (see Annexes D-F).

The “fit for purpose” analysis is based on a review of EITI documents and interviews with key informants. The key task has been to identify the universe of relevant documents and review these carefully (see Annex C). This has been supplemented by a series of central informants within the EITI system, especially at Board and Secretariat levels.

2.2 Background for Evaluation

While the EITI was launched in 2002 (see box 2.1), it was only with the formation of a Board and a separate Secretariat during the period 2006-2007 that EITI became fully operational with rules and procedures that allowed for performance tracking and verification.

In connection with the Fourth Global Conference in Doha, EITI commissioned a first review of the organisation and its activities. Given the short time period looked at, the study was necessarily limited in scope (Rainbow Insight 2009). With two more years of implementation in place and a rapid expansion in membership and depth of activities, the current evaluation was commissioned based on a more comprehensive Terms of Reference (TOR – see Annex A).

Box 2.1: Milestones in EITI's History

Pre 2002	Campaign of civil society organizations for publication by extractive industries of payments to host governments
2002 Oct	Tony Blair announces the Extractive Industries Transparency Initiative (EITI) at the World Summit for Sustainable Development in Johannesburg
2003 June	First Plenary Conference at Lancaster House in London launches the Initiative
2004 Feb	EITI Paris Implementation Workshop
2004 June	G8 Summit at Sea Island. US endorses EITI for the first time.
2005 Mar	Second EITI plenary conference , London, forms International Advisory Group (IAG) to decide on the governance and future direction
2005 June	G8 Gleneagles Summit. EITI support and implementation recommended in the Commission for Africa Report.
2006 June	Last IAG meeting presents proposals on EITI governance structure including establishment of constituency-based Board
2006 Oct	Third EITI Global Conference in Oslo, Norway . The EITI Board 2006-2008 was formed consisting of 20 members representing implementing countries, supporting countries, civil society organizations, industry and investment companies.
2007 Sept	International Secretariat opens in Oslo with a 'Transparency Week'. 15 countries welcomed as EITI Candidate Countries
2008 Feb	Validation methodology agreed by board at meeting in Accra, Ghana. The EITI welcomes 7 new countries as Candidate Countries.
2008 Mar	Côte d'Ivoire welcomed as the 23rd EITI Candidate Country.
2008 Sep	UN adopts resolution on Strengthening transparency in extractive industries
2009 Feb	Fourth EITI Global Conference in Doha, Qatar . Azerbaijan completes Validation, and is thus the first EITI Compliant Country.
2009 May	Four new countries were admitted as EITI candidates bringing total number of EITI implementing countries to 30
2009 Oct	Liberia as first African Country becomes EITI Compliant
2010 Feb	Afghanistan and Iraq accepted as 31 st and 32 nd Candidate countries
2010 Oct	Mongolia and Ghana are 4 th and 5 th EITI implementing countries to be found Compliant. Kyrgyzstan, Gabon, Nigeria and Cameroon are found Candidate countries <i>close to compliant</i> . Togo and Indonesia are the 33 rd and 34 th Candidate countries.
2011Mar	Fifth EITI Global Conference in Paris, France . Revised EITI Rules endorsed, not yet entered into force. Central African Republic, Kyrgyzstan, Niger, Nigeria, Norway and Yemen are 6 th -11 th countries to become EITI Compliant

3 Results on the Ground

Country cases provide the most concrete evidence of EITI performance, but also reflect the variety of contexts and thus differences in results achieved. The three country cases are laid out in more detail in the three annexes D (Gabon), E (Mongolia) and F (Nigeria) to this report. What is presented below are main results produced, and the findings and conclusions that follow from these.

3.1 Nigeria

Nigeria Extractive Industry Transparency Initiative (NEITI) was established as part of a larger government effort to improve public sector management and reduce corruption. With his re-election in 2003, President Obasanjo moved ahead with an ambitious agenda for public sector reform including in the field of public finance management. The fight against corruption was an important part of this, and in line with demands from large parts of civil society. NEITI was thus launched in February 2004 as part of this larger reform effort. While political support for NEITI has been seen as weaker under his successor, the support to NEITI today seems once again quite strong.

Nigeria has been an early innovator in key fields. Nigeria was the first country to establish a legal basis for its EITI implementation when the National Assembly passed the NEITI Act in May 2007. Nigeria was the first and so far only country carrying out a broad-based reconciliation exercise (“audit”) covering financial, physical and process dimensions of the petroleum sector, where the first report covered the six years 1999-2005, thus providing a long *historical* record of the industry at the same time. Nigeria is to carry out a **Value for money study** of the sector beginning in 2011. This will go backwards in the value-chain to provide a review of the cost-structure of the petroleum industry, allowing the authorities a more independent assessment of the level of taxable revenue being generated.

Nigeria has reached Compliance status, but with some bumps on the road. The 1999-2005 audit was presented in December 2006, providing over 2,000 pages of public documentation. Audits for 2005 and 2006-2008 have subsequently been produced and published, but with much longer time delays. The country’s validation exercise began in December 2009, the draft report presented in February 2010, with the EITI Board conferring “Close to compliant” status in October. Successfully completing a six-point remedial action plan over the following six months, Nigeria was then declared a Compliant EITI country in March 2011.

3.1.1 Outputs Delivered

Legal framework is in place and highly ambitious. The NEITI Act established NEITI as an autonomous self-accounting body reporting to the President and the National Assembly, and now has a separate post on the federal budget. NEITI is to ensure transparency in payments made by extractive industry to the government; the full recording and accounting for the application of this revenue by government; and eliminate all forms of corrupt practices surrounding collection and application of these resources. It is to assess the capacities of public bodies at federal, state and local levels to implement these responsibilities, and suggest remedial actions where necessary.

National Stakeholder Working Group (NSWG) in place but with questions. The 15-member NSWG – NEITI’s Board – represents defined stakeholder groups as mandated by the NEITI Act, but where all must be constituted (approved) by the President. Six represent the country’s geopolitical zones, reflecting the need to address regional concerns over equitable access to oil revenues. The others represent government bodies, civil society and the private sector, where the three civil society members represent CSOs, media and sector labour unions (the geopolitical representatives may also be from civil society). All serve one four-year term, so the entire NSWG is renewed at the same time. One member is nominated as NEITI’s Executive Secretary, to serve one five-year term. Stakeholder group selection of own representatives is not specified, so *representativity* and *independence* of the Board is questioned. Participation at NSWG meetings has been uneven, especially with regards to the private sector representative/s.

Enlarged Secretariat is in place though missing some skills. A 50-person Secretariat ensures that it has key sector-technical, communications and administrative skills. Given NEITI’s broad mandate (see Box F.1 in Annex F), it should in principle also be able to cover public finance management and organization development fields. This reflects a dilemma NEITI needs to address over time: how to tackle the extremely ambitious NEITI Act agenda, in part because some tasks overlap with mandates of other public bodies.

Board and Secretariat roles and responsibilities clarified. A Board Charter approved in January 2011 lays out NSWG (Board) and Secretariat roles and relations, including the NSWG as policy-setting and oversight body. This also makes it clear that the Executive Secretary reports to the Board, though the fact that the Executive Secretary is an NSWG member and thus originally represented a given stakeholder group is potentially an issue.

Technical and financial support for implementation was important in the early phases. DFID provided important financial and technical support for the first phases of NEITI’s work. This was later supplemented by funding from the World Bank-administered MDTF and technical advice from Bank staff. NEITI has been active in EITI, represented on EITI’s Board, and due to this and its early and innovative implementation, it has been a highly visible part of global EITI and thus in close touch with the International Secretariat over the years. Today the government fully funds the NEITI secretariat and most of the activities.

Reconciliation reports are comprehensive, illuminate a number of new and strategic issues, but are sporadic and late. NEITI is in the forefront in commissioning audits that cover financial, production and organisational dimensions of the oil industry. The thorough reports provide detailed data and considerable insights in a sector which till then had been opaque. While the financial reconciliations have in fact documented a high degree of compliance with audited payments, they uncovered incomplete and in place unsystematic recording of revenue streams, insufficient oversight and regulatory action by public bodies, and insufficient cooperation among them. The audits have been irregular, covering six, one and three years respectively, with the last two reports experiencing long delays in completion and publication so their importance to policy discussions and analyses were reduced. They furthermore are limited since they must take the audited company statements as the point of departure for the reconciliation – the only accounts verification is against reported quantities produced where these data themselves are contested. Only with the planned *Value for Money* studies will NEITI be able to critically review the costing principles and practices behind the accounts.

Validation exercise was intensive, finalisation took a year, Compliant status attained. The validation exercise with the draft report was largely done during February 2010 with full compliance claimed. EITI raised issues of quality and completeness of documentation and interpretation of criteria, leading to a revised report in July. This first phase of the process ended with the EITI Board giving Nigeria “Close to compliant” status in October. Six remedial steps including completing and publishing the 2006-2008 financial audit were required for Nigeria to reach Compliant status, which was attained in March 2011.

Communications has improved but remains largely supply-driven. Dissemination of information has improved with a pro-active communications department that has put more user-friendly versions of the audits into the public domain. Press coverage has increased, NEITI publishes more material, reaches out to media – but focus has been on marketing NEITI and its achievements rather than addressing identified information needs among key stakeholder groups. There has so far not been an outreach programme to the academic community to ensure more in-depth and critical use of NEITI data.

3.1.2 Outcomes Produced

The tri-partite nature of the NSWG is a model for collaborative approaches to addressing contentious societal issues. NEITI is the best known example of an inclusive mechanism that has a mandate to address a public issue, though others also exist: the Bureau of Public Procurement, established in 2007, has a National Council similar to the NSWG, as does the Bayelsa Expenditure and Income Transparency Initiative (BEITI) at State level.

Trust and dialogue between stakeholders has improved noticeably in the NSWG. NSWG members noted how NEITI audit reports produced a dramatically improved informational setting for discussion and sharing of views on the petroleum sector, leading to better informed debates and possibilities for agreements across stakeholder boundaries.

The range of issues open to discussion has vastly expanded. Because the audits included quantities produced as well as revenues paid, the analyses have raised issues of completeness of assessment of revenues, the extent to which the public sector is carrying out its regulatory and oversight functions fully, and identified insufficient instruments, staff and procedures for executing their mandates properly. The public discourse thus is addressing a wider range of issues and more profound problems than simply transparency of revenue payments, moving the reform agenda forwards.

The enhanced NSWG dialogue has spilled over into the public discourse though appears focused on urban classes. Media and CSO access to data and audit analyses has improved the information-contents used as the basis for public debate. The depth and reach of public discussion may remain limited, for two reasons. One is it seems to focus on dissemination of the NEITI information rather than critical assessment of data and results. On the dissemination side, NEITI is reaching out through a number of channels – newspapers, magazines, radio, TV, internet – but there is currently little known about what different audiences have picked up and what, if any, impact has been produced.

Capacity development is taking place, but appears insufficient against ambitions. CSO and media representatives noted useful NEITI trainings attended but insufficient against their need for better understanding of the audit data and the information needs of the public, and

in particular how to extract data that could be useful for holding the public sector more accountable for revenue utilisation.

Public agencies have, to varying extents, taken actions to address weaknesses identified in the audits. The Federal Inland Revenue Service has adjusted its capacity development programme in line with audit recommendations; the Central Bank of Nigeria and the Office of the Accountant-General have strengthened staff training, tools and procedures for recording oil revenue data; the Department of Petroleum Resources and the three agencies have strengthened their collaboration and data sharing; among other things.

Increased transparency is (largely) embraced by the oil industry. The international oil companies have moved from resistance (first reconciliation exercise) to full acceptance and in some cases also support for the detailed reporting demanded by the audit reports. This is in part because this ensures that all actors must adhere to the same reporting standard, including the smaller national actors entering the scene as well as Nigeria's National Petroleum Corporation.

3.1.3 Societal Impact

NEITI societal impact remains elusive but potentially important. NEITI has an extremely broad mandate, and against that has delivered only within the petroleum sector. Since this is a strategic part of the economy, this in itself is important. What may become more important are spill-over effects to other societal arenas, but this will require strategic partnerships with other social actors.

NEITI standards, concerns are having wider impact. The key *Petroleum Industry Bill* (PIB) that is expected to be passed by the National Assembly during the first half of 2011 has been highly influenced by the NEITI audit reports and recommendations. These views have been supported by civil society actors in their interaction with the National Assembly, reflecting how linkages in the NSWG are having spill-over effects in larger societal debates.

Legally protected democratic space has been expanded but general political and civil rights have not improved. The NEITI Act has enshrined transparency and debate of petroleum sector revenues as legitimate arenas for public debate. This is an important expansion of democratic space that in oil-rich Nigeria is a critical political right. However, international indicators of civil and political rights have not changed much over the period (see Annex F Figure F.1). Whether in particular CSOs are able to use the NEITI Act as leverage to promote such fundamental rights further is unclear but is a possibility.

Public Finance Management (PFM) reform is pushed in the right direction, though slowly and without strong links to overarching processes. Skills, tools and procedures of key PFM institutions at federal level have been improved, though the net contribution of NEITI is seen as limited (see Shaxson 2009). Collaboration for qualitatively better oversight and control of oil revenues has been strengthened due to the NEITI audits. Much remains, however, as audit standards and actual capacities and controls in place appear woefully inadequate when compared with the tens of billions of dollars in revenue involved. The lack of a systemic link between NEITI activities and approaches to larger PFM reforms is a serious weakness.

NEITI audits are creating a more level and transparent playing field. By demanding more detailed, intrusive and better documented production and accounts data, NEITI is raising the bar also for national actors towards the standards international oil companies must adhere

to. This enhanced transparency makes it more attractive for serious national actors to enter the sector, and gives international actors greater assurance that proposed legislation that requires higher national content/participation in the sector will occur through open and competitive processes. This trend will be further enhanced if and when the *Value for Money* audit is in fact carried out.

The larger business environment appears not sensitive to NEITI activities. When looking at indicators of the quality of the business environment such as political and credit ratings, levels/changes to foreign direct investment, these do not show major changes, and not any kind of linear improvements that could be linked to a fairly constantly improving NEITI (see Annex F Figures F.2 and F.3). This is also not to be expected since such indicators respond more to issues like macro-economic management, regional and national security and political stability, changes in the world market for raw materials, etc. NEITI's impact thus seems for the time being limited, though the passage of a good Petroleum Industry Bill may affect the overall business perceptions of the country.

Indicators of governance/anti-corruption and public sector accountability do not show change related to NEITI activities. In societal areas where NEITI should be expected to be a relevant force – corruption levels/perceptions, accountability – there are no documentable links to NEITI performance. The perceived corruption levels in the country have improved somewhat over time, with an apparent deterioration in 2009 (see Annex F Box F.5 and Figure F.4). But this cannot be attributed to NEITI since there is nothing in any of the activities undertaken, and in particular in the audits, that identifies corruption or suggests steps to address corruption.

3.2 Gabon

EITI stagnates in political transition process. In May 2004, then-President Omar Bongo announced Gabon's intention to adhere to EITI as one element in a broader IMF-financed structural reform programme aiming at diversifying the economy and reducing its oil-dependence. Gabon's need for external financing is seen as a key motivational factor for joining EITI.

President Bongo died in 2009, with his son Ali Bongo Ondimba winning the presidential elections later that same year. He introduced a new strategy for the country, *Emerging Gabon*, but the political transition has slowed down the pace of reforms, including in EITI, with a new Chair-person, new representatives in the Working group, new members of the MSG and discontinuity in actual participation from members representing stakeholder groups. New staff have been appointed to the National Secretariat.

Gabon becomes "Close to Compliant" but has yet to pass the last hurdle to Compliance. Gabon became a Candidate country in 2007 and published three reconciliation reports covering 2004, 2005 and 2006, the last one in 2008. Between October 2009 and July 2010 a lot of activity took place due to the validation process and the submission of the validation report in July 2010. In October 2010 the EITI Board designated Gabon "close to compliant" for having demonstrated meaningful progress, though the validator found Gabon compliant on all 20 indicators. Gabon was given to April 2011 for publishing the reconciliation reports for 2007 and 2008 together with other remedial steps, but was not able to meet the deadline.

3.2.1 *Outputs Delivered*

EITI regulated in Presidential decrees without tripartite governance mandate. Gabon's first EITI structures were created by a Presidential decree in 2005, with a reference to the creation of a National Secretariat to assist in Gabon EITI (GEITI) implementation. The regulatory documents formalizing the Interest group do not mention civil society representation or tripartite governance of GEITI. Procedures and practices for nominating civil society representatives have not been clarified, however it can be noted that the civil society representation has increased over time.

The on-going discussion on further legislation of EITI in Gabon is mostly centred around the question of integrating the reporting requirements of companies into the mineral sector and petroleum sector codes currently under revision. Some stakeholders are clearly in favour of integrating this into sector legislation, while other business representatives still prefer GEITI to be based on a voluntary principle. The mining sector seems to be more in favour of legislation than the oil and gas sector representatives. The expected benefit of legislation is to create a more level playing field.

Multi-stakeholder group in place, but what about representativeness? There are concerns about the representativeness of the civil society in the **MSG** /Interest group. Almost all representatives are from the capital. The links to the regions and communities where the mining, oil and gas activities take place are not apparent, yet negative externalities related to social and environmental impacts from these industries represent an apparent challenge in Gabon. Links to the communities where these activities take place are important. There are capacity constraints facing the civil society representatives in their efforts to link up with the broader public on GEITI relevant issues.

Uneven participation in the Multi-stakeholder group. Participation at MSG meetings has been uneven, especially with regards to private sector and civil society representative/s. Challenges related to attendance, preparation and sufficient knowledge and understanding by member of the MSG of the relatively complex issues on extractive industries' governance, including revenue management, have been reported as common obstacles for an efficient and effective working of the forum as a decision making body. This has been explained by factors such as. lack of training, conflicting agendas, meetings called on short notices, priority given to GEITI and other factors. Members of the MSG overall share the view that the group works well and represents a useful forum for dialogue. Nevertheless the stakeholders believe that the government constituency dominates, not necessarily in terms of composition but in voice.

Vulnerability of the MSG to transitions from one mandate to the next. A related challenge is discontinuity of representation in the MSG and the national secretariat. The discontinuity in Gabon is part of the substitution and reshuffling of senior officials and other government staff due to the new President.

The National Secretariat is in place, but with limited resources and gaps in skills. The National Secretariat is a lean organisation with 2-3 permanent staff. The capacity is weak in view of the many challenges related to GEITI implementation as reflected in the work-plan. The representatives in the MSG are of the opinion that the National Secretariat could benefit from being strengthened. The changes of staff, new Working Group and MSG members have all represented constraints on progress in GEITI implementation.

In Gabon the lack of sufficient financial and technical support has been a constraint to GEITI implementation. The technical and financial support provided by the World Bank was instrumental in the initial stages of GEITI implementation, but the process slowed down. Gabon has not received any financing through the EITI Multi-Donor Trust Fund. GEITI implementation has been fully financed by the Government, with the exception of some specific activities, such as seminars financed by the World Bank's resident office.

Gabon's reconciliation process and reports need improvements. Based on the three reports covering 2004, 2005 and 2006, the scope and the amount of information provided in the reconciliation reports have evolved and improved in terms of comprehensiveness. Nevertheless there are still questions related to a number of aspects, such as regularity, timeliness, clarity on materiality and coverage, data reliability, production volumes, inclusion of more meaningful information on quantity and price, explanation of methodology for reconciliation, explanation of discrepancies and more disaggregation of data. In addition, there are questions related to comprehensibility and accessibility. In the reconciliation processes, there have been constraints in getting access to information about and data from companies. Some of these obstacles can be resolved through a more proactive independent administrator. However, the most serious constraints have been identified in the reconciliation process on the government side. Some of these are:

- Poor registers of companies, lacking relevant information.
- Weak systems and structures and poor institutional memory, reducing reliability of data.
- No standard operating procedures for information sharing between government entities, internal discrepancies difficult to reconcile.
- No harmonized revenue classification of tax revenue collected through different entities in the revenue collection network.
- Weak auditing institutions.

Dissemination and discussion need higher priority. There is agreement that GEITI could put more emphasis on dissemination and engagement of a broader public, but all agree that there have been resource constraints. It was also noted that GEITI has focused more on dissemination ("supply side") and less on generating interest and public debate ("demand side"). One reflection was that as long as GEITI does not include the government's use of resources the broader public does not take a strong interest in the reports about tax payments and revenue received. In addition, discontinuities of reconciliation reporting resulting in lack of timeliness and regularity also reduce information value and make outreach and dissemination activities less meaningful. The most recent reconciliation report covered 2006 and was published over three years ago. While GEITI promotes dissemination and provision of information through internet, only 6.4% of Gabon's population are internet users.

Gabon failed to become Compliant – a huge disappointment. Gabon has not been able to finalize the validation process within the extended deadlines and the process ahead is unclear. In October 2010 EITI Gabon "Close to Compliant", which came as a surprise to the MSG and the government, and represented a great disappointment. Stakeholders raised strong criticism of EITI for the perceived lack of predictability, consistency and clarity on decisions in the validation process. The limited number of validators to choose from with sufficient language skills has also been seen as a constraint. There is a discrepancy between

the validator's assessment on compliance and that of the Secretariat and the EITI Validation Committee. The Final Validation report recommended Gabon to be found compliant. Because of this, the MSG felt the criteria and requirements were unclear and the decision-making process not transparent. Gabon, together with other Francophone countries, has therefore felt that the rules are not applied uniformly .

3.2.2 Outcomes Produced

The tripartite Multi-stakeholder group is a preventive measure for conflict mitigation. The evolving civil society in Gabon has been marked by incidents revealing the fragility of the freedom of expression and assembly, and other civil rights. In 2008, 22 NGOs were suspended for criticizing the way in which state resources were being spent. The ban was lifted a week after the suspension after the Government was confronted with the fact that the ban was incompatible with Gabon's membership of the EITI.

More knowledge-based debate and increased trust between stakeholders in the MSG. The exchange of information between stakeholders provides all representatives with a more comprehensive perspective of the extractive industries, and leads to a more knowledge-based debate on broader issues related to the extractive industries. The open exchange and increased access to information strengthens trust.

Increased demand for transparency and openness from government. There have been challenges getting an overview of the extractive industries in Gabon, and the processes around concessions, contracts and the monitoring of compliance to these are examples of issues that have emerged where GEITI is putting increasing pressure on the government for more transparency.

Intra-governmental coordination. All government entities involved in the value chain, from the mining and hydrocarbons directorates, the budget, treasury, revenue authorities are all represented in the technical working group participating in the MSG. This internal sub-structure of the MSG has contributed to substantial improvements in intra-governmental coordination and harmonization of information, classifications and registrars. However, there is still scope for substantial improvements and systems, registers and recording procedures are weak. The fact that the technical working group is the same as the one responsible for monitoring the structural reform programme gives positive synergies.

More attention towards need for level playfield within extractive industries. The oil and gas companies and specifically the mining companies perceive EITI as a vehicle for creating a more level playfield on disclosure of tax payments. Gabon has experienced difficulties in engaging some of the economic agents particularly in the mining sector. There is also greater pressure on compliance related to issues outside the scope of the EITI, such as access to Environmental Impact Assessments for larger investments in the sector.

3.2.3 Societal Impact

Limited increase in transparency of information on tax payment and revenue. EITI implementation in Gabon has contributed to substantial amounts of information being made available which was previously not accessible to the public. In this narrow sense EITI implementation has improved transparency. There is still some way to go even on this core issue, and disclosure of information by companies, particularly in the mining sector, has proven to be a challenge.

No links have been created between the tripartite governance structure and oversight institutions. So far there have not been any representatives from the equivalent to the Auditor General, the Administrative Court “*Cours de Comptes*” or the relevant committees in the National Assembly in the EITI implementation processes.

Limited safeguards measures with potential effect on embezzlement are in place. EITI, with its existing scope, is one of several safeguard measures against corruption and the effectiveness depends on the risk in the specific country context. In the case of Gabon, the disclosure of tax payments and revenue has been seen as a relevant measure. The government has previously not been held accountable for the revenue from the extractive industries and embezzlement and corruption within government is a confirmed problem. The EITI increases the access to information about disclosed payments and revenue, however the measures are far from being sufficient to have an impact on levels of corruption.

No signs of strengthened accountability and governance. The political and institutional framework conditions are unfavourable to obtaining short term impact on domestic accountability. EITI has not been a driver for any broader reforms though it was initially embedded in broader structural reforms including strengthened public financial management system and improved governance of the extractive industries. The political transition led to a disruption in these planned reforms and new strategies are in the process of being formulated, endorsed and implemented, but it is still too early to say which role EITI will play. The EITI reporting in Gabon is narrow and minimalistic, the oversight institutions and the government institutions are weak, and no links have been created between EITI and institutional reforms. Some examples of relevant weaknesses are: low capacity and skills within the *Cours de Comptes* and the relevant parliamentary committees, complexity and incomprehensibility of the budget and the public accounts. These are all core instruments for supreme oversight functions and strengthened public accountability. Links to these areas are fundamental for EITI to have a broader impact on accountability.

No significant improvement in business environment. No significant changes can be seen in relevant indicators reflecting an improved business environment. For a discussion on links between EITI and these indicators, see Chapter 5 and Annex G.

Indicators of governance/anti-corruption and public sector accountability do not show change related to GEITI activities. Even in societal areas where GEITI should be expected to be a more relevant force – corruption levels/perceptions, accountability – the trends are not necessarily positive and do not correspond to any close link to GEITI performance.

3.3 Mongolia

EITI implemented within broader reform in rapidly emerging mining sector. Mongolia announced its intention to join the EITI in 2006, during a period of deep structural changes: *Political transformation*, from a single party system in the Soviet model to a competitive multiparty democracy; *Economic transformation*, from a command to free-market economy, and from being agriculturally-based to rapid economic growth driven by the mining sector; *Demographic changes*, with rapid urbanisation and growing geographic imbalances in a young population.

EITI implementation in emerging mining industry opened up for reform in the whole value chain of mining industry. The EITI Mongolia (EITIM) was part of broader reforms, with

Mongolia's amended Mining Act (2006) and changes to the fiscal regime. The emerging mining sector gave a window of opportunity for EITI implementation to address reforms both upstream and downstream in the value chain of the mining industry. Reforms expanded direct Government participation in the mining sector, and allowed for greater revenue collection. There was particular concern for regulating the rapid growth of small scale and "artisanal" mining activities and capturing revenues being paid directly to sub-levels of Government, where linkage between the central and sub-levels were weak. The EITI offered a credible standard for reporting revenue that could be integrated into Mongolia's legal and regulatory framework, where effective standards did not previously exist. EITIM was therefore part of a larger effort to ensure orderly expansion of the mining sector, and improved revenue management.

Mongolia became compliant in 2010. The Validation Report (2010) found that "*remarkable progress has been made to ensure that transparency becomes institutionalised and operational*", but recommended remedial actions prior to Mongolia be declared Compliant. The main questions raised were about whether EITIM reports included all material payments and receipts, and if disclosures to the reconciler were based on accounts audited to international standards. Based on recommendations on actions needed by Mongolia to achieve "Compliant" status, actions were taken and subject to a review by the EITI Secretariat whereupon the Board declared Mongolia Compliant in October 2010.

3.3.1 Outputs Delivered

Legal and regulatory framework in place. Government published Resolutions and Cabinet Orders during 2006 establishing the initiative's mandate, governance structure, support infrastructure and procedures, which included the National Council and Multi-stakeholder Working Group, a Memorandum of Understanding outlining the roles and responsibilities of the stakeholder groups and establishing the EITIM Secretariat. Regulations provided an effective framework for early operations, and have been revised over time as required. Mongolia is planning to ratify Extractive Industries Legislation during 2011. The legislation met requirements for remedial action identified by the Validation Report and requested by the EITI Board as a condition of achieving Compliant status. It expands provisions of existing Regulatory framework and formally integrates EITI principle's into the country's legal system.

The National Council and Multi-stakeholder Working Group (MSWG) are in place. The EITIM governance structure was established in early 2006. It has operated effectively since then, some concerns about frequency of meetings and participation levels notwithstanding. The EITIM structure has two tiers, which separates policy and operations and facilitates the participation of Government at the highest level.

The National Council of the Mongolia EITI is chaired by the Prime Minister and meets on an annual basis. It was mandated to establish the "key principles and the political, legal and institutional framework for implementing the initiative" (Terms of Reference 2006), and functions on a consensus basis. In 2010, the National Council was comprised of four representatives of Government, four from Parliament, five from companies and five from civil society. Stakeholders considered the Council to be representative, and to have high level leadership from Government.

The Multi-stakeholders Working Group (MSWG) was established in December 2006. Its mandate is focused on the technical and operational aspects of EITIM implementation, and reports to the National Council. The MSWG is chaired by a Senior Advisor to the Prime Minister, and comprised of 25 representatives from Government, the private sector and civil society. The MSWG meets more frequently, as required.

National Secretariat has limited resources, but working. The National Secretariat consists of two to three persons with a limited operational budget. The Secretariat is mandated to provide overall support to the EITIM process. It is respected by all stakeholders as providing high quality services on an impartial basis. However, the small size of the Secretariat and limited financial resources place significant constraints on its operations. In particular, there is limited capacity for representation, outreach and communications.

Technical and financial support constrained smooth implementation. The EITI Multi-Donor Trust Fund (EITI-MDTF) was an important source of funding during EITIM's inception period. EITIM stakeholders appreciated the high quality of technical support and advice received from the World Bank's Mongolia office. However, the EITI-MDTF had a heavy administrative burden and lengthy decision-making cycles that did not coincide with the EITI compliance deadlines. Also, approved grants were significantly smaller than applied for, forcing the National Secretariat to scale back plans such as in communications and outreach activities. Government has committed to increased funding to EITIM operations during 2011, including covering costs for the reconciliation process. Additional MDTF financing has been requested for Secretariat operations during that period.

Reconciliation exercises were effectively implemented and contributed to significant improvements to management of tax payments from the mining sector. The EITIM has conducted reconciliation exercises on an annual basis since 2008. The quality of the reporting has been good, with improved coverage and comprehensiveness resulting from the expansion of materiality. Among highlights from the first three reconciliations reports (2008, 2009 and 2010):

- The scope of materiality was increased, from covering companies making tax payments of MTN 500 million (2008) to MTN 100 million (2009). The 2010 and 2011 reconciliations are using a payment threshold of MTN 50 million.
- Participation in the reconciliation exercise almost doubled by reducing the payment threshold, from 25 companies (2008, using data from FY 2006) to 46 companies (2009). The number of companies under the payment threshold but reporting to Government using the EITIM increased, from 64 (2008) to 184 (2009), demonstrating the EITIM's broader acceptance as the reporting standard.
- Net and unresolved discrepancies have been significantly reduced, at the same time as the scope and coverage of the reconciliations has expanded. From comprising six percent of the total value of payments in 2008 (based on FY2006 data), unresolved discrepancies were MTN 1.1 million (.16%) of the approximately MTN 600 million in reconciled payments for 2009 (based on 2008 payment data).
- Material coverage of the reconciliation exercise increased over time, with annual revisions of the EITIM template. Also, the quality of data has improved with improved record keeping and reporting from companies and Government entities.

Mongolia acted in a timely and proactive manner to complete the requirements of Validation. The Validation Report determined that Mongolia was not compliant with Indicators 11-15 regarding material payments and receipts, and if accounts were audited to international standards. On this basis, the Validator recommended a series of actions needed for Mongolia to achieve “Compliant” status, subject to a review by the EITI Secretariat. Remedial actions were initiated within the deadline set by the EITI Board although the actual implementation is ongoing. Actions showed strong commitment on the part of Government, and a consensus within the National Council and MSWG. They included changes to Mongolia’s legislative and regulatory framework that further institutionalised EITI standards and principles into Mongolia’s public finance management system, and provide a predictable reporting framework for companies and civil society advocacy. These included a clear definition of materiality, expanded the scope of EITI coverage, strengthened audit standards and procedures and provided for oversight and enforcement for both ensure reporting and the resolution of discrepancies.

Communications and dissemination is limited by resource constraints. The EITIM significantly increased the amount of information publicly available on mining revenues. However, distribution and dissemination of information has not been effective. Communications and outreach are included in the annual EITIM work plans, but actual distribution and dissemination is limited as the National Secretariat does not have the capacity for this.

Stakeholders appeared to share information within the boundaries of their own groups. The EITIM National Secretariat, the Publish What you Earn and Pay civil society coalition and the Mongolian Mining Association post reconciliation reports on their websites and circulate information and analysis to their members. However, there was limited evidence of broader distribution or the packaging of information in a format suitable for public discussion. Also, less than 15 percent of Mongolians are reported to have internet access, requiring a distribution strategy that focuses on other media.

3.3.2 Outcomes Produced

The EITIM showed a high degree of operational effectiveness leading to the EITI Board’s designation of “Compliant” status in October 2010. The EITIM developed as an effective platform for tripartite dialogue and information sharing, where such platforms did not previously exist. The National Council and the MSWG met on a regular basis and enabled a high level of stakeholder participation. Stakeholders expressed a high degree of satisfaction with the EITIM governance process. They perceived debates as open, frank and generally constructive, with the quality maturing over time as relationships between the stakeholder groups developed and the information base expanded. Some concern was expressed that the National Council met only five times between 2006 and 2010. However, the MSWG has met as required.

Improved coherence within Government. EITIM led to harmonisation of reporting and audits standards and the removal of obstacles to inter-ministerial cooperation that existed in systems and institutional culture. This cooperation has led to the identification of weakness in the revenue management system, and has helped Government and stakeholders target and design actions to improve performance.

Strengthening Mongolia's overall public finance management regime. Implementing the EITIM required enabling legislation and regulatory changes in other parts of the system that improved overall performance, and resulted in some expansion in usage of EITI principles within the overall system.

Reduction of opportunities for corruption to occur. The EITIM does not directly address the issue of corruption. However, actions reduce the opportunities for corrupt practice to take place by putting in place strengthened reporting systems, transparency and oversight. There is no evidence on whether this has led to an actual reduction in the incidence of corruption, as action in this area is outside the scope of EITIM.

A change in political culture favouring transparency yet with impact still largely contained within the EITIM process and mandate. The Government of Mongolia established the EITIM as an open and transparent process. From inception, the EITIM had strong commitment and participation from the highest levels of Government, and from the private sector and civil society. All stakeholders perceived the EITIM addressed their core concerns and interests during a period of rapid change.

The EITIM governance and institutional framework was established within one year. The *National Council* and *MSWG* set an ambitious schedule for meeting EITI Candidate and then Compliant status. The Government also established a regulatory framework to enable the EITIM. EITIM has generated a significant body of high quality and year on year data for mining sector revenues; the disaggregated payment record of individual companies, the performance of Government entities, identification of discrepancies and systemic weaknesses. This information is publicly available, with the only apparent restriction being on publication of *MSWG* and *National Council* minutes. There is clear evidence that this information is being used by stakeholders within the boundaries of the EITIM process to improve performance. Further, Government is using data for its revenue forecasts and budget planning, and civil society for analysis and advocacy. However, there is little evidence that EITIM data has entered into large political, policy or public debate, or is being picked up by media or international entities to support their analysis. While noting important concerns, stakeholders perceived that the EITIM was contributing to an overall reduction in “culture of secrecy” by demonstrating the benefits of transparency.

The EITIM's limited contribution to broader transparency results from capacity limitations in the EITIM infrastructure, as well as in the broader political system and society. The EITIM does not have an effective communications and outreach strategy or capacity, primarily due to funding constraints. Reconciliation reports are posted on the EITIM website. However, capacity to popularise the complex reports for public use, or otherwise distribute and disseminate information is limited. Government, company and civil society organisations also have limited means and/or motivation to distribute and disseminate beyond their own use. Once made public, EITIM encounters the larger problem of low political education and participation, weak capacity in civil society and other limitations on political oversight and debate that are revealed in reporting on Governance Indicators. These are beyond the EITIM's mandate and scope of action, although more effective EITIM distribution and dissemination could make an indirect and positive contribution.

3.3.3 Societal Impact

The EITIM has not made a discernable contribution to improved accountability. The global EITI process places emphasis on transparency for reporting of payment. However, the political, legal and institutional linkages for accountability are unclear or do not exist yet in Mongolia. Specifically:

- There are no sanctions for non-compliance on reporting, so Government entities and companies have not been legally accountable for the quality of their reporting. This situation may change once proposed EIT legislation is ratified.
- The EITIM is not organically linked to oversight processes or mechanisms, such as the anti-corruption commission, Parliamentary oversight or the Supreme Audit Institution.
- There is limited or no improvement in accountability of Government before public opinion as EITIM is not generating or informing public opinion at this time. Further strengthening transparency through outreach and communications are required.

There is no clear evidence attributing the EITIM to larger improvements in Governance, Poverty Reduction and the Business Environment. The EITIM is making a positive contribution in the area of tax payments and revenue management, with secondary results in public sector reform, transparency and promoting a rules based and predictable business environment. However, achieving results in broader areas of governance, human development and the business environments depend on a complex set of variables: the interaction between the structural changes in Mongolia's political system, economy, demographics and relationships between State and society with the actions being taken by taken by all stakeholder groups in response.

There is no clear understanding of the institutional and process linkages between the EITIM (upstream revenue generation), policy, programme and institutional development (downstream development and implementation of governance, economic and human development policy and interaction between State and society) and business decisions (situating the EITIM among the many variables that shape business decisions). Conceptually, Government and civil society aspire to strengthen results in these areas through the EITI process. However, operationally stakeholders do not perceive their actions as having an impact at this higher level.

3.4 Findings and Conclusions

The global EITI standard provides flexibility for tailoring the institutions for national implementation. This means legal and organizational solutions differ somewhat from one country to another, which makes direct country comparison and aggregation of findings and results challenging. This summary, therefore, highlights areas of common relevance, with examples of good practises and lessons learned from the three EITI countries visited while the country case annexes describe the diversity and specific results in more detail.

Outputs Delivered

Appropriate governance structures are in place, with some questions on representativity. All three countries have put in place functioning MSGs and National Secretariats with good

links to central government. Relations to civil society, private sector and other parts of public administration are in place. However, the strength of the relationships varies. Among other factors, the rules for selecting and approving civil society and private sector representatives in the MSG differ, particularly when government plays role in selecting who will participate. There were particular concerns about representativity with regards to civil society, related to the extent regional and local community concerns have sufficient voice. There are also issues regarding differing rates of participation in meetings, and in some countries documentation of proceedings and decisions are incomplete, posing problems for validation processes on verifying information. These fundamentals of *Governance*, therefore, merit attention.

Extractive industries are economically important and thus politically sensitive, so high-level political commitment is crucial for successful EITI implementation. EITI countries are often both resource rich and resource dependent. In both Gabon and Nigeria oil has for the last decade accounted for 40-50% of GDP and 80-90% of exports while in Mongolia the mining sector contributes about 25% of GDP and 70% of export earnings. The political sensitivity and the fundamental importance of the extractive industries make high level political commitment and involvement fundamental for successful EITI implementation. Nigeria and Gabon illustrate the vulnerability of EITI to political transitions where post-election changes in senior staff and political priorities affected implementation in periods.

A two-tier governance structure enables high-level political involvement. An important way of ensuring political support is to also include actors outside of Government, such as in opposition parties or the Parliament. Mongolia's National Council includes ministerial and parliamentary representatives and addresses policy questions while the MSG itself has the usual composition and tackles operational concerns. In Nigeria, NEITI's links to both the executive and the legislature formally exist but largely on the reporting side and less through any engagement on policy discussions and decisions. Having a two-tier governance structure allows for stronger political engagement but runs the risk of marginalising the MSG.

Approaches to formalization and use of legal and regulatory instruments vary. In Nigeria, the parliamentary NEITI Act has provided a strong legal foundation for NEITI's mandate and competencies. In Mongolia and Gabon, the EITI mandates have been regulated through decrees and, therefore, only approved by the executive. These two countries have given priority to including EITI requirements towards companies into relevant sector legislation. The third dimension of legislation or regulation, namely inclusion of EITI requirements towards government agencies and possibly supreme audit institutions into relevant legal and regulatory frameworks such as Organic Budget Laws, Financial regulations etc seem so far not to have been discussed. This may change in Mongolia with ratification of EITI legislation that is pending in 2011.

National Secretariats are in place, with different mandates and capacities. Nigeria has a 50-person secretariat that has capacity for technical sector work and communications and that is now fully funded by government, with a strong legal mandate through a specific bill. Gabon and Mongolia have small secretariats of 2-3 staff that are servicing the MSG and carrying out basic outreach and communication. The Nigeria and Gabon secretariats answer to the MSG, and in Nigeria there is a statutory independence. This contrasts with Mongolia which has the secretariat as part of public administration. All are seen as critical to the functioning of the local EITI, have committed staff, but where level and content of activities are both a function of funding levels but also of degree of political control. One factor affecting credibility of the

Secretariat is thus the extent to which it is seen as impartial and not serving a specific stakeholder group.

Reconciliation reports represent a major leap in qualitative and quantitative information available though often complex and difficult to read, and have problems with timeliness. All three countries have produced several reconciliation reports that have vastly increased the availability, scope and quality of information on a strategic sector. The main reports are all publicly available, though while Nigeria publishes all background reports, Gabon publishes none and Mongolia some. Mongolia has provided annual reporting on a consistent and timely basis, Nigeria's reporting has been very uneven in terms of timeliness but by far the broadest in scope by including production and process information in addition to financial. Long delays in finalisation and publication of reports in Gabon and Nigeria make them less valuable in policy discussions. Mongolia has consistently improved coverage and quality of reporting, and included the sub-national level. Nigeria has produced popular versions of the reports to make key data and findings more accessible but overall the reports tend to be highly technical and not easy to read and understand.

The reconciliation exercises show revenue disclosure is less of an issue than control systems are. The reports reveal minimal differences between companies' audited tax payments and government receipts. Early discrepancies were typically found to be due to incomplete government recording or differences in reporting periods but not lack of payments. In all three countries, the major weaknesses tended to be on the government side, with faulty company registries, incomplete ledgers, weak collaboration and coordination between agencies that served complementary functions in the regulatory, revenue raising, accounting and control system. Revenue classification systems were sometimes outdated or deficient, and financial data flows between public agencies – ministry of finance, accountant-general, central bank, auditor general – were often incomplete or late. This was often due to weak institutions lacking resources to hire staff, upgrade skills and acquire IT-based systems.

International support has been important both in political and technical-financial fields but late and inadequate. The EITI has provided political support and in particular been able to help defend the democratic space that EITI is to represent, such as in the case of Gabon. In Mongolia and Gabon the EITI implementation has been constrained by lack of financial and technical assistance. The slow processing and the limited funds from the Multi-Donor Trust Fund have been criticized, which in countries that do not have easy access to other donor funding has been a serious challenge, such as in Mongolia.

Distribution and Dissemination appear limited and supply-driven. The range and depth of the communication on reconciliation findings varies as a function of the resources available. Most of the communication is supplying key messages from the reports, but even in Nigeria, which has by far the largest and most diversified outreach programme, the results in terms of public discourse are unclear. Media and civil society organisations clearly use the information, but the outreach strategies appear more focused on providing the EITI messages than on empowering in particular CSOs with information relevant for holding the public sector accountable for the use of the revenues.

Validation processes more complex than expected. The three countries share the experience that their validation processes turned out to be more complex, time-consuming and less predictable and clear than they had expected. Discrepancies between validators' assessments

and those of the EITI Secretariat and the Validation Committee have in particular been raised as a concern since this has created frictions within countries (see chapter 5).

Outcomes Produced

Increased trust and dialogue between stakeholders. The MSGs are a legitimate arena for dialogue, disagreement and clarification between groups that historically have had little or no interactions. The collaborative approach has allowed discussions of contentious issues, contributed to more knowledge based discussions and dialogue between stakeholders and to increase the mutual trust due to open information-sharing. The tripartite MSG has also been seen as contributing to conflict mitigation in some situations.

Intra-governmental coordination has been strengthened, performance being addressed. In all three countries intra-governmental coordination has been strengthened and collaboration improved. In all countries there are formal bodies either directly inside or linked in with the EITI where relevant government bodies meet to assess follow-up to EITI reporting, in addition to key bodies being on the MSG itself. The organisational and performance weaknesses identified in reconciliation reports are in a number of instances leading to changes in routines, instruments, training, and in particular to better procedures for interaction and information sharing.

Increased demand for transparency and openness from government, yet with impact still largely contained within the sector. The EITI Principles emphasise transparency as a broad principle for good governance, not just for disclosure of tax payment and revenue. While the reconciliation reports ensure increased transparency in this field, there have so far been limited examples of this principle being applied elsewhere in the government's public finance systems, though examples were seen such as increased awareness of transparency as a principle, but mostly within the sector: disclosure of Environmental Impact Assessments for extractive industries' investments and more openness around contracts and concessions.

Broader government reforms, including strengthening public finance management. Mongolia has created linkages to broader reforms within the mining sector. While EITI has not been a key driver of broader reform it has clearly been one of several programmes or elements in a broader reform process. Nigeria and Gabon have experienced political transitions that have led to disruptions in implementation and in particular seem to have "de-linked" the local EITI from initial larger reform processes.

EITI is one of several necessary preventive measures against embezzlement and corruption. EITI's Articles of Association note that improved revenue transparency can lead to reduced corruption. In all three countries EITI is seen as contributing to reducing possibilities for corruption in the revenue raising field, though this in itself is not seen as a major corruption risk. For effective prevention of corruption there is a need to go broader into the value chain. However, having a mechanism in place that aims at reducing corruption legitimizes this issue further, and can potentially lead to decisions on applying transparency instruments further to "follow the money" – though very few steps of the full value chain are captured as part of EITI implementation.

Larger Societal Change - Impact

EITI has created some synergies to broader reform processes, but largely within the sector. The EITI processes are inter-related to some larger changes such as aspects of public finance reform, more fiscal transparency and to larger issues of democratic space, role of civil society in the public discourse. Examples include more discussion on changes to sector legislation, stronger insights into the extractive industries in general including of state enterprises in the sector. These synergies are mostly within the sector, and EITI has not always been a significant driver of change. But the lack of larger impacts is partly a function of time – the EITI programmes are at most six years old, in most cases much more recent.

EITI has not contributed significantly to improved accountability. EITI places emphasis on transparency, however the political, legal and institutional linkages into accountability are unclear or do not appear to exist. The EITI programmes in the three countries are weakly linked to more general accountability and oversight processes or mechanisms, such as the state budget, state accounts, anti-corruption bodies, Parliamentary oversight and supreme audit institutions. There is limited change in accountability of Government before the public as most of the information produced by EITI is not very relevant to this issue.

There are few indications that EITI programmes are so far having impact on societal dimensions such as governance, corruption, poverty reduction. While the EITI programmes are implementing their foreseen activities quite successfully, there are few indications so far that this is creating real spill-over effects onto larger societal arenas as processes. One of the challenges that the programmes face, however, is that so far there appear to be no research-based work utilizing the considerable EITI data for verifying societal linkages.

EITI contributes to a more level playing field but unclear how important that is in the larger business environment. Increased transparency on tax collection is seen by international firms to contribute to levelling the playing field in particular with respect to smaller national operators. It is unclear how important this is in the larger business context, but other factors seem to be of considerable greater interest and impact.

Conclusions

EITI's focus on financial reconciliation has been a successful entry-point into a key sector of the economy. EITI has built and strengthened consensus around greater democratic insight and control of resources, improved the voice and legitimacy of civil society in this process, and provided a major contribution to factual, verifiable knowledge in the public domain.

The reconciliation exercises indicate that revenue payments are less of a problem than the public sector's control of these. Based on their audited accounts, extractive industries appear to be paying what is due, but the state's ability to verify and control through tax assessments and audits is weak and needs strengthening both at the agency level but even more at systems and overall public finance management levels. Most EITI programmes contribute little to addressing these issues.

Outreach for strengthening accountability and data collection for tracking performance is incipient. Most EITI programmes carry out dissemination activities but generally do not have the strategy, skills or funding for more effective outreach to social actors to empower them to apply EITI data for increased accountability. There is also little so far on tracking longer-term effects of EITI activities onto other social arenas.

4 EITI Performance at Global and Societal Levels

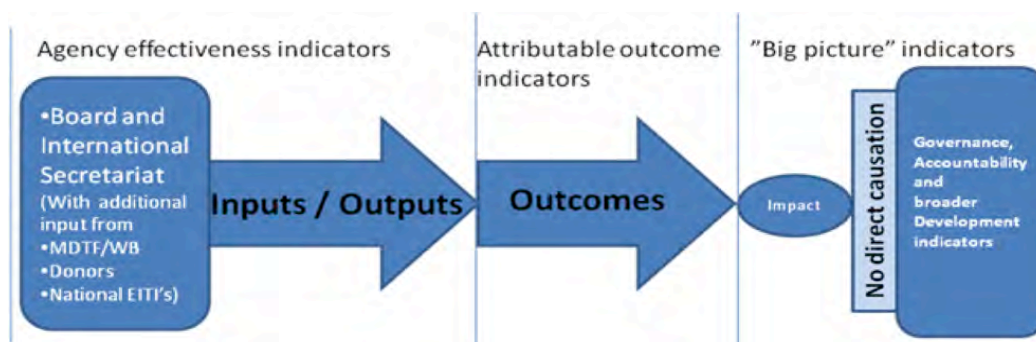
“The objective of the EITI is to make the EITI Principles and ... Criteria the internationally accepted standard for transparency in the oil, gas and mining sectors, recognising that strengthened transparency of natural resource revenues can reduce corruption, and that the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries” (EITI Articles of Association, Art. 2.2).

The key assumptions underlying the EITI objective require critical assessment. The causal chain presented in the statement above is based on assumptions regarding consequences of more transparent revenue management. As seen in chapter 3 and the country annexes, the perception on the ground is that there are limited linkages between the EITI and *backward linkages* in the value chain, such as contracts and award of licenses, and none to *revenue management* activities: macroeconomic policy, resource allocation, budget execution and programme implementation, and even less to development and implementation of governance, economic and human development. Conceptually, Government and civil society aspire to strengthen results in these areas through the EITI process. However, operationally stakeholders do not perceive their actions as having an impact at this higher level.

Big picture indicators - Contextual factors. The TOR asks the evaluation to look at the larger contributions that the EITI is making. The evaluation is not expected to establish *causation* but rather to provide context, establish benchmarks and indicate directional change of a defined set of indicators measuring key development outcomes such as fight against corruption, governance and accountability. Annex G of this report present the performance on these indicators. This chapter presents a discussion of the relevance and adequacy of these indicators to the performance measurement and monitoring of EITI.

Need for developing explicit theory of change and provide empirical evidence. There is an increasing demand for evaluations to specify and justify the results chain or theory of change that lies behind the empirical basis for conclusions drawn. In the case of EITI, such a results chain is shown in Figure 4.1 below (see Annex A) where listed Inputs are to produce a set of Outputs that generate attributable Outcomes. It can be noted that the proposed result chain does not explicitly include the country level of EITI implementation. EITI established a working group that agreed on a set of “Big Picture” indicators that are meant to track the societal changes presented in EITI’s Articles of Association. Box 4.1 presents the results/indicators as drawn up by this working group (see Annex A section 9.2).

Figure 4.1: The EITI results-chain



Box 4.1: Inputs, Outputs, Attributable Outcomes and “Big Picture” Indicators

Inputs:

1. Resources allocated for missions and support to **implementing** countries (ref. WP 1).
2. Staff resources allocated to **validation** (ref. WP 4, 5, 6).
3. Resources allocated for missions to **outreach** countries (WP 7,8)
4. No. of Board meetings and resources allocated to **Board meetings** and Chairman’s support (WP 28, 29).
5. Resources allocated to **relations with stakeholders** including: conference, supporters’ roundtables and National Coordinators meeting (WP 2, 9, 10, 13, 31).
6. Resources allocated to **relations with supporting companies** and investors (WP 11, 12, 32).
7. Resources allocated to **communication** (WP 14, 15, 16, 17, 20, 21, 22, 23).
8. Resources for **training**, including InWent seminars (WP 3).
9. Resources allocated to **governance, management and administration** (WP 30, 33, 34).

Outputs:

1. **Publications**, including website, notes and reports (WP 14, 18, 19, 24, 25, 26, 27).
2. **Validation** reports reviewed (WP 4, 5, 6).
3. **Reconciliation reports** reviewed
4. **Meetings** organised (including roundtable, Board and side meetings, national coordinators meeting and other conferences) (WP 2, 9, 10, 13, 28, 29,31).
5. **Number of people** trained (WP 3).
6. **Number of countries** visited (WP 1, 7, 8).

Attributable Outcomes:

1. No. of **compliant** countries
2. No. of **candidate** countries
3. No. of supporting **companies**
4. No. of supporting **investors**
5. No. of **supporting countries**
6. No. of completed **validations**
7. **Communication** and awareness raising
 - Users of EITI website
 - Articles published about the EITI
 - References of EITI in articles, news items and blogs
 - Subscribers to EITI’s newsletter
8. **Reporting**
 - No of reports (including disaggregated reports)
 - Sector coverage (percentage)
 - Regularity in EITI disclosure
 - Companies participation

(Proposed) “Big Picture” Indicators:

1. Disclosure index measure from the World Bank’s Doing Business Report.
2. Credit ratings (available from leading credit rating agencies)
3. From the World Bank’s Country Policy and Institutional assessment (CPIA):
 - Macroeconomic management rating.
 - Equity of public resource use rating.
 - Transparency, accountability and corruption in the public sector rating.
4. Transparency International’s Corruption Perception Index.
5. UNDP Human Development Index (<http://hdr.undp.org/en/statistics/indices/hdi/>)
6. UN GINI coefficient
7. GDP growth (World Bank national accounts data, OECD National Accounts data files).
8. From the Global Integrity Indexes (<http://www.globalintegrity.org/>):
 - Civil society organizations.
 - Public access to information.
 - Government accountability.
 - Overall country score.
9. Open Budget Index (<http://www.openbudgetindex.org/>)

Clarifying the results chain/theory of change, verifying the empirical data. This chapter discusses the empirical evidence that is available regarding EITI impact, and analyses the theory of change that lies behind the results that are aspired to. Furthermore a review of the theory of change in light of other literature relevant to the subject is presented. The purpose of this exercise is to inform the development of a theory of change so as to contribute to development of a more adequate performance monitoring and measurement system. The data, the methodology and the full set of results regarding the “Big Picture” indicators are described in Annex G and will not be repeated here.

4.1 The Proposed Indicators and Theory of Change

EITI Inputs are considerable but not coordinated. As shown in Figure 4.1, the full range of Inputs to be captured when discussing EITI Outputs include national and donor resources mobilised in EITI countries plus the World Bank-administered EITI multi-donor trust fund (MDTF), which is the largest single funding source for EITI activities. In the proposed results chain, Input at EITI International and EITI implementation levels are put together.

Outputs reflect complexity of EITI structure. EITI International – Board and Secretariat - carry out activities, and produce output which are, to a large extent, framework conditions, services or support to EITI implementing countries. The proposed six outputs can be divided into two groups. The first three (publications, validation and reconciliation reviews) are results of EITI Secretariat activities. The last three are largely *activities* carried out by the Secretariat, where actual Output from training activities would be number of people that acquired measurable levels of some EITI skill; Outputs from meetings might be decisions, policies, or upgraded skills, while Outputs from countries visited would depend on the objective of the visit. These Outputs thus cover *both* global and national levels of EITI; are difficult to define and measure; and tricky to aggregate into units that can be compared over time. The *pragmatic* reason for defining these last three as Outputs is easy to understand since they enable the observer to identify what EITI global has done and where the resources were spent. But from a *theory of change* perspective they are not true Outputs, and this presents challenges to attribution in the subsequent steps in the results chain.

EITI Outcome indicators reflect difficulties of tracking results of own Outputs. The outcome of EITI output at EITI International level and EITI implementing country level are mostly found at the country level. This explains why the outcome indicators at a global level are more difficult to track. These outcome indicators track two dimensions of EITI. The first six look at the number of various categories of EITI members and hence the growth of EITI as an international standard. The other two are composite indicators for outreach, where *Reporting* looks at coverage, participation and regularity of country-level reporting while the *Communications* indicator measures level of demand for information about EITI. While the membership indicators are *global* results, the Outreach indicators largely measuring results at *national* level. This reflects the dual level of EITI operations, but also reveals the difficulties of trying to have a coherent results chain when the starting point is global level activities (see Box 4.2).

There is a lack of thinking around how to use reconciliation reports to produce Outcomes. All parties agree that the crowning achievement of EITI is the reconciliation reports. There is, however, little discussion regarding how these central Outputs can be used in a more

consistent and constructive way to move towards monitorable Outcomes. The broad-picture Nigerian reports and Mongolian reports covering all levels of the public sector clearly provide, in their different ways, better platforms for moving towards meaningful Outcomes at country level. This is a discussion that EITI as a global compact could promote and develop as part of the development of a larger results framework for EITI globally.

Box 4.2: The Difficulties of getting from Output to Outcome to Impact

The first six Outcome indicators proposed by the EITI Working Group can be seen as results of the Outputs listed. However, the three membership indicators on companies, investors and supporting countries are difficult to classify as Outcomes since there is no measurable change to behaviour that they must undergo as part of their adherence to EITI. These are rather Outputs or at best Intermediary Outcomes as a function of outreach activities. But all can easily be measured as global aggregates.

The Outreach indicators (Reporting/Communications) track results mostly at country level. But these indicators record the number of messages rather than their consequence, which is what one wants for Outcomes: has outreach led to more awareness and actions on the issues raised? Without being able to answer these questions, it becomes difficult to follow the results chain to the “Big Picture” results that EITI says it contributes to. And this link is critical to document because the typical result is that messages sent out by themselves seldom lead to changes in attitude, and much less in behaviour.

This is seen even in reasonably easy information dissemination situations. Basic health care messages to reduce water-borne diseases are targeted at poor populations that have a presumed strong self-interest in following cost-free simple rules. Yet agencies like Unicef find in their Knowledge-Attitude-Practices (KAP) studies that they have problems moving from people acquiring the information (knowledge) to an acceptance of the relevance (attitude). But going from there to sustainable changes in actual behaviour (practices) has often proven to be frustratingly difficult, time-consuming and labour-intensive. Yet without that last step, no meaningful results have been attained.

4.2 Reaching “Big Picture” Results

EITI’s “Big Picture” indicators reflect an ambitious agenda. The societal phenomena that EITI states it may contribute to covers a wide range of issues, as noted at the beginning of this chapter. The empirical findings regarding these presumptive links are looked at in section 4.3 (and Annex G). The issue here is the theory of change-basis for such claims.

EITI contributions to “Good Governance” build on the same assumptions as other governance initiatives. EITI is part of a body of thought regarding donor support to facilitate democratic transitions. A basic assumption is that ‘good things go together’: democratic transitions build on the foundations of well-functioning states, so state building and democracy development are seen as consistent, so support for one form of democratic development will benefit also other governance dimensions. In many countries this simply is not true, so such an assumption must be challenged and tested (Rakner et al. 2007).

Real results demand more and context-adjusted actions to succeed. Results from external governance support have often been disappointing (Carothers 2002). It is now recognised that democracy, understood as ‘accountable governance’, can only develop based on strong domestic pressures; that progress along one dimension of democratic reform does not necessarily create positive ‘spill-over’ effects into others but generally requires own and specific actions to succeed; and that goals and timeframes must be realistic and context aware. A recent survey of the experiences draws four conclusions: (i) ‘Good governance’ support is fundamentally a political activity and thus needs to be embedded in national political processes; (ii) support based on the application of a general blueprint is unlikely to lead to progress; (iii) assistance must be harmonised to avoid needless duplication; and (iv)

there is still insufficient knowledge of what works and why, so there is a need for additional research and evaluation (Overseas Development Institute 2011).

EITI is both “good practice” yet suffers classic short-comings. The EITI approach is a ‘good practice’ example of how to structure support yet also suffers from some of the weaknesses noted above. On the positive side, all national EITI implementation is based on local ownership, and the commitment to implementation in a democratic manner with genuine engagement of a multi-stakeholder group is verified as a key dimension. This means that the EITI is to a considerable extent embedded in local political processes.

The degree of harmonisation of EITI programmes with similar or complementary efforts varies. In Nigeria and Gabon, EITI was originally part of a government-wide effort to improve governance and eliminate corruption, so part of a harmonised programme. With changes in governments, this more systemic approach has weakened. In Mongolia, the EITI process seems better embedded in larger reforms, though primarily within the sector.

The degree to which EITI follows a common “blueprint” varies. Each national body is free to set its own agenda, so Nigeria includes physical and organisational dimensions, Mongolia includes lower administrative levels. But other states have taken a “minimalist” approach to EITI and carried out only the necessary “blueprint” steps to ensure validation.

The need for going beyond basic EITI criteria to move towards stated objectives. There was a recognition that EITI reconciliation exercises on their own could not produce the societal impact EITI aspired to. This has led to various proposals for expanding the EITI agenda, in several directions: (i) a much stronger focus on the value-chain in the sector, beginning with licensing and concessions through audited production levels and costs (i.e., Nigeria moving in this direction), (ii) covering revenues at *all* levels of government (i.e. Mongolia); (iii) *scope* is increased by including other resources (i.e. forestry in Liberia). While there is no agreement at the global level on whether or how the EITI basic standard should be expanded, a number of countries have embarked on more ambitious processes, as noted; some civil society organisations are pushing for further developments; actors like the World Bank are assisting moves that are to address larger governance issues in the sector. And even then it is clear that the ability to move from the particular sector issues to larger societal dimensions such as economic growth, poverty reduction, conflict reduction, etc. will require actions well outside the ambit of the EITI.

EITI requires better defined but localised results chains to justify societal result claims. There are no articulated links between the attributable Outcomes and the “Big Picture” indicators provided. One of the major *logical* problems in this chain is that it begins with Inputs provided at the global level while the end results are to be societal ones in the countries implementing EITI programmes. But the key lesson from the ‘Good Governance’ literature is the need for local anchoring of any change processes. While global EITI can facilitate such changes through support to national implementation – the key mechanism being the validation process and maintenance of the validation standards – the actual results of this support is transmuted through local processes and actors, as reflected in the countries’ quite different experiences and actual performances. But in none of the three countries visited was there an explicit results-chain defined up to societal level – the ambitions were still within the programme and sector.

EITI programming does not start with societal objectives but the operational consensus. The major hurdle for EITI is that its actual activity programming does not start with its overall objectives (the Principles) and an analysis of how best to achieve these (which would be the normal Logical Framework Approach, LFA, for such planning), but has to begin with the operational consensus around increased transparency of extractive industry revenue payments. Results beyond this must be negotiated and agreed at country level. While EITI actors of course understand both these constraints but also how a more complete results chain ought to look, it means that EITI as a body does not so far have a real theory of change up to the societal change levels as it aspires to. “Big Picture” Indicators and Empirical Results

4.3 “Big Picture” Indicators and Empirical Results

EITI societal level results cover many dimensions, requiring wide array of indicators, coming up against data limitations and methodology challenges. In order to verify if EITI is having an impact on various dimensions of societal change, the “Big Picture” indicators in the TOR were used to identify seven dimensions that should be looked into: Macro-economic management/economic growth; poverty reduction; investment climate/international credibility; accountability; transparency and corruption; conflict mitigation; and political and civil rights. In order to assess EITI results, countries considered EITI Compliant and Candidate at the end of 2010 were put together in two country groups. Due to the short time span for EITI implementation, a “difference-in-differences” rather than a regression analysis was applied. This required establishing a compatible reference group, which was done using non-EITI resource rich countries with a GDP/capita below that of Gabon. In order for this approach to be as robust as possible, only indicators that contained data covering both “before” and “after” EITI implementation and with data on all the important countries in these three country groupings were included. The evaluation thus ended up with a total of 13 indicators across the seven indicator-dimensions listed above (see Annex G for details).

Results from the analysis are inconclusive. Table 4.1 provides a summary of the changes identified since EITI implementation began in 2007 between the two groups of EITI countries versus the reference group. While the picture may seem encouraging, there are anomalies that give pause. When looking at the measure of foreign direct investment, for example (Annex G Figure G.8), the conclusion for the post-2007 period is that both Compliant and Candidate countries did better than the reference group. But this is a conclusion with major modifications. While the 2009 value for the two groups of EITI countries is slightly above that of the reference groups, the *trends* are not positive: all three country groups experienced a decline but much greater in the EITI countries than in the reference group. More importantly, however, is that the general curvature is more or less the same for all three groups of countries: increasing as of 2005 with a sharp decline in 2009. These curves thus seem to reflect more general trends: an increased demand and thus higher prices for raw materials leading to higher investment levels, till the financial crisis hits in 2009 leading to the sharp reversal. There is therefore nothing in the general curvature that implies any kind of EITI influence, much less a determinant one.

Aggregation “washes out” country performance, hiding real stories. When the FDI data for the three countries Gabon, Mongolia and Nigeria are included on that chart for foreign direct investments, they reveal quite different profiles (see Figure 4.2 below). Mongolia, as the one Compliant country in this group, shows an investment peak in 2003, followed by a dip and

then a fairly consistent increase since then with an investment rate about double that of the Compliant group as a whole. Gabon has a dramatic increase in investments as of 2001 which actually peaks as of EITI candidature in 2007, but still has an investment rate as a share of GDP that is 4-5 times higher than the Candidate countries as a group. Nigeria, which is a much larger economy and thus will influence the country group average a lot more than Gabon, also experienced a peak in 2006 and a substantial decline in subsequent EITI implementation years. – If taken at face value, EITI candidature and compliance status thus has a *negative* net effect, and where at the least EITI influence did not positively influence the FDI rates.

Table 4.1: Developments, EITI Compliant, Candidate countries vs. reference countries

	Subject	Indicator	Compliant	Candidate
Growth, poverty reduction	<i>GDP level</i>	GDP/cap, PPP-adj.	Higher growth	Higher growth
	<i>Cost level</i>	PPP-level	Equal growth	Equal growth
	<i>FDI</i>	Net FDI/GDP	Higher FDI inflow	Higher FDI inflow
	<i>Education</i>	HDI education	Equal growth	Equal growth
	<i>Health</i>	HDI health	Equal growth	Equal growth
Invest climate	<i>Competitiveness ranking</i>	World Economic Forum	2010: Poor	2010: Poor
	<i>Credit risk</i>	OECD sovereign risk classification	Relative improvement	Relative improvement
Governance	<i>Accountability</i>	WGI Voice and accountability	Equal decline	Equal decline
	<i>Civil and political rights</i>	Freedom House	Stable	Marked weakening
	<i>Transparency</i>	WGI	Less worsening	Less worsening
	<i>Corruption</i>	TI	Strong improvement	Stable
	<i>Conflict</i>	WGI	Improvement	No change

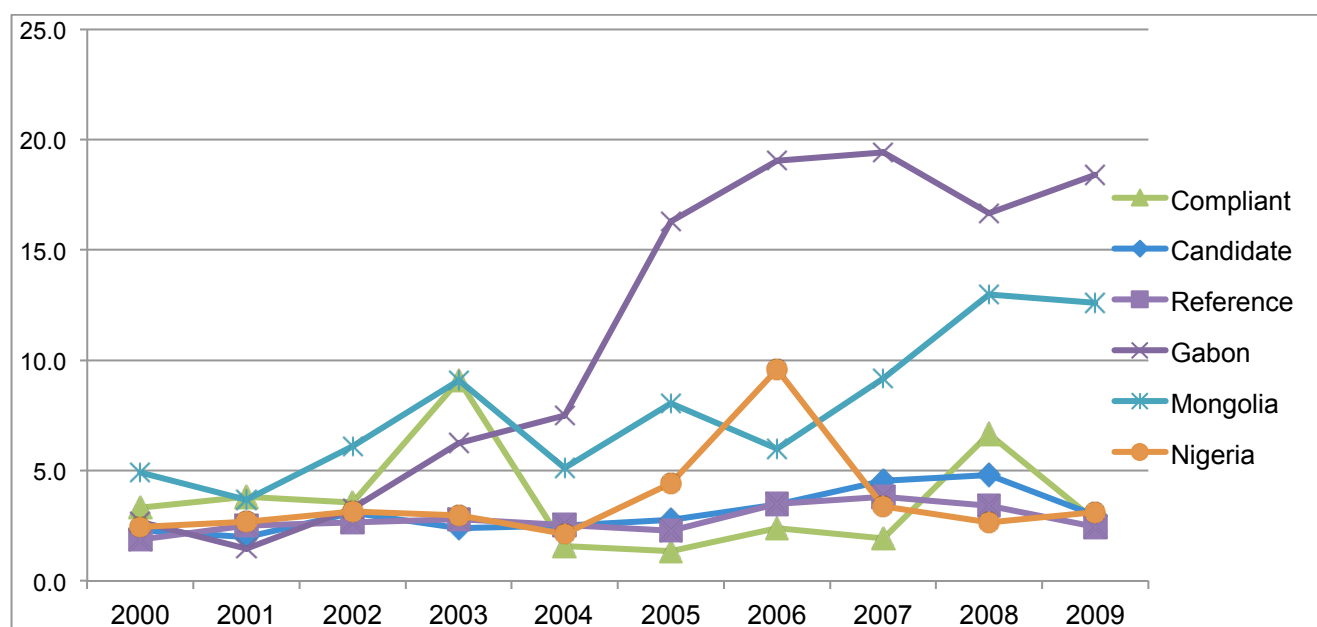
Sources: Various – listed for each graph.

