

ANTI-CORRUPTION HELPDESK

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BEST PRACTICES IN IMPLEMENTING EITI

QUERY

Can you provide information regarding best practices in EITI implementation? More specifically could you inform us about good practices related to (i) financial and non-financial data collection; (ii) materiality threshold definition; (ii) sectors included in the EITI reporting in member countries?

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Author(s)

Maíra Martini, Transparency International,
tihelpdesk@transparency.org

Reviewer(s)

Marie Chene; Dieter Zinnbauer, Transparency International

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SUMMARY

The implementation of the Extractive Industries Transparency Initiative (EITI) involves a series of activities aimed at increasing transparency and accountability in resource rich countries. To date, 35 countries are implementing EITI and the results are very mixed. The EITI standard sets the basic

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1. OVERVIEW OF EITI REQUIREMENTS

Overview

The Extractive Industries Transparency Initiative (EITI) is a global coalition of governments, companies and civil society organisations that have worked together since 2002 to increase transparency and accountability in resource rich countries. Currently, the initiative has 25 compliant countries and 16 candidate countries (EITI website).

Countries wishing to join the initiative commit to implementing a set of activities to strengthen resource revenue transparency and comply with the basic requirements of the EITI. Within this framework, EITI candidate countries are required to publicly express their commitment to joining the initiative, as well as to regularly publish a report disclosing all the extractive industry revenues received and all relevant payments made by the country's oil, gas and/ or mining industries. This information should be reconciled by an independent actor and made publicly available.

Implementing countries are responsible for determining the nature and scope of their reports. Some countries therefore have opted for a basic implementation of EITI standards, while others for an extended implementation, providing more detailed information. This has led to uneven report quality and different degrees of implementation (Revenue Watch Institute 2008; Revenue Watch Institute 2011).

An EITI and World Bank study published in 2008 shows that many countries have failed to produce relevant, accurate or complete information. This uneven implementation encouraged the publication of an improved set of requirements and recommendations in 2013. The requirements of this revised standard, which are based on best practice from implementing countries and discussions with relevant stakeholders, set the basic activities (minimum standards) that are necessary to fully implement EITI.

It is too early to assess the changes that the revised requirements will bring to report quality. However, it is expected that they will improve the level of detail of the information provided, while making it more accessible and useful. Ultimately, the revised

standard aims at providing citizens, government officials and civil society organisations with better tools to monitor resource revenue.

This brief analyses the requirements and recommendations put forward in 2013, providing best practice examples with regards to financial and non-financial data collection, materiality thresholds, as well as the range of sectors included in the EITI reporting.

Revised EITI Requirements and Recommendations: Setting the standards

The 2013 [EITI standard](#) highlights the minimum criteria that participating countries need to meet to successfully implement EITI. Nevertheless, implementing countries are encouraged to extend the scope of the implementation in order to provide a more comprehensive picture of the sector.

The EITI requires:

1. Effective oversight by the multi-stakeholder group

The EITI requires effective multi-stakeholder oversight including a functioning multi-stakeholder group (MSG) that involves the government, companies and civil society. It is the responsibility of the government to ensure that there is an enabling environment for company and civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI (Requirement 1).

The MSG is responsible for defining the EITI work plan that will guide the implementation process. As a result it makes all the relevant decisions with regard to the scope of the EITI programme to be adopted in the country.

Experience has shown that a good understanding of the extractives sector by the MSG is crucial. Scoping and feasibility studies undertaken prior to the establishment of the MSG can help to enhance understanding by identifying relevant stakeholders, key issues around the extractive industries, including sectors where the implementation of EITI is needed,

as well as relevant payments and revenues that should be included in the report.

The feasibility study conducted in Zambia is assessed as very good practice. Based on the study, EITI implementation in the country focuses on the mining sector and seeks to address issues such as opacity, the lack of availability of information, and the lack of dialogue among key stakeholders (Ravat & Kannan 2012). The feasibility study is available [here](#).