FDI results are not unique: EITI dimensions do not produce useful insights. When analogous analyses are carried out on the other “Big Picture” indicators, the same story emerges: country-specific dynamics by and large do not follow those of the aggregation group to which the country belongs. Country results are rather driven by the particular in-country forces affecting the various dimensions measured, or regional or global forces that have world-wide effects such as raw material demand swings (see Annex F for the case of Nigeria).

Are the EITI country groupings a problem? One reason there is not much conformity between country and EITI-group results is a lack of genuine commonality among them. One could assume that oil-dominated countries would have different trajectories compared with mining-dependent countries because the economics and politics of the resources are so different (The *Open Budget Index* 2010 report notes that oil-dependent countries score much worse than mining

countries on budget transparency – see Box 5.9). Or one could distinguish between countries with stable regimes and well-known political frameworks versus unstable, fragile, post-conflict countries. Within stable regimes, one might distinguish those that are known to be highly corrupt and the stability is built on control and repression versus governance systems that are more open and with greater accountability. One might distinguish countries by income and welfare levels or by geographic region/continent. In short, as soon as one looks into dimensions for grouping EITI countries, it becomes clear that they fragment along so many politically and economically important dimensions that the common factor of being EITI Candidate or Compliant is likely to be insignificant.

Figure 4.2: Net FDI in percent of GDP – values 2000-2009 (complements Fig G.8).



Causality versus Correlation. While EITI, as noted before, explicitly does *not* make strong claims on its importance for achieving societal change, there is still the line of argument that EITI *contributes* in a positive way to such transformations. One might argue that some of the linkages seen in some of the indicators as reflected in table 4.1 show that such claims at least have not been disproven. However, correlation is not causality: for such a linkage to be meaningful, there needs to be a clear statement of causality that justifies such a conclusion. Right now such statements or theory of change cannot be found, and whatever common patterns or correlations one might claim to see in the data – and those are largely non-existent, as already noted – one would have to conclude that this is primarily due to chance but certainly not to rigorous testing of explicit hypotheses.

Country level analyses provide much better grounds for understanding EITI impact. The country level studies on Gabon, Mongolia and Nigeria provide a very different set of findings and conclusions – and which at the same time are quite different from one another, as discussed in chapter 3. In all three cases, the results attained – whether positive and at society level (Mongolia), impressive but at sector level (Nigeria) or limited and largely programme-contained (Gabon) – can only be understood in light of the country-sector context. This is in line with the findings from general ‘good governance’ literature noted previously that sees *political-economic context* as fundamental to understanding societal/sector

change. But if this is true, then the “lessons learned” from the positive cases like Mongolia may have little value to other country situations since “transferability” is limited.

4.4 Findings and Conclusions

EITI does not have a theory of change that can explain how it contributes to societal transformations. The theory would have to demonstrate clear linkage between the EITI and broader governance and development objectives at the national level. In the meantime, the EITI’s claims that it may be contributing to better governance, economic growth, poverty reduction, no matter how vaguely stated or nuanced, have so far no basis in concept or evidence. At the level of theory of change these statements, therefore, remain as general assertions similar to those that any intervention designed to transform a particular social phenomenon may put forward. The findings hold for both the country case studies, where it was not an aspiration articulated by most stakeholders, and for the global assessment.

In line with ‘good governance’ literature findings, EITI exhibits both “good practice” approaches and typical weaknesses. National implementation, with formal verification of the tripartite partnership at its core, represents a “good practice” and important approach to democratic development. The EITI standard is also flexible, allowing for meaningful national adaptation to local concerns and needs. The weak links to other programmes, and in particular lack of strategic partnerships with more general transformational activities like public finance management reforms, limits the probable longer-term impact.

The agreed EITI standard is too weak to guarantee sector-results. While EITI does not have a good theory of change for societal impact, the current EITI standard is also not sufficient to guarantee sector impact since activities are limited to revenue verification. There are proposals for tracing sector performance both backwards in the value-chain and forwards in revenue utilisation, thereby allowing for greater accountability of overall sector performance. The current EITI standard is therefore a “necessary but not sufficient” condition for extractive industry transparency and accountability.

“Big Picture” indicators comparing EITI with non-EITI countries show no meaningful difference and do not constitute a good basis for tracking EITI performance over time. The empirical testing for a range of “Big Picture” indicators did not yield meaningful differences between EITI and non-EITI resource rich countries. Whatever correlation that might be found cannot be attributed to any causality so this approach to tracking EITI performance as a global standard is not likely to provide further insights.

EITI results tracking nonetheless remains important and credible because of the changes being produced in individual countries. While it is not yet possible to track results of EITI at a global level, at country level meaningful change can be documented and attributed to EITI as an international standard. Achievements need to be correctly recorded, however, as there seems to be a bias in documenting positive results and not including the short-comings and disappointments. This provides a skewed picture of achievements and will undermine longer-term analysis of what works where, and why.

Claiming societal consequences of EITI interventions represents a potential reputational risk. More realistic goals-setting would be helpful. While EITI does not make strong attribution claims regarding societal change, it clearly puts forward notions that successful implementation of the EITI standard contributes in the right direction. One thing is that EITI

may be accused of contributing to unrealistic expectations unless it can document such results. There also appear to be examples of governments cynically using such claims to justify their performance by noting that they are in compliance with EITI standards despite serious shortcomings in key governance areas. EITI might therefore consider noting more realistic attributable objectives for its various activities, and in particular help hold national actors accountable for achieving the ones promised at national level.

Conclusions

There is neither empirical evidence nor any rigorous theory of change that links EITI as an international standard to societal change. Rather than try to identify aggregate (global) measures of EITI impact, the organisation should for the time being focus on identifying the good results at national level. There is thus a need for a better, more comprehensive and consistent results framework for achievements at national levels, and for building a global knowledge management system around this.

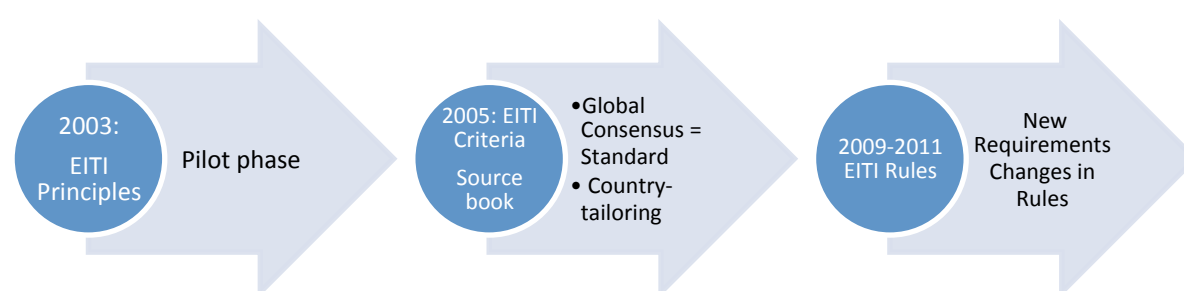
5 The EITI Global Standard

The TOR ask that the evaluation assess the current institutional and managerial framework (principles, criteria and policies, the EITI Secretariat and Board) – the extent to which EITI as an international compact is “fit for purpose”. This chapter focuses on the EITI principles, criteria and the validation system.

5.1 Defining the EITI Framework

The foundations for EITI were set in the early period 2003-2005. The Statement of Principles (“EITI Principles” – see Box 5.1) agreed at the Lancaster House Conference in 2003 represents a cornerstone of the initiative. As shown in Figure 5.1, EITI has undergone an intensive learning and evolutionary process, moving from the EITI Principles to the Criteria and Source Book, and most lately the 2011 revisions to the Rules. The period between 2003 and 2006/7 was also the pilot phase for testing the EITI approach in practice, primarily in Nigeria and Azerbaijan. Based on the experiences from the pilot phase, a need for clearer strategic direction and boundaries was felt. This led to the endorsement of the EITI Criteria (Box 5.2.) and the Source Book at the EITI London Conference in 2005.

Figure 5.1: Evolution Timeline of the EITI Framework



Defining the governance and organisational structure: the International Advisory Group. In 2006, a broad-based International Advisory Group (IAG) chaired by Mr. Peter Eigen was mandated to make recommendations on the management and governance structures of the EITI. There was recognition that robust governance structures and managerial frameworks were needed for the EITI to become a credible international standard. The IAG report therefore tried to answer the following questions:

- How to judge that countries are doing what they say they are in implementing EITI?
- How can EITI better understand and communicate the incentives for different stakeholders in EITI?
- What management and governance arrangements will best ensure the achievement of the EITI’s objectives?

The IAG report made recommendations on validation, governance structures and incentives for implementation, which laid the basis for EITI and the guiding principles ever since.

5.2 EITI Principles: A Global Aspiration

The EITI Principles express a global aspiration while the EITI Criteria provide a pragmatic consensus on implementation. The EITI Principles express the overall purpose and objective of the EITI as later defined in EITI's Articles of Association (2007 – see in particular Art 2.2 at the top of chapter 5) and EITI Benefits presented on the EITI web-page (Box 5.1). This aspiration begins with the extractive industry but extends to hoped-for benefits at societal level. The Principles situate the EITI in the context of a much broader governance and development agenda: a commitment to citizen ownership of resources, transparency, accountability and open debate on development policy. These values apply across government and not just within the scope of the EITI. The Criteria and Rules, including other normative documents (Source Book, Validation Guide, Policy Notes), on the other hand, express the Global Standard based on the consensus from 2005.

When countries join the EITI, they subscribe to both the Principles and Criteria. The Principles and Criteria are different in intention and scope. The Criteria are a limited set of operational standards that must be fulfilled before “EITI Compliant” status can be designated. They are closely linked to the Validation Indicators and represent a consensus around which the core EITI activities are undertaken: tripartite participation, reconciliation, validation and distribution and dissemination of information. There is a clear consensus among stateholders around these operational aspects of the EITI, which are defined in the Criteria.

Box 5.1: EITI Principles

1. We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.
2. We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interests of their national development.
3. We recognise that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.
4. We recognise that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.
5. We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
6. We recognise that achievement of greater transparency must be set in the context of respect for contracts and laws.
7. We recognise the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
8. We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.
9. We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business,
10. We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.
11. We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
12. In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors, and non-governmental organisations.

There is recognition that the scope of the EITI Criteria and the applied Global Standard are too narrow to achieve the higher level goals. Most actors seem to recognize that the aspirations and values stated in the Principles can only be achieved if reforms are implemented government-wide. This means that the EITI must be implemented in combination with other reforms that are complementary and based on the same aspirations. The EITI Principles, therefore, are development oriented and need links to broader reforms. Then, and only then, can EITI lead not only to strengthened transparency in a limited sense, but within the extractive industries it should encompass reduced corruption, increased tax compliance, improved revenue management and resource allocation, contribute to strengthened governance and accountability and thus have larger societal impact.

5.3 The Global Standard; Its Interpretation and Application

The six Criteria agreed in 2005 include a collaborative tripartite approach to the implementation of procedures for disclosure, dissemination and discussion of tax payments and revenue from the extractive industries at country level (see Box 5.2).

Box 5.2: EITI Criteria

1. Regular publication of all material oil, gas and mining payments by companies to governments (“payments”) and all material revenues received by governments from oil, gas and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive and comprehensible manner.
2. Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
3. Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator’s opinion regarding that reconciliation including discrepancies, should any be identified.
4. This approach is extended to all companies including state-owned enterprises.
5. Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.
6. A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.

The formal performance criteria remain unchanged since 2005 but rules and clarifications have been updated. The consensus on EITI’s scope as defined by the six Criteria has been maintained as the Global Standard since 2005, but the Board and the Secretariat recognized the need to present more comprehensive explanations and clarification of the EITI Rules as questions arose and uncertainties were identified. In 2009 the first compilation of EITI Rules were published. Since then, further explanations of the Global Standard, including more guidelines, have been published and agreed at Board level on a case by case basis, primarily through Policy notes 1-6 that addressed a range of issues stakeholders’ agreement of work plans; the procurement of validators; the Board’s mandate for setting deadlines for reporting, validation and achieving compliance, among other issues. EITI has also developed and published a substantial amount of guidance material (see Box 5.3). The evolution of the Policy Notes and the comprehensive EITI Rules are seen as fundamental exercises.

Box 5.3: Examples of EITI Normative Documents and Guidance Material

- EITI Principles (2003)
- EITI Criteria (2005)
- EITI Source Book (2005)
- EITI Validation Guide (2006)
- Implementing EITI (2008)
- How to become a supporting investor (2009)
- EITI Company validation form (2009)
- EITI Guide for legislators(2009)
- Case study Liberia (2009)
- Advancing the EITI in the mining sector (2009)

The 2011 Rules: Bringing all the 'lessons learned' together. Through recent validation processes and the wider range of EITI implementation processes, EITI as an international body including validators and implementing countries, have gained more experience in the application of the Rules. There was a need to bring all the experiences together and define the requirements and minimum standards for each Indicator in the Validation process. To address this, the Board endorsed the revised *EITI Rules 2011* at the 5th Global Conference in Paris in March 2011. This addressed most of the gaps that had been identified, and also included the Policy Notes, the Validation Guide and the Principles and Criteria in one publication. *EITI Rules 2011* furthermore provide a more prescriptive and comprehensive guide for implementing countries, but also provide some changes to rules, such as:

- *Strengthened sign up requirements:* Countries must now have the MSG in place prior to sign up, whereas previously this was to be addressed once a country was admitted as a Candidate country. The reason was partly to ensure that the MSG could participate in the elaboration, priority-setting and approval of the EITI work-plan, but also because getting a functional MSG in place was time-consuming and could hold back other activities that were central to becoming a Compliant country.
- *Time limit on candidature.* EITI originally had no restrictions on the time period of candidature. The 2011 Rules stipulate that Candidate countries have 18 months to publish an EITI report and two and a half years to submit a final validation report endorsed by the MSG. Countries that demonstrate meaningful progress but do not achieve compliance will have their candidacy extended for an additional 12 months. If a second validation does not verify Compliance at the end of this period, the country will be delisted.

Much needed strengthening of Quality of reports. The requirements on the quality of reporting have been strengthened on a range of issues, such as materiality, scope and company participation, including barter and possibly social payments. This is meant to address the complaint that the quality of some of the reporting was so poor or incomplete so that it did not make a meaningful contribution to public discussion.

Much needed strengthened of reconciliation process put in place. Stakeholders, and in particular a number of the independent administrators and validators, have stressed the need to strengthen data reliability and procedures for data gathering from companies and governments, such as the need for certification of information disclosed by companies. Some

of these issues are captured by the 2011 revision, although there are still some gaps in some of the indicators between what is required and what is feasible in the realities on the ground due to the fragile contexts and institutions (see later regarding the validation process).

The need for explicit requirements on regularity and timeliness of reporting has been addressed. Regularity and timeliness of reporting has been explicitly stated as a requirement, and clarity of this requirement is hence also a positive step.

Important emphasis on need for strengthened representativeness and independence of civil society representatives in MSG. The validation reports have addressed questions related to representativeness and sometimes also the actual independence of civil society representation, which has emerged in the cases of Nigeria and Gabon as well. Increased emphasis on this issue is important.

Some gaps on importance of links to broader reforms It can be noted that the validation process concentrates on the Criteria and the EITI Global Standard as expressed by the consensus 2005. The validation guide does not put any emphasis on links to relevant public financial management reforms, including revenue management. The three country cases make the case for these links providing added value to EITI in terms of strengthened outcome.

5.4 Validation as Certification

Validation is at the core of quality assuring the EITI brand. As noted in the EITI Validation Guide, validation serves two functions. It is to promote dialogue and learning at the country level, and it safeguards the brand by holding all EITI implementing countries to the same global standard. The validation itself is to be carried out by an independent validator, selected by the national multi-stakeholder group and paid for by the national government, but chosen from a set of 13 international firms that have been approved by EITI internationally as qualified for the task. With the 2011 Rules, there are 20 requirements that need to be fulfilled for successful validation as Compliant (see Box 5.4).

Global standards are not always compatible with national ones. Francophone African countries in particular have complained that the audit requirements (12 and 13) were not compatible with their national legislation and approaches with regards to company and public accounts. Furthermore, many countries do not (yet) adhere to international audit standards when it comes to the public sector, for a number of reasons¹. It becomes, therefore, difficult to certify that this requirement has truly been fulfilled. The way around this has been for the MSG to accept a statement by the national supreme audit institution regarding

¹ The normal reference is to the **International Public Sector Accounting Standards (IPSAS)**, which are a set of accounting standards issued by the IPSAS Board for use by public sector entities around the world in the preparation of financial statements. These standards are based on International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) and also recommended by INTOSAI (International Organisation of Supreme Audit Institutions). Of the three countries visited during this evaluation, **Gabon** has not adhered to IPSAS, **Nigeria** has the intention of introducing cash-based IPSAS standards while in **Mongolia** the *Management and Financing Law for Budget Entities* specifies that state entities prepare financial statements on the accrual basis of accounting. The Ministry of Finance provides public sector entities with the current IPSAS handbook for this purpose, though it is not clear how far implementation has come.

the accuracy of government's submission plus a demand that the government provide a time-bound plan for getting international standards in place, though there is no realistic way for enforcing such a demand.

Box 5.4: EITI Validation Requirements (2011 version)

Sign-up requirements

- 1 The government is required to issue an unequivocal public statement of its intention to implement the EITI.
- 2 The government is required to commit to work with civil society and companies on the implementation of the EITI.
- 3 The government is required to appoint a senior individual to lead on the implementation of the EITI.
- 4 The government is required to agree with key EITI stakeholders and publish a fully costed work plan, containing measurable targets, a timetable for implementation and incorporates an assessment of capacity constraints.
- 5 The government is required to establish a multi-stakeholder group to oversee the implementation of the EITI.

Preparation requirements

- 6 The government is required to ensure that civil society is fully, independently, actively and effectively engaged in the process.
- 7 The government is required to engage companies in the process.
- 8 The government is required to remove any obstacles to EITI implementation.
- 9 The multi-stakeholder group is required to agree a definition of materiality and reporting templates
- 10 The organisation appointed to produce the EITI reconciliation report must be perceived by the multi-stakeholder group as credible, trustworthy and technically competent.
- 11 The government is required to ensure that all relevant companies and government entities report.
- 12 The government is required to ensure that company reports are based on audited accounts to international standards.
- 13 The government is required to ensure that government reports are based on audited accounts to international standards.

Disclosure requirements

- 14 The organisation appointed to produce the EITI reconciliation report must be perceived by the multi-stakeholder group as credible, trustworthy and technically competent.
- 15 The EITI Report must disclose all material oil, gas and mining revenues received by the government.
- 16 The multi-stakeholder group must be content that the organisation contracted to reconcile the company and government figures did so satisfactorily.
- 17 The EITI report must identify discrepancies and make recommendations for actions to be taken.

Dissemination requirements

- 18 The EITI report must be made publicly available in a way that is publicly accessible, comprehensive and comprehensible.

Review and Validation requirements

- 19 Oil, gas and mining companies must support EITI implementation.
- 20 The government and multi-stakeholder group is encouraged to take steps to act on lessons learnt, address discrepancies and ensure that EITI implementation is sustainable. Implementing countries are required to submit Validation reports in accordance with the deadlines established by the Board. Source: EITI Guidelines 2011.

The rigid timeline for validation is not useful either for learning or for development. The two-year timeline for validation has turned out to be more of a straight-jacket than a useful incentive for performance. To date, most countries have not been able to hold to the timeline and had to ask for extensions yet in most cases the final validation exercise has been a rush to meet deadlines rather than a time for careful reflection and learning. While the deadline has focused attentions and mobilized actors, it has led to a "one-time performance" approach where fulfilling the requirements at that moment has been the overriding concern. This

means that instead of validation being an important step in a longer-term process of reform, it becomes an end in itself since after validation EITI has little to offer in terms of incentives or support that can further contribute to a country's reputation or sector performance.

Time-limited deadlines are not compatible with "good practice" lessons. A key purpose of EITI is to contribute to improved governance. The general experience with such reform processes is that they tend to be more complex than originally envisaged, and require more time and political will than expected². This is borne out by the experiences in two of the three countries reviewed in this evaluation: regime changes led to shifts in political priorities including a drop in support to EITI which slowed down local implementation. A number of EITI countries are also so-called vulnerable states or in a post-conflict situation. It is known that for such regimes it is often difficult to maintain continued political pressure on a process that may involve strong actors with particularistic agendas. From a development process point of view, experience is that it is counter-productive to impose a timeline by external actors since it means that the process will not have time to build a solid local anchoring but instead answers to outside concerns and incentives. This will strengthen the tendency to "produce for the indicators" rather than embed EITI in a national agenda.

Validators have followed different practices and have been criticised for inconsistency. Validation reports reveal that different validators interpreted the documentation requirements for their conclusions in different ways. In some cases validators accepted documentation or argumentation that the Validation Committee felt was not satisfactory. In one case, however, the validator found a country not to be in compliance on several requirements while the EITI believed that the results and their documentation were sufficient. These differences caused some frictions between various actors during the finalization process. Governments got irritated at EITI bodies when they had submitted validation reports that claimed they were compliant only to be told by the EITI that this was in fact not the case. EITI got irritated at validators for not doing a proper job. For their part, validators felt squeezed between unclear criteria (from the EITI) and unreasonable constraints (time, financial and expectations).

Several reasons have been given for this situation. One is that EITI requirements *have* agreed which in practice strengthens the EITI Rules, as noted above. Another is that the contracting of validators by the government has created two problems. The first is that government is both the client and the subject of study while at the same time having a lot riding on the findings of the validator: the MSG contracts a validator because it believes that the country is now in compliance and the validator is to come in and document this. The expectations and pressures on the validator are thus considerable. The other aspect is that the MSG is to choose among 13 pre-defined firms, and in principle all of them are qualified to carry out the task so the deciding factor tends to be price. A number of validators note this has led to a process of "race to the bottom": the firm that can offer the lowest price is most likely to win. This means that firms are pressured to reduce costs, and the easiest way to do this is to simplify the process where possible.

² See for example Brian Levy and Sahr Kpundeh, "Building State Capacity in Africa: New Approaches, Emerging Lessons" (World Bank 2004).

While validation is in places referred to as an audit or evaluation, the process often has not acquired that level of thoroughness and independence. This is compounded by the fact that the number of validations is limited and most firms that have won contracts have had limited exposure to the process and thus few learning opportunities. EITI has not provided any specific training for validators, in part based on the assumption that those firms short-listed as validators would have no need for this since a key criterion was exactly their experience with validation-like activities.

The EITI Board and Secretariat, but the Validation Committee in particular, have shown an outstanding commitment to the standard, but require more support. The validation process has turned out to be a demanding task for the EITI central bodies. The Validation Committee in particular has faced an enormous workload in 2010 since so many countries were up for validation at the same time. The Secretariat and the Committee, in dispensing their obligations, have faced a number of difficult questions and border-line decisions when reviewing the draft and final validation reports. Complaints of inconsistency in judgment by some of those who got reports returned for further work are to be expected, but the Validation Committee is clearly the body within the EITI system that has worked the most and seen all of the reports, and thus is the real “keeper of the standards”. Since this is a sub-committee of the Board, it raises issues of institutional memory and consistency as Board members change. While the EITI Secretariat is also an important quality assurance body in the system, its tasks have so far been more limited. In other standards-setting bodies one often finds that the secretariat plays a stronger role in both supporting and guiding the work in the field, and in verifying how the standard is being reported. The 2011 revisions of the validation requirements provides an important step in making issues transparent and in institutionalising the standard, but there is undoubtedly more work to be done and the Secretariat should be counted on to be able to carry most of this.

5.5 EITI Validation versus other Certification Approaches

EITI validation mimics an ISO standard as its certification system, which may be too rigid a model. The EITI validation is based on an external verification of the observance of the standards – a necessary step if the EITI standard is to become internationally credible is to be mainstreamed. The basic principle chosen was to define a clearly specified universe of dimensions that made up the standard, and then set border (minimum) values that had to be fulfilled for each one of them. This is largely in line with the approach taken when establishing ISO standards (Box 6.5 below). The ISO has a Vision, Mission and a Strategic Plan that can easily be translated into the EITI universe. But for this ISO approach to be most adequate, there are certain condition which need to be in place (i) the universe of dimensions must truly cover all the important aspects of the standard, (ii) the threshold values for approval should be clear, easily understood by all who are to apply them, and seen as fair: in other words, the bar should be set neither too high nor too low for the standard to be approved, (iii) the principle that if you fail one dimension you fail the entire test is seen as fair and necessary, (iv) there should be no benefit/recognition of performance that is better than the minimum standards, as there is only this one Yes/No certification value possible.

These conditions are, in the case of EITI, not in place or may not be desirable. (a) The 20 validation requirements have a narrow focus on verifying the transfers of tax monies. A number of stakeholders feel this is too narrow when compared with the Principles, and that

locking the EITI requirements to this minimum makes it a static and “backward-looking” rather than a dynamic standard. (b) Having rigid minimum standards that need to be met, while promoting national implementation based on country adaptation and institutional linkages to broader reforms, is not consistent. Having *one* standard for all cases such as government audit, for example, may not be useful. (c) The fact that validation requires passing *all* tests is in most cases useful as a means of defending a global standard. But it does potentially hold the validation hostage to reluctant partners, however insignificant they may be, which may put a country’s entire certification at risk. (d) A Yes/No certificate means that countries with very different performances along key dimensions receive the same “seal of approval” from the EITI. For a certification scheme that is meant to signal real achievements to private companies and investors, the value of the standard becomes problematic. The overall objectives of EITI are development oriented and the certification scheme should reflect and support the necessary impetus for development dynamics to take place.

Box 5.5: The ISO and Standards.

The leading body when it comes to defining and defending standards is the International Organization for Standardization, ISO. At the end of 2010, 163 national standards bodies were members, providing “*business, government and society with practical tools for all three dimensions of sustainable development: economic, environmental and social*” through its about 18,500 standards. The best known are ISO 9000 “*Quality Management*” and ISO 14000 “*Environmental Management*”. Recent additions include ISO 26000 “*Social Responsibility*” and ISO 31000 “*Risk Management*”.

ISO’s **Vision** is “*To be the world’s leading provider of high quality, globally relevant International Standards through its members and stakeholders*”, while its **Mission** is to develop “high quality voluntary International Standards that facilitate international exchange of goods and services, support sustainable and equitable economic growth, promote innovation and protect health, safety and the environment”. ISO develops its standards through a process that (a) Ensures consensus amongst stakeholders and across countries, through the national delegation principle, (b) Is fully compliant with the core principles affirmed in the ISO Code of Ethics, that require the process to be open, transparent and impartial, (c) Increasingly facilitates and supports the participation of developing countries

In order to ensure that standards are maintained, “Conformity assessments” are carried out. These verify that products, services, systems, processes or people **measure up to the specifications** of a relevant standard. ISO guides and standards represent an international consensus on **best practice**. The Conformity Assessments are not done by ISO but by national bodies based on local legislation and practices, where ISO facilitates by providing guidance and explanation of standards. National standards bodies are the ones that normally certify the actors that on their behalf carry out the Conformity Assessments, based on training and passing certain quality and qualification tests.

In its 2011-2015 Strategic Plan, the ISO presents seven objectives, including (ii) ISO standards promote innovation and provide solutions to address global challenges, (iii) the capacity and participation of developing countries is significantly enhanced, (iv) ISO excels in reaching out to and engaging stakeholders, (v) ISO fosters partnerships that further increase value and development of International Standards, and (vii) ISO and the value of voluntary International Standards are clearly understood by customers, stakeholders and the general public. – See www.iso.org various sections.

As an illustration it seems clear that Norway, as one of the countries recently validated, performs better than a number of other EITI Compliant countries on dimensions that are important according to the EITI Principles. Yet they all get the same certificate. This lack of differentiation is particularly problematic because the rigid minimum values allows countries that want to, to perform to exactly minimum standards and nothing more, and yet get the same EITI approval as other more dynamic EITI members.

EITI remains a successful brand and standard but should learn from other standards bodies. While EITI validation may be too rigid, it should be recognized that EITI has avoided some of the weaknesses that other standard setting bodies seem to face. The *Kimberley Process*,

which in many ways was a “model” for EITI as it addressed the lack of transparency surrounding “conflict diamonds”, celebrated its tenth anniversary last year (Box 5.6). While it has chalked up important achievements, it is seen as too weak to fully address the sector problems. Smuggling and commercialisation of diamonds through neighbouring countries continues. Only certifying un-cut diamonds and not tracking the full value chain does not prevent conflict diamonds from entering the market. The inability to come to agreement on how to react to the abuses by the state in the Marange diamond fields in Zimbabwe, despite a Kimberley Process review documenting the problems, underscored the weakness of a consensus-based body. And the lack of a permanent secretariat and technical capacity has weakened its ability to address problems in the scheme.

Box 5.6: The Kimberley Process

The Kimberley process started when Southern African diamond-producing states met in Kimberley, South Africa, in May 2000, to discuss ways to stop the trade in ‘conflict diamonds’ and ensure that diamond purchases were not funding violence.

In December 2000, the UN General Assembly adopted a landmark resolution supporting the creation of an international certification scheme for rough diamonds. By November 2002, negotiations between governments, the international diamond industry and civil society organisations resulted in the creation of the Kimberley Process Certification Scheme (KPCS) which sets out the requirements for controlling rough diamond production and trade. The KPCS entered into force in 2003, where participating states must meet ‘minimum requirements’ and put in place national legislation and institutions; export, import and internal controls; and also commit to transparency and the exchange of statistical data. Participants can only legally trade with other participants who have also met the minimum requirements, and international shipments of rough diamonds must be accompanied by a KP certificate guaranteeing that they are conflict-free. See www.kimberleyprocess.com

According to one of the key participants in the Kimberley Process (and EITI), *Global Witness*, “The Kimberley Process has chalked up some notable achievements ...including pioneering a tripartite approach to solving international problems, and helping some of the countries that were worst-hit by diamond-fuelled wars to increase their official diamond revenues... Despite the existence of the Kimberley Process, diamonds are still fuelling violence and human rights abuses... despite the fact that the KP has 75 member countries, it has no permanent secretariat, no funding and no central repository of knowledge or ongoing institutional capacity. This has led to a lack of continuity between chairmanships – the KP chair rotates amongst the member countries on an annual basis – insufficient monitoring and a slow response to crisis situations... Consensus decision-making means that one participant can block progress on key issues. The KP has been unable to take strong decisions to crack down on cases of serious non-compliance”. See www.globalwitness.org/campaigns/conflict.

The *ISEAL Alliance* is “a body of certification bodies” addressing social and environmental standards (Box 5.7). It was set up in 2002 and includes actors such as the Forest Stewardship Council (FSC) that was established to address unsustainable deforestation, and Fairtrade. It has a secretariat and a validation process similar with EITI’s Candidate/Compliant members. Like Kimberley and EITI, the idea of tripartite partnership is central, but since it is a “certifier of certifiers” it does not interact directly with the key stakeholder groups. It focuses on sustainability problems and as such is a forward-looking body, but its sphere of concerns in terms of economic and political interests is too narrow to provide it much visibility or clout.

Box 5.7: The ISEAL Alliance

ISEAL is the global association for social and environmental standards, and works with companies, non-profits and governments to support their referencing and use of voluntary standards.

ISEAL came about when several certification organizations found that while they dealt with different goods, there were overlaps in their systems. They agreed to form an association, and in 2002 ISEAL

was registered in the UK as a not-for-profit company. Well-known members include Fairtrade, the Forest Stewardship Council (FSC) and the Rainforest Alliance/Sustainable Agriculture Network.

ISEAL members are committed to creating solid and credible standard systems that give business, governments and consumers the ability to choose goods and services that have been ethically sourced but most of all help the environment and guarantee producers a decent living. There are therefore ISEAL Codes of Good Practice in areas such as *Setting Social and Environmental Standards*, for *Assessing the Impacts of Social and Environmental Standards*, for *Assuring Compliance with Social and Environmental Standards*. Potential ISEAL members first fill in a Pre-Assessment form documenting current practices and commitments. This is reviewed by the ISEAL Board before an Associate status may be granted. The organizations then have one year to complete a three-step verification process to become recognized as ISEAL Compliant and full ISEAL Members: (i) Complete a detailed self-assessment form, (ii) This is reviewed under an Independent Evaluation Mechanism, IEM (iii) Based on the recommendations of the IEM the ISEAL Board of Directors then takes a final decision on full membership. There are currently 11 full members and 11 associate members. See www.isealalliance.org

The EITI may want to look to more open ratings schemes for capturing the complete performance of national EITI bodies. In the EITI principles, management of the financial resources from extractive industries is paid considerable attention. A number of bodies track the issue of the use of resources through a number of performance management tools. One approach that follows the government's entire budget cycle is the *Public Expenditure and Financial Accountability (PEFA) Performance Management System* (Box 5.8). This was put together in 2005 by the international community based on *good practice* experiences from the World Bank, the IMF and a number of donor countries, in order to measure the effects of budget support. Three aspects of PEFA are of interest here. The first is that it tracks the complete "value chain" of public finance management, from budgeting, expenditures, audits to dissemination and parliamentary debate. The other is that for each of the 28 indicators measured, a country can receive four different scores basically ranging from "international good practice" to "very poor". That is, there is no certification *per se*, simply a performance grade. The third is that the ratings constitute important information for decision making on a permanent basis: there will always be areas where performance can be improved, and within a public finance reform process a PEFA review can help identify the priority areas³.

The PEFA system has deliberately made the aggregation of scores difficult in order to avoid an exaggerated focus on overall score and cross-country comparisons, since this is not the main objective of that instrument. *Global Integrity* and *the International Budget Partnership* have instead deliberately gone for quantified ratings for their reports on transparency and accountability in government (Box 5.9). Both define the dimensions to track and then provide ratings on all sub-components. These are then aggregated up to a final score that goes from 0 to 100, using somewhat different methodologies both for arriving at the individual scores, and the aggregation. While the scoring tries to be rigorous and cross-country compatible, both organizations recognize the margins of error that obviously exist, so countries are put into general performance classes that cover a band-width of scores. Both organizations provide comprehensive documentation on how the individual scores were arrived at and who is responsible for them, so that it is possible to challenge the results and engage in

³ In 2007, Norway became the first OECD country to carry out a PEFA review in 2007. As the PEFA Secretariat notes, the important thing was not that Norway scored "C" and "D" on some indicators, but that Norway took the analysis seriously and put in place a reform programme to address the weaknesses that were seen as important.

dialogue with the analysts (this is also the case for PEFA reports). As with the PEFA reports, one can look at the variable performance by sub-dimension as the more interesting data.

Box 5.8: Public Expenditure and Financial Accountability (PEFA)

In order to assess countries' public finance management (PFM) systems, the international community agreed to a Public Expenditure and Financial Accountability (PEFA) Performance Measurement System in June 2005. It is based on tracking six dimensions of a country's PFM: (i) The main PFM Output - credibility of the budget, (ii) Key cross-cutting issues - comprehensiveness and transparency of the system, (iii) Assessment of the budget cycle – (iii-a) policy-based budgeting, (iii-b) predictability and control in budget execution, (iii-c) accounting, recording and reporting, and (iii-d) External scrutiny and audit. This is done through measuring performance along 28 indicators (a further three indicators measuring donor performance when donor funding is an important part of the budget is also part of the system). For each indicator there is a scoring scheme from A (best) to D (worst). Criteria are defined for the four score alternatives for each of the 28 indicators so that scorings are based on quite objective criteria. Letters rather than numbers have been used to avoid actors aggregating and “averaging” scores, so PEFA scores are used primarily to track performance over time on the various indicators. But the scores may for example reveal that some PFM dimensions in general score better than others. This can be used to prioritize technical assistance to these fields such as strengthening the audit function or improve expenditure management.

While PEFA reviews were carried out by external evaluators to begin with, in many countries PEFA reviews have become part of national PFM processes, such as annual budget reports to parliament. These can be carried out by national consultants or public bodies – countries have chosen different practices. But they have become a commonly used instrument, with over 200 PEFA assessments in over 80 countries having been completed. See www.pefa.org

One valuable aspect of these two ratings schemes is that they are easy to “hook up” to: if one wishes to incorporate either overall ratings or sub-dimensions of them in an own ratings scheme, this is simple as the scoring from 0 to 100 is easy to understand and in principle possible to replicate along other dimensions. When aggregating these various measures the issue becomes one of weighting the different contributions to the final index, something that can be discussed based on what the “index of indexes” is supposed to track. The EITI validation as it is today cannot be linked up with other complementary measures.

5.6 Findings and Conclusions

5.6.1 EITI Standard

Today's EITI Standard falls short of the EITI Principles and are limited. Current implementation of the EITI Standard remains based on the EITI Criteria rather than the EITI Principles. This is a function of EITI being a consensus-based body, so standards and agreements easily fall to the level of least common denominator. It also seems clear, however, that the international community is moving its expected standards regarding “good governance” forward, and that any standard that aspires to become global needs to be dynamic and work towards reaching what is actually a standard and not simply an acceptable level of implementation. EITI risks falling into the latter category if it does not challenge itself to make its standard more in line with its Principles, as a number of stakeholders have strongly suggested. Gradually narrowing the gap between Principles and the Standard will be fundamental for continued relevance and future impact.

Box 5.9: Ratings Systems: *Global Integrity* and *Open Budget Index*

Global Integrity publishes the ***Global Integrity Report***, which is an assessment of the degree of transparency and accountability of government along six dimensions: (i) civil society, public information and media, (ii) elections, (iii) government accountability, (iv) administration and civil service, (v) oversight and regulation, and (vi) anti-corruption and the rule of law. For each dimension there are three to five sub-dimensions against which the government is rated. The ratings are based on a total of 84 questions, where the answers to the questions

determine the score the country gets on each sub-dimension, going from 0-100. The rating on each dimension is the average score on the sub-dimension, and the score for the country is the average across the six dimensions.

The Index “assesses the existence, effectiveness, and citizen access to key anti-corruption mechanisms at the national level in a country. It does not measure corruption per se or perceptions of corruption” (see web-site). The country reports contain a detailed answer to each question, an in-depth story on corruption in the country, and thus provide a quite comprehensive picture. The reporting on countries is uneven, however, as some countries have a series of reports beginning in 2004, while others may have only one, and then even for a year somewhat back in time such as 2006. See www.globalintegrity.org.

The *International Budget Partnership* (IBP) has since 2006 published its **Open Budget Survey** every other year. The Survey is based on a questionnaire of over 120 questions regarding eight key budget documents that a country ideally ought to produce and publish to international standards. These standards are based on IMF, OECD and INTOSAI (International Organization of Supreme Audit Institutions) *good practice* criteria. The survey also looks at public budget oversight by the legislature and the national audit institution. The questionnaire is filled in by an independent institution in each country, where the documents are assessed on availability, timeliness and comprehensiveness of content, etc. Each country receives a score from 0 to 100 based on the document ratings, where the major analysis is trends over time within each country. On their web-site, the IBP provides completed questionnaires, country summary reports, examples of how civil society organizations have used budget reports, explanation of the methodology, the list of researchers who have filled in the questionnaires, etc.

One interesting finding in the 2010 survey is that oil-dependent countries are much less transparent than mining sector and non-resource dependent countries. The 24 oil countries scored a low 26 average while the 13 mining countries and 57 non-resource rich countries scored on average 48-49. See www.openbudgetindex.org.

If EITI wants its standard to become global and mainstreamed, this will require an explicit strategy. The initial ambition that the International Advisory Group put forward, that the EITI could be mainstreamed as a global standard within three to five years, has of course not been possible. The ambition itself may be a correct one. However, it will require a serious analysis of both the role and contents of such a standard within the universe of standards that already exist, and a clear strategy for moving this standard forward, if that is the objective EITI believes it should have.

In order to become a strong credible international standard, EITI should focus on documentable achievements. EITI as an international compact puts forward a number of (likely? probable? hoped for?) benefits/results from EITI interventions. As noted in chapter 5 there is so far little in terms of rigorous theory of change and even less in the form of empirical evidence to back up a number of these statements. EITI therefore faces several challenges. The first is to be more rigorous with regards to documenting those societal effects that actually can be traced back in some form to EITI interventions. These are at the country level and in a form that tends to be country-dependent and therefore neither allows for easy aggregation at international level nor necessarily easy replication in other countries.

A second issue and linked to this is to invest more in systematic monitoring and evaluation of country results, as the IAG report had asked for, to ensure that those results that are produced are recorded and presented in a systematic way. Finally, EITI should be careful about providing what can be seen as fairly sweeping statements of impacts – as is done in a considerable share of EITI information material – as this may over time create a credibility gap. The complexities and challenges of producing such results are under-communicated, and some of the frustrations seen in countries that fail to reach Compliance, for example, may be linked to over-optimistic scenarios that are presented.

There needs to be greater acknowledgement of the political economy challenges facing EITI implementation. EITI is working in sectors of great political and economic significance in most implementing countries. The country studies identify larger reform processes as key to achieving longer-term results. But the requisite changes to legislative and regulatory frameworks, building institutional capacity, ensuring that EITI contributes to more coherent,

consistent and comprehensive reforms requires link-ups with other actors, issues and agendas. This is especially important for countries where regimes face politically volatile and/or low capacity situations. Yet EITI programmes are too much structured as stand-alone efforts rather than components of larger change agendas.

5.6.2 Validation and Certification

Validation faces challenges in serving its dual purpose of local learning and internationally safeguarding the standard. Setting deadlines for compliance with EITI criteria is troubling, given the universe of countries engaged. For stable and developed countries like Norway a two-year limitation is fine. For countries that are most in need of EITI support and standards – vulnerable states, countries in transition to more open governance – externally imposed deadlines are likely to push towards mechanistic compliance in order to meet the deadline rather than take the time required to build consensus around difficult choices. The rush to compliance means emphasis is on timeliness and not on depth of learning and quality of performance. It also means that fulfilling the compliance requirements may reflect a shallow commitment and no structured follow-up or follow-on, which would seem a greater threat to the standard and brand over time than not meeting some fairly arbitrary timeline.

The use of external validators is appropriate but can be improved. Using external validators is a “good practice” approach to verifying performance and should be continued. Having 13 firms compete for a universe that will probably consist of five to ten tasks a year budgeted around USD 50-70,000 each is not optimal. Most firms get too few tasks to build and maintain skills and experience. Furthermore, while the short-listed firms have general audit/evaluation skills, EITI should provide EITI validation training to ensure that validation reports are consistent and of reasonably similar quality, not least of all to reduce the report assessment workload on the Validation Committee and Secretariat.

Contracting and payment of validators could be an EITI responsibility. In order to ensure adherence to quality standards and avoid possible conflicts of interest situations and undue pressures on the validators, national MSGs should prepare the terms of reference for their validation exercise but the contracting and negotiation of budget should be handled by the EITI Secretariat. This will allow the Secretariat a clearer voice in ensuring that the validation process runs properly but also that sufficient resources are available to address the quality dimensions of process and report. Since at the end of the day it is EITI as an international compact that is responsible for the standard, it should also have a direct role in how it is supervised at country level if it wishes to be a true guarantor of it.

EITI's validation scheme appears too rigid along a series of important verification dimensions and may wish to consider a more dynamic and development-oriented ratings scheme. The EITI validation approach encourages “just in time, just sufficient” performance by Candidate countries rather than incentives for constant improvement and encouragement towards extended value-chain monitoring. It also sets some standards, such as for public accounts audits, that many countries for years will not formally be able to fulfil. Rather than fudging the standards, EITI may wish to consider a more flexible ratings approach that provides a more objective assessment of degree of fulfilment of “good practice” or international standards on key indicators – Box 5.10 discusses such a structure.

Conclusions

The two dimensions of establishing EITI as a global standard – the standard itself, and how it is certified (the validation) – merit serious Board attention in the period to come. EITI should ensure that its standards and validation remain forward looking, flexible, in line with its Principles, and based on “best practice” international approaches. Local adaptations and adjustments to political-economic realities must be accepted, but the certification should reflect actual performance. EITI as a standard-promoting body also should consider what kinds of linkages and alliances may be helpful to promote and defend the standards and the values they are based on, and remain rigorous in documenting its achievements. Focus should remain on learning and constant performance improvements at country level.

Box 5.10: Flexible Rating Scheme may Address Weaknesses in EITI Validation

Instead of an absolute list of criteria that *must* be fulfilled – today no more than such a list of criteria *need* to be fulfilled! – an EITI ratings scheme could encompass “the desired universe” and let each country decide how many of these dimensions it wishes to be rated on. Following PEFA’s budget cycle logic, this “desired universe” could be the value chain from concession to export, but where revenue payments could be given an important weighting in the overall scheme and should be based on the EITI Principles. If a country does not wish to be rated on its concession/contracting performance, it will score a “0” for all the world to see.

Rather than binary values (“Yes/No”) on each dimension, there could be a defined list of ratings, such as with PEFA. For the current requirement of public accounts audits, a maximum value of “5” could be given to countries that adhere to IPSAS accrual accounting standards, a “4” for IPSAS cash accounting, a “2” for a statement by the national audit body stating the accounts are in accordance with Generally Accepted Accounting Practices (GAAP) etc. The decomposed ratings would show where the country is performing well and where it needs to improve.

Such a ratings scheme allows for flexible expansions if EITI agrees that its standards should be modified by including new dimensions⁴. Such a ratings scheme also makes it simple for EITI to create “virtual strategic partnerships” in complementary fields. It can point to ratings schemes that track the value-chain downstream through public finance management assessments; it can report such ratings alongside its own to show how petroleum sector performance is compared with how public finance management is seen; or it can in fact aggregate several such indexes into its own system as long as the ratings systems are methodologically compatible. This opens up the EITI certification scheme to external linkages, both showing how EITI contributes to and perhaps can be seen as part of other systems, but also helps EITI define the boundaries for its own activities and thus helps it clarify where it does *not* need to engage⁵.

Such a ratings scheme can be based on the questionnaire approach used in other systems⁶. A full validation/audit can be carried out for example every three years, and in the intervening two years a partial audit of for example the five poorest indicators or the sub-set of indicators that the government prefers can be done. This allows for a constant update of the scorings, and in particular gives a

⁴ If a ratings scheme for the “value chain” today sums to 100 and EITI later on, in line with ISEAL Alliance standards, wishes to add in environmental and social standards (in the mining/extraction operations), these could be given a weight of 10 each. The old rating scheme would thus be reduced to a maximum of 80points. If a country scored 80 out of 100 in the old scheme, in the new one these points would now count as 64 (80 * 80%). Added to this would be whatever the country scored in the environment dimension and the social dimension.

⁵ Nigeria’s NEITI has tracking of revenue allocations and expenditures as part of its mandate. It would make NEITI’s task a lot simpler if this can be monitored for example through a PEFA or Open Budget Index instead of NEITI itself having to establish and monitor a public finance management system – a near-impossible task.

⁶ The Revenue Watch Institute’s handbook “Drilling Down: The Civil Society Guide to Extractive Industry Revenues and the EITI” contains sets of very good questions for EITI’s validation requirements, for example.

country an annual chance to upgrade in those areas where additional effort will yield the highest pay-off in terms of ratings improvements.

Such a ratings scheme would move EITI away from a one-level certificate to a system of perhaps five classes of performance, each one defined by upper and lower values on the ratings system. No country would presumably ever score a perfect 100, so all countries would have incentives year-on-year to improve performance. The system would also be providing capital and risk assessment markets useful data on where performance has improved, why, and where remaining weaknesses are, and what needs to be done to address them.

6 EITI Global - Fit for Purpose?

Is EITI's governance structure and management instruments "fit for purpose"? This chapter focuses on the governance institutions and some of the organisational dimensions of EITI at global level. A governance assessment was recently carried out of the EITI that focused on the Articles of Association while this evaluation was asked to pay attention to the EITI Secretariat.

6.1 EITI Governance

The EITI Governance structure provides for broad-based consultative bodies and a small operational support system. Following the recommendations from the International Advisory Group, in 2006 the 20-member **Board** was constituted with members reflecting the multi-stakeholder nature of EITI. The responsibilities, constituencies and the procedures for nominating members have been defined, making the Board the executive body of EITI as well as the key rules-setting and decision making body. In order to make the Board more flexible and operational, sub-committees have been established to provide oversight and prepare decisions for full Board decision, including the *Validation Committee, the Rapid Response Committee, the Outreach and Candidacy Committee, the Governance Committee, the Finance Committee and the Audit Committee.*

Global meetings discuss the overarching issues. EITI's Articles of Association require a bi-annual Conference as a forum for all EITI stakeholders to express their views on policies and strategies. Linked to this is the EITI Association's Members' Meeting, where those actors who are formally members of EITI meet to approve the Board's progress report, the accounts and the activity plan, approve the Board members proposed by the various constituencies, and elect the Board's Chair.

An EITI Secretariat was first established and housed in DFID. Once an EITI Board was established, its first meeting in December 2006 decided that a more independent and expanded Secretariat be set up and placed in Oslo, Norway, but with a smaller office in Berlin to support the activities of the then-Chair of EITI.

The EITI Board

Composition of Board has not changed as EITI as an organisation has grown. The Board was proposed by the IAG to consist of an independent Chair, 5 representatives of Implementing Countries, 3 representatives of Supporting Countries, 3 representatives of civil society organisations, 5 representatives of companies or companies' associations and 1 representative of investors. The Members are organised in three Constituencies: (i) Countries, comprising both Implementing and Supporting Countries; (ii) Companies, both firms in the extractive sector, associations and institutional investors and (iii) Civil society organisations that include non-governmental organisations, global action networks or coalitions. All members must support the objective of the EITI Association.

Board meetings are consensus-based but with extensive agendas. The frequency of Board meetings and length of agendas has some constituents concerned. During 2010, the Board met four times due to the workload occasioned by the many validation processes. Several issues have come up. One is if Board members have the time to participate as often as four

times a year since they are all senior persons within their organisations and thus have limited time available for this voluntary task. Another concern is the large size and openness of the Board meetings since most of the proceedings are open to Alternate Board members as well as other invited stakeholders. One issue in this connection is how Board members see themselves: as representing and defending a particular constituency's agenda inside EITI, or as EITI Board members committed to defending EITI's Principles and bringing EITI's agenda back to their constituency. While most Board members presumably play both roles, some Board members expressed frustration at what is felt as a lack of progress on parts of EITI's agenda due to particularistic views. The open Board meetings are seen as making this more problematic since unlike most other organisations, the Board here does not have a chance to really build the internal cohesion and trust but are instead "performing" in front of an audience present. The tight agendas and thus little time for debate combined with "*sitting in a fish bowl when negotiating*" raises *effectiveness* questions. On the other hand, the acceptance of observers has underpinned a participatory and credible tripartite governance, and the openness has served as an effective way of supporting the constituencies' communicating process.

Implementing countries feel a need for increased voice. There is a shared perception that the members representing Implementing Countries have less influence within EITI. There are several possible factors, such as capacity constraints, resource constraints, relatively lower prioritization of participation at EITI International level due to the many challenges related to EITI implementation in member country, among others. Some National Coordinators have questioned their Country constituency being shared with the Supporting Countries, since the two groups have different perspectives on EITI and different concerns and obligations. Supporting countries have no obligations beyond their participation and co-financing of the EITI international activities, whereas the implementing countries represent sovereign states who have the primary responsibility before politicians, national constituencies, national assemblies and national laws and regulations for delivering results based on commitment to EITI implementation. The group of EITI Implementing Countries outnumber the Supporting Countries by 33 to 17 as per December 2010. Sharing a constituency effectively dilutes Implementing Countries' authority in the process, and before their own systems. There is a need for the Board to consider its composition, since EITI may run the risk of becoming seen as a donor-compliant body. But such a change will have implications both for the organisation's finances and probably also for the level and intensity of Board servicing that the Secretariat must then take on.

The Chair plays an extraordinarily important role in the organisation. EITI's Chair has clearly played an unusually central role in the organisation's dialogue with potential new members, political leaders and heads of corporations. The ability of the Chair to open doors, engender trust, find and negotiate solutions to challenges is seen by all as having contributed enormously to the credibility, visibility and consolidation of EITI as an international compact and organisation.

EITI's Global Conferences

EITI's Global Conference is the central forum for deciding EITI's strategy and future. EITI's *Articles of Association* state the following regarding the Global Conference:

An EITI Conference shall be held every two years in order to provide a forum for EITI stakeholders, being all with an interest in the EITI Association, to further the objective of the EITI Association and to express their views on the policies and strategies of the EITI Association. The EITI Chair shall act as chairman for the Conference. The EITI Conference is a non-governing body of the EITI Association (Article 7.1).

The Fifth Conference: a major event and success. EITI's 5th Global Conference was held in Paris 2-3 March 2011. The two-day conference was a mix of plenary discussions and smaller parallel sessions on more specific topics. The plenary sessions were dominated by more formal presentations provided by senior officials from government, including Presidents and Cabinet Ministers, and from leaders in the private sector and civil society from around the world. The parallel sessions addressed issues such as civil society experiences with EITI, EITI's contribution to conflict resolution, new and emerging financial reporting requirements, etc. The Board presented its two-year progress report for debate while the proposed candidate as new Chair for the EITI Board presented the more forward-looking ideas, allowing the plenary to make comments and raise questions. In addition, all EITI implementing countries had presentations of their work in a joint display forum that allowed participants to get an overview of what is taking place on the ground.

The Global Conference provides a meeting place for related bodies. In addition to the formal Conference, a series of related events took place the day before, during and after the conference. The Validation Committee held a working meeting with validators to go over the experiences from the 2010 validations and the validation criteria. A meeting was held with the EITI financial supporters, a presentation of the first findings of this evaluation was given, and a series of constituency meetings were organised by the oil and gas industry, the mining industry, private investors, and civil society. Several quasi-training events were organised by civil society organisations, which also held its own post-conference meeting to sum up lessons learned and next steps. A Management Committee meeting for the World Bank-administered EITI Multi-donor Trust Fund was also held.

Formal EITI events take place within the Global Conference, increasing overall effectiveness of the Conference. The day before the Conference, the 15th EITI Board meeting validated six new countries as EITI compliant, while the 16th Board meeting was held the day after the Conference closed, where the newly elected EITI Board discussed the work programme ahead. The EITI Members' meeting (see next section) was likewise organised the day before the Conference began.

The broad participation ensured a dynamic and successful meeting. With a reported 1,000 participants from about 80 countries, the Conference must be seen as a resounding success in terms of inviting in all potential stakeholders, presenting EITI and its achievements and aspirations, and as a forum for discussions on results delivered and objectives yet to be addressed. A number of high-level representatives from all the various constituencies that make up the EITI universe were present, visible, and involved in the discussions and networking that took place, and is a confirmation of the high profile and attention that EITI has been able to establish internationally. Assessing the Global Conference against the criteria of being a forum for discussion, the format and the content was clearly relevant, of broad interest, reflected the diversity of stakeholders and their perspectives on the EITI agenda and certainly attracted a broader public to engage in the debate.

The Members' Meeting

With the growth of EITI, the Members' Meeting faces challenges on format and purpose. The Members' Meeting is designed as a General Assembly, with the responsibilities and the procedures are defined in the *Articles of Association*. As a more formal event embedded in the regulatory framework, the Second Members' Meeting was held on the day before the Fifth Global Conference opened. Several stakeholders made some observations and suggested areas of improvements for future meetings:

- The size of constituencies and broad membership raise questions on the applicability of the general assembly format;
- As a General Assembly-inspired forum, the Members' Meeting is designed to ensure the Board is held accountable towards its members, but the meeting so far did not serve sufficiently as a forum for discussion of proposed strategic direction. Some of the constraints observed were:
 - Need for more explanatory introductions and contextualisation of the agenda items;
 - Presentation of the content of the management documents, progress report and work-plan for coming Board mandate; and
 - Need for more time for discussion and involvement of the members, possibly through prepared interventions.

It should be noted that several of the members who attended the meeting were not very familiar with the EITI International's internal procedures and are not within the inner core of the EITI family. However, they are important agents of change in EITI implementation processes or in EITI related global activities.

6.2 EITI Funding and Value for Money

When assessing funding levels and the "value for money" question in the TOR, the focus is on EITI at global level, and in practice the financing channelled through the Secretariat. The resources for Board activities are covered here, but it has not been possible to fully assess the funding and cost for the 5th Global Conference, some of the expenditure was made in 2010 whereas a considerable part of the expenditure will be covered in 2011. What can be said is that the Secretariat has been effective in raising funds for the global conferences and other core activities and the number of sponsors has been increasing, but that needs for continued emphasis on fund-raising is needed.

Funding for EITI Globally

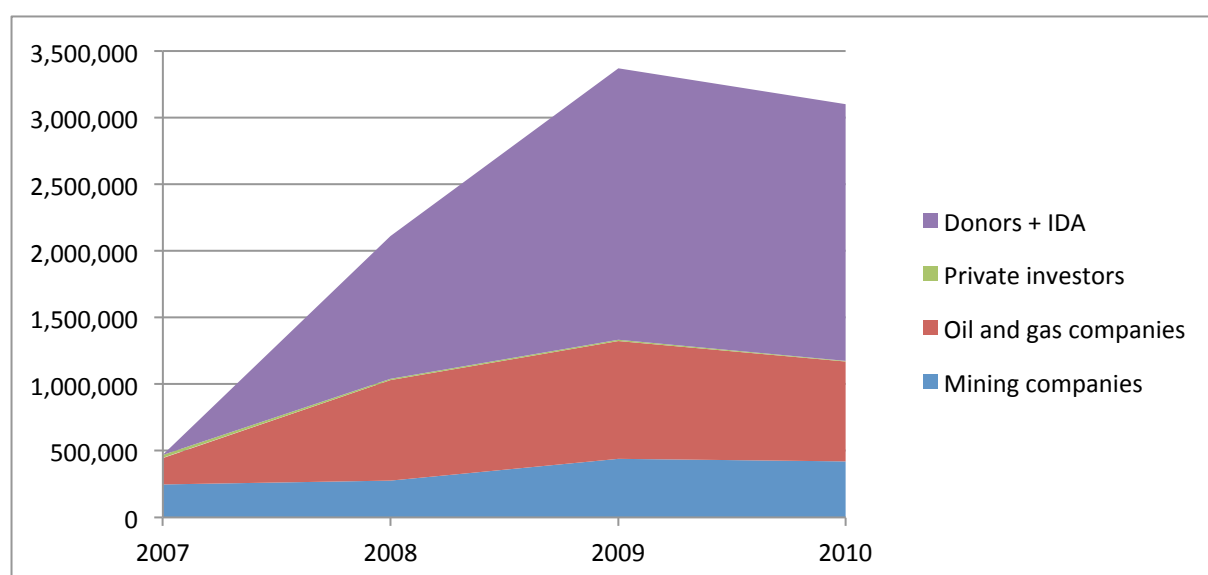
Most funding is from donors – private sector contributions falling: Of the USD 9 million in total contributions, about 55% was from this group while mining companies contributed 15%, oil and gas companies 29% and private investors 0.5%. But the trend is towards donors shouldering a larger share, since in 2010 over 62% was donor money. In absolute amounts, funding from the oil and gas sector has been fairly constant over the last three years while mining companies provided a little less in 2010 than they did in the peak year 2009.

EITI may need more funding as number of member countries increase. Standards mechanisms are largely self-financing: those whose standards are being verified pay for the service. This

is to some extent also the case with EITI as validation is currently an implementing country's responsibility. As argued in chapter 5, this may be a task that EITI global should take on, meaning that it may have to raise more funds. It should be noted that the fund raising has so far been effective, but that there is a future need for more funding and resources as the number of EITI implementing countries increase. If a large number of EITI implementing countries continue to be low income countries and fragile states, it may not be possible to raise much funding through a membership fee, though this is an option that could be explored⁷. Another avenue is to mobilize more from the private sector. The challenge is that EITI globally and nationally delivers a public good of value largely to the state, not the individual companies. There is also the "free rider" problem: one company may not be interested in contributing a lot if other companies do not contribute proportionately. But such alternatives should be explored, for several reasons:

- The tripartite nature of EITI is a key strength, and one way of making this visible is through burden-sharing that corresponds to notions of "fairness" – however that may be quantified. Right now a very profitable private sector is not contributing very much.
- If EITI is producing value for the private sector through promoting better framework conditions for extractive industries, it should (co-)pay for them ("user fee" principle), also because it shows a real commitment to the principles ("we are putting our money where our mouth is").
- Since most of what EITI does has public goods aspects, donor and implementing countries should be expected to fund most of this. At the same time there is the accusation that most of the funding comes from the donors because this is another avenue for them to spread their influence. Reducing donor funding levels over time may therefore be important for the credibility of the EITI Standard's independence.

⁷ This could be justified as an arms-length way of funding country validations, for example, or could be based on a formula of extractive industry revenue adjusted for country GDP/capita level or something similar.

Figure 6.1: Funding by type of funding source, 2007-2010 (in USD)

Source: EITI Accounts 2007,2008,2009,2010, including one mining company payment from 2011 provided by Secretariat

Secretariat Direct Outputs

When looking at the actual activities carried out by the Secretariat, the full list of Outputs becomes a little longer than the one produced by the EITI Working Group (see Box 5.1):

1. *Completed preparations and follow-up for EITI decision making bodies:* Board papers and minutes, including for sub-committees and Members' meeting
2. *Successful organisation of EITI meetings:* Board meetings and Bi-annual Global Conferences
3. *Analyses and reviews of key decision documents:* Reviews to support the Board and Validation Committee
4. *Production of normative documents on the global standard:* Rules and guidance material
5. *Production of dissemination and other informational material:* Other Publications, maintenance of web-site
6. *Support to implementing countries:* Monitoring of country implementation: review of reconciliation reports
7. *Upgrading of EITI corporate skills:* Training, workshops for various stakeholder groups in the EITI system (National Coordinators' meetings, in-country training...).

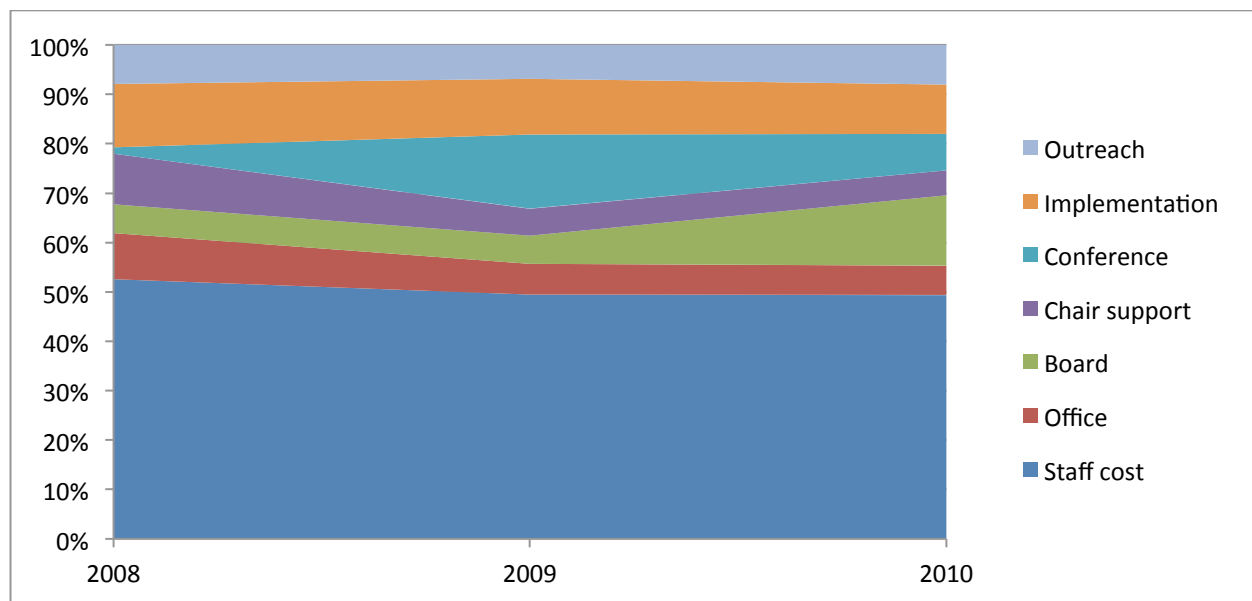
EITI Global Expenditures

Totals and shares of expenditures fairly stable. When looking at EITI expenditures 2008-10, actual costs have been fairly constant at around USD 3 million a year, for a total of USD 8.6 million during the period. The share of costs have also remained amazingly stable where staff costs have made up close to half of all expenditures in all years while office costs fell after first year investments. Conference costs went up in 2009 (the Doha Conference and are expected to increase substantially for the Paris Conference), whereas Board costs have increased substantially in 2010. This was because more meetings had to be held, but these

costs may continue to increase if more implementing countries join the Board. The costs of the Chair's activities have experienced a decline, but may also have to increase if certain outreach activities need to be increased (see later). Overall there seems to be clear indications of increased needs for funding.

Expenditures are recorded by functional rather than by results areas but some time use estimates permit analysis. Expenditure data are recorded according to cost category rather than to results areas. But the Secretariat internally reported some time use in 2010. This shows that staff time for validation and for outreach took about one fourth of staff time each while support to country implementation took one third. That is, these three main activities accounted for over 80% of professional staff time.

Figure 6.2: Disbursements by expenditure category, 2008-2010 (as shares of total)



Source: EITI Secretariat data

Staff costs as a share of budget are high but realistic. As noted, staff and staff-related costs are by far the highest cost item. Comparisons with unit costs for expatriates in other countries, and based on the cost of living in Norway, the unit costs for EITI staff appear realistic. The size of the Secretariat is considered reasonable by all and in fact may be on the limited size given the expanded responsibilities that have been suggested for EITI in the period ahead. But there is nothing to indicate that the Secretariat is wasting or mis-directing resources. Given the unit costs, overall value for money for staff seems Satisfactory and with no negative remarks to be made⁸. Discussions on the overall size of the Secretariat will follow the subsequent sections.

Some areas may require more resources but scope for re-allocation is limited. Given the priorities set for the organisation and the feed-back from stakeholders, support to the Board

⁸ The data do not permit a more rigorous cost-effectiveness or bench-marking exercise, so the team cannot make a strong statement on the efficiency of the Secretariat. The cautious wording should therefore not be interpreted as due to any concerns, but simply because the foundations for conclusions are fragile.

and the Validation Committee will require as much attention and resources in 2011 as in 2010. The resources needed in the medium term depend on the number of new candidates and the pace of implementation (validation exercises). But it is support to implementing countries that most feel should be given higher priority and will require more resources. It has not been possible to make funding projections for these requirements, but if funding levels remain fairly static the organisation will face challenges because there appears to be limited excess capacity and room for reallocation of resources between areas.

6.3 EITI Management and Organisational instruments

Based on the Board and the International Secretariat's mandate and on internationally recognized frameworks for assessing organizational fitness for purpose, a set of areas have been defined. Some of these are not explicit in the work plans or other management documents, but are based on generic processes and adapted to the mandates of the EITI Board and International Secretariat and their reality. For the purpose of this assessment, ten areas were included (see Box 6.2). For some of the areas both the Board and the Secretariat are involved, while others primarily cover the Secretariat's activities.

Box 6.2: Governance-Management Areas Assessed

1. Leadership and Sponsorship
2. Strategic planning: Environment, Strategic Positioning and Partnerships
3. Outreach and Advocacy: External Relations and Communication
4. Global EITI Standard Setting and Management
5. Support to Implementing Countries
6. Measurement, Analysis and Knowledge Management
7. Administration of Board Meetings
8. Fundraising
9. Office Management
10. Human Resources: Capability, Capacity and Climate

1 Leadership and Sponsorship

EITI leadership and sponsorship is at the highest political level. There has been strong leadership in the EITI with clear communication of vision and values expressed through different channels and formalized in the EITI Principles. EITI has from the outset created strong alliances with partners and sponsors representing global forces at the highest international political and economic arena, and has been endorsed by the United Nations, G-8, G-20 and African Union, and can count the World Bank, the IMF and the EU as active supporters. The support and participation in EITI by leaders of major oil and gas and mining companies as well as important international NGOs and civil society alliances is also notable, and is just about unique in terms of a fairly genuine global partnership. These partnerships and the high level support have also contributed to the effective outreach.

The Chair of the EITI Board carries a major responsibility and should be given much of the credit for the strong leadership role that EITI has been able to establish in the extractive industry sector. The Chair is of course overall responsible for providing the EITI leadership, and the support from the Secretariat sub-office in Berlin has enabled the Chair to take on a significant workload when it comes to outreach and political contacts at the highest level. But

the Chair has also had to lead a Board that at times has faced contentious issues given the differing views by some of the constituencies regarding some of EITI's core concerns. While some have voiced the opinion that they would have liked a stronger steer on some matters, the overall view seems to be that the negotiating skills and willingness to accept compromise has been critical, both for the concept of the tripartite partnership in principle, but also to ensure that all parties in fact not only remain within the organisation but actively continue to participate and support it.

2 Strategic Planning: Environment, Strategic Positioning and Partnerships

Initial strategic planning and positioning was clear, it is now time for new strategic considerations. The International Advisory Group was instrumental in setting a strategic direction for EITI, which has proven to be appropriate and well designed. The organisation has been busy implementing this strategic mandate, but now there is a recognized need for critically reviewing aspects of it. This includes looking at the 2005 Consensus which provides a limited operational scope for the Global Standard, the validation system and the binary rating scheme, the level and quality of support to implementing countries, among others. Some discussions are reflected in the minutes to the Board meeting, but other impulses have come from partners such as the World Bank and Revenue Watch Institute on quality of reporting and written comments by some of the validators (World Bank/EITI MDTF 2010, Revenue Watch Institute 2011a, b, c, Hart Group 2011). Another issue that poses strategic challenges for the EITI is the recent *Dodd–Frank Act*⁹ in the US, and the EU considering similar legislation. The question is how EITI should position itself in view of some of its own standards possibly being overtaken by important country-based legislation.

Out-sourcing most support to national implementation provides flexibility and access to international resources but creates challenges to EITI strategic planning and review. EITI has as a matter of policy out-sourced much of the support for country implementation. The EITI Trust Fund and sector technical advice is handled by the World Bank; much of the training for CSOs is done by Revenue Watch Institute; national reconciliation exercises and the validations are carried out by private actors. While this enables EITI to access skills from the market it also means that much of the critical interaction at country level is carried out with third parties, leaving EITI International – in particular the Secretariat – to depend on indirect learning regarding country performance. The Secretariat sees many of the key products from the interactions – reconciliation and validation reports, MDTF allocation decisions – but misses out much of the contextual and specific learning and interaction that takes place. A number of informants felt this meant the Secretariat did not get the systematic feedback from users on the quality of output and the needs of key target groups as needed. At the same time it is EITI International - Board and Secretariat – that provide and decide on framework services and guidance to EITI implementing countries, such as Standard setting rules, policies for tendering for validators and accredit validators. There was a felt need for a

⁹ The *Dodd–Frank Wall Street Reform and Consumer Protection Act* is a federal statute in the United States that was signed into law by President Barack Obama on 21 July 2010. The Act is largely a reform of the oversight and regulatory regime in the US, but includes provisions on financial reporting by the oil, gas and mining industries on operations abroad. Because it requires US-based companies to provide country-by-country reporting, it goes farther than the within-country EITI revenue reconciliation

more structured and tighter feed-back loop between countries and Secretariat, where ideas included annual surveys, quality assessments/reporting on validators and reconciliation administrators.

Satisfaction with Management documents, but some further developments proposed. The management documents are defined in the *Articles of Association* as being the **activities report**, the **accounts** and the **activity plan** (the annual Work Plan) of the EITI Board. There is broad recognition of the efforts made by the Board and the Secretariat in presenting accessible and comprehensible documents and feedback has been positive and documents perceived as being satisfactory and of generally high quality. Nonetheless, assessed against the criteria of being *management* documents with the objective of providing the Board and members with a critical assessment of the performance during the two-year term of the elected Board, some comments have been made suggesting possible enhancements: progress reports tend to be narrative and focus on telling success stories or highlighting success factors in EITI implementing countries. A more systematic framework for result reporting should be considered; Work Plans and the progress reports could be better linked so as to facilitate the monitoring of implemented activities, this could also include improving the link between activities and the budget and financial reports. It should be noted that some improvements have already been made, however there is still room for improvements in strengthening the tools for management, monitoring and accountability towards members.

3 Outreach and Advocacy: External Relations and Communication

Success is due to strength of brand and strategic partners. The two most important success factors for outreach and advocacy are the strength of the brand and the strategic partnerships created at the very outset of the EITI. These include a number of actors, such as the World Bank, supporting countries and their political support from the very highest level, companies and investors and civil society organisations such as Publish What You Pay, and others. The global outreach and advocacy has been very successful measured by the increasing number of EITI member countries and companies and the number of important international actors that have endorsed and support EITI and its objectives.

EITI has reached in particular low-capacity countries, but outlining an Outreach strategy is complex. When identifying resource-rich countries in Annex G, a criterion of net resource exports above 5% of GDP was used. Of the countries listed in table G.2, 67 fulfil this criterion. When comparing EITI countries with other resource rich countries, the typical EITI member was on average a low income country with poor credit worthiness. Among the countries with these characteristics, EITI adherence, with subsequent Candidacy and, for some, Compliance, was first achieved for the countries with fairly accountable regimes. This is in line with observations made by several stakeholders, that the EITI had been more successful in countries where development partners and international financial institutions have most leverage. The question is if this holds any particular lessons for EITI's further Outreach programme and strategy. – This is an area where the evaluation is not in a position to draw any conclusions. The team is aware of the very extensive Outreach activities that have been undertaken, that dialogue has been on-going sometimes for years without yet coming to closure with some countries but where the process is still alive. There have been a number of discussions within the EITI on which countries could be considered priority, where the EITI should focus its Outreach resources, and so on. But this is among other things a highly

political dimension that presumably the Board will continuously need to follow and look into. While a clearer strategic steer on Outreach may be desirable at least for overall medium-term goals, it also seems that a number of EITI memberships have begun as political commitments by prime ministers or presidents. These have often come about through informal discussions and tentative steps, so this is presumably how some of the future memberships will also happen. This requires flexibility and ability of the EITI to identify and respond to possibilities as they arise.

4 Global EITI Standard Setting and Management

Global EITI standard setting needs more management attention and resources. The Secretariat has spent a substantial amount of resources on the evolving standard in the period after the validation system was agreed in 2006 and the Validation Guide came into force. A lot of effort has been put into providing information about the existing EITI Global Standard and clarification of EITI Rules and requirements and a substantial amount of guidance material has been produced, now lastly the 2011 edition of the Rules. Despite all the progress made, this area will need even more resources in the coming years, given significant expansion of the number of countries joining the EITI, and the revalidations which emerge in the medium term

The role of Secretariat in Standard setting and management is not clear. The validation process has in many respects become the *de facto* standard setting process since this is where issues are raised, discussed and recommendations put forwards for Board decision on strengthened requirements or need for more clarity on existing Rules. The intended role of the Secretariat in standard setting and management is not clear, either in the mandate (*Articles of Association*) or the work-plans. While it is the Secretariat that compiles the various policy and guidance notes, it is unusual that for a standard setting body that the central Secretariat does not play a clearer and stronger role, and takes a more pro-active learning and assessment responsibility to identify up-front possible weaknesses and uncertainties. The Secretariat *does* play an important role not least through its networks to countries and validators, but the *function* requires more structure and strategy.

The Validation Committee and Secretariat are overstretched, which represents a risk. Calendar year 2010 was expected to be an exceptional year in terms of number of implementing countries reaching deadline for submission of Final validation reports, with a total of 10 planned and 5 reaching Compliant status. As a comparison, there are around 12 countries reaching the same deadline for submission of validation reports in 2011, including the countries pending from 2010. Despite the initial thinking that the validation process should be light touch and not create unnecessary bureaucracy, the recent past has proven that the validation process requires considerable capacity both by the Validation Committee and the Secretariat to manage the validation processes. The prospects for the future indicate a continued high work-load which might threaten the quality of decisions if the capacity constraints are not addressed.

An additional Sub-Committee for standard setting and development. There is currently no Sub-Committee assisting the Board in setting the Global Standard and developing the EITI Rules, criteria and requirements. Due to the centrality of this aspect of EITI's work, the Board may wish to look into this, and in particular look at how institutional memory on these issues can be safeguarded.

5 Support to Implementing Countries

The following strategy was defined right from the start of the EITI: *“To enable the EITI outreach and implementation, the International EITI Secretariat should work with multi-stakeholder working groups, other national and international partners to ensure stakeholders have the necessary political, technical and financial support”* (IAG report).

Political support is adequate. The perception of stakeholders is that the EITI International has, whenever required, been able to provide political support and some protection of the democratic space required for EITI Principles to be fulfilled. One example is the support to implementing countries provided to countries through the Rapid Response Committee.

Technical and financial support is of good quality but insufficient. On technical and financial support, the most important source has been the World Bank both through the EITI MDTF and core World Bank activities. The EITI is both part of the World Bank's response to its own Extractive Industries Review, and also one of the many tools identified in the Bank's recent Governance and Anti-Corruption Strategy. In this context, the Bank also works with governments on EITI issues as part of broader Bank-supported programs on extractive industries reform, natural resource management, and good governance/anti-corruption. But bilateral donors have also provided support in a number of countries, apart from countries themselves more and more funding these activities. But particularly for capacity-constrained countries, the needs are far greater than available resources, accentuated in countries with limited donor presence as was found in Gabon and Mongolia. Lack of sufficient resources have been seen as a constraint on EITI implementation, particularly in start-up phases.

The Bank has delivered important technical support at the country level. The country studies show that support has been significant, good quality and highly appreciated. However, the EITI-MDTF mechanism has often not delivered this support in a timely and effective manner. Performance concerns were presented in an evaluation of the EITI-MDTF conducted by the Independent Evaluation Group of the World Bank (Independent Evaluation Group 2010) and was verified by the country case studies. As particular concerns, EITI-MDTF management and decision-making cycles are not synchronized with the benchmarks for EITI Compliance, with the result that funds are not arriving in a timely manner. The EITI-MDTF is approving smaller grant amounts than requested, leading to reductions in national work plans and of important activities. This also affects the ability of Bank offices nationally to provide technical support, as some of it is MDTF-supported.

More dissemination and capacity building targeted towards EITI implementing countries. The EITI International has put a lot of effort into publishing guidance material to inform and assist different stakeholders involved in EITI. As the *Rules 2011* are put into force there will be a need for renewed and more active dissemination and capacity building for key target groups involved in EITI implementation and validation processes. Furthermore, as countries approach revalidation there is a need for the implementers to internalize the strengthened requirements in several areas. Some of the relevant target groups are:

- Validators
- Independent administrators, for the strengthened emphasis on reconciliation process, data quality and content of the reports,
- National coordinators in EITI implementing countries
- Members of multi-stakeholder groups

- Potential EITI Candidates

Closer dialogue with EITI implementing countries. There is a perceived need for closer dialogue between EITI International and implementing countries, in part because so much of the activities is being outsourced to third parties. The strategic question for EITI is if certain key tasks would be better handled by (an enlarged) Secretariat staff, both to ensure consistency, quality and appropriate country-adaptation, but also because it provides EITI at global level with more in-depth understanding of implementing challenges and thus better ability to service the national secretariats. Trade-offs between what an organisation keeps as direct responsibilities and what can be out-sourced are often controversial, but especially in an organisation that is both expanding rapidly and is all about standards setting and certifying this, it is important that strategic tools are closely managed by the organisation.

6 Measurement, Analysis and Knowledge Management

EITI has not yet a system for performance measurement at different levels. EITI should develop a system that tracks performance at the different levels of the organisation so that reporting is more consistently done against objectives and work plans. This could include Board activities (standard setting and management, validation, candidacy, other), the Secretariat (information and publications, communication, guiding material to the standard); support to countries through partners (the EITI MDTF, training of CSOs contracted through third parties), and EITI implementation at national level. Such an evidence based performance monitoring system for EITI was already defined as a key priority in the IAG report endorsed in 2006 and this has also been acknowledged by the Board which in 2010 nominated a Working Group with the mandate to develop a proposal for Performance indicators and measurement (see chapter 4 for more on this).

Knowledge Management in EITI is quite good but with areas for improvement. The EITI Secretariat is good at putting out on its web-site relevant documents, guidance notes, minutes from various meetings, and gateways to national EITI documentation. At the global level, therefore, EITI provides full insight and access to its own documentation. Where the Secretariat should push further is to support, encourage and request some *national* EITI secretariats to be more open and systematic in what is made available to the public. What is seen on a number of national EITI web-sites is inconsistent reporting, gaps in documentation that ought to be available, technological solutions that do not fully work. Another area that EITI might consider is more links on its own web-site to relevant organisations and bodies that are also carrying out important work in the field of transparency and accountability, in particular to key partners in EITI, making the EITI web-site a “one-stop shop” on extractive industry transparency information.

7 Administration Board meetings

Positive assessment of Secretariat's administration of Board meetings. The Board members are unanimous in their positive assessment of the performance related to the administration of Board meetings and the quality and presentation of Board documents, minutes and the logistics involved in the preparations and realization of meetings. There are some comments

made by other stakeholders groups on the need for enhancing Transparency of Board decisions in an accessible and comprehensible manner, specifically around the validation processes. Some examples of gaps are:

- Minutes from Validation Committee
- Publication of additional information provided to complement the Final validation reports,
- Publication of clear and more comprehensive minutes from Board meetings clarifying the remedial actions and recommendations put forwards including justifications.

8 Fundraising

Fundraising and targeted financing through multiple sources represent administrative burden. Section 6.2 provided an overview of the funding levels and sources for EITI International. Data on the EITI MDTF also exist while funding at national level from own and donor resources is not available. This may become an issue if it turns out that there is a skewedness in resource-availability across countries for key tasks such as in-depth reconciliation or sufficient capacity building for civil society organisations. It has not been possible to establish a clear picture regarding this issue but indications are that some countries may have easier access to donor resources than others and thus may begin lagging behind in implementation. A resource-constrained country like Mongolia showed, however, that strong political will may overcome this hurdle. But this is an issue that the Secretariat may wish to monitor through more careful financial recording.

Funding for EITI International has so far been adequate but may need to be increased over the coming period. Section 6.2 reviews current funding levels and sources, and given the challenges noted several places in this report, it is reasonable that EITI both at international level and as a source for national-level implementation may need to pay more attention to fund-raising. Various options were noted in section 6.2 – EITI may wish to develop a multi-year fund-raising strategy to ensure adequate funding for the coming period, including multi-year commitments for enhanced predictability.

9 Office Management

As the organisation grows, a need for strengthened office management. The EITI Secretariat today is characterised by a flexible, fairly informal organisation with its international staff dispersed geographically (Berlin, London, northern Norway in addition to Oslo), forcing staff meetings often to be partly “virtual”. Although performance has been good and the Secretariat has had very little turn-over so far, as the organisation grows there is a need for more formal and well-documented administrative routines to ensure institutional memory A senior level administrator focusing on internal affairs could ensure more administrative routines and practices are put in place.

High dependence on individuals. The lean organisation has the advantage of being responsive and flexible to evolving demands, but also has created vulnerability and risk exposure to turn-over of staff.

10 Human Resources: Capability, Capacity and Climate

Broader skills required in Secretariat. There are a number of areas where the EITI Secretariat, as the body that is to service a global standard in one of the wealthiest and most

controversial economic fields, is being challenged to provide more assistance. One of the issues that the Board may wish to consider is the professional profile that the Secretariat as a whole should have over time. The current staff have fairly similar profiles with a strength in political-administrative skills, addressing implementation problems in complex environments. But EITI today has limited experience from fields such as global standards setting, indicator development/monitoring systems, certification, training and capacity building, regulatory roles in the extractive industries, private sector development. Based on the (expanding) work-programme for the coming years and the thinking on which responsibilities that EITI wishes to retain within the organisation and which it will out-source, a possible recruitment strategy including professional profiles and a human resources development strategy (see next section) should be developed.

Human resources development programme: As the organisation expands and develops, perhaps into new parts of the extractive industry value chain, a more coherent human resources development programme that covers key skills and functions both at international and national levels might help direct scarce training capacities to critical skills areas.

6.4 Findings and Conclusions

EITI Governance structure is complex yet appropriate, functions reasonably well given its highly political and challenging nature, but is perhaps too dependent on the position of the Chair. The structure laid out in the International Advisory Group's 2006 report addresses the need for a truly global partnership that is constituency-founded, open, inclusive and thus largely consensus-based. As with all such international constructs, it is necessarily less efficient in some decision-making situations, but actual performance appears amazingly smooth. The latest Global Conference with 1,000 participants from 80 countries reveals an organisation with high political profile and support, truly global reach, the establishment of a standard and brand that is credible, and where the governance structure and performance clearly has been critical for it to attain legitimacy.

The Board should adjust to its actual membership and realistic time demands as it grows: As the number of implementing countries increases solutions should be found to strengthen their role and voice in the organisation. The Board itself should count on having more face-to-face time, either through more meetings per year or longer meetings, in part to build internal collegiality and trust, to ensure that members see themselves as developing and promoting EITI rather than simply their constituency.

The former Chair has played a strategic role in developing EITI reach and profile. EITI's former Chair, due to his international network and prestige, has been instrumental in opening doors, advancing the EITI agenda, and making the brand known and supported, with much support also from the Board including its Alternate members. Given EITI's limited resources, this has been a highly successful strategy, and while the organisation over time undoubtedly will build more organisational capacity for this purpose, EITI should count on this being an important part of its approach also in the future. The policy of providing the Chair active support therefore should be continued.

The Global Conferences and Members' Meetings are highly successful though suffer the consequences of their success. The Global Conferences have expanded rapidly in size and content, and the last one was undoubtedly a major success. As meetings expand and

membership increases, decision-making parts of these events need to be planned and managed well to ensure the voice and diversity intended yet with an operational focus to come to closure through legitimate processes on the key issues.

EITI funding internationally is just-enough for current levels of operations and thus most likely insufficient for the future. The funding for EITI International covers current activities well, funding areas appear largely in line with priorities, but with little opportunity for re-allocating funds if new priorities emerge. At present the the financing profile shows higher dependence on donors and less support from the private sector. Ways of also mobilizing resources from better-off EITI member states could be pursued. This issue needs to be looked at in light of (i) probable increases in membership, (ii) likely expansions in areas of responsibility, (iii) likely increases in needs for support at national level, including perhaps re-directing resources to countries in particularly difficult circumstances. Multi-year predictable funding for longer-term strategic areas should be the objective.

Leadership and sponsorship is at the highest political level. One of the most impressive achievements is the virtually universal acceptance and support EITI has mobilized from the international community, private sector and civil society.

EITI's strategy is ripe for review. A number of issues have been raised regarding the areas of EITI's attention in the years ahead, not least of all how it is going to develop and defend the Global Standard with an increasing membership and a policy of out-sourcing many of the critical support functions. A particular challenge will be to find the right approach to EITI outreach and thus its growth strategy, which will undoubtedly still contain *ad hoc* opportunities as well as focused approaches. Another issue is to provide the Board with more critical assessments of performance for better decision making.

Outsourcing and in-house capacity for support to countries and standard are both options to consider. EITI international is expected to strengthen its support to country implementation while also paying more attention to maintain and strengthen the EITI standard and its verification. This will require more resources, and one question will be which tasks the organisation will wish to maintain as direct responsibilities and which can be out-sourced. Linked with this is the need for a better, more comprehensive and consistent results framework for achievements at international and national levels, and building a global knowledge management system around this.

Human resources and office management should be strengthened. Office management will need to be developed with better administrative routines and procedures, and the vulnerability to staff turn-over in a very small yet highly flexible organisation is a risk that needs to be addressed. A medium-term human resources development strategy that may include both international and national level needs may provide EITI with a rational approach to skills and knowledge development that may ensure resource efficiency.

Overall, the EITI as organisation and EITI International as Board and Secretariat must be seen as "very fit for purpose". The achievements of a small organisation addressing a big question in a sector known for being highly contested by powerful interests is quite impressive. There are a number of serious and structural short-comings in the approach and results so far achieved, as presented in the previous chapters. But the organisation *per se* has delivered on its mandate and the consensus that has been possible to get in place. It faces important challenges in the future, and will most likely have to restructure and adjust. But

the organisational foundations for this are sound and have proven their value in the results already delivered.

7 Looking Ahead: Strategic Options

Building on success for continued development of the EITI. When looking at options for the future, it is important to maintain what has worked well and build on success. There were a number of factors that contributed to the initial success of the EITI as a global compact. Among the most important are:

- a) Since its beginning, the EITI has engaged key global actors in supporting and endorsing its agenda. The EITI, therefore, built a strong global network around its Principles and Criteria;
- b) The EITI established a tripartite partnership as the guiding principle for governing the initiative. The approach has built broad-based political support and credibility, both at the national and global levels;
- c) EITI stakeholders agreed on a set of overarching EITI principles indicating an aspiration of good governance in the extractive industries, in an area of high political and economic sensitivity;
- d) The Good governance principles were made operational through a consensus in a focused and targeted area. The focus was manageable to promote, represented an acceptably low risk for the implementing countries and was possible to put into practice;
- e) The operational approach, although limited, allowed for a rapid demonstration of tangible results in the form of reports, the viability of tripartite governance institutions,, the realism in demanding and delivering more transparency and of information-based and open and participatory debate. Quick wins were reaped at the very start.

Based on early success, the EITI has built a credible international brand that is attracting new EITI implementing countries, members and support. The proof is in the EITI's rapid expansion during recent years.

7.1 Why More of the Same is not Sufficient

Need for renewed change impulse – EITI must remain in the forefront of developing standards and verifying their implementation. Country level evidence shows that there is a need for a renewed change impulse to stimulate reforms beyond the minimum requirements of the present Standard after the benefits of the first *quick wins* have been reaped. Lessons learned so far are:

- a. When countries join the EITI, they commit to the initiative's aspiration and its core activities. Both are essential to the overall EITI "brand", the EITI Principles and the operational consensus – the Global Standard.
- b. The Global Standard based on the existing consensus has been static and unchanged since 2005.
- c. At the same time, the 2005 Global Standard is too narrow to achieve the EITI's aspirations. The evaluation concludes that clear and attributable results at a societal level, and in line with the EITI Principles and aspirations cannot be achieved through implementation of the Global Standard alone.

- d. For EITI to become effective in achieving the aspirations, it has to create broader institutional linkages beyond the core of the existing consensus. Such linkages would join the EITI broader good governance and development agenda at the national level.
- e. Some EITI implementing countries pursue a broader EITI agenda by implementing complementary reforms within the extractive industries, creating the necessary institutional linkages. Some EITI countries go further, to situating reforms in the extractive sector within a broader Good Governance, Development and Poverty Reduction agenda, supported by a policy, institutional and financing framework. These countries, going beyond the scope do so due to other reform impulses, and EITI is not seen as the driver for these reforms. The three country cases show that national extensions beyond the scope have been critical to pushing transparency and change further than the present Consensus and the Global Standard would have. The choice to move beyond the basic EITI Standard has not in any of the cases been a response to incentives within the EITI system, however, but has been driven by national political decisions.
- f. Some EITI countries only pursue the Global Standard and the core requirements and become compliant but with no change impulse for further development beyond the Global Standard's requirements. These countries, therefore, may have a framework for achieving the Global Standard, but do not show progress towards the EITI's aspirations.

Based on the lessons learned, some conclusions can be drawn

Only building on yesterday's success represents risk of losing relevance and credibility. With its statement of aspiration, and the gap between the EITI Principles and the operational consensus Global Standard, EITI membership may legitimise Governments that perform poorly on the broader indicators, or otherwise have no intention to implement needed reforms. The results on transparency and accountability are found where national EITI implementation has gone beyond the Standard.

EITI also needs to address the need for strategic partnerships if it wishes to realise its aspirations. For EITI to become effective in delivering on its Principles it probably will need to forge alliances with other actors also supporting transparency, accountability and 'good governance' in other sectors or at overarching societal levels since EITI and its agenda on its own seems not to have much impact beyond its own sector.

Maintaining implementation and validation standards linked to the current consensus Standard carries potential reputational risk. The gap between the core EITI consensus and its aspiration constitutes a fundamental reputation risk for the EITI. As noted by the 2010 evaluation of the World Bank's EITI MDTF, all stakeholders will need at some point to account for progress against both the consensus and the aspiration, as these are core to the EITI brand (Independent Evaluation Group 2010). However, implementation of the Global Standard is not sufficient to achieve the EITI Principles, and the EITI is not a substitute for a broader reform agenda.

7.2 Strategic Options

EITI faces essentially three options regarding future standards and implementation:

Option One: Status quo implementation based on the existing EITI Global Standard. The current standard may be clarified and strengthened in some areas to meet operational

challenges, but remain within the 2005 consensus. Its scope would therefore not be expanded to address broader governance and development concerns, not even within the value chain of the extractive industries. If the EITI were to maintain this approach, it will need to align the EITI Principles and brand with what can realistically be achieved through the Global Standard.

One imperative for aligning will be to mitigate reputation risk by ensuring that the EITI scope is effectively enforced and that the expectations and objectives - what the initiative claims it can do is focused on what is actually being implemented. The aspiration would need to become aligned to the limited scope of the Global Standard, the 2005 Consensus. The validation scheme, based on absolute minimum levels (ISO-like certification) would be maintained.

Option Two: Broaden the existing consensus but maintaining the existing validation principle. The Global Standard could be broadened to include dimensions more in line with the aspirations expressed in the EITI Principles. However, this option may have limited viability due to the tensions between different constituencies. Furthermore, maintaining the validation scheme based on absolute threshold values for (ISO-like) certification would not resolve the constraints pointed to earlier regarding the difficulties of the EITI being compatible with basic assumptions of ISO-like standards. In fact the contradictions would become even greater regarding the need for the validation to (i) cover the universe of dimensions of the standard, (ii) agree the threshold values that are clear and seen as fair, (iii) be seen as reasonable when the principle that if you fail one dimension you fail the entire test, (iv) recognise performance that is better than the minimum standards.

Option Three: Provide a more broad-based Standard in line with EITI Principles where the certification scheme is based on a scaling system that provides performance incentives. For this to occur, the EITI would need to agree on a set of areas to include in a broader EITI agenda. The areas could constitute “modules” within the certification scheme that countries could decide they want to include or not in their own certification system. The scorings on the various dimensions or sub-requirements could be binary (“Yes/No”) or on a sliding scale from “Best” to “Unacceptable” values. There could be an overall aggregation, or not depending on how meaningful such an aggregate value would be. A country should accept to carry out the first rating, establishing the baseline, at the latest two years after signing up to the EITI. If only a few areas were included in the certification exercise the overall score might not be high but still yield interesting information on the areas covered. There would thus be no danger of delisting but rather incentives for including more areas and improving performance in areas identified as not rating very well.

Summing Up: There is a need to consider both the scope of the Standard, and how it is measured. Along both dimensions the current EITI validation system may not be satisfactory for promoting sector-wide transparency and accountability.

7.3 Recommendations and Options

The main recommendation is that the EITI should move towards a more open, broad-based and flexible performance certification scheme. The evaluation would recommend that the

EITI Board consider Option Three above for possible implementation over the next three to five years¹⁰. The challenge will be to operationalize the EITI Principles and link this with a more dynamic validation scheme as for example proposed in Chapter 5 (see Box 5.10). As a point of departure, the scope could be defined based on the existing core dimensions of the 2005 consensus and include more optional dimensions on complementary areas based on the scopes of the EITI + and EITI ++ or others.

Scaling would make it possible to embrace everybody no matter the absolute performance level and performance would vary between dimensions. All relevant performance improvements would be reflected in higher scores and there would be incentives or at least recognition of performance that is better than the minimum standards. This would presumably make it easier to build consensus for a broadened agenda, avoiding a confrontation between constituencies. Furthermore, this option would promote linkages with other governance and development initiatives.

There is also a need for developing more comprehensive results frameworks for tracking EITI performance at national and at international level. Such results frameworks should include more rigorous theories of change that can justify the indicators included. The Secretariat should help countries both establish such frameworks and build the basic capacity needed to use them, including through guidance materials, as is done today.

¹⁰ The experience with the establishment of the PEFA standard was that it took time to agree to the key dimensions, get consensus on the principles, and then develop the indicators and their ratings.

Annex A: Terms of Reference

On behalf of the Board of the Extractive Industries Transparency Initiative (EITI), the International EITI Secretariat seeks applications from suitably qualified service providers **to undertake an evaluation of the EITI**. The EITI sets a global standard for transparency in the extractive industries. It supports improved governance in resource-dependent countries through the verification and full publication of company payments and government revenues from oil, gas and mining. Validation is the EITI's quality assurance mechanism to ensure that the countries implementing the initiative are fully complying with the international standard. The methodology for the EITI is set out in the www.eiti.org/documents/rules.

1 Introduction

The Extractive Industries Transparency Initiative (EITI) is an international standard for transparency in natural resource revenue management. The initiative was launched in 2002 but the indicators for meeting the standard were not established until 2006. An evaluation was prepared for the 4th Global Conference in February 2009 that assessed EITI's contribution to good governance of natural resources. EITI implementation has gathered considerable pace since 2009: 31 countries are now implementing, 20-plus validation processes are completed or underway and 46 EITI reports have been published. There is now richer evidence and data to evaluate the performance of the EITI globally and its structures and policy framework, and how and to what extent the latter has contributed to impact on key development outcomes globally and in individual EITI implementing countries. The EITI Secretariat in its work plan 2010 committed to "commission an independent evaluation of the EITI in time for the 2011 Conference." Additionally, following the Secretariat Expenditure Review presented to the Board in Baku in October 2009, the Finance Committee concluded by noting that the Secretariat provided a high level of service but more tools were needed to assess if the Secretariat provides value for money. The Board also ratified in Baku the establishment of a working group to develop EITI outcome indicators.

The working group for EITI outcome indicators, created on 12 May 2010, has prepared a list of outcome indicators (see section 9 ["Process and Outcome Indicators"](#) below) and have endorsed the present terms of reference for the evaluation to be conducted by an independent party and be presented to the next Global Conference.

2 Purpose of the Evaluation

The overall aim of this evaluation is to document, analyse and assess the relevance and effectiveness of the EITI and its contribution, through improved governance and accountability of the extractive sector, to sustainable development and poverty reduction. The relevance and effectiveness relate to the extent to which the EITI is achieving its main objective of increasing transparency over payments and revenues in the extractives sector.

It is expected that this evaluation answers the following questions:

1) What are the results of the EITI and what impact the EITI is having?

The evaluation should provide a better comprehension of the precise benefits of the EITI through a combination of its contribution to improving the understanding of the sector, identifying actions and wider reforms required to improve the management of the sector, especially revenue and expenditure management. Recognising that given the importance and complexity of the development outcomes involved in ensuring sustainable development and in reducing poverty levels, the evaluation is not expected to establish causation but rather to 1) provide context, establish benchmarks and indicate directional change of key development outcomes such as fight against corruption, governance and accountability of the extractive sector, protection of civil society whilst engaged in legitimate activities, management of resources obtained from natural resources and 2) provide evidence of the results the EITI is achieving in implementing countries.

2) Is the EITI “fit for purpose” and does the EITI provide “value for money”?

The evaluation should assess whether the current institutional and managerial framework of the EITI (i.e. principles, criteria and policies, the International Secretariat and Board) is delivering results in accordance with the resources allocated and its mandate as derived from its Principles and Criteria. Additionally the evaluation should provide inputs for discussing future direction of the EITI Board and Secretariat, especially in terms of size of secretariat, level or source of support, working method, strength of supporting network, monitoring, policies, and scope and boundaries.

3 Background

Three and a half billion people live in countries rich in oil, gas and minerals. With good governance, the exploitation of these resources can generate large revenues to foster economic growth and reduce poverty. However when governance is weak, such resource endowments may result in poverty, corruption, and conflict. The Extractive Industries Transparency Initiative (EITI) was launched in 2002 to strengthen governance by improving transparency and accountability in the extractives sector.

The EITI is a coalition of governments, companies, civil society, investors and international organisations. In 2006 it developed a robust yet flexible set of indicators for monitoring and reconciling company payments and government revenues. Implementation takes place at the country level, in a process that emphasises multi-stakeholder participation. The EITI Board (established in October 2006) and the International Secretariat (established in September 2007) are the guardians of the EITI process and oversee the validation (the quality assurance mechanism for the standard) in each country.

The EITI is a globally developed standard that promotes revenue transparency at the local level.

To become an EITI Candidate, a country must meet four sign up indicators, including the development of a work plan documenting how the country intends to achieve EITI Compliance. The plan must be discussed with and agreed by key stakeholders. To achieve EITI Compliant status – or to extend Candidate status beyond 2 years – a country must complete an EITI validation process.

Validation is therefore an essential element of the EITI global standard. It provides an independent assessment of the progress achieved and identifies what measures are needed to strengthen the EITI process. The validation is carried out by an independent validator selected by the national Multi-stakeholder Group, using the methodology set out in the EITI Validation Guide. If the EITI International Board considers a country to have met all the indicators in the validation grid, the country will be recognised as EITI Compliant. If a country has made good progress, but does not meet all of the EITI requirements, the country may apply to retain its Candidate status for a limited period. Where validation shows that no meaningful progress has been achieved, the Board will revoke the country’s Candidate status. Twenty-two candidate countries had a validation deadline in March 2010. Only Azerbaijan, Liberia and Timor-Leste have achieved the status of Compliant. Equatorial Guinea and Sao Tome and Principe have been de-listed and are no longer candidate countries. The rest of countries have received an extension to complete validation. Ten other countries are due to be validated in the coming year.

EITI reconciliation reports are the heart of the EITI process. To date 46 reports have been produced (including 12 from Azerbaijan, which publishes two reports per year). Half of these reports have been published in the last year (July 2009-June 2010) [*table showing the reports produced till then attached – not shown here*].

Three countries have achieved EITI Compliant status (Azerbaijan, Liberia and Timor-Leste) and there are 28 Candidate status (Cameroon, Democratic Republic of Congo, Republic of Congo, Côte d’Ivoire, Gabon, Ghana, Guinea, Kazakhstan, Kyrgyzstan, Mali, Mauritania, Madagascar, Mongolia, Niger, Nigeria, Peru, Sierra Leone, Timor-Leste, Yemen, Cote d’Ivoire, Central African Republic, Norway, Tanzania, Albania, Burkina-Faso, Mozambique, Zambia, Afghanistan, Iraq, and Chad) . Equatorial Guinea and Sao Tome and Principe were candidate countries until April 2010. Several other countries, including Indonesia, Bulgaria, Ukraine, Guatemala, Guyana, Togo and Rwanda have

signalled their intent to implement the EITI, and are working towards meeting the sign up indicator requirements.

Fifty of the world's largest oil, gas and mining companies support and actively participate in the EITI process – through their country operations in implementing countries, through international-level commitments, and through industry associations. Also, the EITI has won the support of over 80 global investment institutions that collectively manage assets worth over 16 trillion USD.

Civil Society Organisations participate in the EITI directly and through the Publish What You Pay campaign, which is supported by over 300 NGOs worldwide. International Organisations supporting the EITI include the World Bank, IMF, African Development Bank, Asian Development Bank, the European Bank for Reconstruction and Development, Inter-American Development Bank and the European Investment Bank. These organisations provide technical and financial support to implementing countries, and support EITI outreach.

A number of governments including Australia, Belgium, Canada, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom and the United States support the EITI. These governments provide political leadership and technical support in promoting the Initiative. Many also contribute financially to the international management of the EITI, and support implementation through direct bilateral support to EITI implementing countries or through a multi donor trust fund managed by the World Bank.

The EITI has also been endorsed by the UN General Assembly, G8, G20, AU and EU. The EITI is overseen by the EITI International Board, chaired by Dr Peter Eigen, founder and former chairman of Transparency International. The Board consists of representatives from EITI implementing country governments, extractive companies, civil society groups, investors, and supporting country governments. The highest governing body is the biennial EITI International Conference. The next EITI Conference will take place in early 2011.

4 The Evaluation

The evaluation will provide an independent assessment of the results of the global EITI initiative, policy framework and structures, and its impact as discussed in section 2 of this document. It will be an independent platform for discussion of EITI strategy, work plan and policy in the run up to the EITI 2011 Conference. It will be an important background for the 2009-11 Progress Report. The evaluation report will doubtless be heavily quoted by both advocates and critics of the initiative and will thus have to be academically rigorous and robust.

4.1 Target audience

The target audience will include:

- The EITI Global Conference (members)
- The EITI Board (20 members plus 19 alternates) drawn from Implementing and supporting Governments, companies and institutional investors, and civil society;
- The EITI International Secretariat;
- EITI Financial Supporters;
- Key stakeholders in implementing countries (including their own multi-stakeholder groups and secretariats, key Government officials, media, etc.);
- International development community – civil society, aid agencies, consultants, academics, etc.;
- International business community especially, but not exclusively, in the oil, gas and mining sectors;
- International media;
- Parliamentarians;
- Other multi-stakeholder initiatives.

4.2 Main challenges

1) Diverse Audiences.

The different EITI constituencies have a shared commitment to the EITI principles, but different expectations for EITI and different understanding of EITI effectiveness. Consequently the agreed key performance indicators are limited in terms of comprehensiveness and appropriateness. The evaluation will have to be informed by interviews with stakeholders, case studies, assessment of available qualitative and – ideally – quantitative data, and other anecdotal evidence.

2) Attribution and causation difficulties.

The EITI is often part of a package of governance and economic reforms within implementing countries which collectively lead to measurable outcomes. The evaluation will need to show main trends in key development outcomes that help to understand where countries are and the directional change, if any, in terms of those outcomes. Even if direct causation cannot be attributed to the EITI, the evaluation needs to compare with other resource-dependent countries not implementing the EITI, providing a wider context to understand if EITI implementing countries show distinct trends.

3) Timing.

Although the EITI was launched 8 years ago, it has only been a standard and had an active Secretariat for less than 3 years and an agreed methodology being tested for the first time. Only a number of limited countries have completed validation. 23 countries have published an EITI report, but experience suggests that several reporting cycles are needed before the report reach a sufficient level of quality and comprehensiveness. The sample size is thus smaller than initially apparent and the time to demonstrate impact extremely short.

4.3 Evaluation methods

In achieving the purpose of this evaluation and in answering the questions posed in section 2 of this document in particular, the evaluation will draw from all relevant sources including evidentiary from stakeholders and documentary from all relevant output produced by, with help from or as a consequence of the EITI.

The evaluator(s) will decide how best to undertake this evaluation and will specify its methods in its workplan. It is expected that the evaluator will use a combination of **quantitative** and **qualitative** methods.

On the quantitative side, the proposed set of **Process and Outcome Indicators** is intended to be assessed by **quantitative** methods as much as possible. In particular, **big picture** indicators will be examined through the data available for all EITI implementing (both compliant and candidate) countries and, ideally, contrast with as many resource-rich countries (as defined by the IMF, see Annex No. 2) not implementing the EITI. To assess **attributable outcome** indicators the evaluator will examine all validation reports available, reference material written on the EITI both at national and international levels and extensive exchange with stakeholders at national levels, TA providers and other interlocutors. In particular, the evaluator will examine all validation reports for extracting evidence of how discussion of reports and follow-up actions triggered by EITI implementation are impacting the way the extractive sector is governed.

On the qualitative side, the evaluator should closely examine 4 countries (two from compliant countries and two from candidate countries). This examination should focus on answering the question “How the EITI has contributed to this country’s management of its natural resources?”. To get comparable information, the most effective approach to the case studies would be to standardise the questions used and the focus areas. In addition the case studies need to specify the "contextual variables" (which are termed ‘big picture indicators’ above) in which the EITI operates to see the influences these have on the how and why of EITI outcomes and impacts. If possible, questions of sub-national resource flows might also be examined. The evaluator will select the best cost-effective method to conduct this examination. The evaluator will also need to seek interviews with policy-makers and analysts at the international level to assess the general policy impact of the EITI. It might

also be helpful for the evaluator to speak with the International Financial Institutions (including the regional development banks), the credit rating agencies and sovereign debt lenders and major project financiers, to assess whether the EITI has had any impact on their policies and approaches.

In assessing **agency effectiveness** indicators the evaluator will draw from EITI key managerial documents including work plan, budget, calendar, and internal documents such as “Back to office” and Implementation reports (as relevant), overview of the EITI reports and EITI publications. The Secretariat will also facilitate access to metric-software such as Google analytics and Factiva. To supplement the assessment based on this documentation the Secretariat will be available for interviews and will facilitate interviews with stakeholders, partners organisations and service providers (accounting, auditing, legal counselling) at the international level as required.

Adding to these quantitative methods the evaluator is expected to include **other data collection methods** such as:

1. Document review of relevant documentation furnished by the Secretariat (publicly available and if not, provided, in confidence, for review);
2. In-depth, semi-structured interviews with stakeholders and/or group interviews;
3. Questionnaires / surveys;
4. Field visits;
5. Observation.

The evaluation is combining both an assessment of the EITI results and whether the EITI is fit for purpose (which includes looking at the Board and the Secretariat performance). The evaluation team will need to work closely with the Secretariat to be able to evaluate the EITI results while at the same time assess its performance. The Evaluation Team would want to consider the issues of impartiality when approaching these 2 distinct areas of the assessment and put in place measures to mitigate any potential risks to impartiality such as having separate members of the team responsible/working on the 2 areas.

5 Main tasks, deliverables and timetable

5.1 Main tasks

The evaluation is envisaged as a process that will consist of a number of clearly defined tasks.

Task 1 – Further understanding of the Terms of Reference

The evaluator will meet with the EITI Secretariat to understand further the TORs for the evaluation. More specifically, this will include:

1. To develop a common understanding of the TORs;
2. To identify and agree upon the sampling method;
3. To fine-tune the timetable for carrying out the evaluation;
4. To address any logistical or administrative issues that might need to be resolved during the initial planning phase of the evaluation;
5. To outline jointly the work plan with key milestones and deliverables.

Task 2 – Workplan

The evaluator will prepare a detailed workplan closely based on this TOR and the proposed set of **Process and Outcome Indicators**. The workplan is to provide information about the proposed methodology beyond the material presented in these TOR. If the evaluation is to include any surveys, questionnaires, case studies, etc. these tools need to be fully described and annexed to the work plan. It might provide details on the following:

1. Brief **context** of EITI. The logic or theory behind the EITI. A description of how the EITI is supposed to work: its objectives, activities, outputs and expected outcomes and interrelationships.
2. Evaluation **purpose** and scope. A clear statement of the objective of the evaluation and the main aspects or elements to be examined.
3. Evaluation **methodology**. The data collection methods proposed to be employed during the evaluation.
4. Evaluation **criteria**. The criteria the evaluation will use to assess performance, and an explanation of where the criteria came from.
5. Key milestones and **deliverables** and limitations of the evaluation.

This workplan will be reviewed and approved by the working group for outcome indicators.

Task 3 – Initial review

The evaluator will review all of the relevant documentation prepared by the Secretariat and to conduct a series of interviews with relevant EITI stakeholders and to collect the publicly available information for assessing the set of process and outcome indicators. At this point, the evaluator will meet by teleconference with the working group to discuss initial process.

Task 4 – Supplementary data collection

The evaluator, in coordination with the Secretariat, will wish to collect and analyse the remaining necessary data to enable them to conclude upon the evaluation questions outlined in the work plan.

Task 5 – “Initial findings” report

The evaluator will first prepare a draft report with its “initial findings” for the consideration of the working group for outcome indicators. The working group will provide comments (focus on correcting errors in data and editorial matters) that the evaluator will process to produce an “Initial findings” report to be presented to the Global Conference in Paris on the 2nd of March 2011.

Task 6 – Paris Conference

The evaluator will present the initial findings of the evaluation in a plenary session (expected to last no longer than 30 mins). Additionally, the evaluator will conduct a special session (expected to be one of the breakout sessions scheduled on day 2 of the conference) to receive feedback from stakeholders. The evaluator will compile this feedback and incorporate it, as applicable, in a final report.

Task 7 – Final Report

The evaluator will produce a final report to the EITI International Board.

5.2 Deliverables

Workplan as described above to be completed prior to implementation. It is important that the plan include the proposed methodology including a) proposed methods, b) proposed sources of data, c) data collection procedures, and include a proposed calendar of activities within the proposed timetable.

Draft evaluation report to allow stakeholder discussion (via the working group for outcome indicators) of the findings and formulation of recommendations. Secretariat comments back to the evaluation team will be submitted as one consolidated response.

Final evaluation report. The final report should include but not necessarily be limited to, the elements outlined below.

1. Executive summary (maximum 4 pages)
2. EITI description
3. Evaluation purpose
4. Evaluation methodology
5. Major findings at macro level.
6. Impact of the EITI.
7. Results achieved and agency effectiveness.
8. Lessons learnt and recommendations.
9. Annexes to include interview list and key documents consulted.

6 Reference Materials

- [EITI Workplans for 2007-10.](#)
- [EITI Rules](#), including Validation Guide and Articles of Association.
- EITI validation reports.
- [EITI reconciliation reports.](#)
- [EITI Business Guide.](#)
- World Bank Guide on Implementing the EITI, lessons from the field.
- EITI Newsletters, papers and minutes of Board meetings, reports of Conferences and other key meetings, other policy and update documents produced by Secretariat.
- Reports and assessments by international and national EITI stakeholders (civil society and others) e.g., Eye on the EITI, and the 2009 EITI Evaluation.
- Relevant research work and media articles.
- [EITI website.](#)
- EITI implementing country work plans and reports.
- Evaluation's Terms of Reference.

7 Skills and competencies required

The Evaluator (or members of the evaluation team) will need to be able to demonstrate that they have:

- Expertise, knowledge and experience of the EITI or similar programs.
- Technical and financial skills, including knowledge and work on development including transparency and good governance, public finance and financial accountability, multi-stakeholder dialogue, working with civil society and poverty reduction and economic management.
- Knowledge of the oil, gas and mining sectors or other natural resources sectors.
- Regional and country knowledge: a demonstrable track record in similar work in regions and countries where the EITI is implemented.

7.1 Credibility and independence

The evaluator needs to be credible in the eyes of the target audience. The Evaluator needs to divulge any prior involvement with the EITI, directly or indirectly, so that potential conflicts of interest may be assessed and ways to mitigate these devised. At least one member of the evaluation team — generally the team leader — should be selected who is judged to be able to provide objective, unbiased evaluation.

7.2 Proposal

Suitably qualified service providers should submit an expression of interest outlining how they meet the above requirements. The expression of interest should also demonstrate:

- Economic and financial capacity, stating the average annual turnover of the organisation for the last three years (2007 to 2009).
- Professional capacity in terms of in-house staff. To this end, the candidate has to submit:
 - A list of permanent in-house experts
 - A list of temporary experts the candidate can provide
 - CVs for the above experts
- Technical capacity of candidate by including a list of at least 6 reference projects. For each reference, the list must indicate the link or links with the fields covered by the EITI. Ideally, at least 50 % of the references must be for projects carried out in the current EITI implementing countries or other resource-rich countries.
- The application should include a summary (no longer than 500 words) summarising the applicant's experience and expertise.

Applicants should specify a contact person for the application, including email, phone and postal address.

8 Submission of applications

Applications must be submitted in English exclusively to the EITI International Secretariat by email and official postal service. The electronic application must be submitted by 17:00 CET 29 September 2010. The Secretariat will confirm receipt of all applications. Applications lodged after this date will not be accepted.

8.1 Selection Criteria

Tenders for this contract will be assessed in accordance with good commercial practice, taking into account the consultant's relevant experience for the assignment and the qualifications of the key staff proposed.

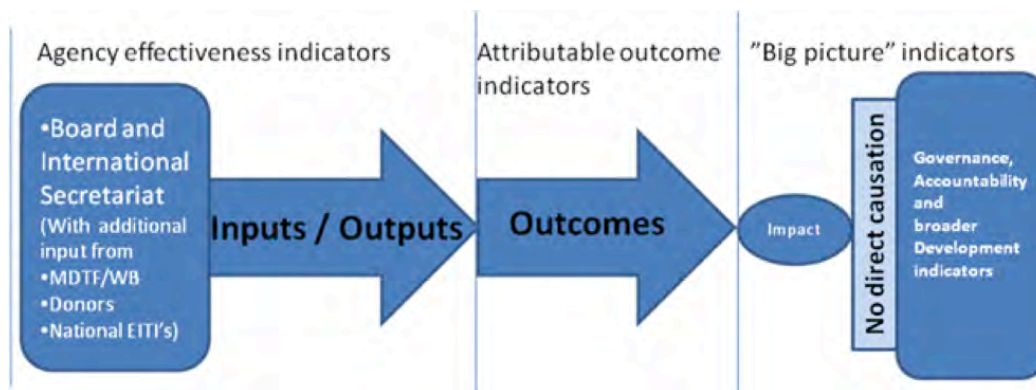
9 Process and Outcome Indicators

The Extractive Industries Transparency Initiative (EITI) is an international standard for transparency in natural resource revenue management. The initiative was launched in 2002 but the indicators for meeting the standard were not established until 2006. An evaluation was prepared for the 4th Global Conference in February 2009 that assessed EITI's contribution to good governance of natural resources. EITI implementation has gathered considerable pace since 2009. 31 countries are now implementing, 20-plus validation processes are completed or underway and 47 EITI reports have been published. There is now richer evidence and data to evaluate the performance of the EITI and its impact on key development outcomes.

The Board has established a working group to develop a **set of process and outcome indicators** (set of indicators, henceforth). The purpose of this set of indicators will be to provide the EITI with better means for learning from experience, improving delivery, planning, governance structure, and allocation of resources, and demonstrating results. This set of indicators, which once endorsed by the Board will provide the basis for on-going monitoring of the EITI and for an independent evaluation on its impact and effectiveness.

9.1 Methodology

The working group suggests using a multi-tier framework for this evaluation. This framework has been adapted from the one used by the Results Unit of the Operations Policy and Country Services within the World Bank (see Figure A.1 below).

Figure A.1: The EITI results-chain:

"Big picture" indicators provide context, establish benchmarks and indicate directional change. These indicators are **not directly attributable** to any single project or organization since many such activities and efforts have to come together to achieve these development outcomes. For better understanding the wider benefits of the EITI, the evaluation will look at the proposed set of the "Big picture" indicators with the purpose of:

- Providing a general outlook of EITI countries in terms of key development outcomes.
- Establishing a general context and directional change.
- Establishing benchmarks to allow monitoring and comparing of these outcomes against other resource-rich countries not implementing the EITI.

For assessing the performance of the EITI and its results, the evaluation will look at the proposed set of "Attributable outcome" indicators that answer the question "Because of this activity, project or initiative these outcomes have been achieved" and "Agency Effectiveness" indicators that measure inputs and outputs to assess the organizational effectiveness and efficiency, with the purpose of:

- Measuring input to the EITI.
- Measuring output of the EITI.
- Assessing the quality of the output of the EITI in terms of specific yardsticks such a level of coverage in the reports, dissemination, multi-stakeholder dialogue, impact on governance reforms, improved understanding of the sector, etc.
- Assessing the effectiveness and appropriateness of EITI's policies (e.g. Rule Book) and guidance documents.
- Assessing the effectiveness of EITI management (management tools, e.g. work plan, and stakeholder relations)
- Assessing effectiveness of EITI communication tools (Website, newsletters, materials, etc)
- Assessing if the EITI structure, especially if the International Secretariat is fit for purpose and provides value for money.

9.2 Proposed set of indicators

Following the proposed methodology the working group examined:

- A long list of available "Big picture" indicators produced by a wide range of internationally renowned organizations that address issues and development outcomes directly related to the EITI principles and goals;
- The EITI International Secretariat key performance indicators approved by the Board as part of the Workplan submitted each year;
- EITI reconciliation and validation reports and the EITI validation grid; and
- Abundant reference material including the EITI Evaluation presented in Doha February 2009.

After careful examination and deliberation the working group selected indicators or sources from which indicators can be extracted for each tier. These are:

9.2.1 Big picture indicators

(Some of these indicators might not be available for each country - both EITI and other resource-rich countries)

10. Disclosure index measure from the World Bank's Doing Business Report.
11. Credit ratings (available from leading credit rating agencies)
12. From the World Bank's Country Policy and Institutional assessment (CPIA):
 1. Macroeconomic management rating.
 2. Equity of public resource use rating.
 3. Transparency, accountability and corruption in the public sector rating.
13. Transparency International's Corruption Perception Index.
14. UNDP Human Development Index (<http://hdr.undp.org/en/statistics/indices/hdi/>)
15. UN GINI coefficient
16. GDP growth (World Bank national accounts data, OECD National Accounts data files).
17. From the Global Integrity Indexes (<http://www.globalintegrity.org/>):
 1. Civil society organizations.
 2. Public access to information.
 3. Government accountability.
 4. Overall country score.
18. Open Budget Index (<http://www.openbudgetindex.org/>)
19. Freedom in the World Report by Freedom House
<http://www.freedomhouse.org/template.cfm?page=15>

Note: There are other sources of information from which qualitative assessments can be made such as debt relief (see IMF/WB Heavily Indebted Poor Countries (HIPC) at <http://www.imf.org/external/np/hipc/index.asp>), human rights (see reports from the US State Department or organisations such as Amnesty International or Human Right Watch), freedom of the press (see Press Freedom Index by Reporters without borders -<http://en.rsf.org/press-freedom-index-2009,1001.html>-) and governability (The Failed States index published by Foreign Policy/Fund for peace - <http://www.fundforpeace.org/web/index.php>-)

9.2.2 Attributable outcome indicators

9. No. of **compliant** countries
10. No. of **candidate** countries
11. No. of supporting **companies**
12. No. of supporting **investors**
13. No. of **supporting countries**
14. No. of completed **validations**
15. **Communication** and awareness raising
 1. Users of EITI website
 2. Articles published about the EITI
 3. References of EITI in articles, news items and blogs
 4. Subscribers to EITI 's newsletter

16. Reporting

1. No of reports (including disaggregated reports)
2. Sector coverage (percentage)
3. Regularity in EITI disclosure
4. Companies participation

9.2.3 Agency effectiveness indicators

These indicators relate to activities developed by the Secretariat, the Board (with support from partner organisations) and the input (monetary, time, quantity of publications) put into these activities. Each indicator is cross-referenced with the 2010 Secretariat workplan action list (WP).

Inputs:

10. Resources allocated for missions and support to **implementing** countries (ref. WP 1).
11. Staff resources allocated to **validation** (ref. WP 4, 5, 6).
12. Resources allocated for missions to **outreach** countries (ref. WP 7,8)
13. No. of Board meetings and resources allocated to **Board meetings** and Chairman's support (ref. WP 28, 29).
14. Resources allocated to **relations with stakeholders** including: conference, supporters' roundtables and National Coordinators meeting (ref. WP 2, 9, 10, 13, 31).
15. Resources allocated to **relations with supporting companies** and investors (ref. WP 11, 12, 32).
16. Resources allocated to **communication** (ref. WP 14, 15, 16, 17, 20, 21, 22, 23).
17. Resources for **training**, including InWent seminars (ref. WP 3).
18. Resources allocated to **governance, management and administration** (ref. WP 30, 33, 34).

Outputs:

7. **Publications**, including website, notes and reports (ref. WP 14, 18, 19, 24, 25, 26, 27).
8. **Validation** reports reviewed (ref. WP 4, 5, 6).
9. **Reconciliation reports** reviewed
10. **Meetings** organised (including roundtable, Board and side meetings, national coordinators meeting and other conferences) (ref. WP 2, 9, 10, 13, 28, 29,31).
11. **Number of people** trained (ref. WP 3).
12. **Number of countries** visited (ref. WP 1, 7, 8).

9.3 Sources

Big picture 1 indicators are available mostly through the websites and publications of each of the organisations responsible for producing data and rankings about various development and institutional outcomes. Attributable outcome indicators and Agency effectiveness indicators can be assessed based on the EITI Secretariat key managerial documents and tools, notably the work plans, budget, financial and auditing reviews and calendar; publications including its website and the EITI reconciliation and validation reports.

Annex B: List of Informants

EITI Board Members and Alternates

Dr. Peter Eigen, Chairperson 2006-2011, EITI
Ms. Claire Short, Chairperson 2011-, EITI
Ms. Birgitta Nygren, Ambassador, Ministry for Foreign Affairs, Sweden
Mr. Anthony Richter, Chairperson of the Governing Board of Revenue Watch Institute
Ms. Radhika Sarin, Coordinator, Publish What You Pay
Mr. Stuart Brooks, Manager, International Relations, Chevron
Mr. Jean-Francois Lassalle, Vice President Public Affairs – France and NGOs, Total
Ms. Julie McDowell, Head of SRI, Standard Life Investments
Mr. Javier Aguilar, Deputy Program Manager, World Bank
Ms. Gro Anundskaas, Assistant Director General, ministry of Petroleum and Energy, Norway
Ms. Diana Corbin, Operations Officer, Donor Relations EITI, WB
Mr. Christian Mambu Ma Binkubula, National Coordinator, EITI Democratic Republic of Congo
Mr. Carlo Merla, Africa Coordinator, Publish What You Pay (PWYP)
Mr. Anwar Ravat, Program Manager, EITI, Oil, Gas and Operations Unit, World Bank

EITI National Coordinators (During National Coordinators Workshop, Brussels October 2010)

Mr. Bashir Khan, EITI Coordinator, Ministry of Finance, Kabul, Afghanistan
Mr. Shkelqim Hysaj, Director, EITI Albania
Mr. Farid Farzaliyev, Economist, State Oil Fund, Azerbaijan
Mr. Dakar Djiri, Chargé de Mission, Office of the Prime Minister, Burkina Faso
Ms. Agnès Solange Ondigui Owona, National Coordinator EITI, Cameroon
Mr. Robert Moïdokana, Technical Secretary, Central African Republic
Mr. Mahamat Saleh Al-Habbo, Head of the Technical Secretariat, Chad
Mr. Ndri Koffi, Permanent Secretary, National Committee of the EITI Côte d'Ivoire
Mr. Christian Mambu, Democratic Republic of Congo
Mr. Ange Macaire Longho, Special Advisor, Office of the President of the Republic, Gabon
Mr. Franklin Ashiadey, Senior Economics Officer, Ministry of Finance & Economic Planning, Ghana
Mr. Silvio Gramajo, Executive Secretary of the Transparency and Anti-Corruption Commission, Guatemala
Mr. Mamadou Diaby, Executive Secretary, Guinea
Mr. Alaa El-Deen, Inspector General, Ministry of Oil, Iraq
Mr. A. Rau, Vice Minister, Ministry of Industry and New Technology, Kazakhstan

Mr. Kairat Djumaliev, Head of the Energy and Mineral Resources Department, Office of the Prime Minister, Kyrgyz Republic

Mr. Sayon Henry Yaidoo, National Coordinator, LEITI, Liberia

Mr. Jaona Randrianarisoa, Secretary General, Ministry of mines, Madagascar

Mr. Djibouroula Togola, Permanent Secretary, Mali

Mr. Sidi Ould Zeïne, President of the National Committee, Mauritania

Mr. Shar Tsolmon, Secretariat of Mongolia EITI, Mongolia

Dr. Benjamin Chilenge, National Coordinator, Coordination Committee Coordinator, Ministry of Mines, Mozambique

Ms. Askia Abdoul Aziz, Permanent Secretary, National Committee of the EITI, Niger

Ms. Zainab Shamsuna Ahmed, Nigeria

Mr. Lars Erik Aamot, Director General, Ministry of Petroleum and Energy, Norway

Mr. Jose Luis Carbajal, Director General of Social Management, Ministry of Energy and Mines, Peru

Mr. Florent Michel Okoko, Ministry of the Economy, Finances and Budget, Republic of the Congo

Mr. Joseph Kanu, Permanent Secretary, Ministry for Presidential & Public Affairs, Sierra Leone

Mr. Benedict Mushingwe, Tanzania

Mr. Manuel de Lemos, Director, Secretariat of State for Natural Resources, Timor-Leste

Mr. Kokou Didier Agbemadou, National Coordinator, Togo

Mr. Victor Hart, Chair of the EITI Steering Committee, Trinidad and Tobago

Mr. Mohammed Al-Najjar, Yemen

Mr. Sakwiba Lubasi, Director Human Resources and Administration, Ministry of Mines and Minerals Development, Zambia

EITI Secretariat Staff

Mr. Jonas Moberg, Head of Secretariat

Mr. Eddie Rich, Deputy Head of Secretariat and Regional Director

Mr. Sam Bartlett, Regional Director

Mr. Tim Bittiger, Regional Director

Ms. Carole Isik, Programme Adviser

Ms. Marie-Ange Kalenga, Regional Director

Mr. Anders Tunold Kråkenes, Communications Manager

Mr. Francisco Paris, Regional Director

Ms. Dyveke Rogan, Conference Manager

Mr. Bady Balde, intern

Ms. Leah Krogsund, Executive Secretary

EITI Members

Mr. Håkon F. Nordang, Statoil
Mr. Pablo de la Flor Belaunde, Vice -Presidente Assuntos Corporativos y Medio Ambiente
Mr. Daniel Dumas, head of Economic and Legal Section, Commonwealth Secretariat
Ms. Justine Davila, DFID
Ms. Charlotte Wolff, Manager, Arcelor Mittal
Mr. Antoine Heuty, Revenue Watch Institute
Mr. Hugues Renaux, Certified Public Accountant, CAC 75
Mr. Christian Fr. Michelet, Arntzen de Besche
Mr. Terry Green, the IDL group
Mr. Andrew Bone, Director international relations, De Beers
Mr. Jean Claude Alevina, Total Gabon
Ms. Ute Koczy, Parliamentarian Germany
Mr. Marcio Senne de Moraes, Vale
Ms. Perinne Toledano, Columbia University

GABON

Government and Public Agency Officials

H.E. Mr Paul Toungui, Ministre des Affaires Etrangères, de la Coopération Internationale et de la Francophonie;
H.E. Mr. M. Blaise Louembe, Minister of Budget and Public accounts
H.E. Julien Nkoghe-Bekale, Minister of Mining, Oil and Hydrocarbons
H.E. Mr Pacôme Ondzouga, Ministre de l'Habitat, de l'Urbanisme, de l'Ecologie et du Développement durable;
H.E. Regis Immongault, Minister of Energy,
Ms. Chantal Ogandaga, Director, Ministry of Budget and Public Accounts
Mr Hervé N'Nang-Engue, Chargé d'Etude au Ministère des Mines, du Pétrole et des Hydrocarbures;
Mr. Fidèle Ntissi, Conseiller Economique et Financier du Premier Ministre
Mr Alfred Ikaka Bobe, Chargé d'Etude au Cabinet du Ministre de l'Economie, du Commerce, de l'Industrie et du Tourisme;
Mr. Jean Felicien Makanga, Ministry of Mining, oil and Hydrocarbons
Mr Pierre Célestin MEYE, Conseiller du Ministre du Budget, des Comptes Publics, de la Fonction Publique, Chargé de la Réforme de l'Etat;
Mr. Olivier Dumard Makanga Makanga, Advisor, Ministry of Foreign Affairs
Mr. Jules Ibinga, representative from the public administration in the Working group
Ms. Aghoma, representative from the public administration in the Working group
Mr Pierre Célestin MEYE, Conseiller du Ministre du Budget, des Comptes Publics, de la Fonction Publique, Chargé de la Réforme de l'Etat;

Private Agency Representatives

Mr. Alain Kapitho-Ozimo, Director COMILOG
Mr. Marc Ona Essangui, Executive Secretary, Brainforest
Mr. Baraka Kabemba, Senior manager, Price Waterhouse Coopers, Gabon
Mr. Mr Samuel Lefather, Consultant à Price WaterhouserCoopers du Gabon
Mr. Jean Claude Alevina, General Director, Total Gabon

Civil Society Representatives

Mr. Mbunma Bwassa, Catholic Church
Mr. Mathieu Koumba, Journalist, RTG
Mr. Jean Baptiste Bikalou, Economic and Social Council of Gabon
Ms. Yvette Ngwevilo, NGO of Social and family welfare

GEITI Officials

Mr. Ange Macaire LONGHO, President, EITI Gabon
Mr. Hyacinthe Mounquengui-Mouckaga, Vice-President, EITI Gabon
Ms. Suzie Biyoghe, Secretary, Gabon EITI Secretariat

Other

Mr. Rick Emery Tsouck Ibounde, Resident economist, World Bank Gabon

MONGOLIA

Government and Public Agency Officials

Mr. Badraa Dolgor, Senior Advisor to the Prime Minister and Deputy Chair of the National Committee on Gender Equality
Mr. Damba Ganbat, Director, National Security Council
Mr. Enebish Sumiya, Senior Officer, Government of Mongolia, Cabinet Office
Mr. D.Myagmardash, Chairman of Accounting Policy Department, Ministry of Finance
Mr. Y. Purvee, Chairman of special inspection division, National taxation agency
Mr. A. Ariunbayar, Chairman of Geology Department, Minerals Authority
Mr. B. Tsegts, Officer of Minerals Authority

Civil Society Representatives

Mr. Namgar Alгаа, CEO, Mongolian National Mining Association, member of MSWG
Mr. Perenlei Erdenejargal, Executive Director, Open Society Forum Mongolia
Mr. Namkhajantsan Dorjgari, Manager, Open Society Forum Mongolia
Mr. Boldbaatar, Head, *My Mongolia Motherland* Movement

Private Sector Representatives

Mr. Tserengavaa Jigden, Director General, Dalaivan Audit LLC

Mr. Baasanhand, Representative, Erdenet Mining Corporation

Mr. Z. Davaazedev, CEO, Mongolian Coal Association and member of MSWG

EITIM Officials

Mr. Sharyn Tsolman, Coordinator, Secretariat of Mongolia Extractive Industries Transparency Initiative

UN Representatives

Mr. Losolsuren Barkhas, Governance Specialist, United Nations Development Programme

NIGERIA

Government and Public Agency Officials

The Secretariat to the Presidency

H.E., Mr. Mahmud Yayale Ahmed, Secretary to the Government of the Federation

Federal Ministry of Finance

Dr. Bright E. Okogu, Director-General, Budget Office of the Federation

Federal Ministry of Mines and Steel Development

H.E., Mr. Musa Mohammed Sada, Minister

Ms. E. B. P. Emuren, Permanent Secretary

Dr. (Ms.) I. B. Ekel, Director, Mines Environmental Compliance

Mr. O. C. Azubike, Director, Artisanal and Small-Scale Mining

Mr. E. Duja, Director, Steel

Engr. Uman, Director, Mines Inspectorate

Mr. Orunmiji, Director, Metallurgy and Raw Materials

Engr. Gerba

Mr. Orunmuyi

Federal Inland Revenue Service (FIRS)

Ms. Ifueko Omoigui-Okauru, Executive Chairman

Mr. S. S. Ogungbesan, Coordinating Director, Tax Operation Group (TOG)

Mr. Onyekachi Lhedioha, Coordinating Director, Compliance and Enforcement Group (CEG)

Mr. A. J. Bamidele, Director, Large Taxpayers' Department (LTD)

Ms. Q. S. Seghosime, Director, Tax Audit Process and Programme Department (TAPPD)

Mr. M. A. C. Dike, Director, Tax Policy Department (TPD)

Department of Petroleum Resources, Federal Ministry of Petroleum

Mr. Dozie O. Irrechukwu, Deputy Director, Technical Services
Mr. John O. Biya, Deputy Director, Upstream Department
Mr. M. A. Olaniyi, Manager, Value Management
Mr. Alfred O. Ohiani, Assistant Director, Strategies and Plans
Mr. Godwin Iruafemi, Manager, Data Management, National Data Repository
Mr. J. O. Kuje, Data Management and IT

Nigerian Geological Survey Agency, Federal Ministry of Mines and Steel Development

Prof. Siyan Malomo, Director-General
Mr. Alex Nwegbu, Director, Applied and Engineering
Prof. Effiom Antia, Director, National Marine and Geoscience Centre, Yenagoa
Mr. Michael Adelcanmi, Director, Economic Geology
Mr. Kon, Director
Mr. E. Anyegbynam, Director, National Geophysical Centre, Awica
Ms. M. Akin, Director, Administration and Finance

Nigerian National Petroleum Corporation (NNPC)

Mr. Austen O. Oniwon, Group Managing Director
Mr. Philip O. Chukwu, Group Executive Director, Exploration and Production
Mr. Aminu A. Baba-Kusa, Group Executive Director, Special Services
Mr. Otu Medo, General Manager, Litigation, Arbitration and Property Law Department

NEITI Officials

Prof. H. Assisi Asobie, Chairman, National Stakeholder Working Group/NSWG (Board)
Ms. Zainab S. Ahmed, Executive Secretary
Mr. Peter Ogbobine, General Counsel
Mr. Orji Ogbonnaya Orji, Director, Communications Department
Mr. Garba Sa'idu Yakawada, Team Leader, Audit, Technical Department
Mr. Tariye George, Team Leader, Oil and Gas, Technical Department
Mr. Dieter Ahmed Bassi, Team Leader, Solid Minerals, Technical Department
Ms. Chinenye Okechukwu, Remediation Officer, Technical Department
Ms. Murjanatu Magaji, Petroleum Analyst, Technical Department
Mr. Ibrahim Shittu, Solid Minerals Analyst, Technical Department
Mr. A. A. George, Oil and Gas Officer, Technical Department

Media Representatives (meeting 26 January)

Mr. Shiabu Usman Leman, Secretary, *Nigerian Union of Journalists*
Ms. Sarah Wakili, *Channels TV*
Mr. Obas Esiedesa, *Daily Independent*

Mr. Ben Adoga, *Daily Summit*
A R. Kayode Oyebisi, *Federal Radio Corporation of Nigeria*
Mr. Collins Olayinka, *(The) Guardian*
Ms. Juliet Alohan, *Leadership Newspapers*
Mr. Hamisu Muhammed, *Media Trust Limited*
Mr. John Ofikhenua, *(The) Nation*
Mr. John Uwe, *National Mirror*
Mr. Basse Udo, *NEXT*
Mr. Kenneth Azahan, *Nigeria Pilot*
Mr. Tony Saviour, *Nigerian Television Authority*
Ms. Leah Katung, *Nigerian Television Authority – News 24*
Mr. Dennis Mernyi, *(The) Sun*
Mr. Oscarline Onwumenyiu, *Vanguard*
Ms. Hauwa Noroh Ali, *Voice of Nigeria*

Private Sector Representatives (meetings 1 February, Lagos)

Morning Meeting, Hotel Bellissimo

Mr. David Pizzala, Comptroller, *Chevron*
Mr. Sam Amao, Manager, Crude Exports, *Chevron*
Mr. Innocent Ifeanyi Ogbonah, Manager, Joint Venture Financial Support, *Chevron*
Mr. A. T. Durosini-Etti, Senior Lifting Operations Analyst, *Chevron*
Ms. Eno Aghaunor, Planning Analyst, *Chevron*
Mr. Olanale Olalywoye, *Chevron*
Mr. Sulaiman Zubair, *Chinese National Oil Development Company*
Ms. Titilayo Aboderin, Supervisor, Tax Accounting and Compliance, *ConocoPhillips*
Mr. Benedith Hadomeh Unyeka, Tax and Internal Compliance, *ConocoPhillips*
Mr. Francis I. Damola, Compliance and Assurance, *Nigerian Agip Oil Company*
Mr. M. B. Tahir, Deputy Manager, PPT/Royalty, *Nigerian Petroleum Development Company (NNPC Subsidiary)*
Mr. Chris Nwakwesi, Finance and Audit, *Oranto Petroleum & Atlas Petroleum*
Mr. D. B. Osuman, Vice President/Chief Financial Officer, *SOGW Nigeria*

Afternoon Meeting, ExxonMobile Offices

Mr. Ayo Onasanya, Senior Manager/Commercial, *Addax Petroleum*
Mr. Ololade Oshin, Tax Accountant, *Addax Petroleum*
Mr. Defolu Olufon, Legal Counsel, *BG Group*
Mr. Martins Nwosu, Finance and Accounts Manager, *CAMAC*
Ms. Damilola Busari, Finance, *Dubri Oil Company*
M. Salisu Anaxxxx, Finance and Audit Manager, *Express Petroleum*
Mr. Ozigi Hassan, Company Secretary/Legal Adviser, *Korea National Oil Corporation*

Ms. Blessing Ayemhere, Financial Comptroller, *Midwestern*
Mr. Oluwasem Ayeni, Audit Coordinator, *Mobil Petroleum Nigeria (MPN)*
Mr. Abayoni Oyenugu, Audit Controller, *MPN*
Mr. Anthony Abah, Controller, *MPN*
Mr. Olusegun Ogunlee, Controller, *MPN*
M. Sola Ogunsalem, Controller, *MPN*
Mr. Ade Niyi, Controller, *MPN*
Mr. Evans Ibama, Head, Finance, *Moni Pulo*
M. Ronke Ojo, Manager, *NDPR (which is what?)*
Mr. Edu R. Ugbizi, Manager, *NNPC*
Mr. Joseph Edema-Sillo, Manager, *NNPC*
M. Ogbonne Nnachi-Ibiam, Joint Venture Finance, *NNPC*
Mr. Iyke Akuezumba, Executive Director, *Orient Petroleum*
Mr. Adeole Ogunsemi, Finance, *Oando Petroleum*
Mr. Alabson Martin, Head, Finance, Planning and Control, *Platform Petroleum*
Mr. Eddy B. Aina, Tax Advisor, *Shell Petroleum*
Mr. Wale Raji, Joint Venture-Financial Liaison, *Shell Petroleum*
M. Oge Obianuka, PSC, Finance Controller, *SNEPCo*
Mr. Cyprian Nwuba, Managing Director, *TAC Associates (?)*
Mr. Dominic Nzeji, General Manager Tax, Finance and Control, *Total E&P Nigeria*
M. Azuka Nnorom, Tax Officer, *Total*
Mr. Ibe Ene, *WalterSmith Petroman Oil*

Civil Society Representatives (meeting 27 January, Abuja)

Comrade Peter Esele, President-General, *Trade Union Congress of Nigeria*
Mr. Mustapha Mohammed, Title?, *CATEIFFN??*
Mr. Auwal Ibrahim Musa a(Rafsanjani), Executive Director, *Civil Society Legislative Advocacy Centre*
Mr. Chima Williams, Title?, *Environmental Right Action (ERA)*
Hon. Dandeson N. Hart, National Secretary General, *Joint National Association of Persons with Disabilities*
Mr. Shehu Sani, Title?, *Miners Association of Nigeria*
Mr. Joshua Yakubu, *National Youth Council of Nigeria*
Mr. Anthony George-Hill, Title?, *Niger Delta Budget Monitoring Group*
Ms. Faith Nwadishi, Chair, Executive Board, *Publish What You Pay*
Mr. Otsemaye Newton, Programme Officer, *Publish What You Pay*
Ms. Mimidoo Achakpa, Executive Director, *Women's Right to Education Programme*

Mr. David Ugolor, Executive Director, *African Network for Environment and Economic Justice* (former PWYP director) (separate phone interview)

Donor Officials

Mr. Tom Adams, Economic Adviser, *Department for International Development/DFID, United Kingdom*

Ms. Esther Forgan, Results Adviser, *DFID-UK*

Mr. Scott Caldwell, Governance Adviser, *DFID-UK*

Ms. Kristin Waeringsaasen, Counsellor, Petroleum Cooperation Coordinator, *Norwegian Embassy*

Mr. Winston Cole, Senior Financial Management Specialist, *World Bank*

Ms. Amanda 'Lumun Feese, Consultant, EITI, *World Bank*

Mr. Anwar Ravat, Program Manager/EITI, Oil, Gas and Mining Policy and Operations Unit, *World Bank/Washington*

Other Informants

Mr. Samuel S. O. Afemikhe, Managing Director, *S S Afemikhe Consulting*

Mr. Tony Iniomoh, Senior Manager, *S S Afemikhe Consulting*

Mr. Andy J. Nmorka, Senior Consultant, *S S Afemikhe Consulting*

Mr. Paul O. Omugbe, Chartered Accountant, *S S Afemikhe Consulting*

Mr. Gbadebo Ogunlami, Program Manager, *FOSTER* (DFID-funded program)

Mr. Chris Hart, Team Leader, NEITI Reconciliation Task, *Hart Group, UK*

Mr. Steinar Njaa, *Norwegian Petroleum Directorate, Norway*

Mr. Mark Essex, Senior Consultant, *Oxford Policy Management, UK*

Mr. Sachin Gupta, Senior Consultant, *Oxford Policy Management, UK*

Mr. Edward O'Keefe, Team Leader, NEITI Validation Exercise, *Synergy, UK*

Mr. Jeremy Weate, Independent EITI Consultant

Annex C: Documents Consulted

- Aaronson, Susan Ariel (2008), *Is EITI the Future of CSR because it aligns the Public and the Business Interest?*, Draft, 1 March.
- Aaronson, Susan and Carla Winston (2007), "Extractive Industry Indicators. Data on EITI and non-EITI Mineral Exporters". Powerpoint presentation, September.
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General EITI Documents:

EITI (2006-2011), EITI Board Meetings #1-#16: Agendas – Papers – Minutes from all meetings

EITI (2006-2011), EITI Circulars 37-78, 80-86, 88-96.