2. Timely publication of EITI reports

Regular and timely disclosure of information is critical for an effective EITI implementation. To date, many implementing countries have failed to publish timely information, and several reports, although comprehensive, provide obsolete data thus limiting its usability (Bartlett 2013).

The revised EITI standard states that EITI reports should be published on an annual basis and cover data no older than the second to last complete accounting period. For instance, an EITI report published in calendar/ financial year 2014 must be based on data no later than calendar/ financial year 2012 (Requirement 2.2).

[Azerbaijan](#) is considered a good practice case regarding the regularity of reports. The country has published seven reports in eight years of EITI implementation.

3. EITI reports that include contextual information about the extractive industries

EITI reports are required to include an overview of the extractives sector in the country, making it easier for readers to understand and analyse the data provided. According to the EITI standard, the following should be included:

- the legal framework and fiscal regime
- production figures by commodity and when relevant by state/ region
- government revenues generated by the sector whether *cash* or *in kind*, including taxes, royalties, bonuses, and fees, among others
- state-owned enterprises, when the participation of the state generates material revenue

- information on license holders, with disclosure of beneficial ownership being encouraged

In addition, the 2013 standards also encourage the publication of all contracts, licenses and concessions governing the exploration of oil, gas, and minerals (Requirement 3.12). Countries such as Liberia and Niger have disclosed contracts in the sector. In Liberia, contracts for concessions in the extractives sector (mining, forestry, agriculture and oil) are published online (see [here](#)). In [Niger](#), contract and revenue disclosure is required by the Constitution.

The previous EITI standards did not set any requirement regarding contextual information. Nevertheless, some countries have already included such information in their reports. This is the case of [Mongolia](#), where a comprehensive overview of the sector is included.

4. The production of comprehensive EITI reports that include full government disclosure of extractive industry revenues, and disclosure of all material payments to government by oil, gas and mining companies

EITI must be as comprehensive as possible and include information on all relevant (material) payments and revenues.

Materiality

Materiality is a threshold amount or percentage to determine if a company or a payment is significant to an outcome ([EITI website](#)). EITI does not provide clarity regarding which payments are considered material or immaterial – it is to be decided by the MSG prior to the reporting process based on the context of the country in question.

Within this framework, the MSG is required to set clear definitions and thresholds regarding which payments, revenues, companies, and government entities should take part in the implementation and therefore disclose information (Requirement 4).

While the EITI requirements and recommendations do not set specific materiality thresholds, it defines which revenue streams should be disclosed.

Payments and revenues

According to the 2013 standards, the following revenue streams should be included in the EITI report (Requirement 4.2b):

- the host government's production entitlement
- state owned enterprise production entitlement
- profit taxes
- royalties
- dividends
- bonuses
- license fees
- any other relevant payments

Other possible material revenues to be considered by the MSG may include:

- Sale of the state's share of production: in this case, the information should be presented in a disaggregated manner, and disclosures could be broken down by type of product, price, market, and sale volume.
- Infrastructure, services and goods provisions: if goods and services are provided in exchange for oil, gas or mining exploration concessions information on these agreements, when material, should be included in the report.
- Social expenditures by companies: if companies are legally or contractually required to make social contributions, these must be disclosed.
- Transportation: if revenues collected from the transportation of oil, gas and minerals, such as pipelines, are significant, the government is required to disclose the revenues received.

Companies and government agencies

All companies engaging in material payments to the government are required to disclose these payments. Likewise, government agencies receiving material payments are required to disclose them. The government is also required to provide aggregate information about the total amount received from each revenue stream, including revenues that fall below the materiality threshold (Requirement 4.2).

State-owned enterprises are also required to report their finances, including on financial transactions with other government entities and on revenues collected on behalf of the government (Requirement 4.2c).

In addition, in countries where **subnational transfers** and **subnational payments** are a significant source of revenue for subnational entities they should also be disclosed, providing a more comprehensive picture of the extractives sector in a country (Requirement 4.2d).