EITI Validation Committee: **Validation Reports:** Azerbaijan, Cameroon, Central African Republic, Côte d’Ivoire, Congo, DRC, Gabon, Ghana, Kazakhstan, Kyrgyz Republic, Liberia, Mali, Mauritania, Mongolia, Mozambique, Niger, Nigeria, Norway, Peru, Sierra Leone, Tanzania, Timor Leste, Yemen, Zambia.

EITI Validation Committee: **Extension Requests:** Cameroon, Congo, Cote d’Ivoire, DRC, Equatorial Guinea, Gabon, Ghana, Kazakhstan, Kyrgyz Republic, Madagascar, Mai, Mauritania, Niger, Nigeria, Peru São Tomé e Príncipe, Sierra Leone, Timor Leste, Yemen.

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Global witness (2009b), "Five challenges for the EITI to deliver". 3 March.

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Annex D: Gabon Country Case Report

Gabon is an oil-dependent economy where oil for the last decade has accounted for around 50% of GDP and more around 80% -90% of exports. Until recently Gabon was ranked third largest oil producer in Sub-Saharan Africa after Angola and Nigeria, but has now lost ground to Equatorial Guinea and is currently ranked number four. At a global level Gabon is the 40th largest oil producer. Oil resources are diminishing as fields are maturing and new discoveries have not materialized. As a consequence, oil production has been declining and there is a pronounced and urgent need to diversify the economy.

President Ali Bongo Ondimba, elected in 2009, has launched a diversified growth strategy programme, “Emerging Gabon” with three pillars; namely industry, services and the green sector. Attracting foreign investors has been an important part of the strategy and political and economic reforms have been launched to promote foreign investments and improve the business environment. The Extractive Industries is at the core of the strategies aiming at industrializing Gabon. In addition to oil and gas, the country is the second largest producer of manganese in the world and the country has abundant resources such as arable land, forest, and mineral resources, has extraordinary biodiversity, as well as rich deposits of magnesium and iron ore.

The Congo basin constitutes the world's second largest tropical forest. With forest covering 85% of its territory Gabon accounts for approximately 15% of the Congo Basin rainforest. It encompasses three of the world's globally important eco-regions and it has a particularly high level of biodiversity and endemism. In 2008, a contract was signed with Chinese interests for an iron exploitation project in Belinga, in the north-eastern region of Gabon, and one of the last major undeveloped iron ores in the world. The terms have recently been renegotiated and the project has been subject to substantial controversy.

Gabon is a middle income country and one of the richest countries in Africa in terms of per capita gross national income, reflecting its modest population (1.5m) and significant oil revenues. Despite the middle-income status of the country, the performance on socio-economic indicators is poorer than for peer countries. There is a rural-urban divide where access to basic social services is the largest problem for the rural poor whereas lack of infrastructure is¹¹ defined as the largest problem for the urban poor.

Franco-Gabonese relations have been strong both politically, economically and even military and French economic interests in the country are still important. In 2009 the newly elected president Ali Bongo Ondimba visited France as the first country outside the region. In February 2010 the French President Nicolas Sarkozy visited Gabon and the two presidents made a joint declaration and signed an agreement including continued political and economic partnership and continued presence of French military outside Libreville. Although they both claimed that the era of French semi-exclusivity in Gabon now was over, ties are still remaining strong between the ex-colonizer and Gabon. France is by far, Gabon's most dominant trade partner, followed by the US, the UK, and the Netherlands.

¹¹ Source: World Bank and National Growth and Poverty Reduction Strategy (2006)

There are twenty nine operators in the Gabonese petroleum sector, where the majority are either from the European Union or from the United States of America, with Total and Shell being the most significant in terms of production representing over 60% of total production. In the mining sector there are twenty-three companies from Brazil, China, South Africa among others.

1 Background and History

Following a history of poor economic performance and fiscal management, and faced with high and unsustainable public debt and diminishing oil resources, a decline in oil production and exports and reduced domestic revenue, the former President Omar Bongo approached the IMF for financing of a structural reform program and pronounced commitment to fiscal adjustment. The structural reforms, includes privatization, implementation of the Extractive Industries Transparency Initiative (EITI), budgetary capacity improvements, and the promotion of an attractive business climate.

On the 14th of May 2004, the former President Omar Bongo, announced Gabon's intention to adhere to the Extractive Industries Transparency Initiative, a decision thus driven by the need to break with the past and credibly signal a commitment to transparency and governance reforms of the Extractive Industries and to broader structural reforms aiming at diversifying the economy and reducing the oil-dependency, attracting foreign investors and increasing the credibility of the country in terms of political and economic governance. The adherence decision coincided with the structural reforms financed through a stand-by arrangement with International Monetary Fund (IMF)

At the time a National Commission against Illicit Enrichment (CNLEI) was already in place promoting financial disclosure procedures including work in other areas such as investigations and awareness campaigns. Until 2004 the Transparency International (TI) did not present information on Corruption Perception for Gabon, but since 2004 data have been published on a yearly basis. These indicate a deteriorating in Corruption perception since 2004 and up to 2010, a period during which the country has seen the end of over 40 years of rule of former President Omar Bongo. New presidential elections were held in 2009 but have been strongly contested. The opposition candidates challenged the election results and petitioned the constitutional court, which called for a vote recount that supported Ali Bongo's victory. The winner and new President is the son of the former president and ex-Minister of Defence, President Ali Bongo Ondimba. The Gabonese Democratic Party (PDG) has held power continuously since 1968, and Ali Bongo's victory in the 2009 presidential election reinforced the party's dominance.

The president has extensive powers, including the authority to appoint judges and dissolve the parliament. The bicameral legislature consists of a 102-seat Senate, expanded from 91 seats in 2008, and a 120-seat National Assembly. Regional and municipal officials elect senators for six-year terms, while National Assembly members are elected by popular vote for five-year terms.

1.1 History and status of the EITI in Gabon

Gabon was one of the pioneers in announcing the intention to adhere to the Extractive Industries Transparency Initiative, at a time when EITI was still in its pilot phase¹². The EITI Principles had already been agreed, but the Criteria and the validation system was not yet put in place¹³. Establishment of the EITI International governance structures in their present form were initiated in December 2006. At the time Gabon was an active EITI member and represented the implementing countries with the International Board member, Mr Fidele Ntissi, at that time a Director at the Presidency and Chair of the EITI multi-stakeholder group in Gabon. Since 2008 Fidele Ntissi became the Payment General of the Treasury and after President Ali Bongo Ondimba came to power in 2009 is a Counsellor to the Prime Minister.

In 2007, at the Third International Board meeting, Gabon was approved an EITI Candidate country. A prior review took place to ensure compliance to the criteria for candidacy (pre-validation), namely i) the unequivocal public statement of the intention to implement the EITI, ii) government commitment to work with civil society and companies, iii) appointment of a senior official to lead on EITI implementation and iv) a fully costed country work plan published and made widely available with measurable targets, timetables etc..

Since 2007 three reconciliation reports have been presented. Upon receipt of a request, the International Board granted Gabon an extension on the initial deadline 9 March 2010 for submitting the final Validation report. The validation report was submitted in July 2010. Based on reviews of the Validation Committee and the International Secretariat respectively, the International Board, in its 13th meeting, designated Gabon *Close to Compliant* and decided on some remedial action to be made within 18 April 2011 to enable a second review so as to finalize the decision related to the status of Gabon. The most important elements of these remedial actions were more timely and recent reconciliation reports covering 2007/8 with a commitment to a timeline for the 2009 report and further clarification on coverage so as to assess the materiality criteria. Gabon failed to meet the deadline and the outcome is still uncertain.

1.2 International Support to the EITI in Gabon

Unlike many other EITI implementing countries in Sub-Saharan Africa Gabon has received limited financial support to implement the EITI and the major source of financing has been government financing through the state budget. The Resident Representative's Office of the World Bank has provided some financing for specific activities related mainly to training, communication and dissemination. The World Bank managed EITI Multi-Donor Trust Fund whose goal is to broaden support for the EITI principles and process through the establishment of extractive industries transparency initiatives in countries that have signed

¹² Definition of phases of the Extractive Industries Transparency Initiative from Source Book (2005), Launch at World Summit for Sustainable Development in 2002, pilot phase from June 2003-March 2005 and Implementation phase from March 2005 and onwards. Furthermore the evaluation team has defined a fourth phase which is the main emphasis of this evaluation, namely the period September 2007 and onwards, which is the period after the establishment of the Oslo-International Secretariat.

¹³ For EITI Principles and Criteria see Boxes 1. And 2.

on to EITI through programs of cooperation among the government, the private sector, and civil society has not supported EITI implementation in Gabon.

There is relatively limited donor presence, partly due to Gabon the country being a middle-income country.

2 Motivations for Joining the EITI

2.1 Government

Gabon's commitment to implement EITI was driven by the need to strengthen Gabon's credibility to the international community and foreign investors. The adherence was politically driven and announced by the former President Omar Bongo and the decision was made at the highest political level. Adherence to the Extractive Industries Transparency Initiative (EITI) was at the time, and still is, an integral part of a comprehensive strategy aiming at reducing the oil-dependency through broadening the growth and diversifying the economy, reducing prior exclusivity and attracting more diverse foreign investors, and implementing structural reforms aiming at improving the financial services sector, the business environment and increase transparency and political and economic governance.

The commitment to implement EITI has been reconfirmed by the current President although many changes have taken place at both political and administrative levels. There is still a pronounced intention to continue the EITI implementation and the Minister's of the relevant line ministries are involved in the process. The EITI implementation in Gabon is led and coordinated by the Minister of Economy, Finance and Budget and not, as in some other EITI implementing countries, coordinated by the Minister of Mining, Petroleum and Hydrocarbons.

There is unanimous support to the EITI adherence decision and a pronounced commitment to continue the implementation. There is also a shared analysis and perception, both a political level and within the public administration, of the key motivational factors being the need for improved economic governance, the need to mobilize more domestic revenue, need to attract international investors and increase the credibility of Gabon in the eyes of the international community. Members of the Working group representing core government entities stressed that the former President Omar Bonga in 2004 considered the adherence to the EITI a *de facto* conditionality for IMF financing. The IMF financing was at the time necessary both for implementing the reform strategy and for buying back foreign debt through the Paris Club. In 2004 Gabon was still under negotiations with the IMF and thus opted for announcing the intention to adhere.

2.2 Civil Society

Civil society organizations, still emergent, are unconditionally supportive to the commitment to implementing EITI at national level and see the process as an opportunity for strengthening access to information about the extractive industries and establishing a dialogue with government. The Civil society organizations point to the broader EITI agenda pronounced through the EITI principles and see the present EITI process as an important but not sufficient step in the right direction towards achieving the overarching objectives of improved transparency, accountability and good governance with a long term potential for reducing poverty.

Civil society representatives in Gabon are pushing for an expansion of the scope of the EITI to include more sectors (forestry) and include the use of the tax revenue from the EIs.

The evolving civil society in Gabon has been marked by some incidents revealing the fragility of the freedom of expression and assembly and other civil rights. The existence of a civil society has a short history in Gabon. One incident is related to the arrest of Transparency international's Integrity award winner, Gregory Ngbwa Mintsa, who joined TI France and Sherpa in 2008 calling for an investigation into former President Omar Bongo's and two more African presidents large-scale foreign embezzlement. Thirty days after Mintsa lodged his complaint he was arrested and was released some days later after a huge international outcry.

Another incident, also in 2008, was the suspension of 22 non-government organizations for criticizing the way in which state's resources were being spent. The ban was lifted a week after the suspension after the Government was confronted with the fact that the ban was incompatible with Gabon's membership of the EITI. The participation of independent civil society is a fundamental component of the multi-stakeholder nature of the EITI, which champions dialogue between governments, industry, and civil society.

WikiLeaks recently made public information about audits in the Bank of Central African States, the Central African region's Central bank, revealing embezzlement of considerable amounts with ties to the highest political level in Gabon and France. This confirms the relevance of the EITI broader agenda.

2.3 Private Sector

There are two members of the companies in the EITI interest group in Gabon. Although these two companies did not take active part in the promotion of EITI adherence, the representatives are supportive to the implementation.

However, engaging the broader stakeholder group has proven to be more challenging. It has been difficult to engage the companies in the actual reporting process and there is a perception that companies do not understand why they need to comply with EITI as long as the requirements are neither part of the contractual arrangements nor part of the legislative framework governing the extractive industries.

Perceptions vary within the constituency, but some of the stakeholders' stress that the presence of partners not used to transparency in their country of origin adds to the challenges on voluntary participation in the EITI reporting processes. The challenges have proven to be greater within the mining sector than within the petroleum sector.

The business constituency clearly perceives EITI as having a focused agenda concentrated on the reconciliation reporting, dissemination and discussion.

Within the constituency, the perspectives of the oil companies seem to differ from those of the mining companies and are broadly perceived as more supportive to EITI. Some of the companies present in the petroleum sector are supporting members of the EITI at an international level. Compliance to the requirements is thus part of the corporate values.

The challenges met in the mining sector can be due to several factors. The structure of the industry creates greater challenges. Some of these are: small economic agents involved in artisanal mining, security challenges and elements of illicit activity, less integration and more

upstream operators. In addition stakeholders stressed the fact that several partners are not familiar to the principles of the EITI and have no prior experience with disclosure requirements. A main challenge from the point of view of the mining companies is the lack of legislation, which if enforced, could ensure a more level playfield in involving all relevant companies in reporting.

On perceived benefits, the perspective shared among the business representatives is that the EITI puts much needed pressure on government to account for the tax revenue received from the petroleum and mining companies.

There have been challenges getting a comprehensive picture of the extractive industries in Gabon.

2.4 International Community

The World Bank and the IMF have been instrumental in promoting EITI in Gabon. Unlike many other EITI implementing countries in Sub-Saharan Africa Gabon has a weaker presence of cooperation agencies mainly due to Gabon being a middle-income country.

Except for these two financing institutions EITI implementation has been fully financed by the Gabonese government and no other supporting institutions of the EITI have been instrumental in promoting EITI adherence in Gabon.

2.5 Findings and Conclusions

The decision to adhere to the EITI was taken at the highest political level in 2004, when the former President Omar Bongo pronounced the intention and followed up actively by soliciting and receiving technical assistance from the World Bank to set up the necessary structures and formalize the decision. Within short time following the pronounced intention the Interest group, working group and the permanent National Secretariat were established and formalized through Presidential decrees and arêtes. In addition to this, Gabon actively participated as one of the pioneering implementing countries at an international level..

The motivations for adherence were:

- to signal a commitment to improve public governance
- to strengthen the image and credibility of the public administration towards the Gabonese people and the international community

The decision was one in a broader commitment to a structural adjustment programme financed by the IMF.

President Ali Bongo Ondimba has reconfirmed Gabon's commitment to continue EITI implementation, but progress on the reconciliation reports for 2007 and 2008 has been slow and there is still some worry about whether the recently elected President will deliver according to expectations on good governance and increased transparency. The following months will be important to demonstrate this commitment by publishing the remaining reports and establish a more regular cycle of disclosure, dissemination and discussion on tax payments and revenue from the extractive sector.

There are some tensions between Civil society pushing for the broader EITI agenda defined in the EITI Principles, and other constituencies stating that EITI is a relatively limited and

targeted reporting procedure on tax payments and revenue, as expressed through the criteria and reflected in what is actually being implemented in the Gabonese context.

3 Gabon EITI Implementation and Performance

The following sections give an overview of the enabling environment, the governance structures created, and the core processes carried out as part of EITI implementation in Gabon.

3.1 National Decrees and Legislation and National Governance Structure

The regulatory framework for the EITI multi-stakeholder group, in Gabon called the interest group, and a technical working group, were both created by a Presidential decree in 2005. In the same Decree there is also a reference to a National Secretariat created to assist in the EITI implementation. The Technical Working Group for EITI is the same as the group used for monitoring the implementation of the structural adjustment program *Comité Interministériel de Suivi du Programme d'Ajustement Structurel*. This contributes to facilitate the coordination with broader structural reforms.

As opposed to some other EITI countries, Gabon has so far not opted for having a separate EITI law. Furthermore, the Presidential decrees are not very explicit on the mandates of the organisational structures. It can be noted that decrees define the core mandate of the Working group and the Interest group, but does not include in the Interest group's mandate the approval of Work-Plans.

There is no explicit mandate guiding the functioning of the National Secretariat, but activities are approved through the Interest group's approval of yearly Work Plans.

It is worth noting that the Decree creating the Interest group does not have any explicit reference of a tripartite governance structure or to the participation of civil society in the Interest group. There is a separate arête nominating the representatives from civil society. The most recent Decrees and arêtes regulating EITI are from 2005 and are available on the EITI Gabon web-site. The regulations could benefit from being updated.

Some of the representatives from the industry and civil society are in favour of putting the EITI into legislation, but the on-going discussion in Gabon has mostly centred on integrating the reporting requirements of the EITI into the mineral sector and petroleum sector codes currently under revision. Some representatives from the industry clearly express the preference of maintaining EITI based on a voluntary principle.

Further legislation of the Interest group, the Working Group, the National Secretariat, including more detailed mandates, guidelines and procedures seem not to be considered, at least not at this point in time.

4 The National EITI Secretariat

The National Secretariat administers and convenes the Interest group meetings and makes sure that the agreed activities are carried out.

4.1 Structure, Resources and Administration

The National Secretariat is a very lean organisation and has only 2-3 permanent and dedicated staff and limited financial resources compared to other implementing countries. It has been challenging to establish a clear picture of the level of activity at the National Secretariat. The overall impression is that the capacity is weak in view of the many challenges related to EITI implementation as defined in the Work Plans. The lack of continuity of staff members has also represented a challenge.

The total annual budget and expenditure in 2009 was 498 725 259 FCFA, the equivalent of approximately 760.300,- Euro. Out of the total budget, nearly one third was spent on fees for the independent administrator for the reconciliation reports covering 2007 and 2008 which are still not finalized. Furthermore, one third was used for validation. The third major cost item was related to mission/field visits. Only 8-9% of the expenditure was spent on communication and dissemination activities. The 2010 budget was slightly reduced compared to the 2009 budget. The allocations to different activities are similar to the actual expenditure in 2009.

The EITI implementation has been financed by the Gabonese Government. In previous years the World Bank financed some specific activities.

The stakeholders hold the view that additional human and financial resources would have enabled the National Secretariat to engage more strongly in advocacy and outreach activities and in engaging a broader public not only in the dissemination of reports but on broader issues relevant to the extractive industries and in line with the broader EITI principles agenda on promoting good governance and transparency. The resource constraints have limited these activities.

The National Secretariat is perceived as a facilitator and hub for information and coordination by all the three constituencies and stakeholder group. The overall impression is that the National Secretariat could have been more proactive but there is broad recognition of the resource constraints it is facing.

4.2 Activities and Work Plans

Work Plans are approved by the Interest group and should be made publicly available through the web-site. At present the website does not include previous Work-Plans and not yet a Work-Plan for 2011.

The Work Plan for 2010 is however presented and fully costed. The following areas are defined:

- ***Promoting EITI in Gabon***

This area includes promoting the EITI and increasing awareness about the initiative within core institutions such as the Parliament, Judiciary, the public administration and others.

- ***EITI Dissemination and information***
This area includes dissemination and information about the initiative to the broader public in Gabon. Activities involve maintaining and developing the web-site, publishing a Newsletter, organising work-shops and other relevant communications activities.
- ***Capacity building of the members of the Interest group***
This area included work-shops with core civil society organisations and other relevant institutions with a view towards building more capacity in the three constituencies of the EITI at a national level in Gabon.
- ***Validation***
This area included all core activities related to the validation process and represented the major effort made in 2010.
- ***Publication of 2009 reconciliation report***
The independent administrator is still finalizing the 2007 and 2008 reports. Due to the delay, this activity was postponed to 2011.
- ***Administration and services***
This area includes all administrative work related to administrating the Interest group meetings, all logistics and information sharing within the national governance structures

Several of the planned activities in the approved work plan 201 have not yet been finalized and some of the activities have not yet started, such as the reconciliation report covering 2009.

There seems to be a shared view that the EITI could have put more emphasis on dissemination and engagement of a broader public. One challenge stressed by several interlocutors is that the EITI does not communicate easily and is very complex. Another reflection shared was that as long as the scope does not include the Government's use of resources the broader public does not take a strong interest in the reports about tax payments and revenue received.

In the case of Gabon, there has been a discontinuation of reconciliation reporting with a lack of timeliness and frequency which makes outreach and dissemination activities less meaningful. The most recent reconciliation report published covered 2006 and was published over three years ago. Until new reports are published further dissemination is not given priority. This has reflected itself in the priorities on activities of the National Secretariat and the Interest group.

The representatives in the Interest group are broadly of the opinion that the national Secretariat has relatively weak capacity and could benefit from being strengthened. The few members of staff have needed to climb a very steep learning curve.

So far no published work plan for 2011 and no report on 2010 activities have been made available.

5 Multi-Stakeholder Group and its Performance

The extractive industries in Gabon are of high national political and economic sensitivity. To enable maintained sponsorship and engagement there needs to be some structures creating the necessary participation or links to high level political decision-making. In the case of Gabon there is formally no top-level political engagement in EITI implementation or in the Interest group at a regular basis.

The Chairs of the Multi-stakeholder group (Interest group) have all been appointed by and come from the Presidency. The government representatives are at a technical level or represent middle-management. The business representatives are responsible for corporate social responsibility or related areas and represent the management groups. Civil society representatives are represented at the highest level.

Policy issues are brought to the relevant forum for discussion when needed, either at ministerial level or inter-ministerial level. Compared to some other EITI countries the interest group seems more technical and operationally focused than strategically focused. However it can be noted that the Chair seems to be very well connected with relevant ministers.

5.1 Composition of MSG – the Interest group

The composition of the Interest group is defined in the Presidential decree 535/PR/MBFBP, which defines the following composition:

- The President of the working group
- The Vice-President of the Working group
- The permanent secretary of the Working group
- Two representatives from the Ministry responsible for Mining and Petroleum
- Two representatives from the petroleum industry
- One representative from the mining industry

In addition, Article 5 of the same Decree, states that the composition of the Interest group can be adjusted, if required.

The members of the Interest group have changed over time and latest in July 2010 when a new Chair (President) was nominated. Two core members and positions mentioned in the Decree, namely the President of the working group and, the Permanent Secretary of the Working group have changed throughout the last 8 months. In addition there is a new secretary at the National Secretariat.

It can also be noted that the Civil Society representation has increased over time, from two representatives in 2005 to 5 representatives in 2010. The following organisations and institutions are represented: one journalist, Publish What You Pay, the Catholic Church, The movement for family welfare and the Economic and Social Council.

In 2008 only 4 meetings took place in the Interest group, whereas in 2009 and 2010 the number of meetings has substantially increased, mostly due to all the work related to the validation process and the announced improvements in the reconciliation reports covering 2007 and 2008, but still work in progress.

There have been challenges related to meeting attendance and on many occasions a substantial number of the Interest group representatives are not present. Some members state that the meetings are often announced with very short notice making effective participation difficult.

The National Secretariat has recently implemented improved structures in the form of agreed minutes. This has been a necessary requirement for the Interest group meetings to be effective in decision-making and in making sure that there is an institutional memory.

Although the process of reaching consensus is cumbersome and time-consuming the representatives give a positive assessment of the performance of the Interest group and state that it is functioning in accordance with its intention in the sense that all members can freely express their views and debate issues internally.

All three constituencies believe that they have an active role in the Interest group, but the perspective on which issues are relevant to the EITI implementation differ greatly between them. Whereas the companies see EITI as mainly covering some limited processes on disclosure of information of tax payments and revenue, the civil society organisations have a much broader perspective and greater expectations as to what the EITI implementation entails. The government representatives and members of the Working group have been actively engaged in improving the internal coordination within government between the relevant government entities so as to harmonize and streamline information flows on revenue from the extractive industries.

6 The Reconciliation Exercises

6.1 Overview of the Reconciliation Process

The same independent administrator was applied for the 2004, 2005 and 2006 reports respectively. The scope and the level of detail in the information provided in the reconciliation reports have changed over time and have improved in terms of comprehensiveness.

The reconciliation reporting is based on defined and agreed templates and coverage both in terms of number of companies and tax types. There is also an explicit decision on the level of disaggregation. The templates are distributed together with information to all the participating companies who subsequently return the forms to the independent administrator.

6.2 Reconciliation report covering 2004

The first reconciliation report covered 2004 and was published in December 2005. The main report only included an overview of total production volume in the petroleum sector, but nothing on the value of the petroleum production nor the specific tax payments or revenue from the extractives industry. This latter information was included in separate annexes not published together with the main report.

In the main report, there was no information about which companies participated and which of the companies had disclosed information, nor were there any actual figures on tax payments made by companies or tax revenue received by government.

The main value added in the 2004 reconciliation report was the information provided about the petroleum sector and the number of companies operating in Gabon and the main sources of revenue. In addition the report includes an indication of the revenue shares from each source of tax revenue from the petroleum sector.

The report did not describe the methodology agreed for the reconciliation, the reconciliation process, the discrepancies nor did it include recommendation from the independent administrator.

6.3 Reconciliation report 2005

As from the 2005 report some more level of detail was provided, the scope was broadened to include the mining sector and more relevant information was included in the main report, such as aggregate figures on tax payments and revenue disclosed for eight types of tax revenue from the petroleum sector, representing approximately 90% of the tax revenue.

The report did not describe the methodology agreed for the reconciliation, the reconciliation process, the discrepancies nor did it include recommendation from the independent administrator.

6.4 Reconciliation report 2006

The 2006 report included more information than the two previous reports, but still only aggregate reporting on total amounts disclosures on tax payments for a wider range of tax types and the equivalent amount disclosed as government revenue. For three of the 49 companies participating, companies disclosed amounts which were certified by general accountant.

A major challenge in the reconciliation report covering 2006 was the response rate. Out of the 49 companies 19 did not respond.

6.5 Reconciliation report 2007 and 2008

A new independent administrator was appointed for the reports covering 2007, 2008 and 2009. The 2007 and 2008 reconciliation reports have not yet been finalized although they are claimed to be very close to finalization. It has not been possible to verify the actual progress and the constraints in the process. There have been indications on the discrepancies being too substantial, but this remains speculation at this point in time.

The reconciliation report for 2009 has not yet started.

6.6 Trends and Observations over Time

There is a shared view that the reconciliation reports, although still limited in scope, is a step in the right direction. However, there is broad agreement that the reporting is still far from reaching its potential both in terms of scope, quality of data, and comprehensibility and accessibility of information and dissemination.

There has been a positive trend in gradually improving the quality of the reconciliation reports, but the overall assessment is that the quality is still poor and that the information provides limited insight on the reconciliation process. Furthermore none of the published reports contain observations or recommendations from the independent administrator.

The 2004, 2005 and 2006 reports all include references to the Source Book. The Source book states clearly that the intention of the EITI implementation is for the country to publish industry payments and revenue in a credible and comprehensible manner. There is also a reference to regular cycle of disclosure, dissemination and discussion on extractive industries revenue.

Based on an overall assessment of the three 2004,2005 and 2006 reconciliation reports there is still a long way to go in complying more fully to the intention of reporting as is it expressed in the Source book, which states there should be a regular cycle of disclosure, dissemination and discussion.

Based on the three reports covering 2004, 2005 and 2006, there are still questions related to a number of aspects, such as regularity, timeliness, clarity on materiality and coverage, data reliability, production volumes, inclusion of more meaningful information on quantity and price, explanation of methodology for reconciliation, explanation of discrepancies and more disaggregation of data. In addition, there are questions related to comprehensibility and accessibility.

In the three reconciliation processes the following obstacles were observed and discussed in the Multi-stakeholder group with a view towards improving in future processes:

- Identification of companies and getting access to companies' representatives.
- Information to companies not sufficient.
- Need for more direct contact with companies and possibly to appoint focal points at a senior level.
- Certification of information necessary to increase reliability of data.
- Broadly the lessons learned include the need for more pro-activeness in relation to companies and more resources and emphasis on making sure correct data is provided in a timely manner.

These previous obstacles and lessons learned are all addressing the process and information flow between independent administrators and companies and can partly be address through improved terms of reference for the independent administrator.

Several constraints have also been identified in the reconciliation process on the government side. Some of these are:

- Poor registers of companies, lacking relevant information.
- Weak systems and structures and poor institutional memory, reducing reliability of data.
- No standard operating procedures for information sharing between government entities, internal discrepancies difficult to reconcile.
- No harmonized revenue classification of tax revenue collected through different entities in the revenue collection network.
- Weak auditing institutions.

These are all seen as major constraints in the reconciliation processes and all relate to weaknesses in the government systems, structures and processes involved in tax revenue collection. The overall recording keeping and documentation are weak and need to be strengthened. It should be noted that some minor enhancements have been implemented.

Stakeholders have expressed that the reconciliation process has led to strengthened internal coordination and information exchange between the participating ministries improving fiscal information among others.

One of the fundamental challenges in the Gabonese reporting is the assessment of materiality and to which extent all material payments have been included. The reconciliation reports covering 2007 and 2008 are intended to improve this aspects and clarify the parameters more clearly on participating companies, which phase they are in, exploration, development or production, which revenue/tax types are to be included, how to handle social payments, in-kind payments and infrastructure provision etc. This has not yet been verified.

In addition to the technical challenges related to the quality of reports, stakeholders express the view that some of the fundamental challenges to the dissemination and discussion is related to the weak demand side. The EITI Rules and principles and the Source Book are all relatively supply-driven and focused and assume that much can be done by strengthening the supply side. The EITI in Gabon operates within a context where there are clear challenges to the demand side, which needs further strengthened for the EITI outreach activities to become effective. One factor raised by stakeholders is the level of abstraction and the lack of perceived relevance. The broader public do not feel that the information provided will have any impact on policy changes or lead to improved provision of public services, public investment in infra-structure or a better employment situation in their region etc. All these are issues are main concerns of both urban and rural poor in Gabon, which represent one third of the population.

7 The Validation Exercise

7.1 Validation Process in Gabon

The validation process in Gabon is still in progress and has so far involved the following steps:

1. Choice of validator, which was appointed and contracted October 2009
2. Preparation of field visit, between October and December 2009
3. Field visit and draft reporting
4. Approval of draft report by the Interest Group
5. Submission of draft report for review at International Secretariat and Validation Committee
6. Clarifications and comments to draft report
7. Submission of Final draft, in July 2010
8. Final review of Validation Committee with assistance from International Secretariat
9. Decision on Gabon having status as Close to Compliant and still a Candidate country with defined remedial action to be taken prior to April 18th 2011.
10. Expiry of the deadline for remedial actions

The Interest group contracted Hart Nurse Ltd as their validator in October 2009. The validator carried out two field trips in December 2009 and January 2010 respectively, a total number of 8 days. In addition to interviews with key stakeholder, the validator carried out a desk review and sent out questionnaires to members of the Interest group. The companies also

carried out a self-assessment. The validation process up to the presentation of the Final draft, step 1-8 in the listing above took approximately 9 months, from October 2009 until July 2010.

In addition the Interest group nominated Fair Links' Paris office as their advisor in the validation process.

The validator's assessment and conclusion in the Final validation report dated July 7th 2010 was that Gabon was compliant against all indicators and recommended that the country be considered compliant.

The Gabon validation process has already gone through all 10 steps listed above. The International Board made the following decision at their 13th meeting in Tanzania in October 2010: *The Board designated Gabon as a Candidate country close to compliance giving it until April 18th 2011 to achieve full compliance. The Board does not foresee granting any further extensions beyond this deadline to complete remedial actions.* It was decided that if the country notifies the Board by January 15th 2011 that it has completed its remedial actions its status will be considered at the 1st March 2011 Board meeting in Paris.

Furthermore the review of the Validation Committee stressed that the validation report did not provide sufficient information for the Board to assess compliance with all the validation indicators. The Boards decided that following issues must be addressed:

- The EITI report covering 2007 and 2008 need to be published and disseminated. There should also be a clear and agreed timetable for the 2009 report.
- The 2007 and 2008 report should have a clear definition of materiality. The interest group should have a clear and agreed position as to the participation of companies in the exploration phase.
- All companies making material payments should participate. Any barriers to engage companies in the process should be addressed. All government entities receiving material payments should participate.

The validator presented a set of recommendations, such an assessment of the need for strengthened capacity of the Interest group, improvement in the Work Plan, improved contact with the companies, strengthened reconciliation reports and enhancing the reconciliation process, among others. The Board recommended that these be included in the Work Plan and also recommended inclusion of all remedial action up until the publishing and dissemination of the 2009 reconciliation report.

7.2 Main Findings and observations

The Board decision communicated to Gabon in October 2010 related to the Candidacy country being *Close to Compliance* represented a huge disappointment and came as a surprise to all the members of the Interest group and the Gabonese government.

Strong criticism has been conveyed regarding the validation process and specifically to the fact that there are only a limited number of validators to choose from and that these do not have sufficient language skills to perform as well in a francophone country as they would do in an Anglophone country. The lack of access to validators with adequate skills is from a Gabonese perspective a constraint and an obstacle in the validation process.

It can be noted that there is a discrepancy between the validator's assessment on compliance and that of the International Secretariat and the International Board (Validation Committee). The Interest group in Gabon perceives the criteria to be unclear and the decision-making process arbitrary. Gabon, together with other particularly francophone countries, have claimed that the same rules do not apply equally to all.

The validation process has been more challenging and complicated than expected and the final outcome is still unclear.

8 Findings and Conclusions

8.1 Outputs Delivered

EITI regulated in Presidential decrees without tripartite governance mandate. Gabon's first EITI structures were both created by a Presidential decree in 2005, and could benefit from being updated. Within the regulations there is a reference to the creation of a National Secretariat mandated to assist in EITI implementation. The regulatory documents formalizing the Interest group do not make any mentioning of civil society representation or tripartite governance of EITI. Procedures and practices for nominating civil society representatives have not been specified, however it can be noted that the civil society representation has increased over time.

On further legislation, some stakeholders from the industry and civil society are in favour of legislating EITI mandates of the Multi-stakeholder group and National Secretariat, but the on-going discussion in Gabon is mostly centred around the question of integrating the reporting requirements towards companies into the mineral sector and petroleum sector codes currently under revision. Other business representatives still prefer EITI to be based on a voluntary principle. The mining sector seems to be more in favour of legislation than the oil and gas sector representatives. The expected benefit of legislation is to create a more even playfield.

Multi-stakeholder group in place, but there are questions about representativeness: There are some concerns about the representativeness of the civil society in Gabon's Multi-stakeholder group/Interest group. It can be noted that almost all representatives are from the centre and have limited capacity to engage with the broader constituency. The links to the regions and communities where the mining, oil and gas activities take place are not apparent. The extractive industries can potentially or in practice crowd out other economic activities such as artisanal mining, agriculture, fisheries, tourism or other. In addition negative externalities related to social and environmental impacts are subject to controversy in these industries and represent an apparent challenge in Gabon. Links to the communities where these activities take place, is important. There are capacity constraints facing the civil society representatives in their efforts to link up with the broader public on EITI relevant issues.

Uneven participation in Multi-stakeholder groups: Participation at meetings has been uneven, especially with regards private sector and civil society representative/s. Challenges related to attendance, preparation and sufficient knowledge and understanding by member of the MSG of the relatively complex issues on extractive industries' governance, including revenue management. A need for additional training has been expressed. Members of the Multi-stakeholder group overall share the view that the group works well and represents a

useful forum for dialogue. Nevertheless the stakeholders believe that the government constituency dominates, not necessarily in terms of composition but in voice.

Vulnerability of Multi-stakeholder groups in transitions from one mandate to next: A related challenge is discontinuity of representation in Multi-stakeholder group and in national secretariats. The discontinuity in Gabon is part of the substitution and reshuffling of senior officials and other government staff due to the new Presidency.

The National Secretariat is in place, but with limited resources and gaps in skills: The National Secretariat is a very lean organisation with 2-3 permanent staff members. The overall impression is that the capacity is weak in view of the many challenges related to EITI implementation as reflected in the work-plan. The representatives in the Multi-stakeholder group are broadly of the opinion that the National Secretariat could benefit from being strengthened. The few members of staff have needed to climb a very steep learning curve. The lack of continuity, changes of staff, new Working Group members and new Multi-stakeholder group member have all represented constraints on the progress in the EITI implementation.

In Gabon the lack of sufficient financial and technical support has been seen as a constraint to the EITI implementation: The technical and financial support provided by the World Bank was instrumental in the initial stages of EITI implementation, but the process slowed down. Gabon has not received any financing through the EITI Multi-Donor Trust Fund. EITI implementation has been fully financed by the Gabonese Government, with the exception of some specific activities, such as seminars, financed by the World Bank's resident office.

Gabon's reconciliation process and reports need improvements: Based on the three reports covering 2004, 2005 and 2006, the scope and the amount of information provided in the reconciliation reports have evolved and improved in terms of comprehensiveness. Nevertheless there are still questions related to a number of aspects, such as regularity, timeliness, clarity on materiality and coverage, data reliability, production volumes, inclusion of more meaningful information on quantity and price, explanation of methodology for reconciliation, explanation of discrepancies and more disaggregation of data. In addition, there are questions related to comprehensibility and accessibility. In the three reconciliation report processes the following obstacles were observed and discussed in the Multi-stakeholder group with a view towards improving in future processes:

- Identification of companies and getting access to companies' representatives.
- Information to companies not sufficient.
- Need for more direct contact with companies and possibly to appoint focal points at a senior level.
- Certification of information necessary to increase reliability of data.
- Broadly the lessons learned include the need for more pro-activeness in relation to companies and more resources and emphasis on making sure correct data is provided in a timely manner.

These previous obstacles and lessons learned are all addressing the process and information flow between independent administrators and companies. Several constraints have also been identified in the reconciliation process on the government side. Some of these are:

- Poor registers of companies, lacking relevant information.

- Weak systems and structures and poor institutional memory, reducing reliability of data.
- No standard operating procedures for information sharing between government entities, internal discrepancies difficult to reconcile.
- No harmonized revenue classification of tax revenue collected through different entities in the revenue collection network.
- Weak auditing institutions.

Dissemination and discussion need higher priority: In Gabon there seems to be a shared view that the EITI could have put more emphasis on dissemination and engagement of a broader public, but all agree that there has been resource constraints. One challenge stressed by several interlocutors is that EITI relies more on strengthened supply, but does not resolve the demand side. In many EITI countries there is limited demand for the information provided through EITI and the information is difficult and complex to communicate. Another reflection shared was that as long as the scope does not include the government's use of resources the broader public does not take a strong interest in the reports about tax payments and revenue received. The perceived low relevance for the broader population is an obstacle. In addition, discontinuation of reconciliation reporting, resulting in lack of timeliness and regularity also reduce information value and make outreach and dissemination activities less meaningful. The most recent reconciliation report in Gabon covered 2006 and was published over three years ago.

Communication and information strategy through internet The EITI promotes dissemination and provision of information through internet, which is useful. Nonetheless there are limitations to the effectiveness of the channel and strengthened use of other channels of communication is necessary for better outreach. Estimates indicate 6.4% of Gabon's population as internet users.

Gabon failed to become Compliant – a huge disappointment: Gabon has not been able to finalize the validation process within the extended deadlines and the process ahead is unclear. In October 2010 the International Board found Gabon a Candidacy country "Close to Compliance", something which came as a surprise to all the members of the Multi-stakeholder group and the Gabonese government, and represented a great disappointment. Stakeholders in Gabon have raised strong criticism towards EITI International for their perceived lack of predictability, consistency and clarity on decisions in the validation process. Furthermore the limited number of validators to choose from, the lack of sufficient language skills have also been seen as constraints. There is a discrepancy between the validator's assessment on compliance and that of the International Secretariat and the International Board (Validation Committee). The Final Validation report recommended Gabon to be found compliant. Based on this, the Multi-stakeholder group in Gabon perceives the criteria and requirements to be unclear and the decision-making process not transparent. Gabon, together with other particularly francophone countries, have claimed that the same rules do not apply equally to all.

8.2 Outcomes Produced

The tripartite Multi-stakeholder group is a preventive measure for conflict mitigation: The evolving civil society in Gabon has been marked by some incidents revealing the fragility of the freedom of expression and assembly and other civil rights. In 2008, 22 non-

government organizations were suspended for criticizing the way in which state's resources were being spent. The ban was lifted a week after the suspension after the Government was confronted with the fact that the ban was incompatible with Gabon's membership of the EITI. The participation of independent civil society is a fundamental component of the multi-stakeholder nature of the EITI, which promoted dialogue between governments, industry, and civil society. Civil Society organizations actively taking part in the EITI as representatives in the EITI Interest group believe that the structures created contribute to improving access to information and promoting a continuous dialogue between stakeholders that can prevent conflicts. To some extent the EITI helps protect democratic space.

More knowledge-based debate and increased trust between stakeholders in the Multi-stakeholder group: The exchange of information between stakeholders provides all representatives with a more comprehensive perspective of the extractive industries, and leads to a more knowledge-based debate on broader issues related to the extractive industries. The open exchange and increased access to information strengthens trust.

Increased demand for transparency and openness from government: EITI has put much needed pressure on government to account for the tax revenue received from the petroleum and mining companies. There have been challenges getting an overview of the extractive industries in Gabon and the processes around concessions, contracts and the monitoring of compliance to these terms are all examples of issues which have emerged in the past and where EITI puts some increased pressure on transparency.

Intra-governmental coordination: All government entities involved in the value chain, from the mining and hydrocarbons directorates, the budget, treasury, revenue authorities are all represented in the technical working group participating in the Multi-stakeholder group. This internal sub-structure of the Multi-stakeholder groups has contributed to substantial improvements in intra-governmental coordination and harmonization of information, classifications and registrars. However, there is still scope for substantial improvements and systems, registrars and recording procedures are weak. The fact that the technical working group is the same as the one responsible for monitoring the structural reform programme, give positive synergies.

More attention towards need for level playfield within extractive industries: The oil and gas companies and specifically the mining companies perceive EITI as a vehicle for demanding a more level playfield on disclosure of tax payments. Gabon has experienced difficulties in engaging some of the economic agents in, particularly, the mining sector. There is also a greater pressure on compliance related to issues outside the scope of the EITI, such as access to Environmental Impact Assessments for larger investments in the sector.

8.3 Transparency and increased accountability

Limited increase in Transparency of information on tax payment and revenue EITI implementation in Gabon has contributed to substantial amounts of information being made available which was previously not accessible to the public. In this narrow sense EITI implementation has improved transparency. There is still some way to go even on this core issue, and disclosure of information by companies, particularly in the mining sector, has proven to be a challenge.

No links have been created between the tripartite governance structure and oversight institutions. So far there have not been any representatives from the equivalent to the Auditor General, the Administrative Court “*Cours de Comptes*” or the relevant committees in the National Assembly in the EITI implementation processes.

There has been very limited effectiveness of outreach and engaging the broader public in debate. The engagement of media and academia or other agents promoting such debate and contributing to awareness of relevance of the transparency in the extractive industries has also been limited.

The resources have not been sufficient to engage in dissemination and empowerment.

No signs of strengthened accountability and governance: The political and institutional framework conditions are unfavourable to obtaining short term impact on domestic accountability. EITI has not been a driver for any broader reforms but was initially one element embedded in a broader structural reform including strengthened public financial management system and the improved governance of the extractive industries. The political transition led to a disruption in these planned reforms and new strategies are in the process of being formulated, endorsed and implemented, but it is still too early to say which role EITI will play. The EITI reporting in Gabon is narrow and minimalistic, the oversight institutions and the government institutions are weak.

8.4 Corruption

Limited safeguards measures in place – can have a potential effect of reducing embezzlement EITI, with its existing scope, is one of several safeguard measures against corruption and the effectiveness depends on the risk in the specific country context. In the case of Gabon, the disclosure of tax payments and revenue has been seen as a relevant measure. The government has previously not been held accountable for the revenue from the extractive industries and embezzlement and corruption within government has been a confirmed problem. The EITI increases the access to information about actual disclosed revenue, however the measures are far from being sufficient to have any significant impact on levels of corruption. There is ample opportunity in other parts of the value chain and fiduciary risk is considered to be high.

8.5 Societal impact and big picture indicators

The performance on a selection of indicators is shown in Box D.1.

The *big picture indicators* identified by the EITI Working group on process and outcome indicators, and assessed by this evaluation, show mixed performance of Gabon on most of the relevant indicators.

The business environment, based on Doing Business has not improved. The most recent Doing Business report 2011 providing information on the performance up until 2010, shows no overall improvement but rather a slight deterioration in the ranking of Gabon, now ranked number 156 out of 183 countries.

Box D.1: Measures of Governance Changes

The **Corruption Perceptions Index (CPI)** done annually by *Transparency International* is probably the best-known governance indicator around. Based on surveys in-country, it rates corruption from 1 (extreme) to 10 (no perceived corruption). During the six years 2005-2010, between 160 and 180 countries were included. The following show the results: year, number of countries in survey/Gabon's ranking in survey, and the CPI itself: 2005: 159/88: **2.9**; 2006: 163/90: **3.0**; 2007: 179/97: **3.3**; 2008: 180/96: **3.1**; 2009: 180/106: **2.9**; 2010: 178/110: **2.8**. Gabon has a slight improvement in the performance in 2006, 2007 and 2008 but has now deteriorated since then. (see www.transparency.org).

World Governance Indicators (WGI) are prepared by the *World Bank*, tracking performance along six dimensions: (i) Voice and accountability, (ii) Political stability, (iii) Government effectiveness, (iv) Regulatory quality, (v) Rule of law, and (vi) Control of corruption. The indicators are aggregates of sub-indicators, where values are collected from a wide range of sources. The dataset covers 1996- 2009. The Corruption indicator has values from -2.5 (extreme corruption) to +2.5 (no corruption): 1996: -**1.35**; 2000: **-0.56**; 2002: **-0.49**; 2005: **-0.66**; 2006: **-0.91**; 2007: **-0.88**; 2008: **-1.07**. The trend shows an improvement from a very extreme corruption until 2007 where there is a deterioration in performance. (see info.worldbank.org/governance/wgi/index.asp).

Contents-wise the CPI and WGI appear consistent in the story they tell on corruption. Both show that corruption improved from a highly corrupt society to showing some improvement for then since the death of the former President Omar Bongo to slide back to the previous level.

One methodology lesson is that indexes that appear to measure the same phenomenon may apply slightly different definitions of the subject matter, use different indicators/variables to measure performance, have different data sources/informants as basis for the ratings, and thus end up with quite different scores

The Corruption Perception Index show a slight improvement in 2006-2008 followed by deterioration and the Foreign Direct Investment increased from 2001 and has fluctuated but still remained high as compared to other EITI countries.

9 Acronyms and Abbreviations

EITI	Extractive Industries Transparency Initiative
IMF	International Monetary Fund
PDG	Gabonese Democratic Party
GEITI	Gabonese Extractive Industries Initiative
MSG	Multi-stakeholder group
IG	Interest Group
IS	International Secretariat
NS	National Secretariat of the EITI

Annex E: Mongolia Country Case Report

The Mongolia Extractive Industry Transparency Initiative (EITIM) was conceived and implemented during a period of deep structural change in Mongolia.¹⁴ Changes began in the early 1990s, and have accelerated in the past decade. Elements include:

- *Political transformation*, from a single party system in 1990 to a competitive multiparty democracy, with growing public demand better governance and the delivery of public goods and services;
- *Economic transformation*, from a command to free-market economy, and from being agriculturally-based to rapid economic growth driven by the mining sector; and
- *Demographic shifts*, with rapid urbanisation, rural depopulation and growing geographic imbalances, in a young population.

Profound cultural changes are occurring beneath these trends; in the Mongolian identity, traditional way of life and the relationship between citizens and the State. With the approval of several large mining projects in recent years, the pace of Mongolia's transformation will accelerate. The Government is presented with a dilemma: how to manage a resource-driven boom without destabilising the economy or the country's young democracy and damaging the environment and while at the same time preserving Mongolia's cultural resources.

The Extractive Industry Transparency Initiative for Mongolia is situated between at least two elements of the changes: strengthening governance and management of natural resources. Performance in these two areas is essential for converting the Mongolia's resource endowment into positive development outcomes. They are also areas the highest political sensitivity; natural resource and the environment are intimately linked to the daily lives of Mongolians, as two thirds of the population are involved in livelihood activities directly related to the environment (WB 2009a: 9). As a result, there is growing public demand for transparency and accountability.

1.1 Economic Transformation

Structural changes to the economy are being driven by the rapid expansion of Mongolia's mineral resource sector. Prior to the mid-1990s, Mongolia's economy was rural-based in agricultural and livestock, with some mining activity. Political changes and opening to international investment created the possibility for expansion of mining. As a result, the mining sector has grown almost exponentially during the past decade and accounted for:

- Approximately 21 percent of GDP in 2010, up from nine percent 2002;
- 30.40 percent of export earnings in 2002, increasing to 80 percent of earnings in 2010;
- 36 percent of total public revenues by 2009, compared to 5 percent in 2002; and
- Accounted for about 70 percent of Mongolia's industrial output in 2008.

¹⁴ The overall trends in the Background and History section are summarised from the full document set, and interviews with Mongolian and international informants. The section is intended to contextualise the EITIM initiative. However, the evaluation did not conduct a full political economy analysis.

The IMF (2011) and World Bank (WB 2009a) both forecast a double-digit annual-growth rate over the next five to ten years and a quadrupling Mongolia's per capita GDP by 2018.¹⁵ Two mines in Mongolia's southern Gobi region are expected to provide much of the new wealth. Oyu Tolgoi, which was given the green light last year, will exploit an estimated 40mil tonnes of copper and also gold. The other is an existing coal mine, Tavan Tolgoi, to which new capacity has been added, including road and rail links to China. There are also numerous smaller projects under negotiation, in addition to known and exploited mineral deposits (IMF 2011).

Mining is driving a rapid expansion in Government revenues and expenditures; revenues grew 2.5 times in real terms between 2002 and 2009 and are expected to more than double again between 2009 and 2012 (IMF 2010: 17). Public investment increased by 6.6 times between 2002 and 2007 (WB 2009a: viii). Government expenditures now account for 40 percent of Mongolia's GDP (USD1.5 billion in 2007), and 3.2 times greater than their level in 2002 (WB 2009a). The mining sector, therefore, has contributed to significant growth in the State's revenue-base for delivering public services.

The sector most negatively affected by change has been agriculture. The crisis in the agricultural sector is contributed to urbanisation and acceleration of cultural change. The Mongolian way of life has traditionally been nomadic pastoral; a livelihood that deeply connects the Mongolian people to the land. For 2008, approximately 35 percent of Mongolia's work force was dependent on herding for a substantial part of their livelihoods and 63 percent of rural household's assets are livestock.

However, Mongolia's semi-nomadic herders are highly vulnerable to price and climate shocks. The value of agricultural production has been in decline since its peak in mid-2007, from about four percent of real GDP growth to one percent in mid 2009. A more severe contraction came in second quarter of 2010, when severe climate conditions killed up to 25 percent of Mongolia's livestock. At the same time, international prices for Cashmere, Mongolia's most important agriculture export, have not recovered to pre-2008 crisis levels. Real GDP growth in the sector was negative 5 percent for 2010, while the rest of the economy showed a strong recovery (IMF 2011).

Mongolia, therefore, finds itself balancing unprecedented opportunity with the risks of resource dependence and rapid change. The sharp decline of mining revenues during the last two quarters of 2008 and into 2009 had a demonstration effect, as the impact of the global economic downturn had a severe impact on Mongolia's economy.¹⁶ Mongolia also exhibits

¹⁵ Per capita GDP for 2009 was estimated at USD1700. The figure incorporates impact of the 2008/9 economic downturn. The IMF forecast real GDP growth for the mineral sector at 9% in 2010, 13.4% for 2011 and 12% for 2012. Real GDP growth for the non-mineral sectors was forecast at 5% for 2010, 9% for 2011 and 5.5% for 2012 (IMF 2011: 16).

¹⁶ World Bank data indicates GDP growth declined from nine percent in mid- 2008, to three percent by second quarter 2009 (2009a: 1). The price of cooper on international markets fell by as much as 65 percent by mid-2009, the result of a "demand" shock as Mongolia's trading partners were affected by the economic downturn. The price of other key export commodities also declined significantly, particularly for agricultural products which comprised Mongolia's second most important source of

early signs of the “resource curse”; appreciation of the currency and contraction in non-mineral sectors with loss of diversity in the economy.¹⁷ As the sector develops, therefore, Mongolia is challenged to avoid the “resource curse and transform natural resource endowment into renewable assets for sustainable and broad-based development (WB 2009b: 11).

1.2 Governance

Mongolia has undergone significant political changes since 1990, moving from a single party system to a competitive multi-party democracy.¹⁸ There has been a requirement during the past 20 years to reform the State (political process and institutions), build conditions for private sector economic growth, and re-define the relationship between the state and society. While Mongolia is democratically stable, its politics are volatile; the country has been led by a series of coalition governments (late 1990s, 2004-2006 and 2008- to the present) and results of the last election (2008) were contested.¹⁹ Informants repeatedly stressed the transition process is ongoing. “Mongolian democracy is still young. We are still learning and building our institutions as we go.”²⁰

As the mining sector began to expand in the early 2000s, public attention focused on environmental damage, the effective use of mineral resources and corruption. A joint Government and UNDP study released at the time Mongolia joined the EITIM found low public confidence in the State and the effectiveness of rule of law institutions (GoM and UNDP; 2006). There was a perception of mismanaged State resources, and that State officials were involved in corruption and “themselves violated the law” (2006: 15). The perception “continued the tradition [in Mongolia] that discards legality, creating favourable conditions for public officials to put themselves above the citizens, enjoy special perks and reputation” (2006: 15). Regarding corruption, Mongolians believed it was “blooming and has become a widespread phenomenon ...” (2006: 21). Among other impacts, perceptions of growing corruption undermined the legitimacy of the State.

The Government entered into “second generation” reforms during the period 2005/6. Amendments to the Mining Act (2006) and changes to Mongolia’s fiscal regime allowed for both expansion of the sector and the collection of greater tax revenue. EITIM is conceptually part of reforms towards Good Governance that it will contribute through promoting responsible mining and preventing corruption. World Bank reporting found improvements

export earnings. The price shock resulted in deterioration in Mongolia’s overall fiscal balances (WB 2010d).

¹⁷ Mining and agriculture combined generate 50 percent GDP and over 90 percent export revenues (WB 2009: 6).

¹⁸ The communist Mongolian People’s Revolutionary Party governed for almost 70 years, maintaining a balance between the Soviet Union and China and receiving substantial financial assistance from each. Relations with the former Soviet Union (trade and assistance) accounted for 40 percent GDP by the mid 1980s. Mongolia adopted a Parliamentary Democracy, under its 1991 amended constitution.

¹⁹ Five persons were killed, parliament closed and the Headquarters of one of the major political parties burned over allegations of election fraud in 2008.

²⁰ Statement made by a civil society informant, and reiterated by several Government informants.

in Public Finance Management systems during this period were a “major positive milestone”. The Bank now assesses Mongolia as having “a robust and internally consistent legislative framework, which contains all of the elements of a good financial management system” (2009a: xii).

A follow-up to the 2006 Government and UNDP study (2009b) also found strengthening to State institutions. However, the report concluded Mongolians still lack trust in the political process. General knowledge (political education) of the process and policy issues was low, as was political participation (2009b: 178).²¹ The public and the private sector continue to view corruption as a serious impediment to development. The perception of impunity for public servants (civil service and elected office holders) was continues to corrode public confidence in the State institutions, and anti-corruption measures are viewed as ineffective (2009b: 125-131; WB 2009a: 6).

Concerns also remained for the transparency of the budget management, and availability of information on sources of income and expenditures, including in the area of service delivery (2009: 119). An exception is in the area of national resource management, where public debate has intensified and political visibility is higher. As a consequence, the levels of participation and trust in Government remain low at the moment when debate over natural resource use has intensified.

The structure of Mongolia’s political institutions and of the mining industry itself has created challenges:

- Political institutions are centralised. Most responsibility for revenue management, budget execution and service delivery is located at the national level, with limited devolution of authority or capacity to sub-levels of government. The vertical linkages between the central and sub-levels of government are weak, recent initiatives to decentralise notwithstanding; and
- The structure of the mining industry is decentralised. A small number of large companies generate most of the revenues. They make most payments at the national, although some payments are made to sub-levels. At the same time, there are a larger and growing number of small or “artisanal” companies with closer relations to sub-levels of government. These are an important source of income and livelihood.

There has been improved coherence between the central government entities responsible for budget execution and service delivery. However, coherence and institutional linkages between the central and sub-levels of government are weaker. Therefore, oversight and accurate reporting of small and “artisanal” operations and payments have also been hindered. Informants noted that political instability through 2006 created an uncertain environment for strengthening systems.

1.3 Human Development Indicators

Gains in poverty reduction have been modest. Rapid expansion of the mining sector has been credited with reducing material poverty. However, there have also been increases in

²¹ Differences in methodology make accurate comparisons between the 2006 and 2009 studies difficult.

inequality. Combined with high levels of youth unemployment and rapid urbanisation, there is a possibility for social instability. Translating Mongolia's mineral wealth into human development improvements, therefore, remains a significant policy challenge.

Mongolia showed gradual progress towards achieving its Millennium Development Goal (MDG) targets over the past decade. Progress appears to track increasing expenditures on basic public services. However, economic growth has not yet translated sufficiently into poverty reduction. Informants described the creation of employment and livelihoods in non-mineral sectors as disappointing. According to the most recent data (2007-2008 household survey), the overall poverty headcount was 35.2 percent of the population. There were marked urban-rural inequalities: Urban poverty was estimated at 27 percent in 2008, down from 30 percent in 2002. In contrast, rural poverty actually increased from 43.4 percent to 46.6 percent. Poverty levels in the "country-side" category, where 26 percent of the population lives, were 50 percent.

Almost 50 percent of Mongolians now live in Ulaanbaatar, where 22 percent of residents live below the poverty line. However, data shows inequalities between those living in established and serviced parts of the city, and more newly settled peri-urban areas that are not serviced (MDG 2009).²² There are also significant intra-urban inequalities in access to basic public; water, education, health, and sources of energy for home heating during the winter months. Mongolia in 2006 was the most food insecure country in Asia, with the exception of Cambodia. More than a third of the population was undernourished, with 38 per cent of Mongolians unable to guarantee enough food for themselves and their families each day (GoM and UNDP 2006: 19).

Before disaggregation, these statistics show an improvement over conditions the early decade when the EITIM was being established. Poverty had not declined over the previous decade prior to 2005, and the resources available to the State for addressing human development issues were far more limited. However, in 2010 the Government is still building its policy framework and institutional capacity.

2 History of the EITI in Mongolia

Mongolia's formal participation in the EITI began in 2005. A Joint Session of the Standing Committee of State Great Hural (Mongolian Parliament) on Budget and Economy recommended to Government that Mongolia join the initiative (October 2005). Government subsequently approved EITI adherence at meeting of Cabinet on January 4th, 2006. Government followed with a series of resolutions committing Mongolia to EITI adherence and establishing the institutional framework for implementation. These included creation of the EITIM National Council (January 2006), the Multi-stakeholder Working Group of the Council (December 2006) and opening the EITIM Secretariat (April 2007), with World Bank assistance.