This is particularly relevant in countries implementing EITI in the mining sector, as mining companies usually make substantial payments to subnational levels of government. In some cases, payments are made directly to the subnational government; in other cases, funds are transferred (redistributed) by the national government to the regional/ local level (Revenue Watch Institute 2008b). A good understanding of the country's tax framework is key to ensuring that all significant payments and/ or transfers to subnational governments are disclosed and analysed during the reconciliation/ audit process (Aguilar et al. 2011).¹ As a good practice example, EITI [Ghana](#) reports, for instance, include payments made directly or indirectly to subnational governments.

Section 2 of this answer analyses in more detail the approaches that could be used to define materiality thresholds.

5. A credible assurance process applying international standards

The successful implementation of EITI will also require a credible EITI reporting process. For that, it is crucial that the data presented by both companies and governments is reliable. According to the 2013 standards, the MSG together with the Independent Administrator (IA) should verify the audit and assurance procedures in companies and government entities to ensure the data is reliable and in line with international standards (Requirement 5.2).

¹ For more information on implementing EITI at the subnational level, see:
<http://eiti.org/files/Implementing%20EITI%20at%20subnational%20level.pdf>.

Moreover, the MSG and the IA should define what kind of information should be provided by implementing companies and governments, including whether the information provided should first be audited by an external auditor or whether, for example, the sign-off from a senior company or government official attesting accuracy is sufficient (Requirement 5.2c).

It is the task of the IA to reconcile the information disclosed by government entities and companies and identify potential discrepancies. Gaps or weaknesses in reporting should also be stated by the IA. The IA may also recommend actions to improve the report and comment on the progress of implementing these measures (Requirement 5.3).

In the next section the collection process of financial and non-financial data is analysed in more detail.

Aggregated vs. disaggregated reporting

The 2013 standard also innovate by requiring companies and governments to present disaggregated data. EITI reports now have to provide financial data on individual companies, payment type, government agency, as well as project (Requirement 5.2e).

While this is a recent requirement, yet to be implemented, the majority of countries have already published some level of disaggregated information by payment type and/ or by company, with the exception of Niger and Iraq that until now have only published aggregated information. Indonesia is the only country that has published disaggregated data by project as of 2011. (Please see the comparison of EITI reports [here](#)).

6. EITI Reports that are comprehensible, actively promoted, publicly accessible, and contribute to public debate

Besides publishing reports that are comprehensible and accessible, MSG should provide capacity building to ensure that citizens, civil society organisations and the media in particular have a good understanding of the information presented in the report.

7. The multi-stakeholder group to take steps to act on lessons learned and review the outcomes and impact of EITI implementation

It is also crucial that the multi-stakeholder group identifies and acts upon discrepancies identified in the report. In addition, the multi-stakeholder group is expected to report on its annual activity and the efforts taken to strengthen EITI implementation, including on actions taken to extend the scope and detail of EITI reporting.

2. GOOD PRACTICES IN EITI IMPLEMENTATION: IMPROVING QUALITY AND THE AMOUNT OF INFORMATION COLLECTED AND PUBLISHED

The EITI Standard set the minimum benchmark for implementing countries. A successful implementation of EITI will, however, depend on expanding the scope of these criteria to include specific country needs. A rigorous, innovative, and comprehensive implementation of EITI will increase the chances that a country will properly benefit from its natural resources and will certainly reduce the opportunities for fraud, corruption, and mismanagement.

In particular, there are a few issues where MSGs in implementing countries will have the discretion to decide on the scope of the reporting to be adopted. This session will focus on financial and non-financial data collection, materiality thresholds, as well as sectors to be included in the report.

Financial and non-financial data collection

Financial data collection is under the responsibility of the independent administrator (IA) or reconciler with the support of the EITI Secretariat. Non-financial data is also collected by the IA with the support of the national secretariat, and it often consists of a desk review of the legal framework and consultation with experts (EITI Standards).