Mongolian informants stressed the important role of the civil society organisations and the "Publish What You Pay and Earn" coalition in creating the political conditions for accession

²² Data was taken from the 2009 MDG report, compiled by the Government of Mongolia and the UNDP. The evaluation also consulted *Progress in Poverty Reduction in Mongolia* (World Bank 2010).

to the EITI. Advocacy occurred in the context of debate on amendments to the Mining Act (2006), and inclusion of Article 48.10 establishing reporting requirements for revenue and taxation. Civil society considered joining the EITI as an early success for public involvement in the natural resource management debate, opening the opportunity for broad participation.

Mongolia was designated as a “Candidate” by the EITI Board at its 3rd meeting (Norway, 27 September 2007), along with 14 other countries. At this date the Board determined that Mongolia had met the first four indicators of the *Validation Grid for Sign Up*.²³ Mongolia and the other “Candidate” countries were given two years to undertake a “Validation” exercise establishing whether they were fully “Compliant” with all 18 EITI Indicators.

Mongolia subsequently undertook five reconciliation exercises, with the first exercise completed in 2008 and covering the fiscal year ending 31 December 2006. Reconciliations were subsequently conducted regularly and on an annual basis. The first three reconciliations have been completed (2008, 2009 and 2010), with the fourth (2011, covering FY 2009) and fifth (2012, covering 2010) currently underway.

The Validation process was completed in early 2010. The report concluded that Mongolia was not in compliance with Indicators 11 through 15. Mongolia responded with a set of remedial measures, which were proscribed by the Board at its 12th meeting (May 2010) subject to a *Secretariat Review* that was completed in October 2010 (EITI 2010c). On recommendation from the Validation Committee, and based on the results of the *Secretariat Review*, Mongolia’s “EITI Compliant” status was confirmed by the EITI Board at its 13th Meeting on 10 October 2010.

2.1 International Support to EITIM

Mongolia has not been a significant recipient of Official Development Assistance (ODA) since 1990. ODA declined from 20 percent of Mongolia’s GNI in 2000, to five percent of GNI in 2008. Aid levels spiked to 10 percent GNI in 2009, when Mongolia received various forms of General Budget Support and Balance of Payments support to offset the impact of the 2008-2009 economic downturn (World Bank 2010b: 13).²⁴ Sources included the traditional OECD donors and International Financial Institutions (IFI, World Bank, International Monetary Fund and the Asia Development Bank). These programmes were either closed by 2011, or being scaled down in anticipation of closure. The decline in ODA receipts is expected to continue. This is consistent with Mongolia’s non-eligibility for most forms of ODA grant assistance, as it approaches Middle Income status and government revenues grow.

International financial and technical support to the EITIM has come exclusively through the EITI framework or the World Bank-managed Multi-donor Trust Fund for the Extractive Industries Transparency Initiative (EITI-MDTF). From the MDTF, Mongolia has received two

²³ The four sign up criteria include: Government issues an unequivocal public statement; Government commits to work with civil society and companies on EITI implementation; Government has appointed a senior individual to lead EITI implementation, and; a fully costed work plan has been published and is widely available.

²⁴ <http://siteresources.worldbank.org/CFPEXT/Resources/299947-1266002444164/index.html>

recipient-executed grants totalling USD 579,000.²⁵ Expected Phase Three will provide about USD 250,000 for 2011 and 2012, which is now in process at the World Bank.

Up to 2010, MDTF funds have been used to support the EITIM Secretariat, and cover costs for reconciliation activities and procuring international technical support. The World Bank has also provided advisory services, all of which has been highly appreciated by Government and stakeholders. The Government has expressed its commitment that Mongolia would provide funds for reconciliation activities on a sustainable basis. Subsequently, MDTF will most probably provide funds for technical assistance, the National Secretariat and communications and promotions activities.

Name of Grant and Date of Effectiveness	Grant Amount	Allocation
Mongolia Phase One, April 2004	USD 304,000	Financial and Technical Support to the EITIM Secretariat, Data Collection and Communication and Outreach
Mongolia Phase Two, October 2010	USD 275,000	Financial and Technical Support to the EITIM Secretariat, Payment for Reconciliation Exercise

Table I: World Bank MDTF Support to the EITIM

Informants expressed concern that management of the EITI-MDTF undermined effectiveness of the EITIM implementation. In part, problems reflected larger systemic constraints in the World Bank's procedures, which were beyond the scope of the EITI-MDTF. However, World Bank, Government and Civil Society informants noted three additional issues of concern specific to the fund. These statements were consistent with the findings of an evaluation of the EITIM conducted by the *Independent Evaluation Group of the World Bank* (2011; 26-29).²⁶

The EITI-MDTF has a heavy administrative burden for application and management of funds. The timeline for decision-making was described as lengthy and unpredictable, and not consistent with the EITI's internal timelines for achieving compliance. This created a tension between the EITIM's resource limitations and the EITI's tight timelines to meet Compliance requirements. It also added to the administrative burden of the EITIM, during a period when significant effort was already required to establish the initiative at the national level.

EITI-MDTF approved grants amounts for Mongolia were smaller than the amounts requested. For Mongolia, approved grants have been for 50-70 percent of the initial request. Informants were concerned that decisions on grant amounts were made by the EITI-MDTF without

²⁵ <http://eiti.org/about/mdtf>, The EITI MDTF provides technical and financial assistance to countries implementing or considering implementing the EITI.

²⁶ http://siteresources.worldbank.org/EXTGLOREGPARPROG/Resources/GPR_EITI.pdf In its conclusions on global performance of the EITI MDTF, the IEG noted "the concerns expressed about delays in disbursement is reflective of the tensions between the EITI's two-year deadline from the acceptance of a country's candidate status to the submission of its validation report, the WBG's rigorous fiduciary requirements, and the limited capacity of many countries to comply with the requirements of the EITI and the WBG" (2011; 27).

explanation of the reasons for reductions.²⁷ A consequence was less Secretariat capacity and forced adjustments to the EITIM work plans. Stakeholders perceived the plans submitted as being realistically budgeted against meeting the requirements for EITI Compliance, and based on a significant planning effort. Of particular concern, the EITIM Secretariat was obligated to cut its communications and outreach activities.²⁸ Civil Society organisations noted problems contributed to delays in gaining access to information on the reconciliations.

Difficulties extended to funding for external consultants from the MDTF. Bank personnel cited delays gaining approvals, and insufficient compensation packages against the qualifications of the consultants and living costs in the local market. Declining supervision budgets were also factors limited the Bank's capacity to participate.

2.2 Status of EITIM Implementation

As noted, Mongolia was designated "Compliant" by the EITI Board at its 13th meeting in October 2010. Compliant status was achieved four years after the Government of Mongolia declared its intent to join the EITI (January 2006), and two years and a half years after the Board designated it "Candidate" (March 2008). By EITI regulations, Mongolia's compliance with the EITI must be validated again within five years, or by 2015.

Government, Private Sector and Civil Society stakeholders expressed strong satisfaction with the progress of EITIM activities since "Compliant" status was achieved. There did not appear to be deterioration in either the pace or quality of activities or softening of commitment on the part of any stakeholder group. Rather, Government and stakeholders have accelerated their pace, in anticipation of large new mining operations opening between 2011 and 2015. At the time of the field mission in January 2011, and among other activities:

- The National Council and Multi-stakeholder Working Group were implementing changes to ensure compliance with Indicators 11 through 15, in response to concerns raised in the *Validation Report* (2010);
- Government was committed to *Extractive Industries Transparency* legislation, which will embed EITI principles in a larger legislative framework. The legislation was in an advanced drafting phase and was expected to be ratified during 2011; Institutions like National Council, the Multi-Stakeholder Working Group, Secretariat will remain under new law, and the law has some aspects of remediation to follow-up discrepancies, liabilities non/misreporting, transparency of licenses, physical audit, expenditure of environment rehabilitation work,
- The fourth reconciliation report is due already in April 2011, and fifth reconciliation report is due by December 2011 and the *EITIM Mid-Term Strategic Plan 2010-2014* (2010)

²⁷ Total availability of funds does not appear to be a factor, as the IEG Evaluation noted EITI-MDTF was under-expended. Informants stated that the funds requested were based on accurately costed work plans, targeted to meet specific "Complaint" benchmarks. The discrepancy between the amounts planned and requested and the amount actually received reduced capacity.

²⁸ The EITIM was criticised in the *Validation Report* for insufficient outreach and communications (Coffey 2010: 33).

was approved and under implementation; and the plan is not translated as it is still not approved by National Council, which is expected to convene in May 2011.

- The EITIM template was in the final stage of its third revision, based on recommendations of the reconciliation and validation reports.
- GoM has made commitment in 2010 issuing a resolution starting from 2011 it will provide the funds for reconciliation work on annual basis. Ministry of Finance has made a decision any public institute which received donations from extractive industries has to account the donations, and report on disbursement in 2010. Parliament of Mongolia has made amendment to existing accounting law on application of international financial reporting standards for both public and company entities in 2010.

3 Motivations for Joining the EITI

All stakeholder groups showed strong interest in Mongolia's adherence to the EITI, and participation during its early phases. Motives reflected the rapidly changing country conditions during the first half of the 2000s. While based in the different perspectives and interests, stakeholder demonstrated a common interest related to strengthening transparency, predictability, the legal and regulatory systems for natural resource management and public financial management, among other issues. Each also an interest in promoting political dialogue related to management of Mongolia's resource wealth, in part related growing public protests and conflict.

3.1 Government

Government officials expressed four basic motivations for joining the EITI. *First, strengthen Mongolia's legal and regulatory framework and institutional capacity* for managing the mineral sector. Mongolia's adherence occurred as one element of broader "second generation" reforms to expand Government participation in the mineral sector, strengthen the legal and regulatory regime and expand revenues. In particular, it reinforced implementation of the newly amended *Mining Act* (2006) requirement for company reporting to Government of revenues and taxes.²⁹ The EITI provided an international-recognised standard for that could be transplanted into Mongolia's own systems.

Second, improve the internal coherence of Government systems. Informants identified two places where improvements were needed: horizontally, between the relevant central government ministries, and; vertically between the central government and sub-levels of government. At the central level, cooperation and information flows between ministries (the Ministry of Finance, the Ministry of Mining and Energy and tax authorities among them) was described as poor, and information standards were not consistent. There was equal concern for the information between the central government and local administrations. Central authorities were concerned that significant revenue payments at the local level were going unreported. This reflects the structure of the mining industry: A few large and highly visible operations generating most of the revenue, with a much larger number of small local operations spread throughout the country and difficult to monitor.

²⁹ Article 48.09 and 48.10 of Mongolia's Mining Act (2006) require companies to report on revenues and tax to Government, on a quarterly and yearly basis.

Third, improve the overall business environment, including strengthening company compliance with taxation reporting requirements and predictability for investors, including some protection from the possibility of corruption that might occur around revenue payments. The EITIM, therefore, was perceived as part of a larger movement in government towards rules-based, predictable and internationally accepted regulations, procedures and expectations. However, stakeholders did not necessarily perceive adherence as part of a strategy for increasingly Foreign Direct Investment (FDI), as Mongolia was already attracting significant new investments.

Fourth, improve political management of issues related to the mineral sector, including the focus and quality of public debate. The EITIM's role in this regard may not have been fully understood in 2005/6. However, there was recognition, articulated by Government and Civil Society organisations that the rapid pace of societal change could be politically destabilising. Informants noted the growth of environmental protests mid-decade, as well as demands for access to information nationally. The EITIM was seen a platform for channelling political dialogue, through its tri-partite governance structure.

3.2 Civil Society

Civil society organisations consider their advocacy role during the early discussions as important to Mongolia's decision to join the EITI. Organisations expressed three basic objectives. *First, improve management of Mongolia's natural resources, and governance around issues of transparency and accountability.* Better governance and management of resources wealth was conceived as part of a larger process of improving Mongolia's human development outcomes. However, civil society informants were clear on the limitations on the EITIM process, and the focus on resource revenues. They considered the initiative as a point of entry into larger objectives, but did not understand the EITIM itself as a platform for achieving those objectives.

As more specific motivations, civil society organisations sought better access to information on mining activity, mineral revenues, payments being made to the State at its various levels and the source of those payments. The EITIM was perceived as a source of accurate information strengthening civil society's ability to engage in broader advocacy, and to hold Government and companies accountable, before Parliament and in public debate. There was no alternative to the EITIM in 2005/6, as the companies were not required to publish such information and access to accurate revenue and budget/expenditure information from Government was limited. Informants noted that, where it previously occurred, debate was often based on incorrect assumptions and information. The absence of reliable information contributed to suspicions toward the Government and companies.

Third, the EITIM's tripartite structure gave organisations access to Government and Private Sector stakeholders they did not previously have. It was an opportunity to form relationships, and enter into larger policy discussions as the sector was expanding. Comparable platforms for dialogue did not otherwise exist at the time. Management of the mining sector and revenues was considered secretive.

3.3 Private Sector

The private sector had five primary concerns as the mining sector expanded. Companies required:

- *A predictable and rule-based investment climate*, that was reliable, transparent and treated all companies equally;
- *A fair tax regime that was competitive with other countries*, and with clear revenue and taxation reporting channels and procedures;
- *Simplified administration and bureaucracy* in the relationship between companies and the State;
- *Protection for companies from acts of corruption and extortion*, particularly at the local level; and
- *Forms of reputation and risk management*, as public protest over environmental issues, corruption and revenue use grew in the mid-2000s.

The EITIM contributed to achieving different elements of each of these objectives, although not all fell within its mandate. In addition, an important rationale for participation was *risk mitigation*. Expansion in an unclear regulatory environment created the opportunity for corruption and extortion to occur. Also, there was an escalation in the early 2000s of environmental-focused protests and allegations that the companies were exploiting resources without paying appropriate levels of taxation, or otherwise contributing to the country.

Publishing information on payments was perceived as a means of mitigating both business and reputation risks, and levelling the playing field between companies. Business informants stated it reduced the opportunity for corruption while also demonstrating that companies were making a contribution to national development through their tax payments. When conflicts did occur, the EITIM provided an institutional framework for dialogue, based on accurate information made available to all parties. Companies consider disclosure of information to be a particularly effective risk mitigation tool at the local levels.

3.4 International Community

The World Bank and the International Monetary Fund (IMF) encouraged Mongolia to join the EITI. Both considered adhere to the EITIM as an important part of broader fiscal and mining sector reforms. The UN system and bilateral donors were not involved. Otherwise, informants did not attribute international influence as being important to Mongolia's decision-making. In particular, EITI accession was not a conditionality linked to some form of Official Development Assistance (ODA) or debt relief, nor was it tied to an investment negotiation. Joining the EITI, therefore, was entirely national initiative driven by Mongolian stakeholders, with support from the World Bank.³⁰

³⁰ This statement is made recognising that companies and civil society organisations have international affiliations, which may influence their national positions.

3.5 Findings and Conclusions

The EITI was initiated during a period of deep structural changes in Mongolia; in its political system, economy, demographics and the larger sense of Mongolian identity. Change was driven, in large part, by the rapid expansion of the Mining sector, which is now a significant source of national income, employment and State revenue. Achieving Mongolia's development objectives are closely linked effective management of its mineral resources. There was also growing political sensitivity around establishing a predictable and rules-based business environment, ensuring transparency and accountability on the reporting of mining revenues and managing the broader public debate on natural resource policy.

Mongolia's decision to join the EITI was taken during the early stages of expansion in the mining sector. The EITIM was introduced as part of broader "second generation" reforms, with Mongolia's amended Mining Act (2006) and changes to the fiscal regime. These expanded direct Government participation in the mining sector, and allowed for greater revenue collection. The EITI offered an internationally verified standard for reporting revenue that could be integrated into Mongolia's legal and regulatory framework, where effective standards did not previously exist. Credibility was enhanced by technical support from the World Bank.

The Government of Mongolia established the EITIM as an open and transparent process. The initiative had strong commitment and participation from the highest levels of Government, and from the Private Sector and Civil Society. All stakeholders perceived the EITIM addressed their core concerns and interests during a period of rapid change. The EITIM normative and institutional framework was established in a timely manner, and the National Council set an ambitious schedule for meeting the requirements of "Compliance" within the EITI deadline. A constraining factor was poor efficiency of the EITI-MDTF, with heavy administrative overhead, lengthy decision-making cycles that did not coincide with the EITI compliance deadlines and reductions in grant allocations against the costed original grant requests.

4 The Enabling Framework

4.1 National Decrees and Legislation

The EITIM has been supported by resolutions and degrees establishing its mandate, organs, infrastructure and procedures. These were conceived in the context of broader "second generation reforms" in the Mining sector and public finance management. Taken together, these have formed the legal and regulatory framework for expansion of Mongolia's mining industry. Mongolia did not begin working on specific Extractive Industry Transparency legislation until 2010.

- Among the specific instruments for the EITIM:
- In October 2005, a Joint Session of Standing Committees of State Great Hural on Budget and Economy supported Mongolia's adherence to the EITI, and instructed the Government to join the initiative. Civil Society advocacy played a role in the initiative arriving before Parliament.

- The Government approved adherence to EITI at its Cabinet Meeting of 04 January 2006. Government subsequently published Resolution 1 (2006), announcing Mongolia's intention to join the EITI.
- Resolution 1 (2006) also established the EITIM National Council, a tripartite body chaired by the Prime Minister and with equal representation from Government, Parliament, Corporate and Civil Society. The Council was anchored, therefore, in the Executive Branch of Government but linked also to Parliament.
- The Multi-stakeholder Working Group (MSWG) was established to support the National Council. The MSWG was formed by publication of Resolution 3 (December 2006), with a reference to its mandate included in Article 12 of the National Council's Terms of Reference (2006).
- *A Tripartite Memorandum of Understanding* was signed between Government, Companies and Civil Society Organisations, providing a framework for their participation in the governance of the EITI (April 2007). The memorandum expands on roles and responsibilities defined in the Terms of Reference for the National Council (2006).
- Mongolia's current *Mining Act* (2006 amending the 1997 Mining Act) was ratified by the Great Hural during the same period. Articles 48.9 and 48.10 of the Act require licence holders to report on royalties, taxes and other payments to Government, quarterly and annually. The legislation provided the legal basis for the EITIM, with the initiative providing a reporting framework.
- Order No.62, 2007 of the Prime Minister of Mongolia (Statue of the Secretariat to Implement the Extractive Industries Transparency Initiative in Mongolia) established the Secretariat of the EITIM, its mandate and structure.³¹ The Secretariat is a free-standing entity, not hosted within a branch of Government.
- In October, 2006, 17 independent non-governmental organizations founded the 'Publish What You Pay and Earn' civil society coalition. One objective of the coalition was to support the implementation of the EITIM. The coalition also has international affiliations. In December, 2006, the National Council's composition was changed and three members of coalition joined the Council as civil society representatives.
- The first reporting template was approved by the National Council in December 2006.
- The Appendix to Governmental resolution No. 80 (2007, *Functions of Governmental bodies participating in implementation of the Extractive Industries Transparency Initiative*) outlined the roles and responsibilities of all State entities participating in the EITI.³² The Appendix also outlined the responsibilities of the State entities to the EITIM National Council.

³¹ The text of Order No.62, (2007) is posted on the EITIM website,

<http://eitimongolia.mn/?&langid=2#/?dazo=page&pageid=88>

³² The Appendix is posted on the EITIM website, <http://eitimongolia.mn/?&langid=2#/?dazo=news&newsid=18>

- Government has issued period orders to address discreet issues being addressed by the EITI. For example, Order 16 (1 February 2008) by the Office of the Prime Minister directed the Minister of Finance to “determine the every case of discrepancies of taxes and payments ... revealed by the First Reconciliation Report...” Order 16 also directed sub-levels of Government to provide all information as required by the Minister of Finance.
- Government is implementing a series of legislative and regulatory changes, identified during the validation process as requirements for being designated EITI “Compliant”. First among these is an *Extractive Industries Transparency Law*, which was in the drafting stage in early 2011. Ratification was expected during the year end. The law further entrenches EITI principles in Mongolia’s legislative framework.

4.2 National Governance Structure

The governance structure of the EITIM includes two entities. The *National Council of the Mongolia Extractive Industries Transparency Initiative* is the highest level of the EITIM. The Council is chaired by the Prime Minister of Mongolia, demonstrating the Government’s political commitment. The Council was mandated to establish the “key principles, and the political, legal and institutional framework for implementing the initiative” (Terms of Reference 2006), and functions on a consensus basis. In 2010, it was comprised of four representatives of Government, four representatives of Parliament, five company representatives and five from Civil Society. Membership in the Council, therefore, occurred equally from the three stakeholder groups. Stakeholders considered the Council to be representative, and to have high level leadership from Government.

The National Council is supported by *Multi-stakeholders Working Group* (MSWG), also established by a resolution of the Government in December 2006. The Working Group’s mandate is focused on the technical and operational aspects of ongoing EITIM implementation, and reports to the National Council. It is chaired by a Senior Advisor to the Prime Minister, and comprised of 25 representatives from Government, the Private Sector and Civil Society. Representation, therefore, is equally distributed between the stakeholder groups. Informants indicated their satisfaction with both the balance of representation, and with the high level of representatives participating.

4.3 The National EITI Secretariat

The EITIM Secretariat has achieved a high level of operations with limited resources and staff. The Secretariat established itself as an impartial entity working to support the overall EITIM process. Secretariat personnel were considered in high regard by all stakeholder groups. The Secretariat has a small infrastructure, including two to three full time staff members and limited infrastructure and operating budget. It developed non-costed work plans on an annual basis.³³ For the period 2010 to 2014, the EITIM now has a non-costed medium term strategy and plan.

³³ The work plans are not translated, and have not been reviewed by the evaluation. The plans are not costed.

4.4 Multi-Stakeholder Working Group and its Performance

The EITIM is based on tripartite representation and participation, confirmed in the *Validation Report* (2010) and by informants. The group is chaired by a Senior Advisor to the Prime Minister, and has representation from Government, the Private Sector and Civil Society. Civil society organisations expressed strong satisfaction with the governance structure, and the opportunity provided to participate in the EITIM process. Particular note was made of the opportunity to engage high level representatives from the other stakeholder groups.

Informants indicated their general satisfaction that issues brought up by Civil Society organisations given consideration in National Council and MSWG debate, and that the debate itself is open and frank. Civil Society organisations have developed their own coordinating structures, including through the *Publish What you Pay and Earn* coalition, to strengthen the representativeness of their participation. There is a high degree of diversity within the civil society representation.

Core activities (Reconciliation, Validation, Dissemination, Other)

Minutes of National Council and MSWG meetings were not available. There was a limited amount of information on debates within the meetings, with the primary source being interviews. From the available documentation, there appeared to be a low level of participation at some recent MSWG meetings.

The *Validation Report* (2011) expressed concern that the National Council has only met four times since creation of the EITI, and that access to minutes of the meetings were restricted. The MSWG met on a more regular basis, at least 10 times between 2006 and the evaluation mission on January 2010. The governance system appears to have worked with growing maturity. It completed a significant amount of work, to establish and oversee EITIM operations. This was done in a politically volatile context. As particular achievements, the governance system has:

- Provided effective oversight and direction to the development of the EITIM, and its policies and operations;
- Overseen and approved five reconciliation processes, including amendments to the annual reporting template;
- Directed and overseen expansion of the scope of EITIM coverage, including amendments to legislation and regulation necessary for expansion, and
- Acted in a decisive and timely manner to fulfil the requirements of “Compliant” status after deficiencies were found during the Validation process.

However, the MSWG has an operational mandate and lower level of authority in the Governance structure. Its meetings cannot compensate for any lack of political and policy direction coming from the National Council.

Outreach activities (Involvement of other institutions or interest groups)

There was limited outreach and communication from the EITIM process. It was unclear, therefore, how broadly information generated by the EITIM is being disseminated and used to inform debate, outside of the EITIM process itself. The EITIM, therefore, has not reached its potential as a source of information in support of transparency and accountability.

The EITIM Secretariat has limited capacity to engage with outreach activities, and did not have an effective communications strategy. Reports and related information are posted in the EITIM website, in English and Mongolian. However, many aspects of the site are out of date and functionality is limited. There are important gaps in the information that is posted, For example, the minutes of National Council and MSWG meeting are not published even through a link is provided. Other links to documents are broken. The Secretariat does not have the resources to improve the site, in part as a result of funding reductions on EITI-MDTF grants.

The EITIM Secretariat did not appear to otherwise have an outreach or communications strategy, or resources to support such activities. Work plans make reference to dissemination of information. However, a strategy was not articulated or resourced. In particular, the Secretariat does not have the capacity to popularise the complex information provided in the reconciliation reports, and communicate to the public in a manner that is easily understood.

The Mining Association reported some outreach activities with its membership, and claimed that membership had a good general knowledge. Individual companies were using revenue reporting in their relationships with communities, to demonstrate they operated in compliance with law and were contributing to national development. However, there appeared to be limited dissemination of EITIM information or results beyond these activities.

4.5 The Reconciliation Exercises

Overview of the Reconciliation Process

Mongolia conducted three reconciliation exercises between 2008 and 2010, covering the fiscal years 2006 to 2008 inclusive. The fourth (FY2009) and fifth (FY2010) reconciliation processes were being prepared as of January 2011. Mongolia set and achieved an ambitious target for entering the reconciliation process. The *First Reconciliation Report* was published in February 2008, covering the fiscal year (FY) 2006. The report was completed two years after Mongolia announced its intention to join the EITI, and only three months after it was designated a “Candidate” country in November 2007.

The First Reconciliation Report FY 2006

The *First Reconciliation Report* (2008) was written by the firm Crane, White and Associates, which was mandated to “ensure ... the transparency and credibility of mining sector payments and receipts in Mongolia.” To this end “the assignment entails an analysis and reconciliation of material payments and receipts made in fiscal year 2006 in the mining sector.” The report was reviewed and approved by the EITIM National Council prior to publication.

The reconciliation’s scope and selection was determined by tax payments, based on Government reported data. To keep the sampling manageable for the first exercise, the threshold for the materiality for audit by an international reconciler was set at MTN 500mil

(approximately USD450000 at 2006 exchanges rates).³⁴ As a result, only the 25 largest companies participated in the reconciliation. A total of 64 companies submitted reports to Government using the EITIM template, including the 25 companies that participated in the reconciliation. In contrast, 300 mining companies were registered with the Government. Of these, only about a third of companies were estimated to be in active and regular contact with the tax authorities, and 137 were known to the Ministry of Finance (Ernst and Young 2009: 5; Open Society Forum 2008). This reflected the fact that many companies are small or “artisanal”.

The first reconciliation, therefore, covered a relatively small sampling comprised of the large mining companies: eight percent of registered companies and 48 percent of companies reporting to the Ministry of Finance. The sampling did not address the large number of small and artisanal companies.

The total value of company payments reconciled was MNT 503mil, against MNT405mil in receipts reported by Government. The net discrepancy between company and Government reports was approximately MTN97mil, or 20 percent of the total value of the payments being reconciled. MTN 25mil in discrepancies could not be resolved during investigation conducted by the auditors with companies and Government entities. This was equivalent to 25 percent of the original net discrepancy and five percent of reported payments (2008: para 30 to 48).

Companies, therefore, reported significantly higher payments than Government reported receiving. The auditors found “numerous discrepancies”, in “areas of concern to both the [EITIM] process and the manner in which Government entities and some companies responded” (2008; para 70). On the company side, discrepancies resulted largely from improper use of the template. However, concerns were focused mainly on deficiencies in Government systems. They auditor’s noted that “the considerable excess of company payments over Government receipts indicates that the Government templates do not record all taxes, fees, charges, dividends and donations paid by mining companies (2008: para 32).

By their *Terms of Reference*, the auditor did not offer an explanation on where the unresolved revenues might have gone. In particular, the report also does speculate in the possibility of corruption.³⁵ However, civil society organisations expressed concern for both weaknesses in Government systems and the possibility of corruption, particularly at sub-levels of Government. This included the possibility the overpayments which constituted bribes were being reported as revenues (Open Society Forum 2008).

³⁴ The approximate exchange rate for MTN to USD exchange rate for mid-2006 was MTN1120 to USD 1.

³⁵ Term of Reference for the *First Reconciliation Report* stated “the aim of the project is to assist in the provision of information needed for transparency. It is not designed to locate instances of mismanagement of resources or corruption, but rather to provide information that will assist with accountability.”

As major deficiencies revealed by the reconciliation exercise:

- *Government receipts were incomplete and inaccurate.* While particularly the case of information received from sub-levels of Government, the auditors noted that a large number of central agencies and ministries either did not report receipts, or provided incomplete and inaccurate data;
- *Data received was inconsistent, between companies and Government, within entities of the Central Government and between the Central Government and sub-levels of Government.* Companies included a variety of different items in the calculation of some taxes and charges. Issues also arose as to what should be included in some areas of Government receipts. These clearly indicated deficiencies in instructions and in the structure and content of the reporting template;
- *The majority of discrepancies occurred because Government templates did not fully and accurately record the receipt of payments made by companies.* This occurred because either information was not sought from all Government entities that received payments from mining companies or if such information was requested, inadequate follow up occurred to ensure it was received (2008: 29);
- *The area of greatest concern for Central Government reporting was with the Customs authority.* There were discrepancies on reporting Customs revenues for 23 of the 25 templates. The second area of disagreement was VAT credits;
- *There was particular concern for reporting coming from the sub-levels of Government, including on the issue of donations made to Government (in-kind and community-level donations for development projects, such as schools or hospitals).* Company templates reported donations that were not included in Government templates. Central Government authorities also had limited access to information on the activities of sub-levels of Government, where systems were weaker;
- *The auditors expressed general satisfaction with Company preparation of the EITIM template, concern for the performance of some companies notwithstanding.* The internal systems of most of the 25 companies were already based on international audit standards. The performance of Government was unsatisfactory. Most Government entities did not provide complete or accurate details (para 50), and Government did not have effective systems to manage the information (para 49); and
- *There were deficiencies with the reporting template, and insufficient instructions and support to assist Government and companies in completing the information accurately (para 60).*

Given the workload involved, the auditors recommended that Government *not* seek to resolve existing discrepancies. They were particularly concerned with diverting focus from preparation of the 2007 reconciliation. Rather, recommendations focused on:

- *Strengthening Government systems* to reduce the number of discrepancies and improve the consistency of data, ensuring that all company receipts reported by companies to Government were then noted into Government systems.
- Special emphasis was placed on improving the reporting coming from the Customs Authority, on VAT credits, and from sub-levels of Government; and
- *Improving the template*, to ensure that company and Government reporting systems were consistent, and all entities had proper instruction on how to use the template.

The Second Reconciliation Report FY 2007

The *Second Reconciliation Report* (2009) was written by the firm Ernst and Young and covered the fiscal year 2007. The objective of the reconciliation was “determine ... the transparency and credibility of the mining sector payments and receipts in Mongolia”, similar to the first report (2009: 1). The auditor used a two phased methodology, similar to the first reconciliation but more structured in the division of the phases. Phase One involved gathering and reconciliation of data. Phase Two included validation of the data and investigation to resolve discrepancies. The EITIM National Council received a status report between the Phase One and Phase two, and approved the final report.

The *Second Reconciliation Report* (2009) used a revised template based on recommendations from the 2006, and was based on a materiality threshold of MTN 200mil in payments (USD170000 at 2007 rates of exchange).³⁶ Thirty-eight leading companies were included in this scope. This was equivalent to 20 percent of the 186 companies that the Ministry of Finance reported made relevant payments during FY07 (2009: 5). A total of 104 companies reported to Government using the EITIM template, 60 percent of the total companies making payments to Government and up from 48 percent of companies that reported in FY06. The Government was not able to compel broader participation, as EITIM reporting continued on a voluntary basis. This reflects the lack of legislation.

Using a revised and expanded template, the auditors reported net discrepancies of MNT23.5mil in Phase One of the reconciliation. Alternatively, they expressed the discrepancies as:

- Amounts reported by companies exceeding those reported by Government Entities, MTN 82.5mil; and
- Amounts reported by Government entities exceeding those reported by companies, MTN60mil (2009: 11).

During the reconciliation process, the auditors found that some companies were reporting with the unrevised template, used in the first reconciliation. Other companies did not follow the directions precisely, and included non-required items. Removal of these items reduced the discrepancy to MTN3.8mil. However, after completion Phase Two reconciliation and validation, the total unresolved discrepancies were reported at MTN 11.6mil (2009: 32), or approximately 50 percent of the original net discrepancy and 1.45 percent of the total payments reconciled. The report describes a significant amount of effort being required to resolve the discrepancies, given problems obtaining accurate information from Government systems.

The auditors noted improvements in both corporate and Government reporting over the First Reconciliation Report. The main sources of discrepancies continued to be tax and royalty payments. Payments made to sub-levels of Government were a small percentage of the monetary value of the discrepancies, but proportionately constituted a significant problem. For the Private Sector, 13 of the 38 companies accounted for the 90 percent of the

³⁶ USD 1 = MTN 1164, at the exchange rate for mid-2007.

unresolved discrepancies, meaning that almost 70 percent of the corporate payment reports were effectively resolved.

Most resolved discrepancies would have not occurred if companies and Government Entities had completed the EITIM template correctly. Both parties still showed a lack of understanding of requirements and procedures, albeit with improvements over previous years. For Government entities, the auditor still found the data was incomplete and/or inaccurate. The main source was incomplete information at the General Department of Taxation Mongolia (GDTM) level and disputes with the Mineral Resources Authority (MRSM) and companies over the amounts reported. Also, sub-levels of government were either not reporting, or reporting to the GDTM incorrectly.

As the main issues identified:

- *Sub-levels of Government were not recording certain payments made companies, for items such as land rent and fees for water use. In other cases there was confusion on whether such items should be reported. Poor reporting on donations was also an important concern;*
- *Most unresolved discrepancies related to inaccurate or incomplete data, and disputes between entities on the amounts being reported by companies. Also, not all taxes collected at the local levels of Government are being reported back to General Department of Taxation Mongolia. For its part, the tax authority did not follow up with several important Government entities;*
- *There was poor cooperation between Government entities, in sharing information on revenues;*
- *As most of the discrepancies related to Government entities, the auditor recommended working with the Ministry of Finance and the tax authorities to improve the coherence and consistency of Government reporting, and to develop a formalised reporting process aimed at improving the quality of relevant data to be captured in the template.*

The Third Reconciliation Report 2008

The *Third Reconciliation Report for 2008* was conducted by a consortium of Hart Nurse Chartered Accountants and the Ulaanbaatar Audit Corporation (2010). The objective of the reconciliation was to “ensure, in compliance with the procedures set out by the international EITI Secretariat, the transparency and credibility of mining sector payments and receipts in Mongolia” (2010: 7). The reconciliation process was based on a revised version of the EITIM template (Version 3). The final report was reviewed and approved by the EITIM National Council. Also, the National Audit office was assigned to investigate discrepancies.

The threshold for materiality was set at MTN 100mil in revenues (approximately USD80000). Reducing the threshold brought 46 companies into the scope of the exercise. The sampling, therefore, was comprised of 25 percent of the 184 companies reporting to Government using the EITI template (2010: 17).³⁷ There was no confirmed information on the total number of

³⁷ The evaluation did not find information on the total number of companies operating in the extractive sector and/reporting revenues to Government.

companies licensed to operate in 2008.³⁸ Unlike previous years, therefore, it was unclear how the EITIM sampling related to the larger universe of companies with operations in Mongolia. Reporting was still done on a voluntary basis.

Total payments reported by Government were MTN 665mil against MTN 713mil reported by companies. The net discrepancy after the first phase of the reconciliation, therefore, was MTN 47mil. With adjustments during the investigation phase, Government revenues were increased by MTN 19mil to MTN 685mil while revenues reported by companies were reduced MTN 27mil, to MTN 686mil. The total unresolved discrepancy was MTN1.1mil, or approximately USD90000.³⁹

The result of the reconciliation process was a comprehensive and disaggregated report on payments made by the 46 largest companies. Six of the companies did not file reports. However, the auditors contacted each company and their payments were clarified. Unresolved discrepancies represented only .16 percent of flow of payments to Government, down from five percent in the first report. The auditors did not consider this amount to be material (2010: 10).

Unresolved discrepancies arose almost entirely from reporting from sub-levels of government, specifically on “service charges paid to state and local administration in accordance with relevant law “ (MNT 357mil) and “Costs disbursed for protection of the environment“ (MNT 680mil). The auditor noted that obtaining information from local Government for the 2008 reconciliation process was incomplete as previous years. Donations remained an area of particular concern, where the figure initially reported of MNT 1.0mil was increased by MNT 4.9mil as a result of the reconciliation (2010: 17). Informants noted this was an important potential source of leakage in the system.

As reasons for discrepancies, the templates submitted by Government and companies contained a number of errors in completion or omissions. These resulted from a combination of: Inadequate understanding of the requirements, by government departments and companies; inadequate care over completion of the templates, particularly by MTA; failure to provide data requested, especially from the local level. The auditors also noted that local government does not receive support from the Ministry of Finance to complete the EITIM template, or other aspects of their accounting and record keeping. Local financial management capacity, therefore, continued to be weak (2009: 9).

The *Third Reconciliation Report's* main recommendations related to formalising the EITIM process under Mongolian law. The auditors noted that participation in the EITIM remained a voluntary procedure. The elements and principles of the Mongolia EITI would normally be set out in a law approved by the parliament, while more detailed provisions would be determined by regulation by the designated Ministry. The auditors recommended consideration be given to sanctions for non compliance, where such sanctions did not exist in

³⁸ The Validation Report estimated the number of licensed companies in 2009 at “over 200” (2010: 10). If this number is correct, the number of companies using the EITI template as the basis for reporting is approximately 90 percent of the total number of licensed companies.

³⁹ Numbers have been rounded.

2010 (2010; 37). The auditors also recommended strengthening of the EITIM's definition of materiality.

Summary of Trends and Observations on the Reconciliation Process

<i>Reconciliation Report</i>	<i>Number of Companies</i>	<i>Revenue Threshold</i>	<i>Discrepancies (in billions of MTN)</i>
First Reconciliation Report (2008) covering FY06	25 companies included in the reconciliation (64 companies in total reporting to the Ministry of Finance using the EITIM template, or 48% of the 137 registered companies)	MNT 500 million	Net Discrepancy: MTN 97bn Unresolved Discrepancy: MTN 25bn
Second Reconciliation Report (2009) covering FY07	38 companies included in the reconciliation (102 companies in total reporting using the EITIM template, or 60% of registered companies)	MNT 200 million	Net Discrepancy: MTN23bn Unresolved Discrepancy: MTN11.6bn
Third Reconciliation Report (2010) covering FY08	46 companies included in the reconciliation (184 companies reporting using the EITIM template).	MNT 100 million	Net Discrepancy: MTN 47bn Unresolved Discrepancy: MTN 1.1bn

Table II: EITIM Reconciliation Performance

Mongolia's first three reconciliation reports show significant and consistent progress towards EITIM implementation. There were no issues on which the auditors found Mongolia's comparative year on year performance had deteriorated. The exception was in reporting received from sub-levels of government, which did not show significant improvements. Sub-levels accounted proportionately for the greatest number of discrepancies over time and did not show improvement. Accomplishments were made during a period of rapid expansion in the mining sector, when the number of companies and amounts being reconciled has increased.

The EITIM had not been formalised within national legislation ratified by Parliament. Rather, it was established by series of resolutions and orders issued from the Office of the Prime Minister. Reporting, therefore, was done on a voluntary basis. Auditors and Government had limited legal authority to compel companies to report or to sanction non-compliance. The lack of clear legal authority also limited the ability of successive auditors to resolve discrepancies, or the National Council to take remedial actions. Civil Society and Government stakeholders expressed concern that EITIM provisions be formalised in law. In this regard, Extractive Industries Transparency legislation was being drafted during 2010,

with ratification expected during 2011.⁴⁰ Companies have stated their position that the EITIM should remain a voluntary process, but have participated in developing the legislation.

The accuracy and completeness of reporting were the primary source of discrepancies year on year, albeit with improvements. The EITI process has limited capacity to provide direction, explanation and other forms of support and relevant Government entities do not assume this role. The lack of clear National Council-approved definitions on materiality was a contributing factor. The greatest performance concerns remain with sub-levels of Government, particularly around the issue of donations made by companies but also for tax and royalties. For unresolved discrepancies, the measures taken to resolve outstanding discrepancies were unclear. The reconciliation process is not mandated to consider the possibility of corruption, and no such references are included in the reporting.

These issues notwithstanding, the main EITIM accomplishments emerging from the first three reconciliation reports include:

- a. *The quality and comprehensiveness of the Reconciliation Reports improved year on year, strengthening the methodology and accumulative data available. Stakeholders expressed their perception that quality and comprehensiveness of data has improved over time, contributing to overall knowledge of the mining sector, management of revenues and broader planning and advocacy. The exception was reporting from sub-levels of Government, where problems with incomplete and inaccurate reporting have persisted.*
- b. *Mongolia reduced the threshold for materiality from MTN 500mil to MTN 100mil over the first three reconciliation exercises. The reduction was made possible by strengthening of Mongolia's capacity to conduct the reconciliations, and manage a progressively larger sampling of companies and payments. The threshold for the fourth and fifth reports was further lowered to MTN 50mil (approximately USD 40k). At the same time, the EITIM has revised its template to expand and clarify the scope of materiality for items to be in the reconciliation. Discrepancies occurred when Government entities and companies did not report accurately within that scope.*
- c. *The reporting scope of the EITIM doubled between 2006 and 2008, with the number of companies including in the reconciliation growing from 25 to 46. The total number of companies reporting to the Ministry of Finance using the EITIM template showed even larger growth, from 64 to 184 companies. This suggests *de facto* consolidation of EITIM procedures as the standard for revenue reporting, and its acceptance of stakeholders.*
- d. *The amount of net discrepancies and unresolved discrepancies showed a significant decrease, at the same time as the complexity of the reconciliation process has increased. The total payments being reconciled between 2006 and 2008 grew by approximately 35 percent as the number of companies involved doubled and revenue from the sector increase. At the same time both net and unresolved discrepancies declined. Unresolved discrepancies comprised approximately six percent of total reconciled revenues in 2006. By 2008 they declined to .016, at which point the auditor no longer considered unresolved discrepancies to be material.*

⁴⁰ The draft legislation was under discussion and revision between the various ministries, and the evaluation did not have access to information on its contents.

- e. *There was evidence that the National Council has taken positive action on reconciliation results to improve performance.* In particular, the EITIM template has been strengthened and expanded on an annual basis.
- f. *There was evidence of improved private sector reporting performance and compliance, expressed in the reduction of net and unresolved discrepancies resulting from company reporting.* Notwithstanding, the auditors continue to express concern about the timeliness and accuracy of some reporting, and the difficulty getting accurate information from some companies during follow up investigations. The EITIM's lack of legal standing was an impediment, as was the absence of sanctions for non-compliant countries.
- g. *There are important improvements in the quality of Government reporting, resulting from improved recording of information, internal coherence within Government systems and improved horizontal inter-departmental cooperation at the central level.* Government also has a better understanding the revenue and capacity picture at the local levels, and important problems the system have been identified.
- h. *The reconciliation reports appeared to be of good quality, and were considered as such by stakeholders.* While comprehensive and including disaggregated data by company and Government entity, poor readability and the lack of accessibility of some data in the reports were a concern. The quality of reporting has improved with time and experience.
- i. *The reporting includes data from sub-levels of government.* However, poor record-keeping and hindered reconciliation of some data, and the scope of the reconciliation did not cover much of the payment being made at that level. A pilot EITIM exercise was being undertaken at the local level, focusing on the operations of companies with payments under the MTN50mil threshold.

4.6 The Validation Exercise

Validation Process in February 2010

The Validation process began in November 2009. The *Validation Report* was dated February 2010, and presented to the EITI Board on 5 March 2010.⁴¹ The report found “remarkable progress has been made in to ensure that transparency becomes institutionalised and operational.” Among the EITIM's accomplishments, the validators noted:

- a. *An enormous increase in the amount of information publicly available on mining revenues, where such information was not previously available.*
- b. *Strong reconciliation reports, including improvements over time as the process has evolved and consolidated.*
- c. *A genuine multi-stakeholder process, with strong participation and commitment from Government, civil society and the private sector.*
- d. *Openness to debate and challenge, which demonstrated confidence in the EITIM process.*

⁴¹ The Validation Report is posted on the Mongolia EITI website, at http://eitimongolia.mn/modules/news/files/IDEVREAN09001MN_fr.pdf

- e. *Widening of the overall audit process*, noting reduction in the threshold for materiality, increase of the number of companies in the reconciliation sample and expanded use of the template.
- f. *Strengthening of Government systems*, particularly improved cooperation between central government entities.

Regardless, the Validators determined that Mongolia was not compliant with Indicator 11 through to Indicator 15 inclusive. These raised questions about whether EITIM reports include all material payments and receipts, and if the reporting process ensured that all disclosures to the reconciler were based on accounts audited to international standards. The Validator's findings reflected those of the first two reconciliation reports. On this basis, the Validator recommended that Mongolia be designated "close to compliant", according to the procedure established in EITI Policy Note 3 (2008). The Validator followed with a series of recommendations on actions needed by Mongolia to achieve "Compliant" status, subject to a review by the EITI Secretariat.⁴²

Findings of the Validation Report

The following text summarises the main findings on Indicator 11 through Indicator 15 inclusive, where Mongolia's progress was not found insufficient for a designation of "Compliant":⁴³

Indicator 11 – Has the government ensured all companies will report? The MSWG has set the threshold for EITI reporting at MTN 200mil in tax contributions but does not currently have a mechanism to ensure that all companies that meet this threshold comply with EITI reporting. As a result, seven companies failed to produce EITI reports and significant difficulties were faced in reconciling the EITI reports. Members of the MSWG and National Council have identified a need for stronger methods for enforcement of company reporting compliance.

Indicator 12 – Has the government ensured that company reports are based on audited accounts to international standards? Completed company self-assessment forms clearly show that some companies reporting on the EITI in Mongolia are not audited to international standards, a finding confirmed by the Ministry of Finance. To date, the MSWG has not addressed the issue of international accounting standards in company reports and has generally considered it outside the scope of EITIM.

Indicator 13 – Has the government ensured that government reports are based on audited accounts to international standards? The reporting guidelines introduced by the National Auditing Office are not being enforced across government departments. Not all data on material payments or contributions at local government level are captured at national level. There is an urgent need for systematic reporting of all forms of revenue received by the government and a more integrated approach to information sharing across all layers of

⁴² Under the terms of EITI Policy Note 3, a country can be designated "Close to Compliant" where it has demonstrated significant progress, and can reasonably expect to achieve compliance in a short period" (2008).

⁴³ Text paraphrased from the *Validation Report* (2010: 31-32)

government to close this gap. In addition, Mongolia should consider instituting an independent body such as the NAO to oversee the government reporting process and ensure accuracy and compliance.

Indicator 14 – Were all material oil, gas and mining payments by companies to government (“Payments”) disclosed to the organisation contracted to reconcile figures and produce the EITI report? Not all material contributions are currently being captured, and it is generally recognised that companies underreport payments to local governments or report them as costs. The most recent meeting of the National Council indicates there will be a concerted effort to develop a more systematic way for donations to be received and reported at the local and national level government in the future. Section 6: Overall Assessment

Indicator 15 – Were all material oil, gas and mining revenues received by the government (“Revenues”) disclosed to the organisation contracted to reconcile figures and produce the EITI report? The MSWG does not have an agreed definition of what constitutes material payments, but there is a frank acceptance on the part of the Mongolian government that donations and in-kind contributions are not being captured by the EITI reporting process. As with Indicator 14, minutes from the National Council meetings indicate that EITIM will address the quality of government EITI reports and greater disclosure of all material revenues received by the government.

Validation Committee Recommendations and Secretariat Review

The results of the *Validation Report* (2010) were reviewed by the EITI International Secretariat (EITI 2010e) and then by the EITI Validation Committee, prior to the 12th meeting the EITI Board in April 2010 (EITI 2010d). The Committee recommended to the EITI Board that Mongolia be designated as “Close to Compliant”, and outlined remedial actions required for the EITIM to achieve “Compliant” status on Indicators 11 through 15.

The EITI Board confirmed Mongolia’s status as “Close to Compliant” at its 12th Meeting in April 2010 (EITI 2010c: 6-8). The Board accepted the Validation Committee’s recommendations on the actions needed for the EITM to fulfil the requirements of compliance, and set a six month deadline of 15 October 2010 for those actions to be accomplished. The Board further mandated the EITI International Secretariat to undertake a review of progress, prior to the deadline and when the EITIM MSWG advised that all outstanding issues had been addressed.

The four requirements established by the EITI Board for achieving compliance included:

1. The Mongolian multi-stakeholders working group (MSWG) should: (a) agree a clear definition of “material payments and revenues”, (b) incorporate this definition into the reporting templates, and (c) take steps to ensure that all entities that make or receive material payments are included in the reporting process. This should specifically address the question of company donations, any material payments to local government authorities, and ensuring the participation of local government authorities that receive material payments in the reporting process.
2. As per the Indicator Assessment Tool for Indicator 11, the MSWG should take steps to demonstrate, in the next EITI Report, that all companies that make material payments (as per 1(a), above) are participating in the reporting process.

3. As per the Indicator Assessment Tool for Indicators 12 and 13, the government and MSWG should take steps to ensure that disclosures to the Reconciler are based on audited accounts to international standards and agree a strategy for addressing these issues in accordance with the requirements as specified in Validation IATs 12 & 13.
4. Regarding indicator #14 and #15, and based on the clear definition of “material payments and revenues” (as per #1(a) above), the government and MSWG should take steps to demonstrate, in the next EITI Report, that all material oil, gas and mining payments by companies (indicator 14) and all material oil, gas and mining revenues received by the government (indicator 15) have been disclosed to the organisation contracted to reconcile figures and produce the EITI Report (EITI 2010d).

The EITIM National Council and MSWG undertook remedial actions between April and October, 2010. Stakeholders noted that key decisions were taken at the Council’s June 2010 meeting. Most significantly, the Council approved a *Mongolia EITI Medium-Term Strategic Plan 2010-2014*, which:

- Included provisions for a *Extractive Industry Transparency* law clarifying the initiatives legal basis and related amendments to the Mining and Petroleum laws;
- Expanded the scope of the EITIM to include material payments in the areas of donations, fines and environmental remediation costs;
- Expanded the EITIM scope to also address revenue disbursement, licensing, natural reclamation costs and contract transparency; and
- Committed Government to expand financial support and assume full costs of sustaining the EITIM.

The National Council came to agreement on a definition of material payments and revenues, and expanded the scope of the 2009 Reconciliation to include over 100 companies. There were a series of regulatory amendments requiring Government entities to record “donations and aids”, and assigning the National Accounting Office and Budget Policy Department to enforce these changes. Finally, the Office of the Prime Minister issued a Resolution (2010: 190) committing the Government to cover the full cost EITIM operations, and ordering sub-levels of government to report all relevant taxes, fees, charges and fine (EITI 2010c).

The *Secretariat Review* occurred during September 2010 (EITI 2010c), and concluded that remedial action undertaken by the EITIM National Council met the requirements laid out by the EITI Board for compliance. The main findings of the review are included in Table III. The Validation Committee discussed the results of the *Secretariat Review*, and also confirmed that the EITIM had fulfilled all outstanding. On this basis, the Committee recommended to the EITI Board that Mongolia be designated as EITI “Compliant”.

The Board subsequently confirmed all requirements had been met, and designated Mongolia to be EITI “Compliant” at its 13th Meeting, 19-20 October 2010 (EITI 2010b). In the accompanying press release, the Chair of the EITI Board stated “Since committing to the EITI in 2005, Mongolia has published payments from its extractive sector in three excellent EITI reports. As the process has evolved and matured, these reports have come to provide a reliable and comprehensive account of extractive company’s payments to government, and of government’s receipt of those funds. This allows all stakeholders in Mongolia to monitor one of the most important sources of government revenue, and to monitor an Industry that is

transforming Mongolia's economy. EITI Compliance has been achieved through ongoing collaboration between government, industry and civil society organisations" (EITI 2010a).

Table III: Progress towards Compliance on Indicators 11 through 15 Inclusive (February to October 2011)

<i>Indicator</i>	<i>Progress on Indicator 11: Has the government ensured all companies will report?</i>
<p>Validation Report (Feb 2010)</p> <p>Board Requirement to Achieve Compliance (April 2010)</p> <p>Finding of Secretariat Review (October 2010)</p>	<p>The EITIM does not have a mechanism to ensure that all companies that comply with EITI reporting requirements. As a result, some companies failed to produce EITI reports and significant difficulties were faced in reconciling the EITI reports.</p> <p>As per the Indicator Assessment Tool for Indicator 11, the MSWG should take steps to demonstrate, in the next EITI Report, that all companies that make material payments (as per 1(a), above) are participating in the reporting process.</p> <p>Indicator 11 requirements have been met:</p> <ul style="list-style-type: none"> • The reporting threshold for the fourth and fifth reconciliations were lowered to MTN 50mil. Smaller companies are being reconciled through a complementary national process; • Legislation requiring company reporting with the EITI criteria was being introduced; ⁴⁴ • The template had been revised, and Government introduced amended regulations requiring companies to report; • Where companies were found not reporting, the Government had established steps to ensure compliance. <p>These steps established reporting requirements, enforcement actions and expanded the scope of EITI coverage.</p>
<p>Indicator</p> <p>Validation Report</p> <p>Board Requirement for Compliance</p>	<p>Progress on Indicator 12: Has the government ensured that company reports are based on audited accounts to international standards?</p> <p>Completed company self-assessment forms clearly show that some companies reporting on the EITI in Mongolia are not audited to international standards. The MSWG has not addressed the issue of international accounting standards in company reports and has generally considered it outside the scope of EITIM.</p> <p>As per the Indicator Assessment Tool for Indicators 12 and 13, the government and MSWG should take steps to ensure that disclosures to the Reconciler are based on audited accounts to international standards and agree a strategy for addressing these issues in accordance with the requirements as specified in Validation IATs 12 & 13.</p>

⁴⁴ The Secretariat Review states that the EITI legislation had been "introduced". However, as of January 2011 the legislation was still being drafted and stakeholders noted controversy over some provisions. The draft was not available, and a firm date for ratification had not been set.

Secretariat Review	<p>The Secretariat’s assessment was that Indicators 12 and 13 were met: The Government, acting on recommendation of the National Council enacted changes to legislation and regulation regarding financial reporting from companies and within government, requiring the application of international standards. The National Audit Office was assigned to investigate discrepancies in collaboration with the Ministry of Finance, which was to certify data provided by government.</p>
<p>Indicator</p> <p>Validation Report</p> <p>Board Requirement for Compliance</p> <p>Secretariat Review</p>	<p>Progress on Indicator 13: Has the government ensured that government reports are based on audited accounts to international standards?</p> <p>The reporting guidelines introduced by the National Auditing Office are not being enforced across government departments. Not all data on material payments or contributions at local government level are captured at national level.</p> <p>As per the Indicator Assessment Tool for Indicators 12 and 13, the government and MSWG should take steps to ensure that disclosures to the Reconciler are based on audited accounts to international standards and agree a strategy for addressing these issues in accordance with the requirements as specified in Validation IATs 12 & 13.</p> <p>The Secretariat’s assessment was that Indicators 12 and 13 were met: (see Indicator 12)</p>
<p>Indicator</p> <p>Validation Report</p> <p>Secretariat Review</p>	<p>Progress on Indicator 14: Were all material oil, gas and mining payments by companies to government (“Payments”) disclosed to the organisation contracted to reconcile figures and produce the EITI report?</p> <p>Not all material contributions are currently being captured, and it is generally recognised that companies underreport payments to local governments or report them as costs.</p> <p>The Secretariat’s assessment is that Indicators 14 and 15 were met:</p> <ul style="list-style-type: none"> • The revised template for 2008 data (3rd Reconciliation report) includes a comprehensive definition of materiality, and the kinds of payments to be included; • The template was further revised for the fourth and fifth reconciliation exercises, to lower the threshold of materiality to TMN 50bn; • The National Council took further steps to clarify the definition of materiality and strengthen the requirements for disclosure, including from sub-levels of government; • The National Audit Office was assigned to conduct follow up investigation on discrepancies; and • The requirements for reporting on audits based to international standards were also implemented, with enforcement measures.
<p>Indicator</p> <p>Validation Report</p> <p>Board Requirement</p>	<p>Progress on Indicator 15: Were all material oil, gas and mining revenues received by the government (“Revenues”) disclosed to the organisation contracted to reconcile figures and produce the EITI report?</p> <p>The MSWG does not have an agreed definition of what constitutes material payments.</p> <p>The Mongolian multi-stakeholders working group (MSWG) should: (a) agree</p>

for Compliance	a clear definition of “material payments and revenues”, (b) incorporate this definition into the reporting templates, and (c) take steps to ensure that all entities that make or receive material payments are included in the reporting process.
Secretariat Review	The Secretariat’s assessment was that Indicators 14 and 15 were met.

Trends and Observations on the EITIM Validation

Following the designation of “Close to Compliant” status, the EITIM acted in a decisive manner to fulfil the requirements of EITI compliance. Remedial actions were initiated within the deadline set by the EITI Board although the actual implementation is ongoing. Actions showed strong commitment on the part of Government, and a consensus within the National Council and Multi-stakeholder Working Group. They included changes to Mongolia’s legislative and regulatory framework that further institutionalised EITI standards and principles into Mongolia’s public finance management system, and provide a predictable reporting framework for companies and civil society advocacy. These included a clear definition of materiality, expanded the scope of EITI coverage, strengthened audit standards and procedures and provided for oversight and enforcement for both ensure reporting and the resolution of discrepancies. The Board designation of “Compliant” had strong support from all stakeholder groups.

4.7 Findings and Conclusions

The EITIM was part of a legislative and regulatory framework that enabled the expansion of Mongolia’s mineral sector. The EITIM was established in the sector’s expansion. The initiative was one element of “second generation” reforms to Mongolia’s fiscal regime and the legal and regulatory framework. As a package, these allowed for greater State participation in the mineral sector, expanded collection of mineral revenues, and the improved management and oversight of those revenues. The global EITI offered an internationally verified standard for reporting of tax payments, transparency and accountability that could be imported into the Mongolian context, where effective standards did not previously exist. Over time, global EITI principles have been institutionalised into Mongolia’s systems, including through proposed legislation pending ratification in 2011.

All stakeholders groups demonstrated a highly level of commitment to establishing the EITIM. Governance (National Council and MSWG) and support structures (EITIM National Secretariat) were established within a year of the Government’s public declaration that it intended to join the EITI. Stakeholders set and achieved an ambitious schedule for completing the first reconciliation reports, and the validation process. Achievements were enabled by active support and ongoing engagement from all stakeholder groups, including from the highest levels of Government. Their commitment was based on the perception strongly held in each stakeholder group that the EITIM: would deliver on their core interest and objectives, and; the initiative was an open tripartite process.

All stakeholders described National Council as an open forum for debate, with the quality and maturity of the debate improving over time. The tone of “openness” was set by Government when it initiated the EITIM process, and ensured broad stakeholder

representation. Governance and operational structures have achieved a good level of effectiveness, notwithstanding resource limitations in the National Secretariat.

The first three *Reconciliation Reports* (2008, 2009 and 2010) and the *Validation Report* (2010) show significant and consistent progress was made at three levels:

- The governance and support structure of the EITIM have been high performing and consistent with the principles of the EITI tripartite process;
- The scope of the EITIM expanded significantly during the first three years of operation. The threshold for materiality has been reduced from MTN500mil to MTN50mil, and the EITIM has been template has been progressively expanded over four revisions; and
- Performance in the reconciliation process has also increased significantly. While unresolved discrepancies comprised six percent of the payments reconciled by the first report, they had been reduced to .16 percent by the third report and were found to not be material.

These accomplishments were achieved during a period of political volatility. The presence of high level Government officials and broad stakeholders support, including in Parliament, allowed the EITIM to develop and maintain a non-partisan political consensus.

5 Structural results of the EITIM

5.1 Contribution to Improved Governance

Government learned about the weaknesses in its own systems.

Government learned about the weakness in State systems, by implementing the EITI. Government informants stated they were aware of some problems, but not of their consequences for managing mining revenues. The reconciliation process offered an internationally verified methodology for analysing Government's own performance, which provided important and sometimes unexpected lessons.

At the central level, access to comprehensive and accurate information was undermined by systemic weakness and institutional culture. Poor cooperation between Government entities was based on longstanding institutional culture. Also, implementation also revealed a lack of standardisation in reporting systems and the mixed quality of internal record keeping and reporting. All these contributed to the discrepancies found in the early reconciliation reports. Important gaps in Mongolia's legislative and regulatory framework were also revealed.

Systemic weakness was also revealed in the relationship between central authorities and sub-levels of Government. These reflected the structure of Mongolia's mining industry itself, where a large number of small and "artisanal" companies were working beyond effective Government oversight. The reconciliation process identified the existence of unreported payments, resulting from poor record keeping at sub-levels of Government, poor reporting from the sub-levels to central government and the central government had limited information on the payments made to sub-levels of government. Some practices, including donations from companies for community development activities and the payment of fines were potential sources of corruption or embezzlement.

The EITIM, therefore, helped identify both the existence and consequences of weaknesses in Government systems and institutional culture. The initiative allowed for targeting of corrective action, and for building the political and institutional support necessary for action. Improvements to reconciliation results over the first three reports were gained based on this information, and through actions taken on the part of all stakeholders, including from the highest levels of Government.

Legislative and regulatory framework for mining sector revenues strengthened.

EITI international standards are being institutionalised in Mongolia's legal and regulatory framework. Initial implementation provided an international standard for reporting that could be imported into the Mongolian system, and adapted to context. Over time, the scope and comprehensiveness of the reconciliation process has been expanded. Definitions of materiality and reporting requirements and procedures have been clarified and now provide a predictable framework for payments.

EITIM implementation required EITI principles and procedures be embedded in changes to Mongolia's legislative and regulatory framework. These built on the original regulatory framework (2006/2007) used to establish the EITI, and responded to weaknesses in systems and institutional culture revealed during implementation. Actions included the draft EIT legislation, and earlier regulations and legislative reform on audit standards, the reporting obligations of companies and government entities, actions to be taken in the event of non-compliance and unresolved discrepancies, and the Government's resolution to fully fund the EITIM. They had the indirect effect of strengthening overall public finance management systems.

A consistent gap appearing through the reconciliations was reporting from small companies at sub-levels. Government is piloting a national reconciliation process to capture annual payments within the MTN 10mil to MTN 50 mil range. If successful, the process would be an important step towards strengthening general oversight of small companies and "artisanal" activities, which are less important to overall revenues but proportionally significant in terms of livelihood creation, managing environmental impact and strengthening the credibility of the State (for example, in reduction of possibilities for corruption). Previous initiatives have not been successful.

EITIM improved planning and coherence within Government systems.

The EITIM has improved coherence within government, with harmonisation of standards and improved cooperation on reporting. The EITIM has contributed to standardisation of reporting and financial management systems, and the coherence of those between government entities. Achievements have included common use of the EITIM reporting template and standardisation of audit procedures. Change has been both systemic and cultural. Regarding the latter, Government informants stated that officials at the senior and political levels see the value of reporting. They are supportive, more demanding on quality and less tolerant of ineffective cooperation between ministries.

Government informants advised the EITI provides more accurate data for revenue and budget planning. The data improves the budgeting and financial planning process at the central level, and estimation of revenue flows and obligations from the centre to local government. Government has been able to use some of the data for forecasting. It allows the centre to cross check figures coming up from the local level.

Private Sector compliance with reporting obligations has improved.

Company performance with completing EITIM requirements has improved over time.

Government officials stated that improved company performance resulted in an increase in payments and revenues, and reduced corruption. These statements could not be quantified from existing information. However, reconciliation results demonstrate improvement in the overall reporting performance of companies falling within the scope of the reconciliation. With expansion of the scope, the number of well-reporting companies has also grown. The auditors indicate that companies have generally been compliant with reporting requirements, although the voluntary basis of the EITIM resulted in early difficulties obtaining information. There was no evidence on whether the reporting of companies falling outside of the reconciliation scope has improved, or if such improvements could be linked to the EITIM. However, the number of companies outside of the scope but reporting to Government with the EITIM template increased significantly. Overall coverage of EITIM principles as the standard for reporting, therefore, has also increased.

The EITIM has reduced the opportunity for corruption in the mining sector

The EITIM has reduced the number of opportunities for corruption in Mongolia's extractive industry. The EITIM is not directly mandated to address the issue of corruption. The reconciliation and validation reports are generally silent on the issue. By their terms of Reference, the reports do not identify instances where the auditors may have encountered real or potential acts of corruption. There does not appear to be any provision to forward information to the appropriate investigating authority where such information was encountered. Also, the evaluation did not encounter an instance of investigation or prosecution of corrupt acts that could be linked to the EITIM.

These limitations notwithstanding, the EITIM has reduced the opportunity for corruption to occur, in both government and the private sector:

- Payment reporting requirements have been clarified, payments are being verified through the reconciliation process and Government has established a process for investigation of unresolved discrepancies (albeit without the possibility of legal sanctions at the present);
- Audit standards are being strengthened to international standards; and
- There is greater possibility for public scrutiny of the behaviour Government entities/officials and companies.

Combined, these actions reduce the opportunities for embezzlement of funds by public officials, bribery related to taxes, bonuses and other payments to local and central government and for tax avoidance. Recent provisions have particularly focused on the sub-levels of government, where systems have been the weakest.

Civil society informants noted that the EITI system only addresses a small part of the overall spectrum of activities where corruption can occur. For example, the approval of mining licenses is outside of the EITI scope, as are practices such as transfer pricing or whether companies are paying a "fair" tax rate. The EITIM's scope of action on corruption, therefore, is limited.

5.2 Civil Society Participation

The EITIM has been an effective channel for Civil Society participation

Civil Society organizations expressed a high degree of satisfaction with the overall EITIM process, the openness of the process and the opportunities that it provides for engaging policy-level debate on the natural resource sector. The EITIM gives Civil Society organisations high-level access to information and stakeholders in Government and the Private Sector. Organisations did not previously have such access, nor are there comparable processes in other sectors. The result has been increased some influence in policy and operational discussion (shaped in part by the degree of their engagement and advocacy), increased dialogue with other stakeholders and improved trust. The EITIM also appears to be contributing to a maturing within the organisations. Informants stated that having access to accurate information obligates them to be factual correct and constructive in their public positions, where those positions may previously have been based on incorrect assumptions.

Civil Society organisations have made an effort to improve their own representativeness. Representation is organised through broader and representative affiliations, including through the *Publish what you Earn and Pay* coalition and environmental groups. In this regard, there has been an effort to enhance the representativeness of Civil Society participation.

5.3 Contribution to Transparency

Contributing to transparency on tax payment and mining sector revenues

The EITIM is generating a significant amount of data on mining sector revenues and payments. There were some concerns about the quality of the data, based on the validation findings for Indicators 12 and 13. However, all stakeholders perceived the data as reliable:

- The EITIM is *building comprehensive body of data* and a profile of reporting and revenues over time. The reconciliation process is occurring on a regular and annual basis, with data starting in 2006. Data appears comparable, and will be valuable for identifying long term trends;
- The annual *Reconciliation Reports* and *Validation Report* are publicly available, on the EITIM website and on the sites of Civil Society organisations and the Mining Association;
- The *quality of data appears good*, particularly as reporting improves, audit standards are enforced and the definition of materiality has been expanded and confirmed. The EITIM disaggregates data by company and Government entity, and provides information on company compliance. Also, discrepancies (resolved and unresolved) are identified and disaggregated;
- The *timeliness* of the data was identified by Civil Society as a hindrance. Data is two years old (for example, the 2008 Reconciliation Report was based on 2006 data), which undermines its relevance to ongoing debate. Timeliness was identified as less of a hindrance by Government, which had early access to raw data to support its own planning and follow up; and
- The *comprehensibility* of the reporting is mixed. The readability of reports is uneven and, therefore, may be difficult for use in public debate without revision or summarising. However, quality and the comprehensibility of reports appear to improve with time.