The IA is appointed by the MSG following a competitive bidding process, and it typically consists

of an organisation (e.g. audit firm). The IA proposes the methodology for collecting the data, agrees on templates for the EITI report and defines what kind of information should be provided by companies and governments. More recently, in order to bring more credibility to the process, it is also meant to review companies and government entities' audit and assurance practices.

The EITI does not set standards regarding the format of the information provided by companies and governments (for instance, whether the information has to be reported on an accruals or cash basis). This lack of reporting standards has led to the provision of incomplete and inaccurate information by companies and governments, making the process quite long and cumbersome (Revenue Watch Institute 2008).

The IA is not required to audit the financial data collected, but only to reconcile and compare the figures presented by companies and government entities, in order to identify potential discrepancies (Requirement 5.3). The EITI relies on existing audit and assurance systems in government and companies, while promoting adherence to international standards (Requirement 5). However, EITI countries may also choose to conduct an audit of the information collected. Within this framework, one of the main scoping decisions to be made by EITI countries is whether the financial and non-financial collection process will be a reconciliation or an audit process (Ravat & Kannan 2012).

Against this background, to date, implementing countries have opted for different approaches for collecting and analysing financial data, including (Revenue Watch Institute 2008; Ravat & Kannan 2012):

- 1. Reconciliation:** This is an effective approach in countries where companies, state-owned enterprises, and government agencies are already obliged to produce annual financial statements that are audited according to international standards. Under this approach, companies submit completed EITI data templates with a statement from their auditors that those are in accordance with the company's audited financial statements. The IA compares and analyses the

information provided against the revenues reported by government agencies. The IA may at any time seek additional information to explain any discrepancy identified. The information disclosed, potential discrepancies as well as recommendations for improvement have to be included in the EITI report by the IA.

One problem with this approach is that the reconciliation process is based on the assumption that the information and numbers provided are correct. The reconciliation will assess whether company payments reached the government, but it will not, for example, assess whether the royalty paid was based on the right amount of production or whether the government's share of production was sold at fair price. In this context, the reconciliation process may fail to spot corruption, manipulation or even errors in calculation (Revenue Watch Institute 2008).

- 2. Reconciliation supplemented by limited audit:** This approach includes a limited or full audit of the financial statements of certain reporting entities. It is often applied in countries where the financial statements are of mixed quality and not always audited to international standards.
- 3. Reconciliation and audit testing of specified transactions:** In some countries, the IA combines the simple reconciliation of the data provided with a limited testing of the numbers presented, for example by assessing whether companies have used accurate market prices to determine the value of their production.

In Ghana, the IA is responsible for reconciling company payments to government entities, but as part of the assessment the IA also checks the accuracy of the information provided by comparing data on physical production with a company's financial accounts or reviewing a company's capital expenditures and operating costs and comparing it with its taxable profits (EITI & World Bank 2012).

4. **Audited EITI Reports:** The IA is contracted to conduct an audit of the EITI data reported by reporting companies and government entities involved in this process, and to issue an audit opinion on the EITI report in accordance with international audit standards. Due to the amount of work, time and costs involved, this approach is much less common and it has been implemented only by a few implementing countries. However, experience shows that it provides greater levels of transparency and helps to identify wrongdoing and potential loss of revenue.

[Nigeria](#) is one of the implementing countries that have opted for the full audit of the information provided by companies and government agencies. EITI reports include financial, physical and process audits of the oil and gas sector. Among other things, the audits have identified that companies were not always assessing production related taxes correctly, leading to a loss of revenue (Revenue Watch Institute 2009). According to the latest reports, the Nigerian government has recovered approximately US\$2 billion, and more than US\$9.6 billion could have been lost (Nigeria Extractive Industry Transparency Initiative 2013).

Nigeria's efforts and innovative approach was recognised during the 2013 EITI Global Conference. The country won one of the EITI Chair's Awards "for going beyond the EITI minimum standards and for making the EITI relevant and influencing policy in the country" ([EITI Chair's Award 2013](#)).