However, the extent to which the EITIM is contributing to transparency in political and public debate was unclear. The EITIM's contribution to transparency is undermined by limited distribution and dissemination of information. Stakeholders expressed a strong perception that the EITIM has increased public access to information on the mineral sector, and on Government revenues. There is clear evidence that stakeholder groups directly involved in the EITIM process are using the information: within their organisations and sphere of association and to support their positions within the EITIM process. However, there was much less evidence demonstrating that the information has entered broader political or public debate, or is shaping opinion in either of those spheres:

- The EITIM National Secretariat includes communications and outreach in its work plans. However, the Secretariat had very limited human and financial capacity for such activity. Grant reductions from the EITI-MDTF were a binding constraint;
- An estimated 12 percent of Mongolia's population are regular internet users, meaning that real access to information posted online is limited;
- Government did not appear to be involved in broader promotion, distribution or dissemination reporting results, although stakeholders perceived that Government had been transparent in its management of those reports;
- No stakeholder groups appeared to have a media strategy. The release of reconciliation reports appears to have been picked up by media, but there was no evidence that media has used EITIM data as the basis for more in-depth reporting on the mining sector;
- It appears that EITIM data has not been used in a comprehensive manner to support Parliamentary debate and oversight activities;
- Civil Society organisations have used the information within their own immediate circles, for activities such as workshops. In this regard, there has been dissemination within the immediate affiliations and networks of organisations, such as within the *Publish what you Pay and Earn* coalition. However, there appeared to be limited effort at broader outreach to inform public debate.
- It does not appear that any EITIM stakeholder has produced more popular summaries of EITIM reports and data, which summarise main messages and findings in a form that can be broadly circulated and understood by the general public;
- Access to information appears focused in the Capital city; and
- International entities, such as the World Bank, the IMF and the Asian Development Bank do not appear to cite EITIM data in their reports and analysis.

The scope of transparency being generated by the EITIM, therefore, is limited. The large amount of high quality information being generated by the EITIM process appears to remain largely within the boundaries of the process, and is not influencing broader political or public debate. There is close dialogue and disclosure between the immediate stakeholder groups, and a sense of mutual transparency and accountability within the tripartite process. This is a function of increased dialogue and trust between stakeholder groups, and within the boundaries of the EITIM governance system. However, transparency appears to decrease moving away from the core EITIM governance system and immediate stakeholder associations, out into larger governance process and public opinion.

The EITIM's performance as an agent of transparency, therefore, has not yet reached its full potential. Expanding transparency should be a focus of the next phase of EITIM activity. Outreach, communications and focus on distribution and dissemination and distribution should be the common responsibility of all EITIM stakeholders, through the EITIM process and through stakeholder associations. Information must be accessible, meaning summarised in a manner that can be easily understood but members of the general public and used in public discussion. Also, alternate strategies for dissemination to internet will need to be explored. The EITIM needs to be properly resourced for outreach and communication.

5.4 Contribution to Domestic Accountability

Limited impact on accountability for mining sector tax revenues

The EITIM has made limited or no contribution to expanding accountability related to the payment of mining tax revenues. The EITI process places emphasis on transparency for reporting of payment. Transparency is embedded into Mongolia's legal and institutional framework, although distribution and dissemination are a hindrance. However, the political, legal and institutional linkages into accountability are unclear, or do not appear to exist. Rather, accountability appears outside of the global EITI and the EITIM's mandate and scope of action.

Specifically:

- There are no sanctions for non-compliance on reporting, within Government entities or for companies. Companies, therefore, have not been accountable for the quality of their reporting. This situation may change once the proposed EIT law is ratified;
- The EITIM is not linked to oversight processes or mechanisms, such as the anti-corruption commission, Parliamentary oversight or a Supreme Audit/Auditor General function.
- There is limited accountability of Government before public opinion, as the EITIM is not really generating or informing public opinion at this time.

Improving accountability, therefore, should be an objective for the next phase of the EITIM.

6 Societal Change

6.1 Development Results

There is no clear linkage between development results and the EITI. Mongolia is undergoing a process of deep structural changes; in its political system, economy, demographics and identity. Changes are, in large part, driven by rapid growth in the mineral sector, which is now Mongolia's most important source of national income and government revenue, and an increasingly important source of livelihoods.

Mongolia's governance, development and poverty reduction results are improving, but are mixed. There has been some progress during the past decade in overall poverty reduction. However, it has been accompanied by growing income inequality and urban-rural disparity. Poverty levels in rural areas have actually increased, with depopulation and declined of the agricultural economy.

Revenue growth provides Mongolia with an opportunity to improve human development indicators. However, translating revenues into development outcomes requires linkage into a policy framework and State institutional capacity. Economic diversification will also be essential. These requirements are entirely outside of the scope of EITIM activities, and depend on the Government's overall strategy.

The EITIM has contributed to public sector reforms, related to revenue side of the equation. Regardless, the initiative's linkage into the broader policy and institutional process is difficult to identify or attribute. The current situation of dynamic structural change, political volatility and ongoing efforts to build the policy and institutional framework further complicate any assessment.

6.2 Governance

There is no clear linkage between the EITIM and overall improvements in Governance. Governance indicators from UNDP and World Bank reporting have not improved significantly during the past decade. Studies (2006 and 2009) indicate confidence in Government remains low, as do levels of political education and participation. The perception of corruption in Government remains high. An exception would be in the area of public finance management systems, where World bank reporting note important progress in recent years.

The EITIM has contributed to public sector reform and improved Public Finance Management, within the scope of tax payments in the mining sector. These contributions are positive and significant. They improve revenue management, particularly as the mining sector expands. With improvement of its performance in the areas of transparency and accountability, the EITIM may also have a broader impact on governance, both in terms of perception and performance.

However, the large majority of variables that would influence the perception and performance of governance fall outside of the EITIM mandate and scope of action. Institutional and process linkages are difficult to define. In the context of stagnant or deteriorating Governance indicators elsewhere, EITIM might be described as a success in an otherwise volatile context.

6.3 The Business Environment

The EITI has satisfied the objective of private stakeholders for a clear and predictable process for payments. In this regard, the EITIM has contributed to risk mitigation on taxation and exposure to corruption for companies. Companies also noted a reduction in reputation risk, as they are able to demonstrate payments have been made according to law and contribute to national development.

However, there is no evidence that the EITIM has otherwise improved the overall business environment, reduced business risk or increased Direct Foreign Investment. Overall, the business environment is improving, with the strengthening of the legislative and regulatory framework and significant increases with FDI. Private sector informants noted that the EITIM is a positive factor in their investment decisions. However, there are many other variables that play a more significant role in investment decisions.

Acronyms and Abbreviations

EITI	Extractive Industries Transparency Initiative
EITI-MDTF	Multi-donor Trust Fund of the Extractive Industries Transparency Initiative
EITIM	Mongolia Extractive Industries Transparency Initiative
FDI	Foreign Direct Investment
GDTM	General Department of Taxation Mongolia
IFI	International Financial Institution
MDTF	Multi-donor Trust Fund
MRAM	Mineral Resource Authority of Mongolia
MSWG	Multi-stakeholders Working Group
ODA	Official Development Assistance

Annex F: Nigeria Country Case Report

Nigeria is the largest oil producer in Africa and among the top ten globally. Its recoverable reserves are estimated at 34 billion barrels. In recent years the oil sector has accounted for over 40% of GDP, 95% of exports and over 80% of government revenue. In addition, Nigeria is estimated to have about 160 trillion cubic feet of gas reserves – which also makes it among the ten largest in the world in gas – but gas production is less significant economically.

The sector has historically been dominated by joint venture operations between the Nigerian government, represented by the Nigerian National Petroleum Corporation (NNPC), and six major international oil companies: Shell, Mobil, Chevron, Agip, Elf, and Texaco. Over the last several years, the country is moving more and more towards Shared Production Contracts, encouraging other international companies to invest in the country, and promoting the emergence of a national oil industry – across production, commercialisation, servicing and sub-contracting segments of the industry. The number of private sector actors in the oil and gas field, and in particular national ones, is thus increasing considerably.

Nigeria also is well endowed with mineral resources. Before the oil sector became the dominant part of the economy, the country in fact had a fairly important mining sector. This has over the last several decades largely been neglected and thus decayed.

The government has lately begun paying more attention also to the mining industry, in part because commercial minerals of various kinds can be found in virtually all 36 states in the Federation. Most of the current mining operations are small-scale or even artisanal and thus represent an important source of labour-income, especially for low-income households. The geographic dispersion and possibilities for increasing employment for low-skilled workers thus makes this an attractive sector for the country's poverty reduction strategy.

1 Background and History

The 2004 *Transparency International* report focused on political corruption and listed those government heads that were considered the most corrupt, where former President of Nigeria Sani Abacha was listed as having embezzled USD 2-5 billion of public funds, placing him fourth from the top of this list (Transparency International 2004 box 1.1 p. 13). Nigeria was next-to-last of the 133 countries listed in that year's corruption perceptions index (CPI), with only Bangladesh considered more corrupt (op.cit. table 10.1 p. 286).

The international community thus began putting considerable pressure on the Nigerian authorities to address the corruption problems in the country, including in the petroleum sector. This came from both bilateral donors and the multilateral system, where access to concessional lending and expectations of further investments were being tied to more transparent and better managed public finances.

In December 2002 the National Assembly passed the Economic and Financial Crimes Act that established the Economic and Financial Crimes Commission (EFCC). The EFCC was, among other things, set up to investigate money laundering and illegal transfers. It was signed into law on 14 December, one day before the deadline set by the inter-governmental Financial Action Task Force (FATF). The FATF had threatened to recommend sanctions if Nigeria failed to strengthen financial crimes legislation (op.cit. p. 224).

1.1 History of NEITI

As an important part of the government's larger efforts at curbing corruption, President Obasanjo in November 2003 announced that the Nigerian Government would make public its revenues from the oil and gas sector, and that the oil companies would also have to make their payments public. He placed one of his senior economic advisers as responsible, thus providing high-level political access and visibility to the effort.

On 19 February 2004, the Nigeria Extractive Industries Transparency Initiative (NEITI) was formally launched by the President in Abuja with the establishment of a 28-person National Stakeholder Working Group (NSWG) that was to act as NEITI's Board. A small Secretariat was set up with offices in Abuja (see box F.2 below).

Shortly after its launch, NEITI put out to tender the first reconciliation exercise in the country, covering the five-year period 1999-2004. The report was finalized and presented in December 2006 (see section 3.4).

In order to provide a formal legal foundation for NEITI, a separate bill establishing the NEITI was put before the National Assembly in December 2004. This was finally passed as the so-called NEITI Act on 28 May 2007. This made Nigeria the first country to have a legal basis for its participation in and implementation of the EITI (see box F.1 below).

Box F.1: The 2007 NEITI Act

Key provisions of the NEITI Act include the following:

Para 1 – 2 (a): The NEITI ... shall be an autonomous self-accounting body, which shall report to the President and the National Assembly.

Para 2: The primary objectives of the NEITI are (a) to ensure due process and transparency in the payments made by all extractive industry companies to the Federal Government and statutory recipients; (b) to monitor and ensure accountability in the revenue receipts of the Federal government from extractive industry companies; (c) to eliminate all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Federal Government from extractive industry companies; (d) to ensure transparency and accountability by government in the application of resources from payments received ...

Para 3: For the purpose of realizing its objectives under this Act, the NEITI shall perform the following functions: (a) develop a framework for transparency and accountability in the reporting and disclosure by all extractive companies of revenue due to or paid to the Federal Government; (b) evaluate without prejudice to any relevant contractual obligations and sovereign obligations the practices of all extractive industry companies and government respectively regarding acquisition of acreages, budgeting, contracting, materials procurement and production cost profile in order to ensure due process, transparency and accountability; (c) ensure transparency and accountability in the management of the investment of the Federal Government in all extractive industry companies; (d) obtain, as may be deemed necessary, from any extractive industry company an accurate record of the cost of production and volume of sale of oil, gas and other minerals ...; (e) request from any company in the extractive industry, or from any relevant organ of the Federal, State and Local Government, an accurate account of any money paid by and received from the company at any period... ;(f) monitor and ensure that all payments due to the Federal Government from all extractive industry companies, including taxes, royalties, dividends, bonuses, penalties, levies and such like, are duly made; (g) identify lapses and undertake measures that shall enhance the capacity of any relevant organ of the Federal, State or Local Government having statutory responsibility to monitor revenue payments by all extractive industry companies to the Federal Government; ... (j) ensure that all fiscal allocations and statutory disbursements due from the Federal Government to statutory recipients are duly made.

One of the provisions of the NEITI Act was that the NSWG should consist of 15 persons, because one of the lessons with the first Board was that a NSWG of 28 was too large and unwieldy. This meant that a new NEITI Board had to be put in place.

The NEITI Act was passed shortly before newly-elected President Umaru Yar'Adua was sworn into power. During his three-year presidency, the political support to NEITI has been considered weaker by some, in part due to the increasing illness of the President. NEITI was seen as a less visible body during parts of this period.

The new NSWG was constituted in February 2008, and a second reconciliation exercise to cover 2005 was originally contracted but not finalized till late 2009. During this period, Nigeria also applied for the status as a candidate country, which was approved on 27 September 2007.

With the death of President Yar'Adua in May 2010, Vice-President Goodluck Jonathan was sworn in as the new President. He has made the fight against corruption an important part of his political platform, which has led to stronger and more visible support for the NEITI.

NEITI's application to be confirmed as a Compliant country was addressed by the EITI Board at its meeting in Dar-es-Salaam in October 2010. It felt, however, that there were issues that needed further work for Nigeria to be considered fully compliant and asked that NEITI address six matters over the following six-month period.

This was done, and at an EITI Board meeting that took place during the Fifth EITI Conference in Paris in March 2011, Nigeria was finally declared Compliant.

1.2 International Support to NEITI

While the international community had put considerable pressure on the Nigerian authorities to adhere to EITI, it also provided considerable support.

The UK's Department for International Development (DFID) has provided most funding. In 2004, a GBP 2.2 million program (about USD 4 million) was to provide financing for the secretariat, technical assistance – including national consultants – and completion of the first audit. This ran till May 2007, while a second two-year phase started up a couple of months with a budget of around GBP 1.3 million though less than GBP 800,000 (about USD 1.5 million) was disbursed (private correspondence).

DFID has now begun a third phase of assistance labelled *Facility for Oil Sector Transparency, FOSTER*. This is a five-year programme that is primarily to support non-public actors, including a think-tank that can provide analysis and critical study of the audit data.

The World Bank-administered EITI Multi-Donor Trust Fund (MDTF) allocated USD 2.2 million for a first-phase support during the period 2006-2008, of which USD 1.8 million was actually disbursed. The four components funded capacity building for government (35%), civil society (20%), communication and outreach (30%), and the secretariat (15%). A second phase lasting from February 2010 through December 2011 will receive USD 900,000 split across six or seven areas: the four mentioned above, the minerals sector scoping study, funding for finalisation of the 2006-08 audit, and a flexible pot for needs as they arise (World Bank MDTF data).

By the end of 2011, these two actors will therefore have provided just over USD 8 million in support to EITI implementation in Nigeria.

Box D.2: NEITI Milestones

- February 2004:** NEITI officially launched by President Obasanjo with 28-member NSWG.
- June 2004:** TOR for first reconciliation exercise (“audit”) prepared.
- December 2004:** NEITI Act drafted by NSWG Legislative Team, forwarded to National Assembly.
- February 2005:** Hart Group selected for audit for 1999-2004 period.
- April 2005:** NSWG’s Civil Society team produces a civil society engagement strategy, subsequently setting up Civil Society Steering Committee with ten additional CSO representatives.
- February 2006:** MOU signed between NSWG and civil society organisations.
- April 2006:** Hart Group releases first audit report that shows discrepancies of USD 2323 million. Requested to undertake further reconciliation work.
- May 2006:** The Federal Executive Council (FEC) asks the Inter-Ministerial Task Team to put together a comprehensive remediation plan to address the issues identified in the draft audit report.
- December 2006:** Final audit report by Hart Group presented, FEC approves the remediation plan and the TOR for the 2005 audit.
- March 2007:** Hart Group commissioned to undertake 2005 audit.
- May 2007:** NEITI Act becomes law, making Nigeria first EITI country with statutory EITI legislation.
- July 2007:** Last meeting of original NSWG held.
- August 2007:** Final edition of the audit report shows discrepancies of only USD 8.5 million.
- September 2007:** Nigeria accepted as candidate country for EITI validation.
- January 2008:** Members of the reconstituted NSWG (Board) under the NEITI Act appointed.
- October 2008:** Complete version of 2005 audit presented to NSWG.
- August 2009:** 2005 audit made public.
- December 2009:** Nigeria begins validation exercise.
- February 2010:** Draft Validation report presented to BOARD and approved for forwarding to EITI.
- May 2010:** Revised Validation report presented for approval by NSWG.
- October 2010:** EITI International Board declares Nigeria “close to compliant”, with a need to carry out six remedial actions in order to be declared fully compliant. NEITI establishes task force to address the needed actions.
- January 2011:** Inter-Ministerial Task Team on remedial issues reconstituted and holds first meeting
- January 2011:** NSWG approves Board Charter.
- February 2011:** 2006-2008 audit report published.
- March 2011:** Nigeria declared Compliant at EITI’s Fifth Global Conference in Paris.

Source: NEITI 2011d, pp. 46-48.

2 Motivations for Joining the EITI

The support for NEITI in general appears quite strong among the different stakeholder groups in Nigeria. Their motivations for this vary, however.

2.1 The Public Sector

After many years of military rule, Nigeria in 1999 elected former general Olusegun Obasanjo as President. During his first period in office, focus was on strengthening civilian control, rebuilding public institutions, and in general ensuring the democratic foundations for Nigeria’s future. With the political mandate that came from his re-election in 2003, President

Obasanjo moved ahead with an ambitious agenda for public sector reform including in the field of public finance management. The fight against corruption was an important part of this, and in line with the demands from large parts of civil society.

His administration was at the same time under increasing pressure from the international community, as noted above, to address the corruption issue. Nigeria as a country was also suffering badly from the reputation established during the military period, of a wildly mis-managed economy badly affected by the so-called “resource curse”.

He therefore put together a team of senior officials who were to take charge of these reforms. A number of them played an important role in the establishment and early working of the NEITI: both the first Chair of the NSWG and the first Executive Secretary were members of this reform group. One thing was that they had easy access to the President and thus to decision making centres. But they were themselves also results-focused and aggressive in pursuing NEITI objectives.

This reform-agenda was weakened with the election of Yar’Adua to succeed Obasanjo, as he replaced many of the central supporters of the NEITI within the federal government. With Goodluck Jonathan named President in May 2010, the support to NEITI seems once again quite strong. This was confirmed during a meeting with the Secretary to the Government of the Federation (considered the top civil servant in the country) during this mission’s visit in January 2011, where among other things he noted that “the independence of NEITI to enthrone transparency and accountability in the management of oil, gas and solid minerals revenue cannot be compromised under any circumstances” (*Open Audit* 2011 p. 30).

The *National Assembly*, by deliberating and passing the NEITI Act, has shown its political support in principle. Furthermore, according to the Act, NEITI is both to report to the President and the National Assembly, so there is supposed to be a continuous relationship with the Assembly. While it is unclear how active this link is – it was fairly dormant till the new NSWG and Secretariat were in place – at a formal level there is clearly political coverage for NEITI and its activities by the national legislature.

At the Federal level, ministries and public bodies are all formally in favour of the NEITI since this is the political decision. In practice the support has varied as reflected in how they have participated in and responded to conclusions in the reconciliation reports.

The *Ministry of Finance* appears in favour of the NEITI as it strengthens the Ministry’s revenue mobilization and management responsibilities (interviews with Budget section). The NEITI’s mandate to pursue how funds are redistributed to lower levels of public administration and are spent at the Federal level are, however, potential sources of conflict given the accusations that it is in these spheres that public funds mismanagement occurs.

The *Federal Inland Revenue Service*, FIRS, has become a strong supporter of the NEITI reconciliation exercises because they show how the FIRS’s own capacity development and reform efforts fit into a larger sector approach. It has further helped the FIRS gain better access to the data they need from other public bodies – in particular the Department for Petroleum Resources, DPR – in order to carry out its own tasks better (interviews with FIRS staff).

A similar view is evidently held by the *Accountant-General’s office* (OAGF) as well as the *Central Bank of Nigeria* (CBN). They also see advantages of the more systemic approach that the NEITI reporting provides, though their participation in the reconciliation exercises has

been variable in the sense that NEITI and the auditors have had to push considerably to get the information required (no meetings with the OAGF or CBN so based on second-hand information).

The *Department for Petroleum Resources* appears ambivalent with different sections holding views, where some disagree with some of the conclusions and recommendations in the reconciliation reports (interviews with DPR staff). This is a serious challenge to NEITI implementation since the DPR plays a strategic role in verifying quantities lifted. DPR is, however, installing a fully-computerised National Production Monitoring System (NPMS) that will capture the various meter readings as they become linked to the system. Different public agencies will then have access to those parts of the NPMS that they need for carrying out their own activities, thus responding to the request for better data and interaction.

An unusual aspect of the NEITI Act is that it requires the *Auditor-General's office* (OAuGF) “not later than 3 months after the submission of the [NEITI] audit report to the National Assembly publish any comment made or action taken by the Government on the audit reports” (NEITI Act § 4.7). One thing is to what extent a piece of legislation like the NEITI Act can instruct a constitutional body like the Auditor-General's office, especially since the NEITI can be seen as a sector-specific oversight and accountability body that should be considered subservient to the Auditor-General's role and mandate. But the important thing is that the National Assembly clearly saw the linkages and wanted to ensure that NEITI's findings have some “teeth” through the threat of reporting by the OAuGF. While no meeting was held with the OAuGF during the January mission, the information received is that the OAuGF has expressed an interest in becoming involved in the reconciliation exercise, and is part of the Inter-Ministerial Task Team (IMTT) that is now looking into how to implement the recommendations from the NEITI audits (reconciliation reports).

Nigeria's National Petroleum Corporation (NNPC) is a key actor as it is responsible for managing Nigeria's commercial interests in the sector:

- It represents the Nigerian state in the six large joint-venture agreements that have historically dominated the sector. The foreign partners are the operators while NNPC is responsible for Nigeria's funding contributions to the operations (“cash calls”).
- It is taking on new roles in the Production Sharing Contracts that are now Nigeria's preferred contract form.
- It has become an operator in its own rights in some minor fields that are producing 83-85,000 barrels/day (as against a national volume of 2-2.5 million barrels/day).
- NNPC's *Crude Oil Marketing Department* (COMD) is responsible for marketing the country's share of the oil produced.
- Its *Pipelines and Products Marketing Company* (PPMC) imports refined products and thus handles public subsidies on oil products for the national market.
- Its *National Petroleum Investment Management Services* (NAPIMS) manages the actual funds generated from the Nigerian state's involvement in the sector.

The Group Managing Director (Chief Executive Officer) of NNPC is both a member of NEITI's Board and the Inter-Ministerial Task Team. The NNPC is thus institutionally deeply involved with and committed to the NEITI. As the public sector's main operational actor in the sector, the NNPC should as a matter of principle be interested in as much transparency

and accountability as possible. As a commercial actor, and one that at times has not always opened its books fully to the NEITI audit, some private companies see the NNPC as a problematic actor because of its mix of commercial, oversight and political roles. For them, paradoxically, the NEITI is useful to force also more transparency into the internal workings of the NNPC, and in this field of cross-pressures different parts of the NNPC may hold somewhat different views on the NEITI (interviews with stakeholders).

The knowledge about and the commitment to NEITI and its principles at lower levels of the public administration – States and municipalities – is not known⁴⁵. Of particular relevance is the *Niger Delta Development Commission* (NDDC) that was originally set up by President Obasanjo in 2000 with the mandate to develop the most important oil-producing region of the country⁴⁶. The unrest that this region has experienced has to some extent been due to the failure of the NDDC to dispense its mandate well, the body being accused of gross financial mismanagement and corruption. Where this leaves an important public sector actor with regards to the NEITI which has in its mandate to pursue expenditure management and corruption issues is unclear.

NEITI is also mandated to review the mining sector. Meetings with the *Ministry of Mines and Steel Development* and the *Geological Survey Agency* showed strong support for NEITI. This seemed largely based on the expected benefits from the NEITI audit of the sector that will help identify and map the viable enterprises in a very fragmented industry dominated by artisanal and small-scale operations (meetings with Ministry and Agency staff).

2.2 Civil Society

Nigeria has had an important civil society and a vibrant press for a long time. The resistance to the military regime and the mobilization of the population in the Niger Delta against the negative environmental and human rights consequences of petroleum activities there have been led by these actors of civil society.

A number of civil society organisations (CSOs) were important in pushing for Nigeria's EITI adherence, and have been active members of the NSWG. Because the number of CSO representatives on the NSWG necessarily had to be limited yet many other CSOs wanted to be actively engaged, in February 2006 a Memorandum of Understanding (MOU) was signed between the NSWG and CSO representatives. The purpose was to ensure a "*furtherance of the Vision of Constructive Engagement*" (NEITI 2006) between the parties based on an understanding of the importance of civil society for implementation of EITI principles in Nigeria. The MOU commits the NEITI to help build capacity of CSOs, "*organize a quarterly interactive forum with CSO coalition to share information, develop new agenda and evaluate ongoing processes ... Involve CSOs in the continuous redefinition and improvement of the NEITI platform*" and "*In drawing up the guidelines for hiring auditors and establishing ground rules for audit operations, the NSWG will consult with CSOs...*" (op.cit.). Any CSO that wishes to join can sign the MOU.

⁴⁵ Due to the overall time constraints for this evaluation, this one-person mission had only eight working days in-country, which limited somewhat the ability to pursue all the relevant aspects of NEITI activities and results.

⁴⁶ In September 2008 President Yar'Adua established a separate Niger Delta Ministry where the NDDC continues as a parastatal under this ministry.

The CSO obligation is to inform and consult with its own constituencies, provide feed-back to the NSWG, ensure that capacity development support is used efficiently to deliver EITI objectives, and support the work of NEITI in general. CSOs of course otherwise remain free to pursue their own agendas.

In the original 28-member NSWG that existed when the MOU was signed, there were three CSO representatives: one each from the NGO community, media, and trade unions. In order to ensure broader and more direct involvement, a Civil Society Steering Committee was established that today has 15 members, three of whom are also the CSO representatives on the NSWG. The Steering Committee has members from professional organisations and trade unions; financial transparency, environmental, youth and gender organisations including organisations from the Delta region; and one from media.

There is clearly great interest in and support of NEITI both among media and civic organisations. This is partly due to the information that the NEITI audits have produced where the quality, comprehensiveness and independence of judgment exhibited in the reports is highly appreciated. The NEITI audits for the first time provided reliable data on even basic things like actual quantities of oil produced in a year. This has been important for improving the public discourse on issues surrounding the sector. As one journalist noted, *"It is no longer possible to write emotional attacks – we have to base our analyses on facts because they are now available"* (meeting with media). But NEITI and the CS Steering Committee also provide an arena for sharing information, discussing key issues (such as when the NEITI audits are presented), agreeing on common positions regarding petroleum-sector issues, and having much better access to decision making processes in the public sector.

Being an active supporter of NEITI does not mean being uncritical of its activities. One of the most active CSOs, *Publish What You Pay-Nigeria* (PWYP), on behalf of many of the Nigerian NGOs, released a critical assessment of the 2010 validation exercise (PWYP 2010b). At the same time, CSOs noted how the NEITI Act was beneficial to the public discourse on oil, corruption, government mismanagement and other sensitive issues: the Act is seen to legalize a democratic space that did not exist before: *"We can now raise issues that ten years ago would have landed us in prison"*, as one CSO staffer noted (meeting with CSOs).

Media have long been critical of the petroleum industry, the authorities' management of the sector and revenues, and at times criticize NEITI for lack of action. But on the whole media see NEITI as an important actor and process that is providing information that earlier simply did not exist. NEITI officials have also at times been willing to be quite open about their views on the performance of public bodies that are not performing their duties within the sector as NEITI – based on the audit reports – believe they should.

Unions and professional organisations are part of NEITI because it generates information that may be of value to their members. But the links to these organisations and in particular to academia seem more tenuous, and is an area that NEITI may wish to strengthen. While university officials have for example been involved in some of the road shows, the information received during the visit is that there is surprisingly little research – given the importance of the sector and the richness of the data available – using the NEITI data. This is particularly critical for developing information for accountability purposes (as noted, DFID's new FOSTER programme has links to a think-tank as a key component).

2.3 Private Sector

The private sector so far engaged with the NEITI is restricted to the petroleum industry. Neither financial sector (investors) nor mining industry actors have so far been involved.

Within the petroleum industry, the arguments for joining (apart from the fact that they *had* to comply once Nigeria had legislated the NEITI process!) included the interest in ensuring that the public was made aware of the considerable resources they were paying into public coffers, and their conviction that they were in fact paying what their books showed they should, so that documenting this would remove some of the accusations of fraud and tax avoidance surrounding sector actors. There was also considerable interest in making the *public* sector more transparent and accountable, and thus considerable satisfaction with the work done by the auditors in the reconciliation reports. Some oil company representatives pointed to the need for making the NNPC more transparent and understandable to private sector actors. There was also a lot of support for the analysis in general of the public sector in the reports, which the private sector felt would contribute to better working relations overall in the sector (meeting with private oil company representatives).

The support for the NEITI seems therefore to have strengthened as NEITI has produced reports that appear to largely vindicate the private sector plus providing many suggestions for better management and coordination on the government side (see section 4.4).

The changes in the sector, with many Nigerian actors entering, make the NEITI process even more interesting for the large foreign firms. They believe this will force smaller local firms that may be used to working according to more relaxed local standards, to adhere to EITI principles and thus ensure minimum standards in the sector.

What will be interesting to follow is private sector reactions to NEITI's intention of carrying out a Value for Money study. This is, among other things, to identify and assess unit costs of production, which some observers claim are unreasonably high in Nigeria. To what extent private firms will welcome a study that necessarily will be considerably more intrusive than the reconciliation of audited accounts is unclear.

2.4 Findings and Conclusions

The establishment of NEITI in 2004 was with strong political support from the Presidency and as part of a larger anti-corruption and good-governance agenda. This was in response to both strong internal and international pressures to address the country's major corruption problem. The NEITI Act of 2007 institutionalised NEITI, gave it a very wide mandate and defined the size and composition of its Board, the NSWG. DFID and the EITI Multi-Donor Trust Fund has provided over USD 9 million in financial support during this period.

The *political* leadership including the legislature is formally committed to the NEITI, though actual support has varied according to levels of engagement from the Presidency. The *public sector* at Federal level officially supports NEITI though actual performance varies according to *commitment* when NEITI appears critical (some sections of the DPR and in the NNPC are seen by other stakeholders as not very supportive of the NEITI audits where they analyse weaknesses in these organisations) or *capacity* (the audits uncovered outdated or lacking technology, too few staff and insufficient training as problem areas in most public agencies responsible for overseeing the sector and sector resources). The recent rejuvenation of the

Inter-Ministerial Task Team where key actors like the Auditor-General's office are active is likely to strengthen the implementation of the recommendations from the NEITI audits.

Civil society has historically been important in pressing for good governance, more transparency and accountability in the public sector. Media and CSOs see NEITI audits as a major contribution to public discourse and transparency though are critical of aspects of NEITI performance. While they are strong supporters of NEITI, the utility to CSO work in fields of advocacy and stronger accountability of government with respect to public expenditures remains unclear.

Private sector engagement has so far been limited to the petroleum industry. The international oil companies see it as an advantage that their payments to the treasury are documented. The NEITI audits' critical look at public sector management of the sector, the increased transparency of NNPC and making the emerging national oil industry actors adhere to EITI principles are also seen as positive. The real challenge will probably come when NEITI begins its Value for Money audit, which is to provide a more critical look at the cost picture of the oil industry, including unit costs of production.

3 NEITI Implementation and Performance

Below is an overview of the framework conditions for NEITI's work, NEITI's structure and functioning, and the key activities carried out.

3.1 The Enabling Framework

The strong reform team established under President Obasanjo ensured that NEITI, as part of this reform process, was given strong political and management support. Since NEITI was established early 2004, before EITI internationally had any practical experience to share, the Nigerian authorities contracted an international consultancy firm to assist with some of the early strategic thinking. It assisted the NSWG prepare the TOR for the first reconciliation exercise, prepared a communications strategy for NEITI, and provided careful comments on early drafts of key pieces of legislation (GIS 2006, 2005a, 2005b).

National Legislation

The NEITI Act of 2007 provides an ambitious agenda and broad powers to NEITI, as shown in text box 3.1. The first paragraph gives it access both to the Presidency and the National Assembly as an independent body. The second paragraph gives it a mandate regarding sector revenue mobilization, recording, allocation and even on expenditure management, where "ensure" is repeatedly used. NEITI is to "eliminate all forms of corrupt practices". The following paragraph then lays out a number of tasks that NEITI must carry out in order to fulfil its obligations, where its powers to get the information it believes it needs to dispense its responsibilities are quite wide. NEITI is instructed to carry out annual audits, stipulating that this should cover physical, process and financial dimensions (NEITI 2007 § 4.2).

On the organisational/administrative side the Act is more restrictive. The NSWG is made the governing body of NEITI with a maximum of 15 members constituted by the President⁴⁷. One of these must be the Executive Secretary (ES), which makes the ES a voting member of the NSWG. NSWG members are to hold office for four years and the ES for five, but none of them can serve a second term (NEITI 2007 §§ 6.3, 7).

The provisions regarding the membership of the NSWG include that each of the country's six geopolitical zones have one representative each, and then the extractive companies, civil society, labour unions and experts from the industry should be represented (NEITI 2007 § 6.2).

The six geopolitical representatives reflect the reality of an on-going national concern about regional equity and continuous inquiries into whether national authorities are even-handed when allocating oil and gas revenues.

The current NSWG carries over the practice from the first NSWG of having senior managers from key public agencies as members: the Accountant-General of the Federation, the Chairperson of the Federal Inland Revenue Service and the Group Managing Director of NNPC. The credibility of the NSWG is clearly strengthened by their membership. Their formal participation on the NSWG also means that when the reconciliation reports are presented, which have contained critical observations on these agencies, the heads of these agencies are part of the finalization discussions and thus, in the view of some NSWG members, become more committed to the recommendations and remediation plan. On the other hand, these senior managers quite often do not themselves meet and instead send subordinates. One organisation in particular was not systematic in sending the same person or with clear mandates, undermining the NSWG's ability to take decisions and act as a policy body. This is now addressed by having stand-in representatives meet with formal mandates from that organisation (interviews with stakeholders).

The practice from the former NSWG of having both one CSO representative and one from media is also continued, and along with the labour union representative thus make up three civil society votes on the Board.

As noted by one of the key CSOs in Nigeria, there is no clear provision for how the various constituencies select/approve their representatives (CISLAC 2009? p. 6). This raises questions about the degree to which they can be seen to truly *represent* the different constituencies. This is particularly unclear regarding the six geopolitical members of the Board, who can easily be considered *political* appointees.

Once NEITI moves into the minerals sector, it may also have to adjust its membership as the only industry representative today is from the petroleum sector.

The demand that the ES is a member of the NSWG is unusual. Normally an ES would be a non-voting member and recruited *by* the Board rather than being a member *of* the Board. This also implies that the ES will originally come from a specific constituency rather than be

⁴⁷ The word "constituted" is presumably carefully chosen. This gives the various constituencies in the NSWG the possibility to "appoint" their representatives but with the President having a *de facto* veto on any nomination s/he does not like since at the end of the day all NSWG members must be "constituted" by the President.

selected for management excellence. This means there is a potential for ES nominations to become entangled in internal debates over policies and influence.

Both the original NSWG and the current NSWG was nominated in its entirety at the same time (see Box 3.2), meaning also that it will be replaced at the same time. Since one cannot serve two terms, this actually *ensures* a lack of institutional memory on the side of the Board, which is hardly helpful. This is all the more problematic given that the NEITI till recently has had a fairly uneven documentation of its activities and decisions⁴⁸.

The heads of public agencies on the Board may become problematic. They are there in their institutional capacity, but since a head of agency may be in place longer than the four-year Board period, it is not clear what will happen once their four-year NSWG period is over yet they may still be heading the agency in question.

The fact that an ES also can only be offered one five-year term further strengthens the instability at the top. Often there would be an option for one five-year extension. The institutional stability and coherence is thus problematic as currently laid out in the Act.

Compared with the original draft Bill from 2004, the 2007 Act strengthens NEITI's mandate in several respects, some of these in line with comments/suggestions made by NEITI's external adviser (NEITI 2004; GIS 2005b). But while the Act provides for considerable responsibilities, it does not give NEITI a lot of tools for enforcing its mandate: "*The penalties in the law are very light ... such that it is cheaper to pay penalties than comply with a number of the requirements of the law*" (CISLAC 2009? p. 8).

National Governance Structure

The NEITI Act is a general law so a number of issues regarding the internal management and running of NEITI are of course not detailed. During the validation process early 2010, the validator commented on the lack of formal guidelines and rules regulating both the workings of the Board, and its relations to the Secretariat.

This led NEITI to produce a Board Charter that was approved in January 2011 (NEITI 2011a). This was in fact one of the six issues that NEITI had been asked to address by the EITI as a condition for achieving final Compliance status.

This 35-page document makes clear NSWG responsibilities and rights, the various sub-committees that can be established, rules on compensation, audits etc. The *formal* qualifications required of NSWG members are rather innocuous – cannot be of unsound mind and convicted of "*a crime relating to dishonesty*" while the *desirable* characteristics are for individuals with a strong analytical and independent mind who are committed to EITI principles but do not necessarily have to have any background or experience from the extractive industry (NEITI 2011a, §§ 2.2.1, 2.2.2). It is not clear who is to make the assessments regarding the individual characteristics, however. – Only the President can remove a Board member, based on a recommendation by the Board (op.cit. § 2.2.1), and the Charter notes the

⁴⁸ When this mission requested minutes from previous Board meetings, the current Secretary to the Board noted that he had difficulties finding these except perhaps some paper copies. As of the coming into place of the new enlarged staff during the fall of 2010, this has been addressed.

problem of lack of Board continuity by suggesting that 12 months before the Board's expiry it should advise the President on how to address this (op.cit. § 2.4.2).

While probably too detailed and repetitive in places, the Charter overall appears to be in line with standard board charters.

3.2 The National EITI Secretariat

During the early years, the NEITI Secretariat was largely funded by the donors. A number of the staff positions were therefore held by national consultants rather than permanent staff hired by NEITI itself. During one period the DFID project manager also sat within the NEITI premises and in fact became an important part of the total work effort.

Structure, Resources and Administration

NEITI carried out an organisational review in 2009 that produced an agreement on a larger and more professionalized secretariat of about 50 persons. The secretariat was divided into four departments: the Executive Secretariat's department (8 staff), a technical department covering the petroleum and minerals sectors (10 staff), a communications department (8 staff) and a finance and administration department (22 staff). Job descriptions for each post were prepared, and based on this a nation-wide recruitment process was set up early 2010.

As part of this organisational restructuring, and based on the argument of the importance of the work and independence of NEITI, the organisation was given exemptions from the normal civil service salary scale, and thus could offer more generous compensations. The response to the ads was thus overwhelming, with evidently a total of around 50,000 applicants! While the hiring process was to have been a purely merit-based one with no interference by political bodies, several observers note that in the end the pressures for regional/ethnic balance prevailed. This is reflected in the formal NEITI staff list, where in addition to name and position the person's state of origin is provided.

The technical directors were in place by August 2010, the remainder of the staff a month later. During this period, the Executive Secretary left over disagreements with the Board that had been on-going since late 2009. The candidature of the new ES was put forward by the Board in October and formally approved by the President at the end of November 2010.

With the NEITI Act and the formal institutionalisation of NEITI, public funding for NEITI was both required and possible to allocate. In the Federal Budget, NEITI is therefore now listed as a separate expenditure agency under the Presidency along the lines of the EFCC (see www.budgetoffice.gov.ng/2010_budget_messeage/PRESIDENCY.pdf). For the fiscal year 2010, the budget allocation for NEITI was just over NGN 1.375 billion (about USD 9 million). Just under 30% of this was for direct staff costs, a further 20% for what was termed "regular overhead" while USD 150,000 was for management training.

USD 1.1 million was for the 2008 audit (reconciliation exercise) and a further USD 1.3 million set aside for the Value for Money audit. There was also a budget line of about USD 180,000 for CSO capacity building, with other smaller items for other studies, NEITI equipment, etc.

Staffing and Work Plan

The 2010 work plan was divided into seven target areas:

1. **Conduct studies and annual audit.** This covered internal audits, the first solid minerals sector audit, and three major petroleum sector audits: finalize the 2006-2008 audit, carry out the 2009 audit, and a value for money study.
2. **Remedy identified issues:** Address the unresolved issues in previous audit reports.
3. **Ensure accountability in government resource application:** Put in place national strategy to combat corruption, in collaboration with the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR).
4. **Build capacity of stakeholders:** This covers CSOs, media, members of the Judiciary and National Assembly, training of own staff and management, and others.
5. **Enhance public awareness:** This includes advocacy meetings, roundtables, and public information campaigns, and NEITI publications and dissemination.
6. **Strengthen NEITI Secretariat:** This was the global restructuring, recruitment and relocation of offices (end of 2010) including necessary equipment procurement.
7. **Strengthen linkages with regional, global EITI:** Largely attending specific events.

The recruitment of new secretariat staff took longer than foreseen, so the manpower foreseen for implementing the plan was not in place till the fourth quarter of 2010. The issues surrounding the management of the NEITI secretariat with a new ES in place only at the end of the year meant that management attention was also lacking.

Of the major studies, the 2006-2008 audit was continued with the financial reconciliation reports presented in January 2011⁴⁹. Little was done regarding the remediation plan. This was largely because the Inter-Ministerial Task Team (IMTT), which has to provide the “political muscle” to ensure that actors actually move on the actions proposed, was for a long time dormant and really only “re-invigorated” in early 2011. The remediation plan is therefore expected to be addressed in 2011.

NEITI houses the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) secretariat. TUGAR serves as the technical arm and secretariat of the Inter-Agency Task Team of 21 public agencies – including NEITI and EFCC – that are charged with either combating corruption and economic crimes or promoting transparency, accountability and due process. The two organisations are hence working closely together.

While most of the activities foreseen for 2010 in the fields of capacity building and public awareness have been moved to 2011, the internal strengthening was finally completed, and NEITI’s linkages to the international EITI community were actively maintained.

As far as the 2011 work plan is concerned, this had not been finalized at the time of this mission, so only the communication department’s draft plan was provided. It is a more elaborate version of the 2010 plan, and where concepts like Branding and Profiling of NEITI

⁴⁹ There were some delays with this reconciliation work as disagreements arose as to payments due the auditors. When the EITI Board required that the 2006-2008 reconciliation exercise be finalized for Compliance, the auditors had to focus on that aspect of the task and set aside the process and physical dimensions for later.

are included. Much of the work will be based on implementing the communications strategy that is being produced with the assistance of a consultant funded by the World Bank.

This latter strategy has not been seen by this mission and thus cannot be commented on. However, NEITI's 2005 communications strategy was a well-designed approach built around the three critical dimensions of (i) language and geography, (ii) local customs and preferences, and (iii) communications channels (GIS 2005b). The strategy was to be implemented in four phases: awareness raising ⇒ educating the public ⇒ provide insight and analysis ⇒ push for reform and implementation. What seems largely to be missing from this strategy are the roles of the other stakeholders in NEITI, in particular CSOs: the strategy seems to assume NEITI should reach out to the Nigerian public directly. This approach seems to be the one laid out in the 2011 draft communications work plan as well: NEITI is providing a lot of messages that the various channels are expected to transmit. There are a number of interactive events with different stakeholders foreseen, where a key objective is to build partnerships and trust among stakeholders, but also to sensitise the public on NEITI's activities. That is, there is a lot of concern of essentially *marketing* NEITI and its activities. During this mission's visit, 70 newspapers clippings covering the three months 20 October 2010-20 January 2011 showed NEITI's (quite impressive) ability to get newspaper coverage. But it was almost all about NEITI and its activities. Items that discussed the industry and issues surrounding revenue mobilization and management were few and far between. This may be a function of the search words NEITI uses to identify relevant clippings, but if representative of the information NEITI is putting into the public domain, it cannot be said to be awareness raising but rather, as the strategy itself notes, "Branding and Profiling".

One challenge NEITI faces in this regard is whether they have the skills internally to implement a more comprehensive strategy in line with the ideas of 2005. One weak spot is the "insight and analysis" part, which is perhaps the critical dimension if NEITI is going to have an impact on strengthening genuine transparency and accountability. The technical department has staff who know the extractive industries from the industry/ engineering side, but neither from the financial nor from the more macro-economic side. Much of the analysis one would want should be on these latter dimensions.

One set of issues centres on the industry itself: whether firms in fact provide "good faith" financial and production reports. The audited accounts that are the basis for the reconciliation exercises include all expenditures the companies were able to include while the taxes and fees are based on their interpretation of Nigeria's tax laws. These are areas where informants felt it would be useful for NEITI to have critical analysis capacity.

Similar holds for the public expenditure management dimensions that NEITI is to monitor. This requires considerable public economics expertise which NEITI does not have.

NEITI does not, and perhaps should not, have this kind of expertise in-house. But it ought to have longer-term partnerships with skills centres that can carry out such work on a fairly permanent and continuous basis, whether university milieus or think tanks.

There are undoubtedly a number of ways of addressing such issues. The main concern is that NEITI by its mandate and in the work plan components seen by this mission appears to be unrealistic in what it can achieve, and how it should go about achieving it⁵⁰.

While the public funding for a NEITI secretariat of 50 is quite impressive, this is still limited when compared with NEITI's mandate of full revenue monitoring and expenditure tracking in a federation of 36 states, 774 local authorities and a population of 150 million.

3.3 The Reconciliation Exercises

Nigeria set itself ambitious objectives for its reconciliation exercises since the authorities wanted a thorough review of the revenue generation in the sector. This was the background for wanting physical and process as well as financial audits carried out. The NSWG therefore followed a careful and deliberate process for designing, contracting and implementing the task (see [www.neiti.org.ng/Press Releases/selectofhartgrp.pdf](http://www.neiti.org.ng/Press_Releases/selectofhartgrp.pdf)).

At its meeting in March 2004 – one month after it was constituted – the NSWG agreed that it would hire an international advisory firm to assist in the elaboration of the various tasks that it was to carry out: TOR for the reconciliation exercise (“audit”); a follow-up plan for the use of the audit; a communications strategy; legal advice; counsel on information technology; and guidance regarding transparency and change management for NEITI. One month later the invitation to bid for this task was approved and subsequently advertised nationally. The responses were assessed and presented to the NSWG in June. The conclusion was that the quality of the bids was unsatisfactory. The invitation to bid was therefore published abroad.

Six bids were received, and in November a lump-sum contract was signed with Goldwyn International Strategies (GIS). They began working immediately on the TOR for the audits, where the original idea was to have three different but parallel processes. Mid-December an invitation to submit an expression of interest was advertised internationally, with over 100 replies received. About 20 firms in all were short-listed – some tendering for more than one task – and a total of 11 tenders were then received. GIS presented its ratings to the NSWG mid-February, with one firm considered the best on all three dimensions. As the negotiations proceeded however, GIS became more and more concerned as the preferred firm was unable or unwilling to provide the required information (such as naming and guaranteeing the international members of the team), the price suddenly doubled, etc.

In the end, the NEITI secretariat broke off the negotiations and went to the two other relevant bidders, ending up with the Hart Group in consortium with S. S. Afemikhe & Co. as the best option. The contract was now also negotiated as one task for all three dimensions, so the auditors agreed to considerable budget reductions for the unified contract.

⁵⁰ It is not even clear **what** NEITI expects to achieve with its communications work except to raise awareness about NEITI itself. Presumably the strategy is clearer on this, but the activities planned for 2011 do not seem to point very far down the path of enhanced accountability and transparency as far as oil revenue use goes.

The First Reconciliation Exercise

In the end, a contract worth just over USD 2.34 million was agreed to for an integrated audit covering 1999-2004. The contract was signed on 15 March 2005, while the task took almost a year and a half to finalize as the final version of the report was handed in November 2006.

This first Nigerian reconciliation exercise is the most comprehensive one ever within the EITI system from the point of view of the combination of time covered – six years – and scope of the exercise – covering the three dimensions of financial, physical and process dimensions. This was the main reason took so much time. The reporting templates had to be designed, tested and re-designed, not all parties were equally cooperative to begin with regarding the presentation of the data, a number of legal issues were raised by both companies and public bodies regarding the extent to which they could or wanted to provide data, and the extent to which the final reports could or should contain disaggregated data.

In the end the process delivered what many consider the crowning achievement of NEITI so far. The reports and their annexes provide a comprehensive and well-documented overview of the petroleum sector in terms of production levels by field, audited accounts by company, taxes paid by category (petroleum profits tax PPT, royalties, signature bonuses, withholding taxes, value-added tax, company income tax, education tax, pay-as-you-earn [PAYE] taxes, withholding taxes) covering both Federal and State levels, and the changes over those six years along each of the variables (see Box F.3).

What the report showed was that Nigeria during these years had received USD 95.4 billion in tax revenue and from NNPC sales of oil and gas. Of this, two-thirds (USD 62.8 billion) was from the sale of oil and gas. From this one needs to deduct NNPC contributions to the operating costs of the joint ventures (“cash calls”) of USD 18.3 billion. The net gains to Nigeria were therefore the tax revenue plus the net income from the sale of oil and gas, for a total of **USD 77.1 billion**.

Box F.3: The 1999-2004 Reconciliation Reports

The task carried out by the auditors led to a comprehensive set of reports for each of the three dimensions, as listed below. In each area there were one or more main reports, and 5-12 appendices. While the seven main volumes make up just over 380 pages, the appendices add about 1900 pages (the page number of Appendix 2 on gas flaring is not known), for a total of nearly 2,300 pages (most of the appendix material consists of tables and filled-in questionnaires).

FINANCIAL AUDIT

Financial Flows Report, final version November 2006: 77 pp

Issues in Government Financial Systems: 22 pp

Appendix 1: Petroleum Profits Tax: 92 pp

Appendix 2: Royalty Flows: pp

Appendix 3: Gas Flare Penalty: 76 pp

Appendix 4: Cash Calls (government contributions to joint venture operating costs): 188 pp

Appendix 5: Crude Oil Sales Report (COMD in NNPC): 28 pp

Appendix 6: Central Bank of Nigeria: 13 pp

Appendix 7: Regulatory Agencies – Company Reconciliations: 194 pp

Appendix 9: Representation Letters: 28 pp

PHYSICAL AUDIT

Report on the Physical Audit 1999-2004: 79 pp

- Appendix A: Schematics: 8 pp
- Appendix B: Representation Letter: 28 pp
- Appendix C: Gas System: 14 pp
- Appendix D: Metering: 194 pp
- Appendix E: Oil Flows: 532 pp

PROCESS AUDIT

Refineries and Product Importation: 74 pp

Capital and Operating Expenditure: 53 pp

Licensing Process Review: 49 pp

Process of Marketing Gas: 28 pp

- Appendix A: Schematics: 16 pp
- Appendix B: Volumetric Data April 2006: 11 pp
- Appendix C: Refineries – Technical Information: 34 pp
- Appendix D: Various PPMC Data Submitted: 23 pp
- Appendix E: DPR – Permit to Import: 4 pp
- Appendix F: Independent Marketers' Imports 2004: 13 pp
- Appendix G: PPMC Import and Depot Data Templates April 2006: 120 pp
- Appendix H: Metering: 9 pp
- Appendix I: Extract from Report by former NNPC Executive Director Muhammad Buba: 31 pp
- Appendix J: Conversion Factors: 5 pp
- Appendix K: Principles of NNPC (PPMC) Downstream Hydrocarbon Mass Balance: 22 pp
- Appendix L: Capital and Operating Expenditure: 195 pp

Source: NEITI web-page - www.neiti.org.ng/NEITI_Final_Audit_Reports.htm

In the first version of the report, presented in April 2006, the Hart Group showed a discrepancy between what companies said they had paid in taxes and what the public offices had recorded to be **USD 232 million**. The discrepancy thus represented less than one third of one percent of total benefits, but nearly one percent of tax payments.

The NSWG asked that the auditor review the discrepancies since much of it seemed to be related to difficulties identifying particular payments. This extra work was done and in the final report the discrepancies had been reduced to only **USD 7.9 million** – about 0.03% of total tax payments. This improvement was due precisely to the public offices being able to identify particular payments and record them correctly – by revenue type, or periodicity⁵¹.

A main finding on the revenue mobilization side was therefore that the companies had in fact paid in what they said they had in line with their audited accounts.

⁵¹ One of the problems the public sector faced was that a company may have internally registered a payment towards the end of a fiscal period, but the actual transfer or recording of it might take place in the subsequent fiscal year, compounded by the fact that companies use full accrual accounting while the public sector runs on a cash accounting basis. The information on a given payment may also provide the wrong revenue category so it becomes difficult to match with what the company has in its own records.

Given the quantities that the oil companies recorded in their books – largely oil exported from the terminals – the study found that the revenue levels appeared to be in reasonable relation to physical quantities exported. This was also an important finding, since there had been a lot of uncertainty and an impression among some that the oil companies were far from paying a fair share of their income from the oil exports.

The fact that the study was able to record both financial and physical quantities and over a six-year period was a major achievement. Till the audit reports were published, there had been almost no hard data in the public domain even on issues like real oil production levels. Having this massive documentation of nearly 2,300 pages changed the empirical basis for discussions on the oil sector dramatically.

Key Issues

Because the financial reconciliation shows minuscule discrepancies, some take this to mean that the audit reveals a sector where taxes and other payments to the state are in compliance with what the laws demand. The study and its annexes, however, identified a number of quite serious issues that had to be addressed if the country really wanted to have a more certain and well documented confirmation of this assertion. A key concern was “*the inadequate record keeping, systems and procedures*” encountered in many of the entities involved in the exercise (Hart Group 2006, p. 2).

One important set of findings concerned the poor performance of most of the public agencies. These findings came largely from the third component of the study, which is termed a *process evaluation* but which looks at the organisational capacities and relationships between the key actors in the sector. The key overall findings and recommendations were (Hart Group 2006 p. 3):

- The linkage between physical and financial data was critical for the reconciliation process since this allowed volumes and cash flows to be matched.
- The Government ought to undertake a functional review of the sector, to improve its management across a wider front. The review should look at possible strengthening but also organisational rationalisation/reorganisation.
- Much time was lost because there were a number of unnecessary data differences encountered due to the lack of more continuous information sharing.

The financial reconciliation uncovered a number of weaknesses (Hart Group 2006 p. 5):

- **Royalty** payments may be too low because of poorly defined point of assessment of the royalty.
- **Petroleum Profits Tax** (PPT) might be too low due to the practice of oil companies doing self-assessments of taxes that were not sufficiently validated by the **FIRS**.

Overall, the report pointed to inadequate and under-qualified manpower, poor record keeping processes, inefficient account systems and manual information storage systems in the public sector. There was poor interface, cooperation and information sharing among public agencies, where more specific observations were (PWYP 2010a p 4; Hart Group 2006 pp 5-6):

- **Central Bank of Nigeria's** records were not organized in a manner that facilitated extracting the required data.

- The *Federal Inland Revenue Service's* capacity to deal with the PPT, including interpretation of the tax laws, needed to be strengthened.
- The *Accountant General's office* was bypassed by the flow of information, and needed to exercise greater management and control over payments in the sector.
- The *Department for Petroleum Resources* needed to play a greater role in oil industry regulation, and strengthen its capacity to assess, file and monitor royalty payments.
- The National Assembly's *Revenue Mobilization, Allocation and Fiscal Commission* (RMAFC) did not have full access to NNPC data and thus could not dispense its obligations fully. It was furthermore under-resourced.
- The nature of *NAPIMS* (NNPC) involvement in the joint ventures needed to be reviewed to ensure that Nigeria got the best value from these undertakings.
- There should be much greater use of IT systems among public agencies to ensure faster and better information sharing, but also reduce duplication and overlap in data collection and compilation.
- A hydrocarbon and gross liquids mass balance should be produced on a regular basis with oversight from DPR to confirm volumes for PPT and Royalty payments⁵².

Based on the findings and recommendations from the first version of the report, in May 2006 the Federal Executive Council (FEC) established an Inter-Ministerial Task Team (IMTT) and asked it to put together and oversee the implementation of a comprehensive *remediation plan*.

The Second Reconciliation Exercise

With the successful conclusion of the 1999-2004 audit in December 2006, the NSWG moved to begin the 2005 audit. In March 2007 the Hart Group was awarded the contract to carry out the task.

While one would have expected the second audit to run a lot smoother than the first, this was to a large extent not the case. One thing was that several companies and agencies that were to provide data showed little interest or respect for the process. This was despite the fact that the NEITI Act made such reporting obligatory. Another reason some informants gave was that the political backing for the process was less energetic and visible compared with the first exercise. A further factor was the detailed information that the auditors wanted and in a format that was not compatible with how most of the companies and agencies register their information, something that made some of the actors less willing or able to comply within the deadlines set.

⁵² One concern is where metering should take place and who is responsible for it. There is considerable "leakage" between production (well-head) points and export terminals due to illegal bunkering and theft, and thus missing revenues. DPR has argued that metering at the well-head, which is raised in the audit, makes no sense since that is a mix of oil, gas, water and sand. What the auditor notes, though, is that DPR is required to collect royalty based on well-head production, and that today's system of company metering at export points is unsatisfactory. DPR is therefore not playing its oversight and regulatory role properly. Discussions are taking place regarding improved metering at pipeline flow-points, but the issue has not yet been settled.

While some of the templates were modified compared with the previous exercise, the terms of reference were similar, though the auditors tried to carry out more in-depth verification of some of the data, processes and systems. The final report and many of the 23 annexes are available on the NEITI web-site ([www.neiti.org.ng/2005 Audit Reports.html](http://www.neiti.org.ng/2005%20Audit%20Reports.html)).

The process took longer than expected. The draft report was presented in October 2008 – a year and a half after start-up – but the presentation to the FEC only took place in May 2009. The revised report was presented in June 2009, and the final version was published in August 2009. A popularised version of this audit was published in January 2011.

The audit showed that the CBN recorded a net of USD 28 billion in revenue and a further NGN 790 billion in oil and gas sales equivalent to about USD 5.8 billion (Hart group 2009a).

Since this process started up right after the previous one ended, there had been no time to implement the recommendations put forth. The same structural weaknesses found in the previous study therefore still largely were true. But the auditors are more critical in a number of their findings, in part as they now have guidelines from EITI itself to refer to.

Key Issues

One of the standards required by the EITI is that the accounts to be reconciled are audited to international standards. In the case of the oil companies, the auditors therefore asked that they confirm that this was the case. They also asked if the companies' general ledgers were in agreement with the audited financial statements. The only reply received was from KPMG that confirmed that the Elf Petroleum accounts had been audited to international standards, and that the general ledger was in agreement with that. No other audit firm or oil company provided affirmative statements (some asked for more time to respond but this was not possible due to the time line) (Hart group 2008 p 7).

The auditors carried out a careful investigation of the PPT and Royalty payments. This included reviewing the Joint Venture agreements, the Memorandum of Understanding of 2000 that changed some of the principles of the payments, the interpretations of the tax laws used, volume data, and the oil and gas quantities that NNPC received as payment for the government's share in the various agreements.

The findings were that there were a number of disagreements on how to understand some of the contracts, tax laws and shares of the well production that might have major implications for the net revenue received by the state. FIRS in particular was asked to review the interpretations of the tax laws, and the auditors, in their presentation to the FEC, called this *"significant process weaknesses leading to loss of revenue"* (Hart group 2009b p 3): Companies were not providing wellhead production estimates; there were no data on losses prior to terminal receipt, complex agreements led to difficulties determining oil entitlements, and DPR figures were unreliable. The self-assessed liabilities claimed by companies were seen as incorrect in a number of cases, leading to under-payments of PPT (USD 310 million) and Royalty (USD 243 million), gas flare penalties were too low and sometimes deducted as an expense. On the product distribution side, the NNPC Pipelines and Products Marketing Company subsidiary had unexplained losses of nearly USD 240 million and provided successive versions of data without being able to explain the changes. Regarding the reconciliation, on actual revenues recorded by the CBN (not including proceeds from oil and gas sales) which totalled just over

USD 15.1 billion, the CBN had recorded USD 66 million *more* than the companies (op.cit. pp 10, 12, 16, 20).

The issue of Signature Bonuses came up as a more important issue than in the previous audit. This was in part because Signature Bonuses originally did not make up any significant amounts, and in part as a function of this a decision had been taken to hand these payments over to the Petroleum Technology Development Fund (PTDF). With the new forms of contracts entered into, signature bonuses became much more significant, but the PTDF refused to cooperate with the audit and thus it was not possible to see if payments had in fact been received. The CBN also had no data on these payments (Hart Group 2009a).

The audit found that the NNPC owed the state about NGN 655 billion (equivalent to around USD 4.8 billion) and dividend payments from the Nigeria Liquefied Natural Gas company of USD 200 million. Underpayments from private companies amounted to a further USD 800 million plus NGN 1.5 billion (USD 11 million) (NEITI 2011 pp 13-14).

The remedial actions proposed were again focused on public sector management:

- *DPR* should work with operators to develop transparent way of determining actual production levels at source, to avoid revenue loss. It furthermore needs to upgrade its database of license holders and license areas.
- Annual audited cost reports submitted by the Joint Venture partners to NNPC/*NAPIMS* should include production volumes, to avoid revenue loss.
- *PTDF* should be instructed to fully comply with the NEITI audit.
- *Signature bonus payments* should be handled in the same way as PPT and Royalty payments, to ensure full transparency and control.
- *NNPC* must upgrade management of volumes and values on Production Sharing Contracts and carrying transactions, as well as its tax and royalty payments.
- *FIRS* should issue guidelines to oil companies for the self-assessments of PPT liabilities (tax law interpretation).
- *OAGF* should introduce and implement modern financial management systems to allow the government to manage the petroleum sector better.
- *NEITI, FIRS* and *NNPC* should establish a working relationship to address issues relating to PPT administration of the oil companies.

In a newspaper interview published in December 2010, NEITI officials noted that they had begun trying to recover USD 2.3 billion in outstanding payments identified in the audit. A number of other steps deriving from the report were supposedly also being pursued: CBN was introducing modern IT systems for managing the flows of funds; the Office of the Auditor-General of the Federation (OAuGF) was now being updated on all payments received with the NNPC also providing better data on a more timely basis. A study on better metering had been received and its recommendations were being reviewed for decision and action (*Vanguard*, 21 December 2010).

The Third Reconciliation Exercise

It was expected that by the third audit, Nigeria would have moved to a cycle of annual reconciliations. However, the combination of less active political support, the time it took to get a new Board in place, and NEITI's internal problems that delayed the recruitment of new staff and a new Executive Secretary delayed the finalization of the 2005 audit and held back the contracting for the subsequent audit. By the time NEITI was ready for the following reconciliation exercise, it therefore had to cover the three years 2006-2008. Work started up during the summer of 2010, but was then delayed due to disagreements over fee payments.

When the EITI Board during its October 2010 meeting set the finalization of the 2006-2008 audit as a pre-condition for Nigeria's final validation (see 4.4 below), NEITI had to accelerate the process but also to separate out the physical and process audits from the financial one, since it was only the latter that was strictly required for the validation. The financial audit report was thus published on 1 February 2011.

Since this was Nigeria's third reconciliation exercise one would have expected that the process had become more streamlined. At the NSWG Board meeting on 4 November, however, it was clear that progress was very slow. The auditor reported that as of the end of October only three of the foreseen seven reports had been produced due to lack of inputs from the covered entities. This included problems getting data from public agencies where DPR, NAPIMS and FIRS were specifically mentioned. The auditor therefore wanted more support from the NEITI in the form of letters to the actors involved, stressing the need for providing the data in a timely manner in the templates agreed to⁵³.

Another issue that came up was payment. At that time the mobilization fee of 15% on the USD 2.3 million contract had been paid whereas three subsequent invoices were yet to be settled, as Board members felt there should be closer links between payments and results/deliverables. The Board also wanted the NEITI Technical Department to be more directly involved in the audit, which was agreed to (Minutes NSWG Board 4 Nov 2010, §§ 6a-6b).

One of the issues that the audit ran into was the one encountered in the 2005 audit: whether the reconciled accounts were audited to international standards. This was all the more important since this is a critical point in validation as well (section 4.4 below).

For private companies, the NSWG decided that a statement from management to this effect would be sufficient – auditors' verification was not required. For the public sector, the OAuGF informed that government accounts and financial statements of state agencies and state-owned companies' accounts were prepared and audited according to Nigerian laws, and the accounts were in accordance with what is commonly referred to as "generally accepted auditing practices", GAAP (see 4.4). The report notes that it is the NSWG's understanding that this is similar to international auditing standards (Hart Group 2011 § 2.6.2).

⁵³ One thing that had become simpler, however, was the issue of confidentiality. One of the greatest hurdles during the first reconciliation exercise was that many of the oil companies demanded that a confidentiality agreement be signed that would protect their proprietary information. This was still an issue for a number of companies during the second audit, but by the third one none of the companies bothered any more: the data provided were now seen as unproblematic and standard for the exercise.

The revenues recorded from the oil and gas sector during these three years showed a significant jump compared with the average of about USD 16 billion during 1999-2004:

2006: USD 45.1 billion

2007: USD 43.2 billion

2008: USD 58.8 billion

In addition come withholding and PAYE taxes at state level rising from USD 112 mill in 2006 to USD 259 mill in 2008. Payments to the Niger Delta Development Commission (NNDC) grew from USD 256 mill to USD 338 mill over the same period.

The actual discrepancies in payments claimed and recorded were (i) USD 67 million in royalties in 2006, (ii) signature bonuses received were higher in all three years than the payments claimed by the firms, though this seems largely to be because some recent entrants to the sector were not included in the exercise, (iii) the financial flows from the sale of oil and gas shows an estimated discrepancy over the period of about USD 240 mill. The auditor will be looking into these differences in the revised report expected later during the first half of 2011, but in all the differences for the three-year period will be maximum USD 300 million but probably much less. The USD 300 mill “worst case” finding would represent 0.2% of the USD 147 billion total revenue over the three years.

Key Issues

Since the full audit has not been concluded, there are many aspects of the sector that have not yet been looked into. Nonetheless, the auditor made a number of recommendations:

- *NEITI* should aim to carry out annual audits and publish the results within eight months of the end of the fiscal year, to ensure data and findings are relevant.
- More attention should be paid to the proper recording of *signature bonuses*.
- *NNPC's* conflict of interest in both buying Federation crude and selling it, but using a timing system that allows it to maximize own profits, is not in accordance with the 2002 decision on NNPC arms-length dealings on crude. The sale of crude is furthermore the government's major revenue source so NNPC must upgrade its transaction management to “best practice” standards, which is far from the case now, and furthermore be more transparent in its handling of the subsidies for imported petroleum products.
- *Production Sharing Contracts* need to be standardised regarding tax and royalty accounting, including the calculation of cost of oil. The lack of clarity regarding revenue from gas production also must be addressed.

Trends and Findings

The three reconciliation exercises/audits commissioned by NEITI have in several respects been ground breaking:

- They have covered financial, physical and process dimensions, where the latter can more appropriately be labelled sector-organisational review.
- This three-dimensional aspect of the NEITI audits are in fact mandated and enshrined in the NEITI Act (NEITI 2007 § 4.2).

- The three audits together now cover ten years of oil and gas revenue history, which provides a solid background for assessing performance in the sector.
- Because all three have been carried out by the same auditor, there is continuity and follow-up from one study to the next, providing an important value-added dimension to the exercises⁵⁴.

The discrepancies in the payments made-payments received recordings are, as noted above, minimal, varying from 0.01% to a maximum of 0.2% of revenue payments made. What the audits reveal, however, is that there are a number of issues that need to be looked into if Nigeria wants to be sure that it is getting the benefits it should from the sector.

- The actual quantities lifted are not metered properly. The DPR needs to take a more aggressive stance in its role as regulator and monitor of the sector, and needs to include the gas production, which today is not being monitored seriously.
- Gas flaring remains a problem both in terms of gas lost, but also in environmental and financial terms: gas flaring is not properly monitored, and the fines are so low that they do not act as a financial deterrent to wasteful practice.
- The interpretation of tax laws and regulations, deductions when estimating tax liabilities, oil costing principles and other aspects of Production Sharing Contracts allow for different practices. Relevant government agencies, and FIRS with DPR support in particular, should clarify interpretations and monitor their application.
- Of potentially even greater importance is for NEITI to carry out a rigorous Value for Money audit, establishing reasonable unit costs of production. There are indications that there may be a number of cost-items that are more expensive than they need be, which reduces taxable profits in-country.
- Such an audit should include the NNPC and its many different internal transactions done on behalf of government. It is understood that the pending Petroleum Industry Bill (PIB) is considering various ways of restructuring the NNPC, but unless and until the PIB is passed and contains provisions that really address these issues, NEITI should help the government ensure that NNPC maximizes the *state's* benefits.

3.4 The Validation Exercise

Nigeria became a Candidate country in September 2007. At that time there was no timeline for the validation process. EITI at its 5th Board Meeting in May 2008 laid out the two-year timeline for validation, giving Nigeria and 21 other candidate countries till 9 March 2010 to finalize their validation processes (EITI Policy Note # 3, *Validation Deadlines*).

⁵⁴ The NEITI Act states that the same firm can only carry out two such audits in a row (NEITI 2007 §4.6). When the 2006-08 audit was put out to tender, the NSWG faced a dilemma. Because of the time constraint it wanted to contract the Hart Group again. In the end it was found that this was possible because the first audit had been carried out before the NEITI Act was passed so the two-audit limit was valid only as of the 2005audit.

Validation Process

As with a number of other countries, the process of addressing the various criteria started off slowly. The process in Nigeria was held back by the factors mentioned earlier: lacklustre political support and internal problems.

In February 2009 the NSWG put the validation task out to tender, and in April the IDL Group with Synergy Global Consulting was selected. The NSWG subsequently decided that the national partner on the team faced a conflict of interest situation due to previous work with NEITI, and finding a replacement took some time. The contract furthermore had to be cleared by the President, which happened only in September. At that time the validator could not begin work right away, so the contract was not signed till December 2009 which is also when the process began (letter from NEITI Chair to EITI Chair 10 March 2010).

A preparatory visit by the validation team took place in December 2009. The field work began in January ending with a debriefing to the NSWG on 4 February. One week after the team presented its draft report, and four days later got the NSWG's comments. The final draft was presented on 17 February, and the day after the NSWG discussed and approved it. It was then forwarded to the EITI Board for approval on 22 February (IDL 2010 p. 9). The process of drafting and finalizing the report thus took only three weeks. The reason for this extremely tight timeline was of course NEITI's concern of meeting the 9 March deadline.

For its part, the EITI Secretariat had prepared an overview of the validation processes in the 22 countries that were to meet the 9 March deadline. It showed that only 2 countries had completed validation by the end of January. The Validation Committee therefore recommended to the Board that it encourage the relevant countries to request an extension of the deadline. The EITI Board at its meeting February 2010 approved this (11th EITI Board meeting, Minutes p. 5).

In the case of Nigeria, the EITI Chairperson sent a letter to NEITI dated 16 February. He pointed out that even if NEITI were able to present its validation report before the deadline, the rules demanded that the report in fact be approved before the deadline, which was not likely to happen since the experience from other validation exercise was that this process normally would take some months.

In line with this, NEITI's Executive Secretary and the Chair of NEITI's Board wrote to the EITI Secretariat and EITI Chairperson, respectively, requesting such an extension, though without suggesting any time period or revised deadline (letters of 23 February, 10 March 2010).

The Board then followed the established procedure of assessing each request on its own merits. At the Board meeting in April 2010, where in the case of Nigeria the Board paper noted that "*Nigeria is one of the most advanced NEITI countries. It has produced two EITI reports ... (that) go far beyond the EITI core requirements*" (12th EITI Board, paper 12-4b p. 20). Nigeria's request for extension was therefore granted.

Validation Findings

The validation report was overall very positive, concluding that Nigeria was compliant on all 18 indicators, though some issues were raised.

In terms of the field work, the three-person team had about two weeks in the field. It was not able to meet a number of key actors on the government side, which it noted was an issue. On

the civil society side, by reviewing newspaper articles the team identified CSOs that were sceptical to NEITI performance and were able to reach some of these and thus were able to record some of their critical views. It had furthermore got NEITI to take out newspaper advertisements encouraging stakeholders to provide inputs in writing to the validation team (IDL 2010 p. 9).

Among the concerns raised in the report was the extent to which the NSWG can be said to be an independent body given the lack of transparency in nominations and representativity of Board members, and the *de facto* power of the President to approve all Board members. The key question was about the CSO representatives and their ability to function as independent and true representatives of civil society views and interests (indicator 5). The validator noted that governance issues were at the heart of a number of concerns raised, though there were no indications that there had been any governmental interference in the workings of NEITI. The lack of clarity on roles and relations between the Chair and the Executive Secretary on the Board was of concern, and was pointed to as an issue by several stakeholders. The validator therefore suggested that a Board Charter be prepared (IDL 2010 pp. 24-26).

There were particular concerns with regards to the CSOs, with the validator finding that Indicator 6 (*"Is civil society engaged in the process?"*) was satisfied, but that there was a need to further build CSO capacity and strengthen their participation in outreach activities, but also that CSO input to the NSWG be formalised and more systematic (Indicator 6) (op cit pp. 29-30).

The attendance at Board meetings varied, where industry representatives had by far the worst record: of the 8 meetings held from June 2008 through 2009, the NNPC had been present at three but all through non-voting proxies, and the oil sector representative at only one. There was a need for NEITI to address this but it was not considered critical to the proper functioning of the organisation (op cit pp. 32-34).

Several issues on materiality were noted. Two companies did not submit reports, but they in fact had no production during the time of the audit. Revenues from the Joint Development Zone (JDZ) with São Tome and Principe were not included due to resistance from the São Tome authorities. Mining revenues were not included since the mining sector was marginal and thus generated little taxes. But the validator felt the materiality conditions were met.

Regarding whether government reports are based on audited accounts to international standards, the validator found this to be the case. The government audits are in accordance with the requirements of the Institute of Chartered Accountants of Nigeria, which are based on international standards. The information provided by the NEITI auditor (Hart Group) and the Auditor-General's Office also confirmed this (op cit pp. 45-46).

The report concluded that Nigeria had fulfilled the formal criteria for compliance, but suggested steps to further improve the process and contents of the EITI process.

Process to Validation

Once EITI had received the draft report, it was transmitted to the Validation Committee for comments. The Committee sent an extensive set of comments to the EITI Secretariat dated 4 March, which were then forwarded to NEITI on 18 March (the Validation Committee comments to the final draft and the EITI Secretariat comments to the final report were included as an attachment to Board Paper 13-3-D for the 13th EITI Board meeting October 2010).

Validation Committee Observations

The starting point for the comments was the drawn-out process that validation had faced in Nigeria. The Committee therefore wanted more documentation on the current government's commitment to NEITI, and was concerned about the strained personal relations within NEITI and lack of interaction with decision makers in government.

The Committee noted the issue of timeliness. The first audit covering six years took 13 months to complete while the 2005 audit took 29 months, including nine months between NSWG approval and actual publication. The contracting for the 2006-2008 audit had till then been on-going for a year without a formal appointment.

The Committee asked for more information/documentation on the problems and possible proposals for addressing the governance problems that had been raised.

The materiality questions were noted, where the Committee was concerned about the lack of JDZ data and the comment that two CSOs had not been provided the 2005 templates. It also accepted that the minerals sector had not been included yet, given the complexity of the sector and its limited fiscal importance – the reasons the EITI Board at its 9th meeting in May 2009 had allowed Nigeria to go ahead with its validation process without including the minerals sector (Board Minutes 9th meeting p. 7) – but that NEITI needed to provide a timeline for including also the mining sector.

The Committee raises the issue of whether the accounts can be said to have been audited to international standards since the validator pointed out that no public agency was willing to be held accountable for the Signature Bonuses.

Status of "Close to Compliant"

Based on the comments from the Committee, the validator prepared a final report in May, which was discussed and endorsed by the NSWG on 13 May.

The EITI Secretariat then verified that the final report fulfilled the formal EITI requirements and that the Validation Committee comments had been addressed. Based on this it suggested that Nigeria be considered "close to compliant". The Secretariat's comments were forwarded to the Validation Committee for final assessment (see reference in footnote 11).

Based on the final validation report, the EITI Secretariat's observations and its own assessment, the Validation Committee made its recommendations to the Board "*Based on a thorough assessment of the specific circumstances, Nigeria is considered to be 'close to compliant'*" (13th EITI Board, Paper 13-3-D p. 1). It stated that the Board was not satisfied that the validation report conclusively demonstrated that Nigeria met all the validation requirements, and instead six remedial actions were required before Nigeria could be considered compliant:

- 1) The 2006-2008 audit had to be published and disseminated using a clearer materiality definition agreed by the NSWG.
- 2) Development and agreement of an NSWG charter to strengthen NEITI oversight.
- 3) Government accounts to be audited to international standards as per Indicator 13.
- 4) A plan for providing comprehensive disclosure of signature bonuses and applying international auditing standards when covering them.

- 5) Production of a popularised version of the 2005 audit.
- 6) A work plan developed and agreed by the NSWG that ensures that the five above steps can be achieved by 15 April, and also address how data from the Joint Development Zone with São Tome and Principe can be included as soon as possible.

In addition the Committee urged that the IMTT be reinvigorated to coordinate implementation of the remediation plan of the 2005 audit, and that NEITI also move ahead with a solid minerals sector audit by June 2012 (op cit pp. 1-2).

The Board agreed with the Committee's recommendations and "*designated Nigeria as a Candidate country that is close to Compliant*". It then went on to note that if Nigeria notified the Board by 15 January 2011 that it had completed its remedial actions, its status would be considered at the 1 March 2011 Board meeting in Paris (13th EITI Board Meeting, Minutes § 3.5 p. 7).

Finalisation of Validation Process

In response to the EITI Board decision, NEITI called an emergency meeting of the NSWG on 4 November. The Chair informed about the EITI Board decision to declare Nigeria "close to compliant", a step he found rather surprising since the validation report was positive and this proposal instead came from the EITI Secretariat/Validation Committee. He did note, however, that Nigeria faced questions on the slow pace of audits, and questions on the extent to which national audits were to international standards.

Addressing the Remediation Programme

The Board then agreed to establish a five-person task force to draw up an action plan to successfully address the remediation points while also mobilizing the necessary political support to ensure that the points could be addressed in a timely manner (NSWG Board 4 Nov 2010, Minutes § 4).

At the NSWG meeting on 13 January 2011, the Board walked through the various decisions it had to take in order to ensure that Nigeria could be considered Compliant: a clearer definition of materiality was agreed to; signature bonuses were to be registered as per the FIRS Establishment Act of 2007; all parties (public agencies were in particular mentioned) had to be made to provide all the data according to the templates by the deadlines set, and government support was to be sought where pressure had to be put on actors to comply; and NEITI would ask the EITI Secretariat for an extension of the target date from 15 January to 31 January for addressing the remediation programme (NSWG Board 13 January 2011, Minutes § 5).

On the auditing standards, the Chair referred to the Auditor-General's note that Nigeria's public accounts were according to GAAP, but that was not quite the same as international standards. The Hart Group stated that for the purposes of this audit they had accepted GAAP as being sufficient as the reliability of the data was strengthened through their own rigorous methodology. The NSWG therefore decided that it was satisfied with the standards of reliability of government revenue data (op cit).

NGO Reaction to Validation Process

In December 2010, the **Publish What You Pay** (PWYP) coalition presented its *NGOs' Alternative Report on EITI Implementation in Nigeria* (PWYP 2010), where a draft had been circulating for comments several months earlier. A 70-page booklet that walks through the

history of EITI and the recommendations from the first audit, the focus was on the validation report and the extent to which Nigeria could be said to be compliant. The report was prepared after the NEITI Board received the comments on the draft validation report from the Validation Committee.

This report is in some respects more critical of NEITI performance than the EITI Secretariat and Validation Committee were. It is concerned that the MOU between NEITI and civil society is not really active and that in particular there needs to be a more rigorous meeting schedule and linkages to the CSO community for its participation to be real. It believes that the tense relations between the Chair and the Executive Secretary at the time was a function of the NEITI becoming another bureaucratic body that had to be perform according to civil service rules and regulations, thus reflecting the fact that this was not an independent body but just an extension of the public administration.

Regarding NEITI's work plan, PWYP wanted a more strategic 3-5 year plan to guide the annual plans, based on functions/roles laid out in the NEITI Act. On the materiality issue, PWYP and its partners walk through what it believes needs to be done by a range of actors including Parliament, to ensure that all payments in fact are captured properly.

On the dissemination of NEITI audits, the report makes a series of interesting suggestions, especially regarding how to reach youth through social networks, promote debates and essay competitions, and even establish 'NEITI Chairs' at universities to promote scholarly research and study based on the NEITI audits and issues of relevance to NEITI.

Another interesting aspect of the report is that the final chapter is the NEITI Secretariat's response to the issues raised in the draft version. The final word is thus that of NEITI itself – perhaps an appropriate finale that reflects a unique collaboration between a critical civil society voice and a semi-independent supervision body formally under the Presidency.

Reaching Status as Compliant

By the end of January 2011, Nigeria had addressed the remediation programme with the publication of the 2006-2008 audit. During the first half of February exchanges with the EITI Secretariat ensured that all the last hurdles towards final validation were cleared. At the EITI Board in Paris on 1 March 2011, the Chair of the Validation Committee explained that the Secretariat had conducted a thorough review and found that Nigeria had addressed all of the remedial steps satisfactorily. The Validation Committee had assessed the report and agreed with the Secretariat's conclusions. Based on this, *"The Board designated Nigeria as EITI Compliant country as of 1 March 2011"* (15th EITI Board Meeting, Draft Minutes § 3.4).

4.5 Findings and Conclusions

Nigeria was the first EITI member state to put in place a formal legal framework that both legitimised the EITI process but also mandated NEITI to carry out comprehensive audits, track revenue distribution and expenditure management. It was the first quasi-public body with a *de facto* tri-partite constituency structure, and which reports both to the National Assembly and the President and thus has considerable political independence and access. At the same time, its Board must be cleared by the President which raises important questions regarding independence and representativity of its management.

NEITI's mandate clearly overlaps with those of institutions like the Ministry of Finance, the OAGF and the OAuGF, highlighting perhaps the strength and weakness of NEITI: it was not established to address a missing function in the public administration structure, but to address poor performance in a critical oversight area. It thus more than others is dependent on active and continuous political support while at the same time contributing a highly visible and required service.

The joint appointment of a Board that is to sit for four years but without possibilities for renewal, and an Executive Secretary that has initially to be a Board member and can only serve one five-year term, creates unnecessary discontinuities in institutional functioning that probably needs to be addressed.

The NEITI Secretariat of about 50 staff is structured around three departments: technical, communications, and (internal) administration and finance. The communications department is strong in getting NEITI into traditional media but appears thin on capacity building and enabling partners – civil society and media – to play their functions better⁵⁵. The composition of the technical department is such that it can manage the reconciliation exercise on the industry side, but there are no skills regarding public finance management: government revenue mobilization, allocation, accounting and expenditure management.

The reconciliation exercises (“audits”) that have been carried out are without a doubt the most important contribution of NEITI. These reports provided a wealth of information into the public domain on a range of issues that till then had been missing, either because it was considered confidential (financial, physical quantity data on the production side), or because nobody had looked (structure, management, roles and performance of the various actors, in particular public agencies). NEITI has produced reports covering the ten years 1999-2008, which is a massive input to the public discourse on the issues and contributions from the petroleum sector. Whether there is a need for 2300 pages of tables and text is a different matter: so far there seems to be no academic work based on this massive data trove⁵⁶.

The financial reconciliations show that oil companies have paid in what they claimed they did – audited accounts on company and government side largely match. But what the extended audits also showed was a number of structural and procedural weaknesses that reveals the short-comings of the formal financial accounting exercise. The public oversight on physical production, tax law interpretation, cost accounting practices, understanding of the production sharing contracts may all contribute to the public purse receiving less than it should. Use of outdated information technology, poor data sharing and thus incomplete reconciliation of different data streams means public management is inadequate. What the audits have *not* been able to look into, are the high unit costs of production, which a future Value for Money audit is supposed to assess.

⁵⁵ The NEITI web-site as a critical archival resource is unsystematic and not always updated: the Handbook is the old one from 2005 while the new one from 2011 is not yet out; the posted communications strategy is from 2005 which does not appear to be the relevant one for the current communications work plan. While one can find the CSO Steering Committee members straight off the main page, the NSWG membership – a lot more critical – takes a little longer to find: it is hidden down the text on the structure of NEITI.

⁵⁶ While the paper copies contain numerous tables and charts, the auditors have the actual databases that these are based on. So far they have not received a single inquiry regarding access to these data.

What the audits have also pointed to are the conflict of interest issues that a large integrated state oil company like NNPC represent. Evidently largely based on the NEITI audit reports, the Petroleum Industry Bill is considering a number of ways of addressing these.

Compared to the long audit exercises, the entire validation from preparatory visit till final draft report took less than three months. The validator found Nigeria to be in compliance with all the indicators though produced a series of proposals for how to improve the process. The Validation Committee and Secretariat, however, felt some of the issues raised by the validator meant Nigeria was not truly compliant, and required further steps for full compliance. This was done and Nigeria was declared compliant 1 March 2011 – almost a year later than the national authorities had expected.

The full finalization process thus took almost a year, and raised issues of interpretation regarding the compliance criteria. *Periodicity* of the audits was raised since NEITI audits were few and far between (some informants felt Nigeria was being “punished” for carrying out extended audits rather than narrow financial ones which could be completed in a much shorter time). The challenge of international audit standards was finally resolved, but in part by fudging the issue (see section 5.1 below).

Several in Nigeria were unhappy with the finalisation process, where the status of “close to compliant” came as a surprise and was questioned⁵⁷. There was a feeling that Nigeria was being unfairly treated since it had gone well beyond the core EITI demands in a number of fields, and comparisons with other countries that had been declared Compliant were clearly galling to some. At the same time, there was recognition by most that the issues raised by EITI were relevant: the EITI Validation Committee and the Secretariat had carefully scrutinised the documentation received and had followed a strict interpretation of the guidelines, in line with the perceived need “to defend the brand”.

The problem, as some saw it, was that Nigeria was not given any credit for “over-performing” in some areas while being marginally short of fulfilling the criteria in other fields. There was a feeling that the overall system was skewed in favour of those who did the minimum necessary to pass the test but did not really move the process forward, the way the Nigerians felt they had.

Contribution to Transparency

NEITI has clearly contributed to a major improvement in transparency of the petroleum sector. Production and revenue data by company by revenue stream are now available on an annual basis. Total revenue streams and how they flow into the public coffers and which public agency is responsible for overseeing the size and periodicity of these flows is clear, including weaknesses in various aspects of the sector’s public finance management.

The audit process has clearly changed corporate culture regarding this openness. On the private sector side, while the first two audits faced a number of legal hurdles with regards to

⁵⁷ Several Nigerian informants believed this status did not truly exist: “declaring Nigeria as ‘close to compliant’ outside any existing rule or principle exposes the underlying weaknesses in EITI’s incentive structure and authority of the Board” (PWYP 2010 p. 37). But the “close to compliant” status is spelled out in Figure 1 in Policy Note # 3, which is the same policy note where Nigeria’s validation deadline of 9 March 2010 is given.

access to data and confidentiality agreements, this seems no longer to be an issue. This has established a *de facto* standard which new entrants to the sector, in particular national ones, will also have to respect and follow. This new-found openness has also led to increasing insight into the NNPC's various transactions, enabling a more informed debate on its various roles in the petroleum market and as a publicly owned company.

On the public agency side, change seems to be somewhat slower and more reluctant in some agencies, but the overall process is one of closer collaboration and data sharing. This will undoubtedly continue improving as more and better IT technology is employed. The DPR is developing the National Production Monitoring System as a real-time on-line metering system that will get data directly from the flow meters as they are upgraded/installed, and will give different actors direct access to data they are supposed to be able to access. FIRS is already automated with an SAP database and the OAGF has automated transactions and further upgrading is planned, enabling further data exchanges and verifications.

While NEITI has recently been admitted as an observer to the Federal Accounts Allocation Committee (FAAC), which is where the Federal and State governments agree on resource redistribution allocations from the federal coffers, NEITI has so far neither developed a methodology nor provided any additional data or information that informs the public about the use of public revenue. NEITI has noted this as an area for attention in its work plan for 2011, however, so this part of its mandate will only begin being developed this year.

Contribution to Domestic Accountability

While the NEITI *financial audits* have ensured that a lot of data on the petroleum sector are now available, this in itself has not changed domestic accountability much, except certifying the aggregate levels of funds transmitted to the public sector.

The major accountability result so far has come from the *process audits*, in particular pointing to public agencies that have not carried out their mandates as should be expected. The pressure on these actors to improve own performance and in particular to share data and collaborate better has clearly been a result of the NEITI audits. The same holds for the demands on the NNPC to provide more information and address the perceived conflict of interest issues that some of their transactions entail.

While media and CSOs appreciate the information available, there is little in the data that help hold *government* accountable. The major exception is the data on the funds that flow into the Niger Delta Development Commission, where CSOs like the Niger Delta Budget Monitoring Group now have a much better picture of the funding that should be available.

But NEITI has so far not produced any further analyses of how the revenue mobilized has been distributed and used. Local CSOs hence do not have much in the way of information about resources available and thus little ability to engage with State or local authorities on this matter. For media, the overall picture is useful, but media could also have done a lot more with more detailed public allocation data.

Other Effects

A key result is of course the enhanced trust and communication that now exist between the various parties to the NEITI, both among and within the different constituent groups. NEITI represents a legitimate arena for dialogue, disagreement and clarification between groups

that historically had little or no interactions. While one should not exaggerate the importance of this, one should also not underestimate it. The NEITI structurally is a collaborative mechanism where all parties see enough of own benefits from participating that the relationships become continuous and structural. While much of the trust is developed at the individual level based on personal experiences, there are clearly spill-over effects that are more institutional/organisational. At the same time, the lack of continuity of key individuals' engagement with NEITI due to the time-limits on tenure may constitute a serious threat to this achievement and needs to be addressed urgently before a new NSWG is to be constituted in 2012.

4 NEITI Results

On 21 March 2011, NEITI's Executive Secretary held a press conference where Nigeria's Compliant status was presented. She explained that dissemination of the 2006-2008 audit, commissioning the 2009-2010 oil and gas audit and a Value for Money audit, working on tracking revenue disbursement, and automating the NEITI audit reports were priorities for the remainder of the year. Another challenge was to bring elected bodies – at Federal, State and local levels – more fully into NEITI processes.

NEITI's Chair then went on to identify the benefits to Nigeria from its Compliant status to include *“better international image, revenue transparency and good governance, improved credit rating and foreign direct investment and better opportunity for the citizens to access information and participate in the governance of natural resources in their country”* (NEITI Press Release, www.neiti.org). This statement is in line with the general benefits that EITI believes it can contribute to in its member states (see Box F.4 below). The challenge is to document these benefits and be able to attribute them, directly or indirectly, to NEITI and its activities.

Box F.4: Expected EITI Benefits

Countries rich in natural resources such as oil, gas, and mining have tended to under-perform economically, have a higher incidence of conflict, and suffer from poor governance. These effects are not inevitable and it is hoped that by encouraging greater transparency in countries rich in these resources, some of the potential negative impacts can be mitigated.

Benefits for implementing countries include an improved investment climate by providing a clear signal to investors and international financial institutions that the government is committed to greater transparency. EITI also assists in strengthening accountability and good governance, as well as promoting greater economic and political stability. This, in turn, can contribute to the prevention of conflict based around the oil, mining and gas sectors.

Benefits to companies and investors centre on mitigating political and reputational risks. Political instability caused by opaque governance is a clear threat to investments. In extractive industries, where investments are capital intensive and dependent on long-term stability to generate returns, reducing such instability is beneficial for business. Transparency of payments made to a government can also help to demonstrate the contribution that their investment makes to a country.

Benefits to civil society come from increasing the amount of information in the public domain about those revenues that governments manage on behalf of citizens, thereby making governments more accountable.

(Source: www.eiti.org/eiti/benefits)

4.1 Public Sector Reforms

It is in the field of public administration that NEITI has so far had the greatest impact. The analyses and criticisms of public agencies and their work have led to demands for performance and structural reforms, and in a number of cases to actual improvements. FIRS

is the body that is most often commended for its reform programme that addressed NEITI audit concerns, but other changes are also underway – some due to NEITI, others claimed to be independent of what NEITI has uncovered but still in line with NEITI recommendations, such as in DPR.

The contributions to government reforms have so far been based on the analyses and needs in the petroleum sector. But NEITI's mandate also covers public finance management (PFM) dimensions, as noted several times above, and while it has made significant contributions this has so far not been a field of focus.

Public Finance Management

NEITI has so far not *formally* been engaged in PFM since the focus has been on getting the petroleum sector audits in place and doing these well. Another reason is that NEITI does not have any capacity in this field. Strengthening PFM institutions and improving their performance is, however, critical to the long-term relevance of NEITI. This is particularly important since the claim is that much of the corruption in Nigeria is related to how public resources are allocated and spent, and where NEITI is supposed to “*eliminate all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Federal Government from extractive industry companies*” (NEITI Act § 2.c).

What is interesting to note is that NEITI has in fact impacted on a number of important PFM institutions already. FIRS, CBN, OAGF are all key parts of Nigeria's public finance management structure. The NEITI reports have led to improved recording and structuring of petroleum sector revenues and improved interaction between these agencies regarding these funds. Since they make up around 80% of total government revenue, this is significant. Perhaps of greater importance is that more general computerisation for managing funds, ensuring coherence in record keeping etc will presumably have beneficial effects for overall revenue management. But the real challenges in Nigeria's PFM is on funds allocation, expenditure management, accounting and auditing – fields that are within NEITI's remit but where the organisation so far has not been engaged.

In terms of what is known about changes in this area of governance, box F.5 presents the scores that Nigeria has received on some key indicators by four different international bodies. The indicators given here either focus on corruption directly or the government's budget process and data, though two of the four datasets provide a much richer picture of governance. All of them have a more comprehensive set of underlying sub-indicators or data than is presented here.

Of the four indicator sets included in the text box, the last one, on the Open Budget Index (OBI), is the most worrying from a NEITI perspective. If NEITI audits have led to increased transparency in the most important economic sector of the country and 80% of government revenue yet the quality of government budget data remain extremely poor and with a deteriorating trend, then clearly NEITI is not having any real impact even on government budgeting. It is then obviously not contributing much if anything to overall PFM enhancement, yet this is clearly a pre-condition for addressing the corruption issue. There is therefore a need for more carefully “unpacking” some of the claims made in favour of EITI/NEITI regarding the benefits that can be expected from increased transparency in tracking extractive industry revenue payments.

Box F.5: Measures of Governance Changes

The **Corruption Perceptions Index (CPI)** done annually by *Transparency International* is probably the best-known governance indicator around. Based on surveys in-country, it rates corruption from 1 (extreme) to 10 (no perceived corruption). During the six years 2005-2010, between 160 and 180 countries were included. The following show the CPI by year: 2005: 1.9; 2006: 2.2; 2007: 2.2; 2008: 2.7; 2009: 2.5; 2010: 2.4. Nigeria thus was seen as extremely corrupt in 2005, with a steady improvement through 2008, and some backsliding since then – but still considered to be in the highly corrupt category (see www.transparency.org).

World Governance Indicators (WGI) are prepared by the *World Bank*, tracking performance along six dimensions: (i) Voice and accountability, (ii) Political stability, (iii) Government effectiveness, (iv) Regulatory quality, (v) Rule of law, and (vi) Control of corruption. The indicators are aggregates of sub-indicators, where values are collected from a wide range of sources. The dataset covers 1996- 2009. The Corruption indicator has values from -2.5 (extreme corruption) to +2.5 (no corruption): 1996: -1.09; 1998: -1.07; 2000: -1.21; 2002: -1.38; 2004: -1.34; 2006: -1.14; 2008: -0.84; 2009: -1.07. The trend line is not linear, as in the CPI above, but largely because it covers a longer time period, with first a period of *increasing* corruption 1996-2004, a significant *improvement* till 2008 and then a slight *deterioration* in 2009, to the extent that one year-on-year change can be seen as a trend (see info.worldbank.org/governance/wgi/index.asp).

The **Global Integrity Indicators (GII)** are produced by *Global Integrity* and cover six categories: (i) Civil society, public information and media, (ii) Elections, (iii) Government accountability, (iv) administration and civil service, (v) Oversight and regulation, and (vi) Anti-corruption and rule of law. They are hence fairly compatible with the WGI above, but have a different methodology and scoring system. As with the WGI, there are 3-5 sub-indicators for each indicator, each scored from 1-100, with the indicator simply being the average of the sub-indicators, and the total index being the average of the six indicators. For Nigeria scorings exist for the three years 2006-2008, where the *total score* was 2006: 75; 2007: 54; 2008: 64. The anti-corruption index scored 2006: 84; 2007: 71; 2008: 81. The Oversight and regulation index, which covers national ombudsman, supreme audit institution, taxes and customs, state-owned enterprises, and business licensing and regulation, scored 2006: 80; 2007: 53; 2008: 69 (see www.globalintegrity.org).

The **Open Budget Index (OBI)**, produced by the *International Budget Partnership*, reviews contents and extent to which eight key budget reports are made available: (i) Pre-budget statement (policy paper), (ii) Executive's budget proposal, (iii) Citizens' budget, (iv) Enacted budget, (v) In-year reports, (vi) Mid-year Review, (vii) Year-end Report, (viii) Audit Report. The OBI is based on answers to about 100 questions from an independent knowledge centre in each country. The OBI runs from 0 to 100 points (full score). Nigeria has been scored for three years: 2006: 20; 2008: 19 and 2010: 18. Nigeria's budget transparency is thus *extremely low and deteriorating*. In 2010, neighbouring Ghana scored 54 and Liberia 40 (see www.openbudgetindex.org).

Methodologically the indicators are similar. They are composite indexes that apply numerical values for each component, and averages are then estimated at each level of aggregation. The GII and OBI use ratings from 0-100 while if one multiplies the CPI values by 10 one gets a rating system from 10 to 100. The WGI uses a relative scoring around 0 as neutral and 2.5 as extreme values on either side.

Contents-wise the CPI and WGI appear consistent in the story they tell on corruption. The GII shows 2006 and 2008 to be quite similar (with a high score over 80!), with a notable worsening in 2007. While the GII is an easy index to read and thus very transparent, it is also volatile (and so far only covers three years in the case of Nigeria), so this coupled with the very positive values given leads one to question both *validity* but in particular *reliability* of these ratings.

The OBI scores mean Nigeria has a very poor and non-transparent budget process and data. This is consistent with the accusations that there is a lot of corruption surrounding government funds, and thus in line with the continued poor corruption scores that Nigeria gets on the CPI and WGI indexes.

One methodology lesson is that indexes that appear to measure the same phenomenon may apply slightly different definitions of the subject matter, use different indicators/variables to measure performance, have different data sources/informants as basis for the ratings, and thus end up with quite different scores – but still are internally consistent and correct! A careful understanding of how the indexes are constructed and what they track is thus important.

The direct and attributable results from the NEITI audits were *not* from the financial audits – the core EITI task – but due to (i) the process audit, which looked at roles and relationships among actors including on the public administration side, and (ii) the linkages between the physical and financial audits – looking at whether revenues paid were reasonable compared with the production levels. The financial audit in isolation yielded little in terms of actionable information since it largely confirmed that the public purse had received what the companies said they paid. The detailed break-down of the different revenue streams allows better accountability of the oil companies – it does not provide any particularly useful information regarding what the public sector will spend the funds on⁵⁸.

The NEITI audit *does* give specific numbers on how much has been deposited into Federal accounts, so mis-representation on amounts available to the budget is no longer possible. This is an important achievement. But there is no reason to believe that other transparency and ‘good governance’ benefits will flow from this without specific and deliberate steps being taken.

The fact that NEITI can now attend Federal Accounts Allocation Committee (FAAC) deliberations and hence report on these is perhaps one such step, and is heralded as such. But it is unclear what the value-added will be since the Ministry of Finance in principle has a policy of publishing the monthly FAAC allocations to Federal, State and local levels since the 2000-2006 flows were originally published on the Ministry’s web-site www.fmf.gov.ng (Shaxson 2009 p. 14). But it should be noted that as of April 2011 the most recent data on the web-site are for June 2010⁵⁹. FAAC data, however, are general allocations to State or local level governments, not sector allocations, since these are of course decided locally once the general transfers are known. Yet it is the latter figures that local advocacy and accountability actors often want, to see why health systems and roads are in such bad shape. So while increased knowledge of total transfers is important, there is a need for realism in terms of what will be achieved regarding increased accountability with improved FAAC data.

But NEITI ought to be an active contributor to the kinds of PFM reforms that can seriously begin addressing the structural and procedural weaknesses in PFM, since these are more serious in their consequences than the ones uncovered in the petroleum sector. While FIRS, OAGF, CBN, NNPC and DPR all have been advised to upgrade their resource management systems and in particular introduce computer-based systems that will permit easy data exchanges, the PFM systems in Nigeria also require systemic overhaul.

The most common diagnostic tool for assessing the conditions of country public expenditures, procurement and financial accountability is the so-called Public Expenditure

⁵⁸ The signature bonuses represented an exception to this in the early years since to begin with, as pointed to before, the bonuses were paid directly in to the Nigeria Technology Development Fund. Now these payments follow the same procedures as the PPT and Royalties in terms of public accounting and deposit.

⁵⁹ There are a number of issues surrounding the Ministry web-data. The tables themselves are not easy to read as they provide aggregate allocations by geographic region broken down by financial dimensions that are difficult for the public at large to understand. They do not provide *sector* data, which is understandable (that is a budget exercise done at State level), but that is the kind of data many users would like to see. The sector data that do exist are limited, where the most recent sector breakdown is a sparse overview from February 2009. Overall, the web-site lacks updating, presents partial data, and little user-friendly information at State and local levels.

and Financial Accountability (PEFA) indicator system (see www.pefa.org). This has been applied in over 80 countries world-wide, and while it often has started out as an exercise funded by donors and the World Bank using external consultants, many countries now run PEFA exercises as national processes, sometimes linked with budget presentations. In Nigeria, several States have carried out PEFA exercises with World Bank help, but this has so far not been done at the Federal level. While no single tool can fully analyse and document a complex system like Nigeria's PFM, PEFA provides a compact and highly insightful way of mapping out strengths and weaknesses from a systemic point of view. Supporting a PEFA exercise as a first step to improve Nigeria's PFM, at the Federal and then cascaded down to State level, ought to be a major concern to NEITI (see Box F.6).

A second problem NEITI will face when trying to decipher where funds have gone is that Nigeria so far has not used the IMF's Government Finance Statistics (GFS) standard for its Chart of Accounts. This is about to change as a GFS structure will form the basis for the Integrated Financial Management Information System that the Ministry of Finance is now putting in place.

Without a GFS structure, it is difficult to audit public accounts to International Public Sector Accounting Standards (IPSAS). IPSAS is the standard that INTOSAI (International Organisation of Supreme Audit Institutions) recommends, and which is endorsed by the International Federation of Accountants (IFAC). When the Office of the Auditor-General in Nigeria states that Nigeria's public accounts are currently audited as per Generally Accepted Auditing Practices (GAAP), this has little value unless there is detailed mapping of what Nigerian law and audit practices actually entail compared to the IPSAS standards. This is why it was claimed above that this issue had been side-stepped in Nigeria's validation process: the country is several steps away from being able to claim that its public accounts are audited according to international standards. This is hence an area that NEITI should also be concerned about and supportive in improving.

Box F.6: Public Expenditure and Financial Accountability System

The PEFA system is made up of 28 indicators tracking PFM across six areas: (i) credibility of the budget, (ii) comprehensiveness and transparency of the budget, (iii) the link between policy and resource allocations, (iv) predictability and control in budget execution/disbursements, (v) accountability, recording and reporting, and (vi) external scrutiny and audit. There are also three indicators for tracking donor practices. For each indicator one may allocate one of four grades, from "A" (international standard) to "D" (very poor). Each grade is based on a carefully specified set of criteria so that the grading is transparent and evidence-based.

The PEFA system can be compared with the EITI validation grid in that both have specified indicators that need to be rated based on pre-determined and universally applicable criteria. Two big differences are that PEFA uses a grading scheme for each indicator rather than a "Yes"/"No" answer (that is, PEFA does not declare an indicator to be fulfilled or not but rather gives it a grade), and PEFA is more systemic, comprehensive and structured in its assessment of the sector: EITI is a lot about process and partnership while PEFA is about performance and systems (see www.pefa.org).

A basic challenge is thus for NEITI to ensure that its own efforts at enhanced transparency in the petroleum sector are linked up with and compatible with larger PFM reforms currently underway, and that it provides support and helps accelerate such changes. In the end it will be the larger PFM reforms that will ensure coherence, comprehensiveness and completeness in tracking where public funds come from and where they are allocated and for what they are spent and thus promote system-wide transparency and accountability. The petroleum

sector can clearly contribute, but NEITI's agenda will first and foremost benefit from successful PFM reforms.

4.2 Civil Society and the Public Policy Debate

Civil society and media representatives praise NEITI for producing and making available the petroleum sector information, which is a major achievement. While the information itself has been of great value, perhaps more important is that it has expanded the space for public debate and policy discussions, legitimised critical questioning of government and public finances, and provided a more visible platform for civil society actors to participate and be heard on issues of importance to the country's development.

The analyses of the information produced by the auditors are also highly appreciated since much of the data and auditing language is highly technical. The more popular versions of the two first audits presented by NEITI have improved the accessibility of the contents of these audits further.

Civil society and media have been active participants in the "road shows" that NEITI has used to promote the audits. These public information and debating events organised in different parts of the country are to communicate the main messages of the audits to the wider Nigerian audience, often using popular media personalities ("Nollywood stars"), vernacular language and other innovative approaches for transmitting the importance and contents of the audits.

NEITI has provided resources for capacity building activities targeted to civil society, both CSOs and media, and a number of training activities have taken place. In addition a number of the CSOs have mobilized resources for their EITI-relevant work directly.

As with the audits and public sector improvements, it is unclear how much this has really contributed to the larger objectives that EITI and NEITI have set for themselves.

While Nigeria is justly proud of its history of an independent press and strong civil society that have made important contributions to the democratisation of the country, there are also clear limitations to their influence. One thing is basic capacities. One of the oil companies noted that it had 3,000 staff in Nigeria (plus thousands of workers and other employees through sub-contractors), a fair share of whom are lawyers, accountants, tax specialists, etc. The number of persons engaged in the oil sector on the civil society and media side are obviously much fewer, and with vastly fewer resources.

CSOs like the Publish What You Pay (PWYP) coalition and the Civil Society Legislative Advocacy Centre (CISLAC) have produced important documents on NEITI and its activities as seen from a CSO perspective (CISLAC 2009 (?), PWYP 2006, 2010), including commenting on the draft NEITI bill when it was before the National Assembly where the PWYP input in particular was a highly detailed and argued statement (CISLAC 2006, PWYP 2006b). The NEITI audits have been used by CSOs as foundations for their own views on the Petroleum Industry Bill (CISLAC 2010 (?)). But CSOs have also tried to hold government accountable for following up issues identified in the NEITI audits that were not necessarily prominent in the audit summaries but which are of considerable importance either financially or that reflect serious weaknesses in the structure of the petroleum sector (see box F.7).

What is less clear is the extent to which CSOs and media have become better at communicating and mobilizing the population around extractive industry revenue issues.

EITI in general as well as NEITI make claims about how populations at large are now enabled to access information about extractive industry revenues. While as a matter of principle this is true, in practice this of course is not yet a reality. Furthermore – and perhaps more importantly – having *access* to information does not mean that one is enabled to *understand* and thus benefit from this additional information. This is where the media as key dissemination and explanatory channels and CSOs as information transmitters but even more as intermediaries between the population at large as rights-holders and national authorities as duty-bearers are expected to play critical roles.

Box F.7: Holding Government Accountable

With the publication of the first NEITI audit, PWYP-Nigeria organized a CSO-wide consultation in January 2006 where the report was discussed, ending up supporting the recommendations of the audit but adding another seven points, including (i) addressing the dual role of NNPC as regulator and major player in the industry, (ii) that the OAGF should be given emphasis in tracking revenue from the industry, (iii) the legal framework for the sector should be updated to global standards, (iv) the oversight function of the National Assembly had to be improved (PWYP 2006a).

PWYP's press release on the first NEITI audit report brings up a series of issues that the government is challenged to pursue: the need for better metering of actually produced volumes; the USD 510 mill 2004 royalty payments from upstream oil companies that had as of then not been resolved; export of over 10 million barrels of crude that were not properly accounted for; questions about loan and tax payments on the Itochu production; the lack of figures on oil spillage; the management of the NNPC's Cash Call account; the lack of confirmation of payments received by the Niger Delta Development Commission (PWYP 2006c).

Most recently PWYP raised the issue of oil revenue payments made into banks that later merged or collapsed yet where the first audit could not establish what happened to around NGN 5 billion (about USD 35 million) paid in. The press release provides a detailed break-down of the payments identified and challenges the authorities to explain and document (PWYP 2011).

Both CSO and media staff noted that NEITI-sponsored training activities had been highly useful for understanding the NEITI audits. This had helped them in preparing a number of their written interventions/articles and other NEITI-relevant activities. This mission saw some of the written outputs, as noted earlier, where the common characteristic was that they seemed oriented to a newspaper or document-reading audience concerned with overarching issues – in short, largely an urban elite. The extent to which this represents media and CSO outputs on NEITI is not known⁶⁰. But it is clear that for media and CSOs to play a critical and advocacy role in a society of about 150 million – largely poor and disenfranchised – inhabitants, there needs to be some clarity on how this can be done.

Both CSO and media representatives stated that they would like more training and other capacity development activities related to extractive industry issues. To what extent NEITI is the right channel for this kind of support, since it formally remains under the Presidency, is one issue that needs to be clarified. But at least in its own outreach and communication activities, NEITI needs to have a more demand-driven approach that responds to what CSOs and media actually need in order to play their roles better, and which also records and

⁶⁰ This mission of one person was in-country for eight days only and thus unfortunately had no time to verify CSO and media activities from a more in-depth and local-based perspective.

analyses what the understandings and responses in the various audiences actually are⁶¹. The more supply-driven products provided from NEITI and put into the public domain does not address this, as far as this mission can see.

Since the messaging on NEITI seems primarily to reach a limited urban audience, and that NEITI does not appear to have an explicit strategy on how to support other actors (CSOs and media) in their wider outreach, there is little reason to believe that the statement on public access to extractive industry information for the wider population is true. Given the limited information access – both in terms of audience and messages – there is therefore little reason to believe that much has changed in terms of *accountability* since there seems to have been little in terms of more large-scale political mobilization around any clear themes.

4.3 The Business Environment

The NEITI audits have clearly changed the culture of secrecy surrounding revenues to the government, as reflected in the participation and compliance of all the oil companies in the reconciliation exercises, and the fact that none of them were any longer concerned with confidentiality clauses with respect to the data recording.

The international oil companies have embraced this new openness as a way of also opening up the books and practices of the NNPC, of getting insights into how the public agencies manage their roles in the sector, and as a tool to ensure that national actors adhere to EITI standards and thus do not get any kind of advantages over others by not disclosing these kinds of data.

This does not mean that all actors are equally enthusiastic and equally committed to a culture of openness and transparency. In a 2008 report on the oil and gas industry, Transparency International assesses 42 companies on their policies, management systems and performance in areas relevant to revenue transparency in their upstream (production) activities. The first conclusion is that *“revenue transparency is not yet a common practice in the industry. The weakest area is reporting on payments to host governments.”* It goes on to note *“Different companies behave differently in the same country. Even in restrictive environments, some companies are high performers, proving that better disclosure is possible.”* (Transparency International 2008 p. 8). The first conclusion thus shows the importance of EITI: the lack of revenue reporting is a genuine problem at a global level. This is further confirmed by a further finding in the study: *“Regulatory approaches produce systematic impact [such as] host government reforms along the lines of the Extractive Industries Transparency Initiative”* (op cit).

The report goes on to rate the 42 companies in terms of their revenue transparency. This is done both globally, but also by country. In the case of Nigeria, the six companies included in the study were distributed across all the four categories used: *Very high above country average: Shell; Above country average: Total; Below country average: Chevron, ConocoPhillips and ENI;*

⁶¹ The original communications strategy (GIS 2005a) has, as noted previously, some interesting discussions regarding how different the audiences are across Nigeria, and thus how NEITI (and media and CSOs!) need to tailor their messages and approach accordingly.

and *Very below country average*: ExxonMobil⁶² (op cit p. 21). NEITI at the time of the third audit therefore still seems to have faced different degrees of commitment to transparency among the international actors, though it does not seem to have affected the exercise.

There is a question if it matters whether companies are fully in favour of transparency or not if in practice they fully participate in the reconciliation exercise. – As far as the audits are concerned, it does not seem to matter. But it may be that this is a signal in terms of other (more intrusive) transparency moves, such as the Value for Money study. It is at least a concern that needs to be borne in mind.

One of the main benefits claimed for private sector actors is that EITI processes reduce political and reputational risk. One line of argument is that a government that supports EITI audits and standards provides not only a political signal but actual commitment that can be measured in terms of how well the audit was done and the extent to which the authorities follow up on the key findings and recommendations. It thus can become a useful tool for tracking political risk.

Furthermore, if risk is in fact reduced, that should also be reflected in more tangible ways such as lower capital costs and cheaper insurance premiums.

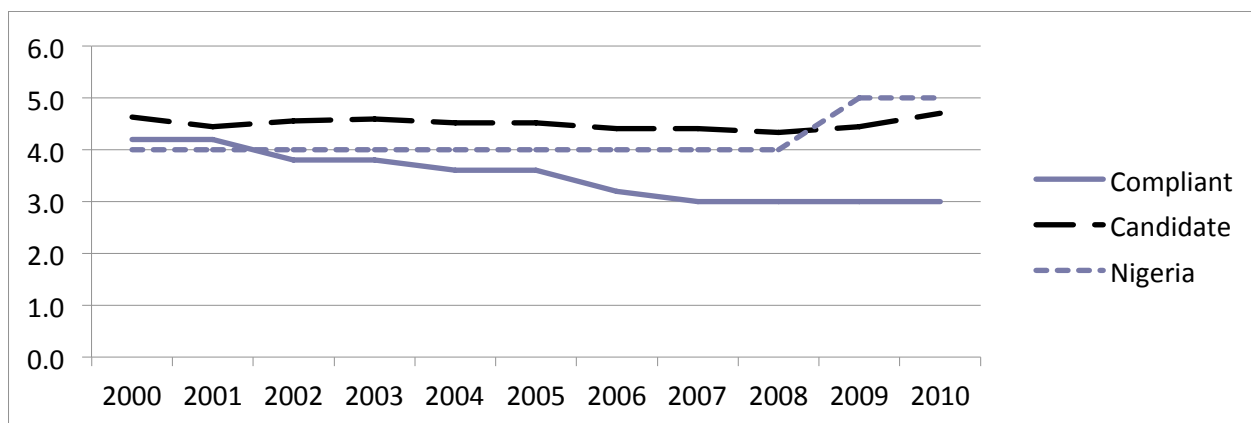
One thing is that the markets for assessing these kinds of sovereign risks are quite thin and “sticky” – they do not move a lot, and not as smooth continuous changes: ratings tend to “jump” and then stay at the new level for some time before the next “jump” up or down (as an example see Freedom House’s “Political Rights” over ten years in the graph below)⁶³. It is also not clear what such country risk perceptions respond to, but it would seem clear that a NEITI audit would be a rather insignificant element.

As with the governance indicators (see box F.5), different ratings bureaus (both political and financial risk raters) track somewhat different issues and thus may change their ratings at different times for different reasons (see main report for more on this). At the international level, unrest in neighbouring countries, increased global demand for key resources such as oil, the global financial crisis which changed global risk ratings would override country-specific performance enhancement. Within the national context, claims of electoral fraud or an apparent resolution to the conflict in the Niger Delta would over-shadow a NEITI audit as a political signal. Shifts in macro-economic performance such as an improved trade/capital balance, a draw-down of the petroleum fund, or a perceived weakness in national PFM systems would presumably be given more weight than a sector-specific review like the NEITI audits.

⁶² Companies would often end up in a slightly different category in other countries. While ExxonMobil was in the lowest category also in Angola, it was in *Below country average* in Azerbaijan, Malaysia, Norway, Qatar, the US and Venezuela and *Above country average* in Equatorial Guinea, Indonesia and Kazakhstan.

⁶³ In this and the subsequent graphs, three reference groups are used: those EITI member states that were compliant at the end of 2010, those that were candidate countries, and a third group simply labeled “reference” that were resource-rich countries of similar characteristics as EITI member states but in fact not EITI countries.

Figure F.1: Political rights, Nigeria vs. EITI Compliant and EITI Candidate countries



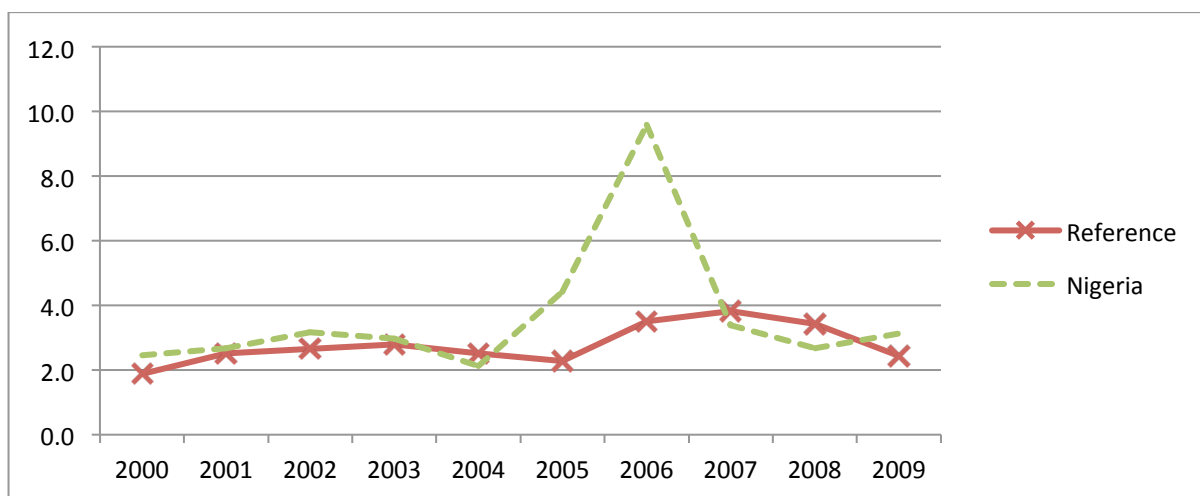
Source: Freedom House. Countries are given a score from 1 to 7 where 1 is best and 7 lowest. The reason the curves for Compliant and Candidate show more continuous changes is because they are averages of the various countries' individual ratings.

It thus becomes difficult to interpret changes in variables such as foreign direct investment (FDI), even if one restricts this to FDI in the oil sector. In figure F.2 below, FDI as a share of GDP is tracked for the ten years 2000-2009, and while there is a sharp peak in 2006 this presumably was due to specific large-scale lump-sum projects rather than some continuous response to the governance environment.

The fact that Nigerian FDI then falls back so that relative levels are about the same at the end of the period as they were at the beginning also makes it difficult to say anything about trends, much less about causes.

The curvature for the reference group of non-EITI member resource rich countries seems to have a similar shape to Nigeria's, though less abrupt since it is an aggregation of many countries. This indicates that the peaks both for this group and Nigeria may have been part of a global raw materials investment boom rather than anything to do with Nigeria. The fact that Nigeria's overall level of FDI in terms of GDP percentage is both similar to the non-EITI members and does not vary over time seems to indicate that so far, at least, Nigeria has in fact *not* gotten an "EITI boost" in the form of additional FDI.

Figure F.2: FDI in Nigeria compared with other resource-rich non-EITI countries



Source: World Bank data

As with the other dimensions looked at above, the claims regarding the benefits NEITI can provide to private sector actors thus require both a more carefully spelled out results chain (theory of change), and empirical studies based on it. Only then is it possible to verify how an audit is expected to influence other societal parameters and see to what extent it is possible to attribute observable changes to NEITI and its activities. Right now such a results chain has not been presented.

This may have two other consequences as well. One is that NEITI does not seem to have a strategy for how it wishes to work with the private sector to strengthen overall NEITI performance – how the private sector can be a more active contributor to NEITI results.

But this also has the reverse effect: NEITI does not seem to have an approach as to how it can become a better partner for the private sector if it truly wishes to assist in delivering the kinds of benefits that EITI claims the process should provide (see box F.4). This may be seen in the low participation rates of the private sector in the NSWG meetings: NEITI does not seem to be providing the private sector with further activities/services/approaches that address their concerns.

4.4 Development Results

In general, the results chain being claimed seems to be that an EITI audit – whose quality is certified by the validation process – leads to greater transparency regarding industry revenues paid in, and confirmation of amounts received.

A NEITI audit goes beyond this by reviewing the “reasonableness” of the revenue levels against both estimated physical quantities produced, and analysis of tax laws and contractual arrangements behind an oil company’s operations in the country. This has also uncovered the degree to which the authorities are themselves quality assuring these revenue streams both at the assessment and collection points. But at the end of the day, this is also all that even a NEITI audit can produce.

It becomes difficult to see what further impacts such an exercise will lead to. While it *may* contribute to better governance in the petroleum sector, there is no reason to believe that this affects other dimensions of oil company performance, such as environmental management, sustainability of operations, technology transfers and skills provisions, employment creation upstream/downstream, etc. all of which are also important results from the oil industry.

There *is* a remediation plan proposed in the audits which – if implemented – will clearly improve public sector management. But as has become very clear by recent NEITI history, the actual implementation of it depends on political will: identifying a remediation plan does not mean that it will be carried through. So there are a number of additional assumptions or steps that must be in place for the next level of results to be produced.

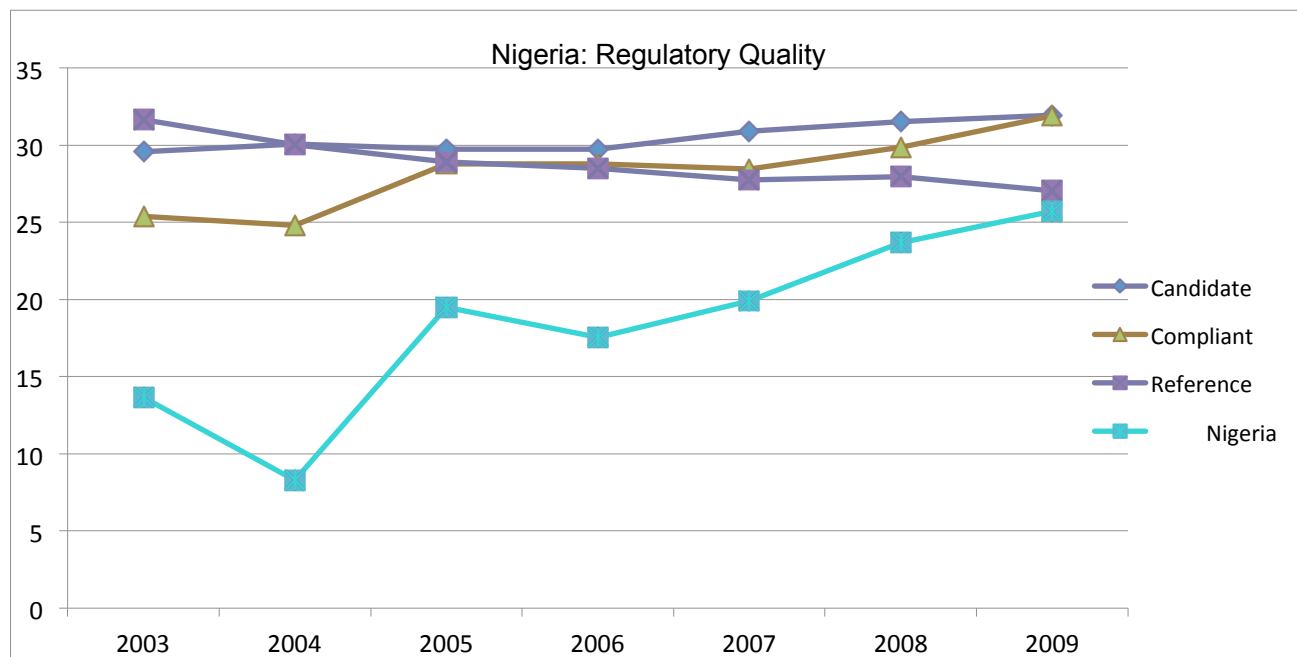
This is of course not news to anybody. The challenge is that a number of claims are being made regarding what an EITI process can lead to that makes it politically important that steps really are defined and implemented for making it at least possible or probable that these higher-level results will be delivered. If not, the EITI process risks suffering some reputational damage which may hurt its ambitions of becoming a global standard.

One particular peril NEITI should bear in mind is wishful thinking – that because one positive step has been taken or results achieved, others are likely to follow. A long-held view

in the donor community was that there is complementarity and spill-over from one dimension of democratic development to another: an improved electoral cycle will also strengthen women’s rights; a freer press will make justice improve, etc. Recent studies note that this is not the case – that each improvement has largely to be produced on its own and that there is little “free riding” from one democratic dimension to another (Scanteam- ODI 2011).

This is also reflected in the fact that a number of indicators that conceptually are linked, such as the ones making up the World Governance Indicators, may move according to different patterns (see figures F.3 and F.4 below). This means that they are responding to different societal forces, but also that the selection of one over another as reflection of a particular hypothesis or explanation can be highly misleading. This is a further reason why one needs a carefully laid out theory of change for tracking performance. A simple correlation between some presumed causal effect – like NEITI performance (however that is supposed to be measured, an issue nobody seems to have addressed) – and a claimed resultant effect (like less corruption or more resources for development efforts) may be purely coincidental and thus of no real value is documentation or “proof”.

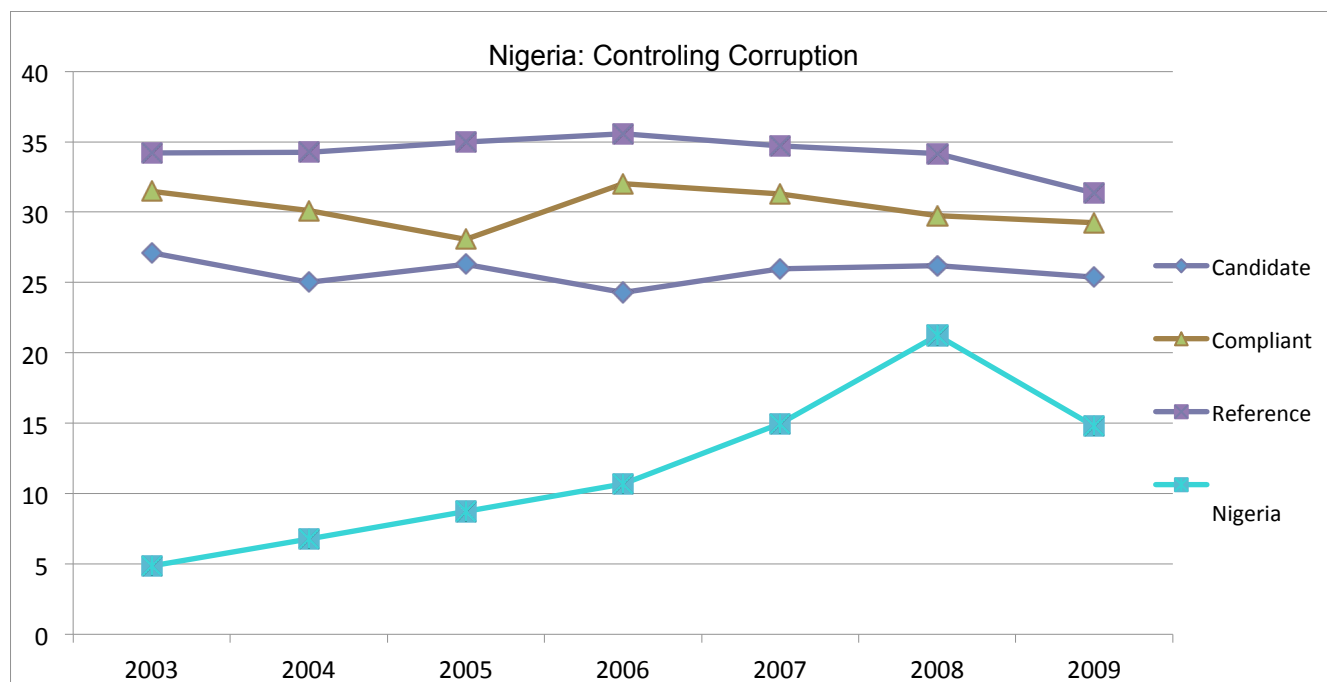
Figure F.3: Changes to regulatory quality, Nigeria and EITI and reference countries



Source: World Bank, World Governance Indicators

Regulatory quality and control of corruption ought to be fairly closely correlated, but the patterns for these two dimensions of governance do not follow the same pattern in the case of Nigeria, and the pattern in Nigeria is not the same as in other countries which during the period under review were also EITI Candidate countries (see the main report for more on this).

Since second-level results from a NEITI audit are difficult to document – better governance, more accountability, more resources for development – then clearly it becomes impossible to trace through to societal impact levels such as reduced poverty or corruption.

Figure F.4: Changes to corruption control, Nigeria and EITI and reference countries

Source: World Bank, World Governance Indicators

4.4 Findings and Conclusions

Direct Results (Outputs)

The NEITI initiative has had quite a profound impact on the Nigerian petroleum sector. Comprehensive production and revenue data for a ten-year period have been produced, validated and put into the public domain for information and debate. The public sector has been analysed and criticised, and in a number of fields begun to improve its own performance and relations in response to this. Critical assessments of revenue levels and the bases upon which they are estimated are leading to demands for better revenue collection. The data provide a foundation for a more informed public discourse on the oil industry by CSOs and media. The tripartite nature of NEITI has provided an arena for a structured and more collaborative interaction between the various stakeholders in the sector.

The NEITI Act has not only given NEITI a clear though extremely ambitious mandate and thus a solid institutional anchor for its activities, but also provides CSOs and media with legal protection for engagement in an area that till recently was closed, sensitive and contentious. This increased democratic space is real and highly appreciated.

This set of first-order results or Outputs is important. The focus on revenue, while limited, is in fact highly strategic as also confirmed by the 2008 Transparency International report on the sector (see section 5.3 p. 45 here). NEITI has gone well beyond the core EITI requirements and has thus produced a much richer but also much better validated picture of the actual state of affairs in the petroleum sector.

NEITI itself as an organisation has recently undergone a major upgrade, with an expansion of staff in line with an organisational study. The hiring of staff was to have been purely merit-based. It ended up partly based on politics, potentially weakening the secretariat's

technical legitimacy and its perceived political independence (though at the same time probably lowering potential political antagonisms given the reality of Nigerian politics). This on top of the Presidential sanctioning of all NSWG members, including the Executive Secretary, poses serious challenges to NEITI's credibility. This is compounded by the structural threat to its continuity due to wholesale replacement of the NSWG and one-term contracts for the Executive Secretary.

The quality of NEITI's work has been confirmed through the EITI validation process. While the process took almost a year more than anticipated, some of the issues that were raised were important for ensuring that NEITI remains relevant, in particular the demands for more regular reporting. But the validation exercise also showed the limitations of a certification scheme that is based on Yes/No answers to a limited number of variables. The system does not give Nigeria credit for performance beyond the minimum necessary yet may provide a serious sanction by not conferring compliance status if it falls below the threshold value for even one of the validation indicators.

Programme Effects (Outcomes)

At the Outcome level results in some areas are encouraging while in others are less visible.

NEITI as an organisation – Board and secretariat – performed very well during the intensive period of finalisation of the validation exercise – late 2010/early 2011 – ensuring the final validation of Nigeria. It will be challenged to match this performance as it now has to take on its mandated role in the solid minerals sector – a much larger, more fragmented and geographically dispersed field than petroleum – and also is to start up a Value for Money audit, which will be politically more contentious and methodologically more complex.

It has, however, evidently been listened to and consulted on the strategically important Petroleum Industry Bill (PIB), which it was hoped would be passed in May 2011 (*Vanguard* 17 March 2011). The NEITI audits have also been used by the CSOs, and in particular CISLAC, in its lobbying for changes to that Bill. When the PIB is finally passed – and it obviously is the focus of intense lobbying also from the industry side – it will be interesting to see which of the NEITI recommendations have been listened to, and which have not been included.

As far as the public sector is concerned, performance improvements have been noted. These have been uneven across agencies, however, and the degree to which they are attributed to NEITI varies. NEITI can clearly take some of the credit, and it would be quite interesting to look at how far NEITI in fact may have contributed to improvements in some of the more general public finance management performance areas of agencies like FIRS and CBN. There *may* be some interesting issues surrounding results achieved and how they compare for example with the support to PFM reforms that the World Bank has been pursuing during almost the same time period that NEITI has existed. There may be some interesting lessons to be learned from this in line with other studies that claim that large-scale public sector reforms tend to fail while addressing specific reform issues may provide more success in part because one is able to build stronger coalitions around addressing particular problems.

As far as civil society is concerned, this mission was of too short a duration to be able to document many Outcome level results. The reports produced by CSOs on NEITI issues are largely based on information provided by NEITI, and thus give evidence to the added capacity that exists for tackling petroleum sector issues. But as noted earlier, these seem

largely to be addressed “upwards” in society – to decision makers, other important urban political groups – and not to what one normally associates as the main constituencies of CSOs, namely localities and more targeted audiences. The extent to which these CSOs are reaching other audiences groups and also using different means, is not known. It is also not clear to what extent CSOs that are not members of the CSO Steering Committee have been able to benefit from NEITI-sponsored capacity development activities and thus have had their own capacities improved. The issue of the extent to which media are providing more critical coverage is not known since what has been seen, as discussed earlier, has largely been the NEITI messages that have been reproduced rather than original investigations and analyses on the petroleum industry. But the limited academic analysis of the sector is a warning sign that whatever civil society capacity there may be, it is still far from exploiting the full potential of what the NEITI has been able to generate in terms of information. Changes to accountability is thus unclear.

In the private sector, it is unclear what kinds of Outcome results one would expect since the only role the industry so far has is as a provider of production and revenue data.

As far as overall governance is concerned, therefore, NEITI’s contributions are clearer on the public administration side than with regards to civil society and private sector dimensions. The degree to which this has led to more Accountability, a key governance dimension that NEITI is supposed to contribute to, is very uncertain, however. Accountability by the public sector to society-at-large may not have changed much. Horizontal accountability – by the oversight institutions of the public sector, in particular strengthening of the Office of the Auditor-General and the National Assembly and its sub-committees in monitoring the petroleum sector and public revenue management – may have changed but it is hard to see that NEITI has contributed in any meaningful way here. Overall attributable governance improvements are therefore probably quite limited – a conclusion that is in line with the findings in an earlier study on the subject (see Shaxson 2009 pp. 2, 68-69).

Societal Effects (Impact)

Attributing societal effects – such as poverty reduction – from a particular intervention such as NEITI is always a difficult exercise. This is particularly so if the time period one is looking at is relatively short, which is the case with regards to NEITI.

The major challenge, however, is again a lack of theory of change that makes attribution even at the theoretical level credible.

The key mechanisms through which NEITI could be expected to contribute to poverty reduction would be (i) by helping generate more revenue available for poverty reduction programmes, (ii) by ensuring that a higher share of funds available are used for poverty-reducing interventions, and/or (iii) by contributing to making poverty-interventions more efficient and effective.

As far as revenue generation is concerned, the audits *have* uncovered a number of weaknesses in how revenues are estimated, and this may lead to higher shares of actual resources generated being claimed by the Nigerian state. In order for NEITI to claim credit a more careful study of the forces at play would be necessary since NEITI’s role at the end of the day may be more indirect and over time – as enforcement improved – less important.

With regards to the two dimensions of public finance management, NEITI is not now and is not likely in the future to be critical in either of these areas and definitely not determinant in defining the outcomes. The reason is that it is other actors that have the mandates to ensure changes and follow-up. NEITI has contributed important steps in some areas of PFM reform, but not ones that are going to be critical for allocation and implementation results.

This points again to the question of whether NEITI, by its mandate, should be seen as a time-limited body established to address performance-gaps rather than due to institutional gaps. This may have implications for the kinds of objectives that the body sets for itself and for the expectations that society should have as far as NEITI's results are concerned – though it does not mean that the expected time horizon is particularly short!

4.6 Looking Ahead

NEITI has so far concentrated on building the organisation and producing the sector audits. It will be facing a series of choices in the years ahead that will to a large extent determine what kinds of further societal contributions it will be able to make. The choices seem to be along three different axes.

The first one has to do with how wide the Extractive Industries definition will become. While NEITI by its mandate and EITI obligations must include the solid minerals sector in addition to the petroleum sector, it needs to decide how intensively and extensively it will cover the sector: where it will provide the cut-off point in terms of which sectors will be included in its activities, and how often and how in-depth it wishes to go when auditing the sector. While solid minerals is important from an employment and geographic dispersal point of view, it clearly is much less important in terms of revenues and public finances in general. Given the Secretariat's limited human resources, too strong an engagement in the solid minerals sector can easily swallow a large share of its time.

The second axis is the value chain in the petroleum sector itself. It has already been decided that it will carry out a Value for Money study, which means walking backwards into the private sector production sphere. As the production costs of the sector are unravelled, there will clearly be layers within layers that are relevant to look at, especially if the expectation is to come to the bottom of the corruption claims that still surround the sector. This means taking on strong interests in the international oil industry as well as within the emerging national petroleum sector. This will require considerable human, financial and political capital but may potentially generate high pay-offs.

The third one is the PFM axis: "follow the money". NEITI's mandate actually requires it to follow both the allocation and expenditure streams, at Federal but also at the lower administrative levels of public administration – that is, verify how public funds are actually spent and subsequently accounted for.

This agenda is obviously unrealistic in its demands and expectations. But for that reason NEITI needs to be strategic about which issues it wishes to concentrate on. This must be partly in light of what other actors are doing; which issues are seen as strategic; and where it might have a comparative advantage. The latter is perhaps the most critical since NEITI's unique tripartite constituency provides both opportunities and constraints with regards to where it can expect to get strong backing from its partners.

NEITI thus needs to lay out a clearer theory of change about how its actions are expected to contribute to the ambitious goals that are constantly being put forth by national EITI bodies and EITI internationally (box 5.1). If in the field of PFM the key objective is to reduce corruption that is one thing – if it is poverty reduction that is another. These two objectives will require quite different analyses that will lead to different action plans. While these two objectives *are* complementary, work on one does not necessarily also contribute to the other, and therefore conceptual clarity needs to be in place for successful pursuit of whatever the main goal is defined to be.

What does seem clear, however, is that strategic partnerships will need to become a key component of whatever action plan is designed. No matter how much NEITI is able to focus, its mandate is so wide that it risks having to straddle too many objectives going in too many different directions at the same time, so it will need to align itself with other important societal actors to reach its objectives.

Being forced to expand its range of activities in three different directions at the same time may in fact be a serious threat to NEITI. This is potentially a tragedy because NEITI *has* achieved important results, though in a narrow field. In fact, NEITI has probably achieved important results *because* it has so far concentrated on a narrow field. This in itself may be one of the key strategic issues to review.

5 Acronyms and Abbreviations

CBN	Central Bank of Nigeria
CISLAC	Civil Society Legislative Advocacy Centre
COMD	Crude Oil Marketing Department (NNPC)
CPI	Corruption Perceptions Index
CSO	Civil Society Organisation
DFID	Department for International Development (UK)
DPR	Department of Petroleum Resources
EFCC	Economic and Financial Crimes Commission
EITI	Extractive Industries Transparency Initiative
ES	Executive Secretary (of NEITI)
FAAC	Federal Accounts Allocation Committee
FEC	Federal Executive Committee (Cabinet)
FIRS	Federal Inland Revenue Service
GAAP	Generally Accepted Auditing Practices
GII	Global Integrity Indicators
GIS	Goldwyn International Strategies
IFIs	International Financial Institutions
IMF	International Monetary Fund
JDZ	Joint Development Zone (Nigeria & São Tome e Principe)
MDAs	Ministries, Departments and Agencies
MDTF	Multi-Donor Trust Fund (World Bank administered)
NAPIMS	National Petroleum Investment Management Services (NNPC)
NDDC	Niger Delta Development Commission
NGN	Nigerian Naira (USD 1 = NGN 150 approx)

NEITI	Nigeria Extractive Industries Transparency Initiative
NNPC	Nigeria National Petroleum Corporation
NPMS	National Production Monitoring System (DPR)
NSWG	National Stakeholders Working Group (NEITI Board)
NTDF	Nigeria Technology Development Fund
OBI	Open Budget Index
OAGF	Office of the Accountant-General of the Federation
OAGF	Office of the Auditor-General of the Federation
PEFA	Public Expenditure and Financial Accountability
PFM	Public Finance Management
PIB	Petroleum Industry Bill
PPMC	Pipelines and Products Marketing Company (NNPC)
PPT	Petroleum Profits Tax
PTDF	Petroleum Technology Development Fund
PWYP	Publish What You Pay (CSO)
RMAFC	Revenue Mobilization, Allocation and Fiscal Commission
TUGAR	Technical Unit on Governance and Anti-Corruption Reforms
WGI	World Governance Indicators

Annex G: EITI Performance and Validation Indicators

In the terms of reference (TOR – see Annex A), the evaluation team is asked to “*indicate directional change of key development outcomes such as fight against corruption, governance and accountability of the extractive sector...*” (Annex A section 2). The TOR then presents a series of process and outcome indicators that can be used to track these changes, based on the results from a task carried out by a Working Group established by the EITI Board, where the ones this evaluation was to focus on were the “big picture” indicators (op.cit. section 9.2.1).

In 2007 the first countries were accepted as EITI candidate countries so only from this year on can EITI be expected to begin to have a *measurable* country specific impact. In 2009 the first country was designated as EITI compliant, which should indicate a further level of country effort and performance.

EITI’s objectives refer to dimensions of societal change that are influenced by many different forces. One should therefore not expect rapid achievement of some of the stated goals for the EITI. The goal of this part of the evaluation is thus threefold:

- To suggest a methodology for the analysis of the societal impacts of the EITI;
- To offer a benchmark for measuring societal impact;
- To analyse the directional change of the EITI.

G.1 Approach and Methodology

To identify the effects of the EITI, a “difference-in-differences” method appears the most promising at this point in time. This approach is based on identifying the effects of an intervention by comparing the situation in a test group and a control group before and after the intervention. The argument is that the difference in developments in the two groups can be attributed to the intervention. To identify the effect, there should be no other systematic effects that lead to differences in the developments in the two groups over the period. This assumption may hold if the two groups have similar properties relevant to the aspects being studied.

The EITI is based on an observation that countries rich in natural resources such as oil, gas, and mining have tended to under-perform economically, have a higher incidence of conflict, and suffer from poor governance - the “resource curse”(see www.eiti.org/eiti/benefits). This observation is based on the argument that incomes from extractive industries have different effects than other types of income. One thus needs a control group of countries with substantial income from extractive industries. Most of the indicators used in comparisons of EITI member countries with the control group – reference countries – are correlated with the income level. Consequently, per capita income level is a second criterion for selecting countries for the reference group.

To use the difference-in-difference method, data must cover a period both before and after the introduction of the EITI, and data that are available for all, or at least most of, the EITI and reference countries.

G.2 Country Groups

Three groups of countries are compared here: (i) EITI compliant, (ii) EITI candidate, and (iii) reference countries. The reference countries function as the “control group” when applying the “difference-in-difference” approach, and where the data used are average or median scores for each country group.

The two groups of EITI countries are based on their EITI status as of the end of 2010. The composition of the groups is hence constant over time. The reason for not moving countries between groups as their EITI status change is that this would affect the relevant group scores even if nothing else has happened than the country’s formal EITI status. Moving countries would thus distort the picture of how the EITI process has affected these countries⁶⁴.

In order to identify the reference group, the term “Rich in oil, gas and minerals” can be defined in several ways:

- Extractive industries’ share of GDP;
- Extractive industries’ exports as a share of total exports;
- Taxes, duties, licence fees from extractive industries relative to total government revenue;
- Resource rents as a share of GDP.

While there are arguments supporting the use of any of these indicators, many countries do not report data to UN institutions on the composition of GDP by industry, the revenues from extractive industries or resource rents. The usage here is thus to define “resource rich” based on extractive industries’ exports as a share of total exports using UNCTAD data⁶⁵.

Adding together net exports of petroleum and minerals might for some countries mean that net petroleum imports cancel out much of the minerals exports. Only positive net exports of petroleum and minerals, respectively, are used here. Resource exports are defined as (i) net exports of petroleum products⁶⁶ (if positive) plus (ii) net exports of minerals (if positive).

Prices of products from extractive industries are volatile. Furthermore data for some countries are missing from the UNCTAD database for some years. For these reasons, the

⁶⁴ This does mean that studying the impact of the EITI without specifying the timing of the individual countries’ change of EITI status makes identifying causal effects more difficult. Information on the timing of the change of EITI status can be used in regression analysis with dummy variables for EITI status. Due to the short time span since the establishment of EITI and the limited annual data available after countries are designated as EITI compliant makes it impossible to identify statistically significant effects of becoming candidates and compliant. If analysis of EITI impact on societal change is repeated in some years, regression analysis should be used.

⁶⁵ One problem with using export data is that some countries export these products in unrefined form, some do the refining themselves, while some countries import raw materials and re-export them, unrefined or refined. The “re-export” countries are not resource rich and should be left out. Countries refining their own petroleum and minerals should be included, but the value added in the refining process should ideally be left out because there are no sizeable resource rents in refining. To cancel out the refining and reselling business, groupings are based on net exports (exports less imports) of the relevant products.

⁶⁶ Resource exports are defined by categories in the Standard International Trade Classification, SITC, system. “Petroleum products” are taken to be “Petroleum, petroleum products and related materials” while “minerals” equals “Ores, metals, precious stones and non-monetary gold” in the SITC scheme.

highest of each country's entry for the three years 2007-2009 has been used as defining the indicator of "resource richness".

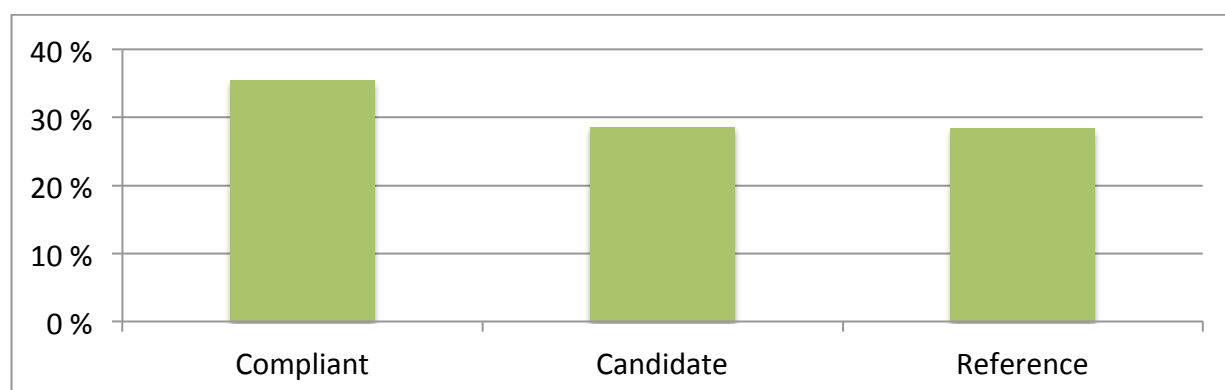
Ideally, the resource intensity (resource exports/GDP) should be the same in the reference group as among the EITI countries. This was roughly achieved with a threshold for resource exports to GDP of five percent.

The income level should also be roughly the same in both groups. When using the resource intensity as the only selection criterion, the non-EITI group had much higher average per capita income than the EITI countries. To correct this, an income threshold equal to the income level of the second most affluent EITI country, Gabon, was used. Despite this threshold, it is found that the countries in the reference group have higher average income than the EITI countries.

Table G.1 at the end of this chapter lists 82 countries and these countries' "resource richness". The table shows which country group, if any, they belong to in the analysis of the big picture indicators. All non-EITI countries with net resource exports in excess of five percent of GDP are included in the reference group as long as their per capita GDP is lower than Gabon's.

The EITI Compliant group comprises five countries: *Azerbaijan, East Timor, Ghana, Liberia and Mongolia* while there were 26 EITI Candidate countries. In March 2011, six of the Candidate countries were validated as EITI Compliant: *Central African Republic, Kyrgyz Republic, Niger, Nigeria, Norway and Yemen*. In all the charts and tables in this report, these six countries are, however, included as Candidate countries. The justification for this is that all the data cover periods before these countries achieved compliant status.

Figure G.1: Net resource exports to GDP: EITI and reference countries.



Source: Evaluation team, based on UNCTAD data

Figure G.1 shows that on average, the reference countries are somewhat less resource dependent than the EITI compliant countries, but equally resource dependent as the candidate countries.

G.3 Selection of Indicators

The indicators identified need to be:

- Relevant to the effects of the EITI;
- Available for most EITI and reference group countries;
- Available for some years both before and after the introduction of the EITI.

Relevance is here determined by article 2 in the Articles of Association for the EITI and "the EITI fact sheet" posted on the EITI website. Article 2 states that "*The objective of the EITI Association is to make the EITI Principles (Annex A) and the EITI Criteria (Annex B) the internationally accepted standard for transparency in the oil, gas and mining sectors, recognising that strengthened transparency of natural resource revenues can reduce corruption, and the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries*".

On the first page of the EITI fact sheet, there is a presentation of how the EITI is intended to impact on various policies and framework conditions as well as on overall goals (increasing economic growth and reducing poverty). The text includes the following keywords:

- Corruption;
- Transparency;
- Accountability;
- Economic growth;
- Poverty reduction;
- Conflict reduction;
- International credibility;
- Investment climate.

In all these areas, the EITI is intended to have a direct or indirect impact. Based on EITI materials and an extensive literature review of governance of natural resources, six specific areas in which the EITI is likely to have a short, medium or long term direct and indirect effect were identified.

Additionally, for the EITI to have an impact, it is seen as vital that the information on the payments of resource rents can be discussed in public. The government should also be held accountable for the use of the funds and should face a high political risk if mismanagement of resource rents is exposed. Consequently, the situation related to civil and political rights becomes important, and is added to the list of indicator dimensions. The following seven dimensions are looked into:

1. Macroeconomic management/economic growth
2. Poverty reduction
3. Investment climate/international credibility
4. Accountability
5. Transparency and corruption
6. Conflict mitigation
7. Political and civil rights

G.3.1 Macroeconomic Management/Economic Growth

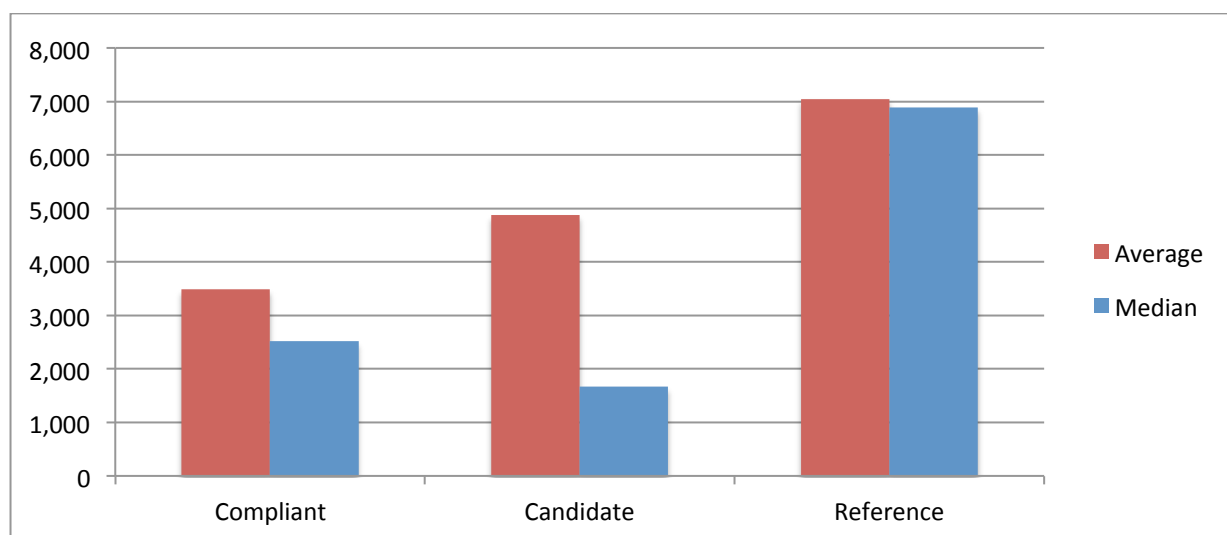
There is ample evidence that countries rich in natural resources often end up with lower income growth than comparable countries without such resources. This tendency is often referred to as *the resource curse*. There are several processes through which resource wealth is seen to lead to lower income in the long run. One such process is poor macroeconomic management.

As extractive industries expand, they will typically contribute to high growth in the economy, not only directly through their direct contribution to production, but also because the expansion will require investments in infrastructure, real estate, etc. In addition, extractive industries will normally contribute to increased government revenue. High revenue from extractive industries will often be relatively short-lived, and for the sake of macroeconomic stability, much of the revenue should be saved. In practice, it is difficult to avoid the cash-flow from extractive industries being spent more or less as they materialise.

A typical scenario is that as extractive industries expand, so does demand from these industries. Bottlenecks may lead to inflationary pressures. As extractive industries contribute to government revenue, increased government spending may contribute further to overheating the economy. Businesses producing for the domestic economy expand, and so do imports, while non-resource exports decrease. The real exchange rate is bolstered by exports revenue from the extractive industries. The problems with this scenario may not become apparent until contributions from the extractive industries peak. The level of imports and public spending can no longer be financed, and the country faces a prolonged turnaround period, rebuilding the non-resource exports sector and re-stabilising government finances.

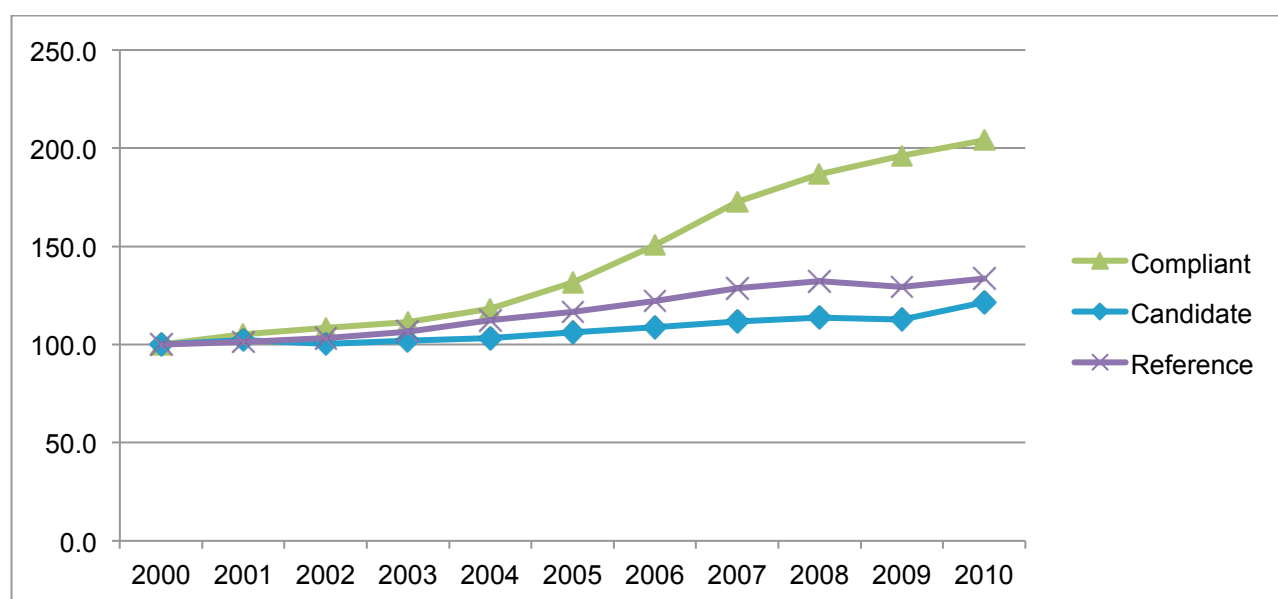
The above scenario implies that the extractive industries will boost GDP growth as long as these industries expand. High growth may thus not necessarily indicate good macroeconomic management, but may be taken as a warning sign. But only a detailed scrutiny of the relevant economy may reveal whether the economic development is sustainable. GDP growth data alone cannot reveal this.

Figure G.2: GDP per capita, EITI and reference countries, 2009 (PPP adjusted).



Source: IMF WEO statistics

The EITI countries have much lower GDP per capita than other resource rich countries. This does not show the influence of the EITI on GDP, but rather to illustrate that one of the characteristics of countries joining the EITI is that they are poor. As the GDP level is correlated with many other indicators presented here, it is important to underline that due caution must be made in drawing conclusions from differences in the performance level of political and social indicators between EITI and the reference countries.

Figure G.3: Changes in GDP/cap, index 2000=100 (PPP adjusted).

Source: IMF WEO statistics

The compliant countries have grown rapidly since 2000, while growth has been relatively weak in the candidate countries.

The earliest possible impact of the EITI was from 2007. In the 2007-09 period both candidate and compliant countries experienced higher growth than the reference countries, though it is unclear if the difference is statistically significant.

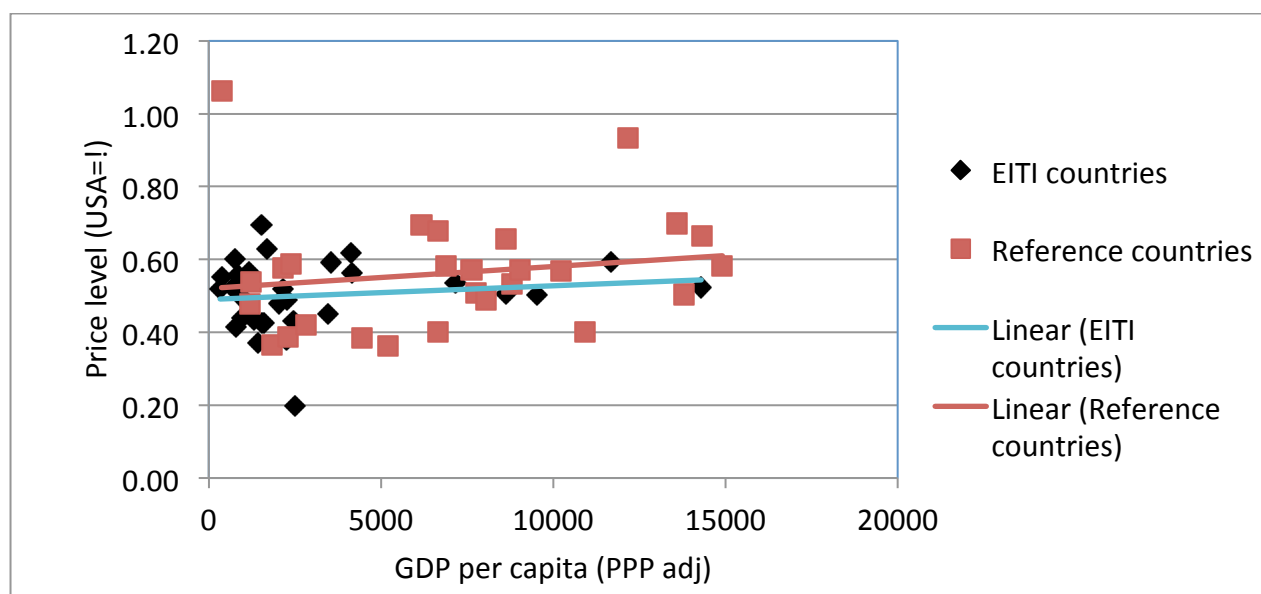
However, drawing conclusions on the effects of EITI on the quality of macroeconomic management based on growth data is questionable. From the discussion of the resource curse, it follows that high resource rents will typically lead to a high cost level. Two possible indicators of this are:

- The real exchange rate or some indicator for production costs may capture possible problems related to cost competitiveness
- Inflation may indicate problems related to overheating

These two indicators can be used to calculate the relative price level in each country. The IMF calculates GDP in current USD at values adjusted for differences in each country's price level (purchasing power parity, PPP). The correlation between the income level and the price level is illustrated in figure G.4, where one can see a positive correlation between the GDP level and the price level, though there are some important deviations from the trend lines.

The trend lines are linear regression lines. The line for EITI countries is below the trend line for reference countries, indicating that after having adjusted for the GDP per capita level, the EITI countries have a lower price level than the reference countries. This could indicate that these countries suffer less from the resource curse than the reference countries, but again such a single indicator should be interpreted with caution.

Figure G.4: GDP/cap (PPP adjusted) and relative price level

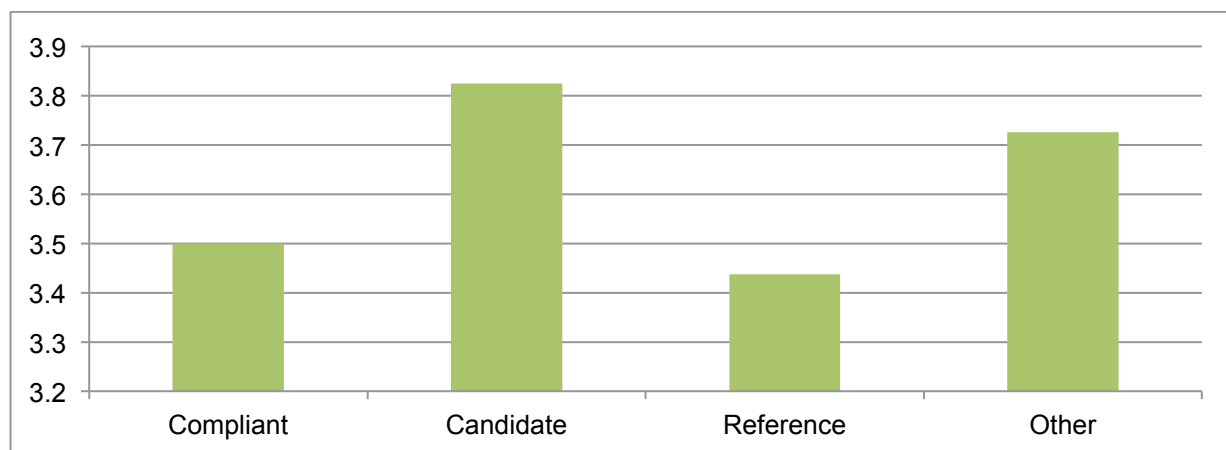


Source: IMF WEO statistics, calculations by the Evaluation team

Consumer price inflation rates of the relevant country groups have been compared. Some countries had significantly negative inflation in 2009, which is as harmful as a positive inflation rate of the same magnitude. It is thus the absolute value of the inflation rates that are being compared. The difference between average inflation rates of the country groups appears insignificant: 6.9% for candidate countries, 6.7% for reference countries and 5.6% for compliant countries. Furthermore, the spread *within* each group dominates over the spread *between* the groups.

A different approach is to base the ranking of macroeconomic management on experts' assessment. The World Bank's **Country Policy and Institutional Assessment (CPIA)** index is used for IDA resource allocation purposes and seems to be the only such assessment regularly produced and published. The index is produced through a mix of "hard" macroeconomic data and experts' assessment. The problem is that country coverage is limited to IDA eligible countries. In 2009, 78 countries were ranked. 25 of the 31 EITI countries were ranked, but only 8 of the 24 reference countries.

Figure G.5: CPIA sub-indicator for macroeconomic management, average scores 2009



Source: The World Bank

Figure G.5 shows the CPIA score for macroeconomic management in 2009 for different country groups where a high score indicates good management. The EITI Candidate countries seem to be the best managed, whereas the compliant countries seem to be relatively well managed, while the reference countries stand out as rather poorly managed. However, the country composition of the groups in figure G.5 deviate so much from the composition in the other charts that the CPIA should probably not be used as a reference indicator.

G.3.2 Poverty reduction

The expected EITI contribution to poverty reduction is presumably based on the notion that improved governance and in particular increased accountability will ensure enhanced political influence of the poorer segments of the population so that they as “rights holders” are able to ensure that the state as “duty bearer” provides for a more equitable share of public resources in favour of the poor.

The specific mechanism for such accountability to happen would have to be identified in each particular case. But the first-order change would presumably be in the form of policy changes, then reflected in resource allocation decisions, leading to enhanced access to key public resources, which will then lead to poverty reduction outcomes.

Due to lags between policy changes and results “on the ground”, and because the further one moves from the direct impacts of the EITI the more difficult it will be to attribute possible contributions from the EITI, indicators of policy changes are preferable to indicators related to results “on the ground”. It turns out it is quite difficult to find data on pro-poor policies with satisfactory coverage. One possible set of indicators are profiles of the government budget where the share of expenditures on basic education and health can be seen as indicators of pro-poor policies. The World Bank publishes such data, but coverage in time and across countries is unsatisfactory. The most updated data relate to 2007.

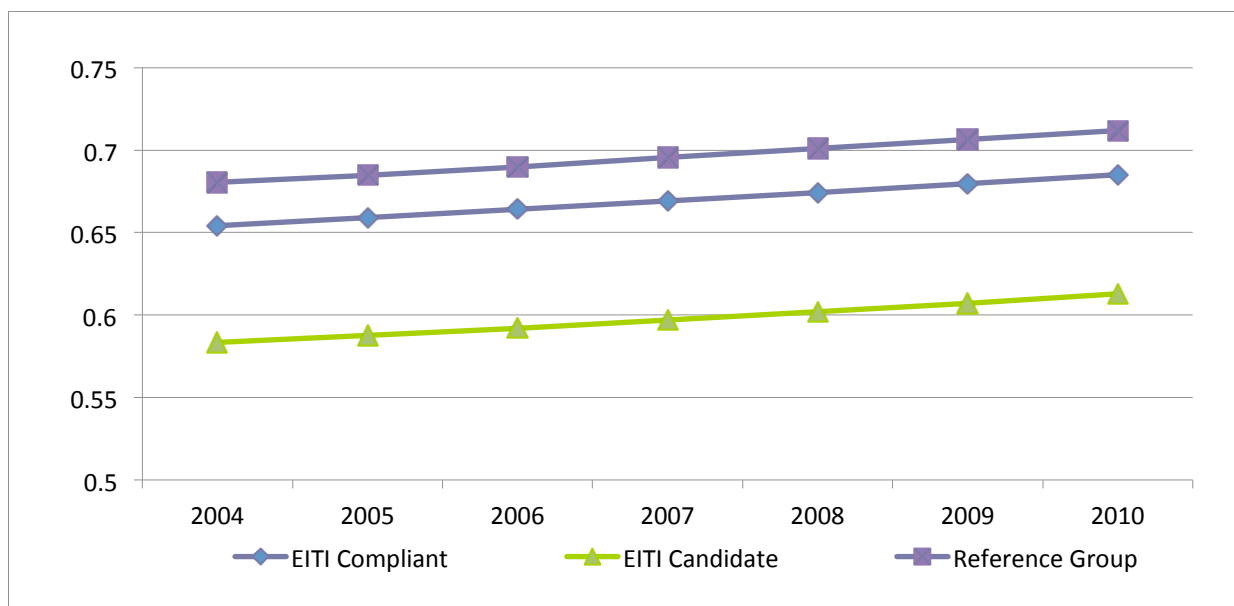
Going to “results on the ground” turns out to be much easier as there are many indicators to choose from. Commonly used indicators are the Human Development Index (HDI) from UNDP and the UN Millennium Development Goals. The collection of up-to-date comprehensive and comparable statistics of poverty alleviation is an important part of these two initiatives so the related data are made readily available for the general public.

The HDI is an aggregate of three sub-indexes related to income, education and health, respectively. The latter two are used here as indicators of poverty, where figure G.6 shows a significant difference between candidate and compliant countries. This pattern is also repeated for the education index in figure G.7 below.

The growth in the education index is not as uniform as for the health index, but in neither index can one find any kind of a “break” that would indicate a particular link to the EITI. This is of course not to be expected for the time being: any EITI “effect” would require more time to work its way through to an Outcome index like the ones in the HDI.

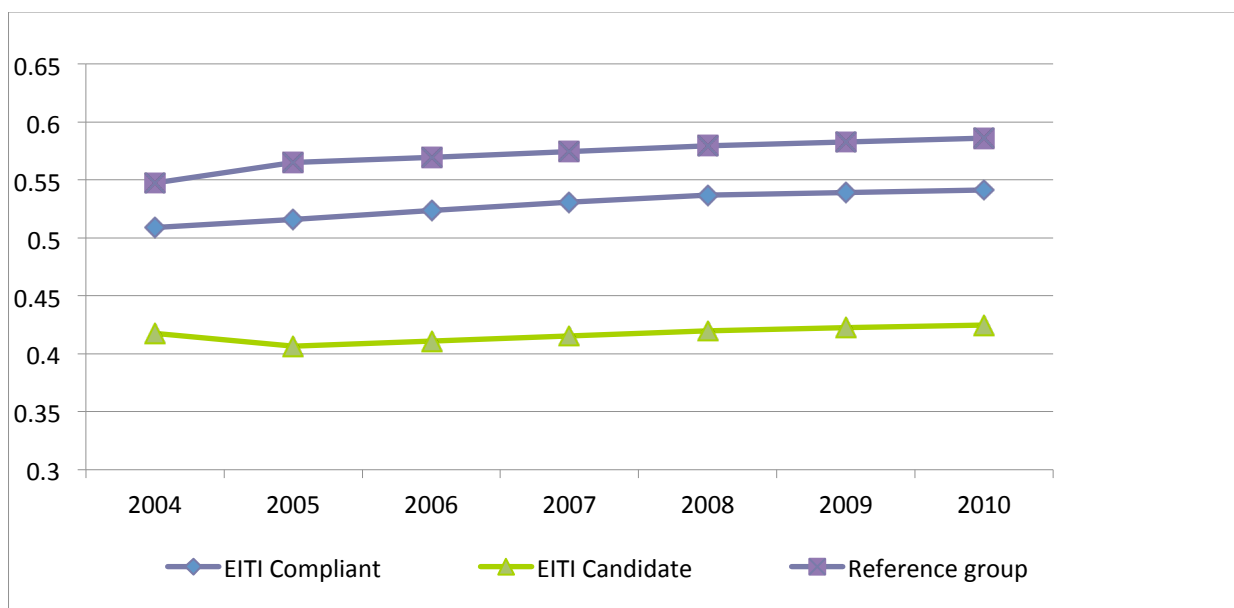
But even if one were to identify improvements that are believed to be linked to EITI, there is a need for a more careful results chain to make changes to Outcome indicators credibly linked to EITI results. There needs to be clarity on why improved transparency in extractive industry revenues leads to (relative) political empowerment of the poor, and how this can be identified. Then there are the subsequent steps noted above.

Figure G.6: HDI Health index (life expectancy at birth). Group average, 2004-2010.



Source: UNDP, HDI index: The index measures a country’s relative achievement where the “goal post” of the value of “1” is a life expectancy of 85 years. See the Technical Note to UNDP’s HDI reports.

Figure G.7: HDI Education index (). Group average, 2004-2010.



Source: UNDP, HDI index. The index calculates a country’s relative achievement of a weighted average of adult and child literacy, where 2/3 of the weight is for adult literacy, and “1” reflects full literacy coverage. See the Technical Note to UNDP’s HDI reports.

Because the changes that occur are likely to be somewhat different in each country, it may well be that there is **one** theory of change that works. At least at the empirical level, it may be that changes occur at different moments in time and at different speeds and through somewhat different channels. If this is the case, then the analysis may have to be brought down to the individual country level and that looking at averages across countries will not be helpful in uncovering these changes.

G.3.3 Investment climate/international credibility

The EITI can presumably improve the investment climate in different ways:

- EITI status – first candidate and subsequently compliant – can be a credible signal to risk rating agencies and investors.
- An improved risk perception and risk rating will reduce the borrowing cost and attract FDI.
- More incisive EITI reporting (contributing to country-by-country reporting by company) may make transfer price manipulation more difficult, increasing reputational costs of tax evasion.
- More complete reporting on company revenue payments may reduce possibilities for rent extraction and other forms of corrupt practices by public officials, making it easier for businesses to get permissions, licenses, etc.
- Improved macroeconomic management could improve the stability of the economy. Lower level of conflict could contribute to a more stable political system

There are several indicators of investment climate, investors' perception of country risk, etc. One type is based on estimates of risk spreads in credit or investment markets. Another type is based on the assumption that actual levels of investments or capital flows are largely affected by investor confidence, so indicators can be based on investment flows in some form. A third set of indicators are those based on surveys.

Interest spreads on internationally traded credits in the same currency and with comparable terms could be interpreted as an expression of differences in confidence in the respective borrowers. Most poor countries do not borrow in international commercial markets, and spreads cannot be readily calculated from public available data. One may also – in theory - calculate risk premiums on equities or direct investments based on returns. However, equity markets are poorly developed in many countries and the relevant return data are in many cases not available. Data on the returns on direct investment are often incomplete and are affected by both transfer pricing and other disturbances, so it has not been possible to calculate risk premiums.

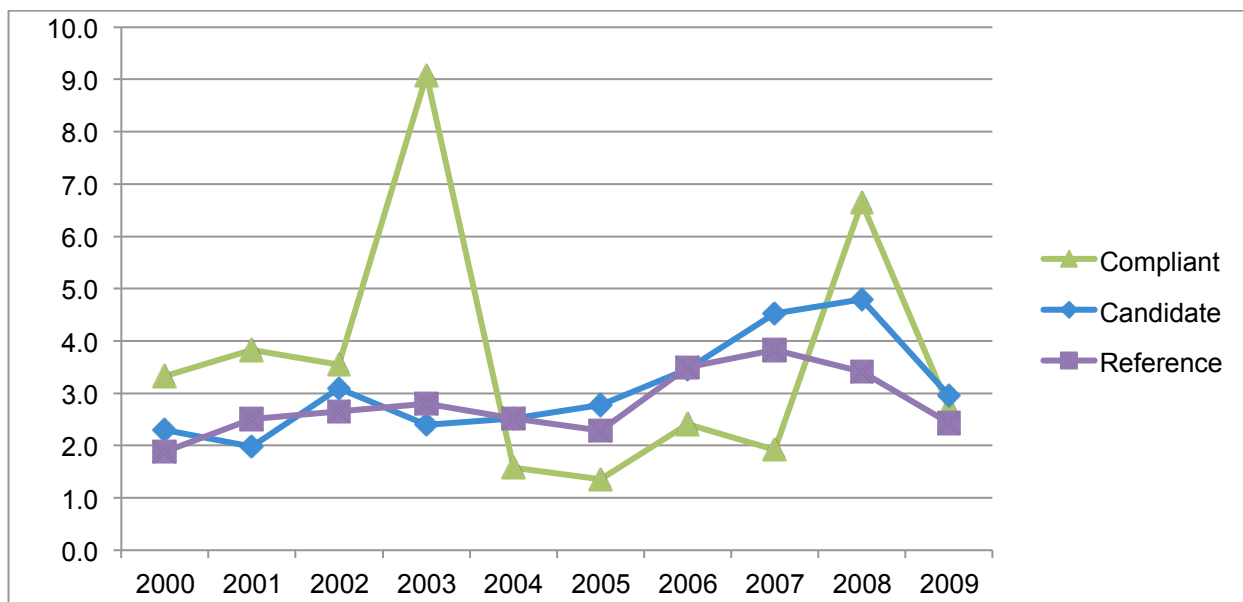
Most countries want to attract foreign direct investments (FDI). Reducing corruption and building confidence through transparency, political stability and improved governance will presumably contribute to increased inflow of FDI. However, especially for small countries, individual projects often dominate short term developments and the effects changes in policies, general economic conditions, etc. are often very difficult to identify. In general, FDI flows are very difficult to model due to a multitude of drivers, and data problems.

Figure G.8 shows median values for net FDI inflows relative to GDP for the country groups⁶⁷. Since 2007, the EITI countries have been rather successful in attracting direct investments, while before 2007, their performance was more mixed relative to the reference countries.

⁶⁷ The reason for not using average values is that there are outlier countries with extreme values that dominate the average scores, especially in the short term. Even the median values are volatile, especially for the rather small compliant country group.

What cannot be inferred from the graph, of course, is the *causality* for both the individual curves, and the differences between them.

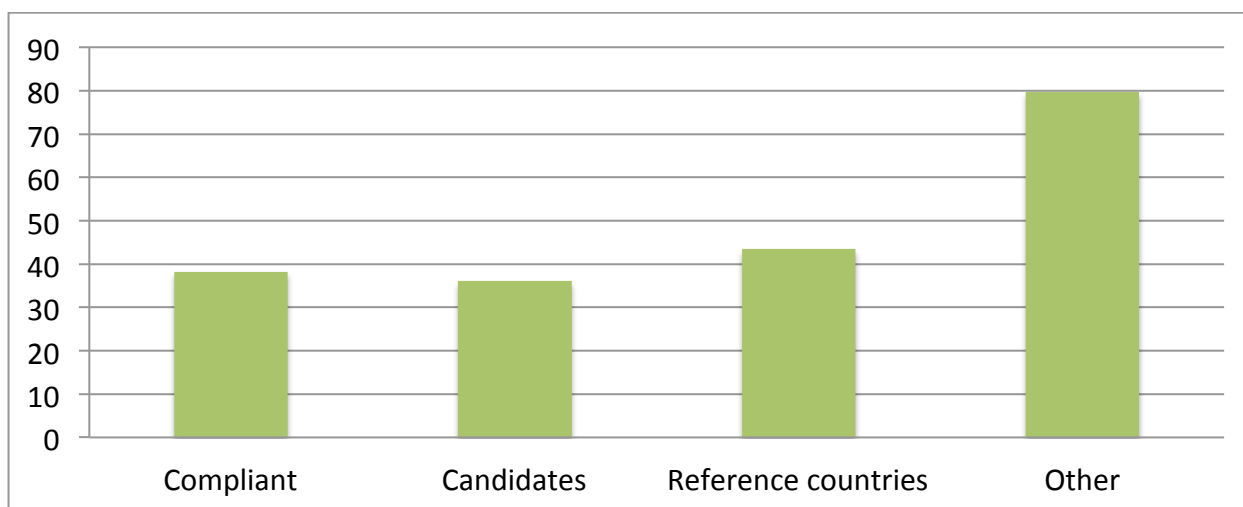
Figure G.8: Net FDI in percent of GDP. Median for country groups 2000-2009



Source: UNCTAD

A much-sited ranking of countries' attractiveness to investors is the World Competitiveness Index produced by the World Economic Forum. The index has been produced every year since 2004. In addition to the overall ranking, there is a range of sub-indexes some of which we find highly relevant for the EITI. However, the country coverage is not fully satisfactory. Coverage has grown over time. The latest report covers 139 countries of which 21 EITI countries and 16 of our reference countries (historical data are not made available by the organisation). The least competitive country is given rank 1, the most competitive is ranked number 139. Among the 139 countries, the EITI countries are ranked at 37 from the bottom, while the reference countries do slightly better at 42. This implies that these countries rank well behind the average for other countries.

Figure G.9: World Competitiveness Index 2010 – average rank



Source: World Economic Forum

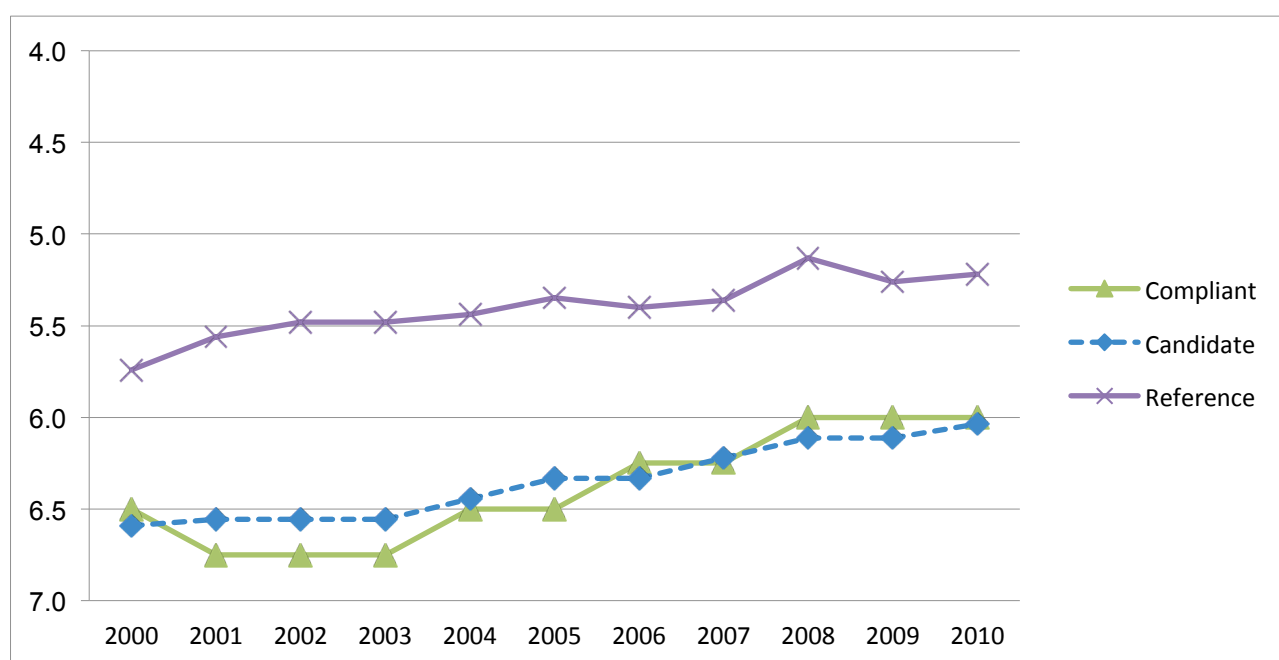
When looking at these rankings, however, one must take into consideration that most EITI and reference countries are low income, while the highest ranking countries are industrialised economies. The same applies to some extent when comparing the EITI countries with the reference countries.

Another set of indicators for investment climate and international credibility is credit risk ratings. Both commercial rating agencies (for example Moody's, Standard & Poor's, Fitch, the Economist Intelligence Unit) and the OECD produce rankings of sovereign risk. The methodologies used are not always fully public, and normally include important elements of judgement. Country credit risk assessments reflect the assessment of the risk that the state will not honour its obligations. The assessment is meant to reflect both the ability and the willingness to pay. Sovereign risk ratings are highly relevant for indicating the international credibility of the country, but many important aspects of the "investment climate" are not covered by these assessments. Still, credit risk ratings are probably the preferred indicator for investment climate/international credibility.

OECD produces quarterly "Country Risk Classification" covering practically all world economies. The rankings are used as a basis for setting minimum risk premiums to be applied by all official credit guarantee agencies. The system classifies countries into eight country risk categories, where "0" is low risk, "7" high risk. The classification is based on mix of a formal model-based macroeconomic risk analysis and judgement on political factors. The model applied is confidential.

Figure G.10 shows that both the EITI and reference countries have improved their credit ratings since 2000. However, EITI countries have considerably worse ratings than the reference countries. Improvements have been fairly consistent without any noticeable change as of EITI implementation in 2007. The "risk gap" between EITI and reference countries seems to be closing somewhat, however, which is positive.

Figure G.10: OECD Country Risk Classification – average score for country groups



Source: OECD

G.3.4 Accountability

One key prerequisite for holding leaders responsible for their actions is access to information on these actions. Through its contribution to transparency of information on government revenue, the EITI provides one of several necessary conditions for increased domestic accountability.

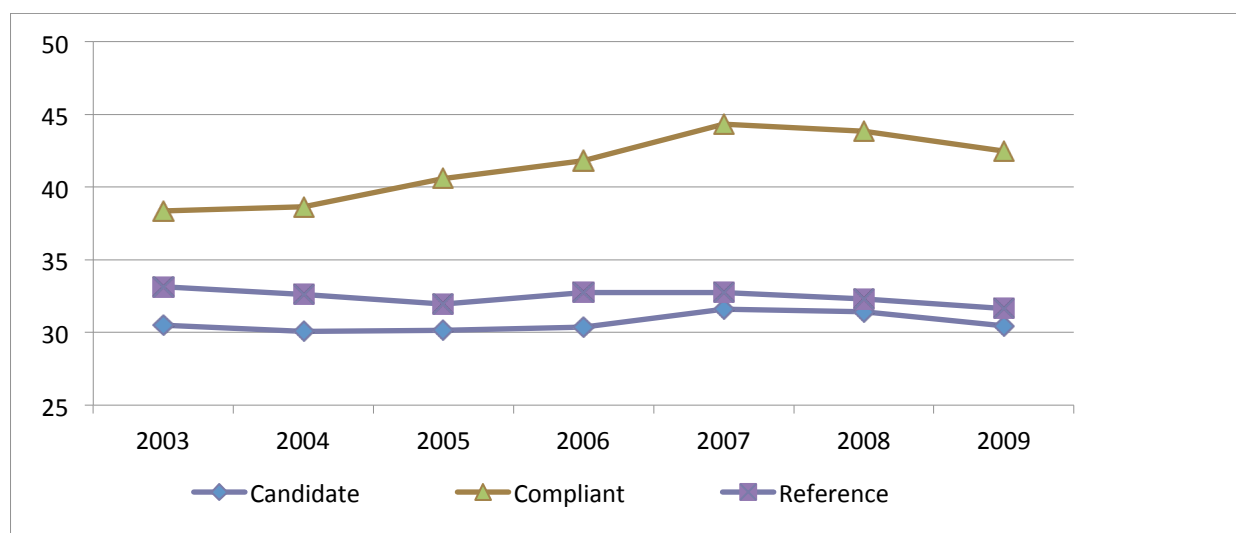
There are several indicators covering issues related to accountability. Both indicators of political rights (see below paragraph on governance - political and individual rights) and some other indicators of governance are related to this issue. The Worldwide Governance Indicators (WGI) is a research program in the World Bank that uses special surveys and existing statistics – including other surveys – to calculate indicators of the quality of governance in most countries. The program includes data as of 1996.

The indicator “Voice and accountability” is to capture “*perceptions of the extent to which a country’s citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media.*” (World Bank 2010)

The EITI process may have some direct impact on the perception of accountability.

The chart shows that for this indicator the performance level on accountability is higher in compliant countries than in the two other country groups. Since 2007, the index has declined in all three groups, and apparently somewhat more so in compliant countries than in the other groups. Calculating the changes in percentages indicates that the scores of three country groups have moved more or less together in the 2007-09 period.

Figure G.11: WDI “Voice and Accountability” – average for country groups.



Source: The World Bank, Worldwide Governance Indicators

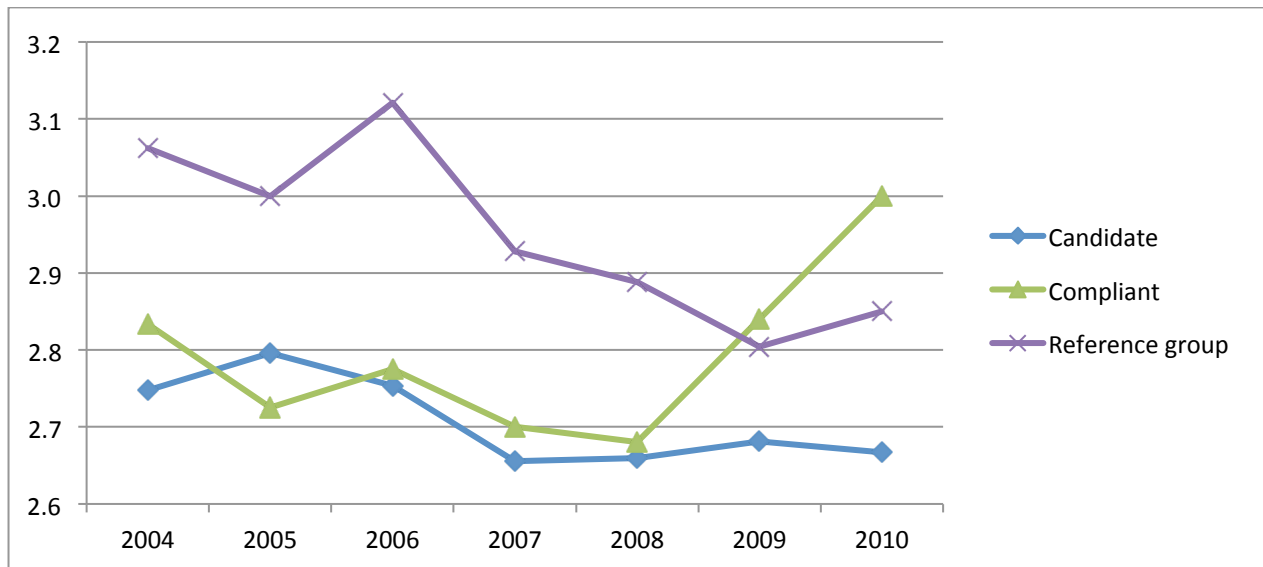
G.3.5 Transparency and Corruption

The EITI is to help reduce corruption in relation to extractive industries by contributing to transparency in the transactions between government and the companies.

Two of the most commonly used measures of corruption are Transparency International’s (TI) *Corruption perceptions index* (CPI) while another is the WGI’s index for *Control of Corruption*.

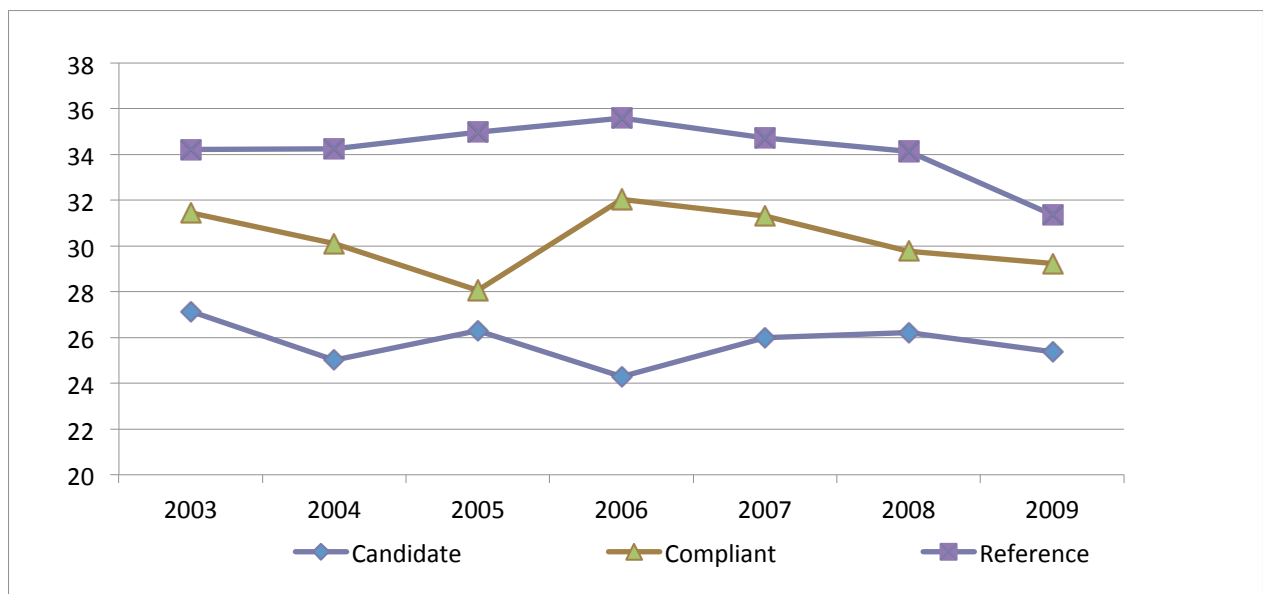
The TI index is based on surveys of perceptions on the prevalence of corruption in the public sector. The TI index indicates that before joining the EITI, these countries were perceived as being more corrupt than the countries in the reference group. Since 2008, there has been a significant reduction in perceived corruption in the compliant countries relative to other countries.

Figure G.12: CPI Scores – average score for country groups



Source: Transparency International

Figure G.13: WGI "Controlling Corruption" index, average for country groups.



Source: World Bank, Worldwide Governance Indicators

The WGI index captures “perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as ‘capture’ of the state by elites and private interests.”

There are important differences between the TI and WGI indicators of corruption:

- TI indicates that compliant and candidate countries had approximately the same level of corruption before joining the EITI. The WGI indicate more severe problems in candidate countries.
- TI indicates a worsening of corruption problems in the reference countries from 2008 to 2009, but an improvement in the candidate and especially the compliant countries. WGI on the other hand indicates that corruption became more severe in all three country groups.

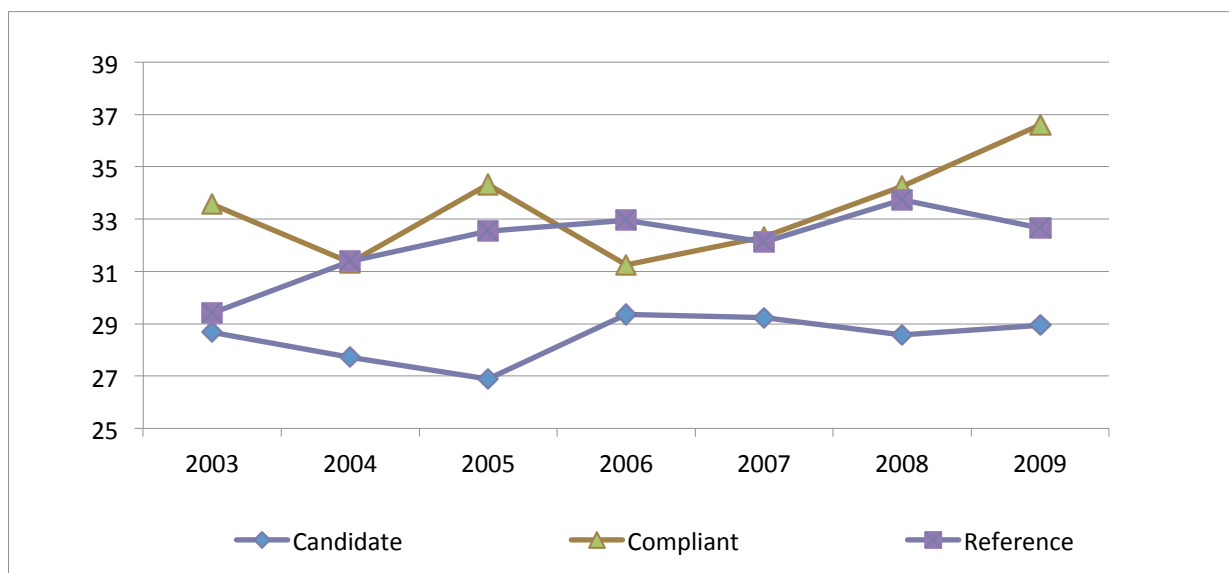
Both TI and WGI indicate that the EITI countries did better than the reference countries from 2008 to 2009.

G.3.6 Conflict

One hypothesis is that EITI may contribute to strengthening the confidence in the rule of law and democratic processes. It may also make it more difficult to capture resource rents for private means, thus making an overthrow of the government for private motives less attractive.

There are several sources of statistics and other information on political violence and armed conflict. Most countries do experience armed conflicts, and using indicators of armed conflict alone would make it difficult to identify possible effects of the EITI on the level of conflict. In the WGI, there is an indicator called “Political Stability and Absence of Violence/Terrorism”. It captures “perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically-motivated violence and terrorism.” The indicator should to some extent also capture latent conflicts, making it more likely that an effect of the EITI could be identified.

Figure G.14: Political stability and absence of political violence



Source: World Bank, Worldwide Governance Indicators

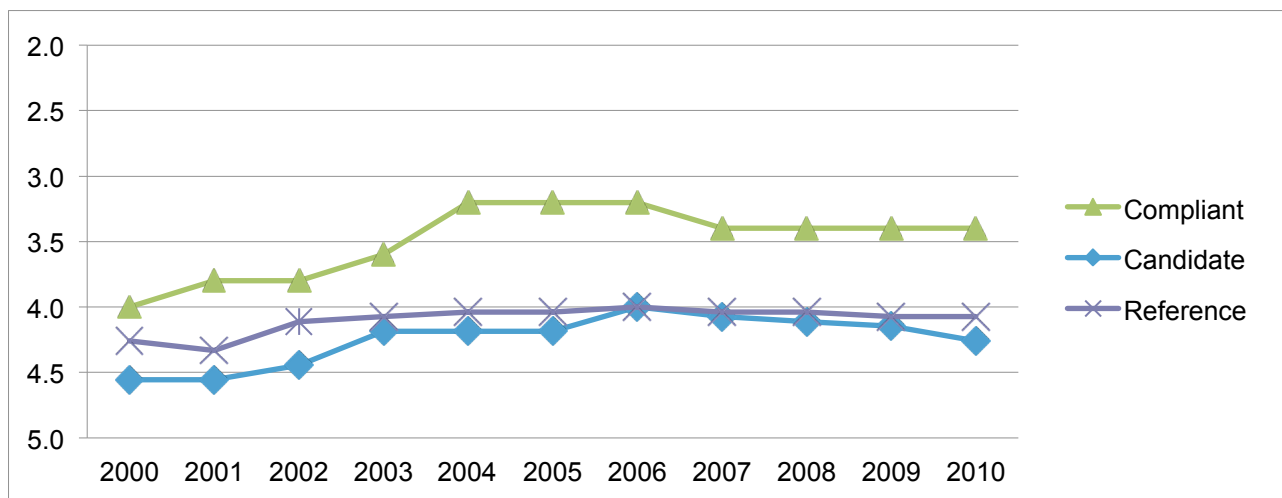
The WGI indicator on stability and absence of political violence indicates that the compliant countries have become less prone to armed conflict since 2007, while there are no clear changes in the other groups.

G.3.7 Political and Individual Rights

For the EITI to have full effect, the political environment must enable the general public and the civil society to use the information from the EITI process to make political leaders accountable, including initiating a change of leadership. In the absence of liberal rights like freedom of expression and political rights enabling the general public to change the political leaders, the effects of the EITI might be limited.

There are several alternative indicators for civil and political rights. The ones chosen here are the indicators produced by Freedom House, which are easily available and offer comprehensive coverage over time and across countries, where scorings go from 1 (strong rights) to 7 (weak rights) (see figures G.15 and G.16 below).

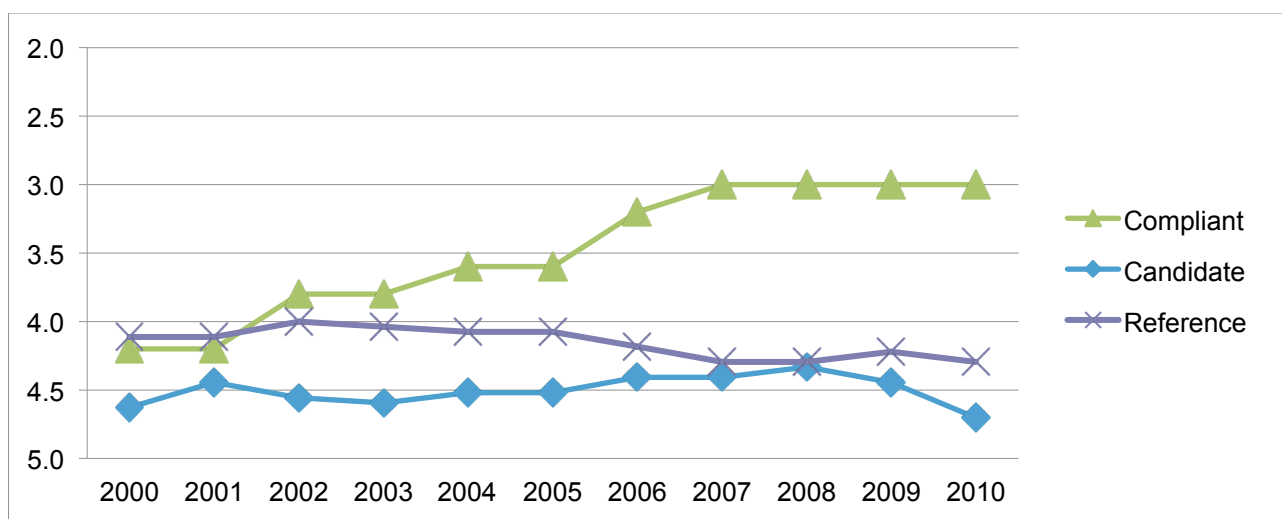
Figure G.15: Strength of civil rights. Average for country groups 2000-2010.



Source: www.freedomhouse.org/

The compliant countries have relatively well developed civil rights, and the situation has been stable since 2007. The candidate countries scored poorly on civil rights before 2007, and rights have been weakened markedly since then. In the reference countries the situation has been fairly stable over the last five years.

Figure G.16: Strength of political rights. Average for country groups 2000-2010.



Source: www.freedomhouse.org/

Comparing figures G.15 and G.16 it is clear that the situation relating to political rights is much the same as for civil rights. They are poorly developed and weakening in the candidate countries, while they are relatively strongly developed and stable in the compliant countries.

G.4 Summing Up

The findings from the analyses of the various indicators in this Annex form the basis for chapter 4. The overall conclusion is that it clearly is not possible to find any meaningful causalities between the EITI as far as it has been implemented today, and “average” or “typical” results along the various indicators for the two groupings of EITI members. This issue lies at the heart of the discussion of how EITI can better track the results of its efforts.

Table G.2: Resource Exports and Country Groupings

<i>Country</i>	<i>Country group</i>	<i>Net resource exports/GDP</i>
Iraq	Candidate	258.17 %
Angola	Reference	203.67 %
Turkmenistan	Reference	97.90 %
Equatorial Guinea	Delisted	85.02 %
Congo	Candidate	79.29 %
Brunei Darussalam		70.09 %
Libyan Arab Jamahiriya	Reference	69.27 %
Timor-Leste	Compliant	69.00 %
Azerbaijan	Compliant	63.02 %
Saudi Arabia		60.15 %
Oman		56.40%
Qatar		52.91%
Kuwait		51.40%
Bahrain		48.61%
Chad	Candidate	47.80%
Gabon	Candidate	47.61%
United Arab Emirates		46.12%
Algeria	Reference	45.34%
Papua New Guinea	Reference	44.73%
Trinidad and Tobago	Reference	40.00%
Suriname	Reference	39.73%
Kazakhstan	Candidate	39.35%
Botswana	Reference	36.01%
Mongolia	Compliant	35.53%
Nigeria	Candidate *	35.44%
Namibia	Reference	34.02%
Zambia	Candidate	31.39%
Guyana	Reference	31.18%
Tajikistan	Reference	30.36%
Bolivia (Plurinational State of)	Reference	28.96%
Mauritania	Candidate	28.71%
Dem.Rep.of the Congo	Candidate	27.07%
Chile	Reference	26.03%
Norway	Candidate *	24.72%
Venezuela	Reference	23.48%
Iran (Islamic Republic of)	Reference	22.79%
Guinea	Suspended/Candidate	20.37%
Peru	Candidate	18.85%
Russian Federation	Reference	18.30%
Uzbekistan	Reference	16.91%
Mali	Candidate	16.49%
Zimbabwe	Reference	16.12%

Ecuador	Reference	15.65%
Yemen	Candidate *	15.65%
Mozambique	Candidate	14.96%
Sudan	Reference	12.60%
Bhutan	Reference	12.08%
Kyrgyzstan	Candidate *	11.65%
Sierra Leone	Candidate	11.12%
Myanmar	Reference	10.73%
Jamaica	Reference	10.54%
Lao People's Dem. Rep.	Reference	9.82%
Cameroon	Candidate	8.72%
Malaysia	Reference	8.70%
Iceland	Reference	8.12%
Niger	Candidate *	8.12%
Australia	Reference	8.11%
New Caledonia	Reference	7.74%
South Africa	Reference	7.30%
Colombia	Reference	7.06%
Canada	Reference	6.84%
Côte d'Ivoire	Candidate	6.28%
Thailand	Reference	6.00%
Ghana	Compliant	5.83%
United Republic of Tanzania	Candidate	5.75%
Lesotho	Reference	5.65%
Somalia	Reference	5.42%
Israel		4.76%
Liberia	Compliant	4.25%
Togo	Candidate	4.17%
Montenegro		3.59%
Egypt		3.48%
Burundi		3.26%
Central African Republic	Candidate *	1.90%
Madagascar	Candidate	0.83%
Albania	Candidate	0.57%
Afghanistan	Candidate	0.22%
Burkina Faso	Candidate	0.02%

* indicates countries that were designated as EITI compliant in March 2011, but which are categorised as candidates in the charts and tables in this report.