Against this backdrop, good practice regarding the collection of financial and non-financial information requires the selection of an independent reconciler (IA/ audit company), and a correct and fair review of the audit and assurance practices of reporting entities in order to define which approach – reconciliation or audit – will be implemented. It is key that the data submitted respects international standards of audit. In addition, experience has shown that adding some sort of verification mechanism (partial or full audit) to the reconciliation increases the likelihood of identifying discrepancies and

irregularities.

Materiality threshold

The EITI standards require that all material payments and revenues should be published by both relevant companies and government agencies (Requirement 4). It is the responsibility of the MSG to define which payments and revenues are "material" as well as which companies and government entities are relevant for the purpose of the disclosure requirements. While having all companies and governments reporting on all payments and revenues received would be ideal, countries should seek to strike a balance between presenting a realistic picture of the sector and keeping the amount of information presented manageable (Ravat & Kannan 2012).

Prior to setting the materiality standard, it is crucial that the MSG has a clear understanding of (i) the country's fiscal regime and revenue streams; (ii) all registered and/ or licensed companies, including state-owned enterprises SOEs, operating in the extractive sector; (iii) all government entities receiving revenues from extractive industries, including at the regional and local levels, to make sure that all relevant entities are required to report on significant types/ amount of payments and revenues (EITI no year).

According to the EITI standard, the rationale for the definition and thresholds adopted by the MSG should be included in the EITI report. A successful implementation will also require countries to regularly review their materiality thresholds.

Revenue stream materiality

EITI Requirement 4.1 requires a set of revenue streams (payment types) to be reported, unless they are not applicable or the MSG declares that they are insignificant and therefore not to be considered as material for reporting purposes. These include production entitlements of host government, SOEs' production entitlements, profit taxes, royalties, dividends, bonuses, as well as fees for licenses and concessions.

While there are no predefined steps to be followed by the MSG when determining the materiality of revenue

streams, as best practice the following factors should be considered (Ravat & Kannan 2012, Box 4.5; EITI no year):

- “The significance of the particular revenue stream in relation to the total revenues collected in the sector
- The size of the particular revenue stream in relation to the government flow of funds table
- The share of revenues that the particular revenue stream represents of the total revenues received by the recipient institution or region
- Whether the revenue stream, despite being immaterial in the national context, becomes material when viewed in the regional context”

In addition, the MSG should consider the materiality of in-kind payments. In Liberia, for instance, in-kind contributions are now included in the EITI report. In 2011, 11 companies estimated their contributions to communities to account for US\$13 million on top of the taxes paid, including the construction of roads and schools and improvements in water and sanitation (World Bank 2013).

Implementing countries have selected relevant revenue streams differently. In Peru, for instance, the 2010 EITI report only covers profits/ taxes, royalties, and fees for licenses and concessions. The Republic of Congo 2011 EITI report covers all payment types required by the EITI standard, as well as all in-kind payments. In Liberia, only revenues collected by the five largest government agencies are included ([EITI website](#)).

Payment and revenue materiality

Once the types of payments to be reported on are defined, the MSG may analyse whether or not to set a materiality threshold. In some countries, some transactions are too small and thus not considered worth reporting on. In these cases, the MSG should require that only payments made above a certain amount will have to be reported (EITI no year). The threshold should be set in a way that captures all relevant payments and revenues in a certain country and it should be reviewed prior to each EITI report (Ravat & Kannan 2012).

The thresholds can be set in an aggregated manner;

that is, based on the total amount paid by a company or the total amount received by a government agency. Materiality thresholds can also be set in a disaggregated manner, where the MSG sets different thresholds for different revenue streams. For instance, any company paying corporate taxes greater than US\$10,000 or royalties greater than US\$5,000 is required to report. The thresholds can be set at different levels for companies and government entities (EITI no year).

Some countries have opted for setting materiality thresholds only for companies. This means that companies will report based on the predefined payments thresholds while government entities will be required to disclose all payments received. Such an approach is particularly useful in countries where a large number of small companies make payments that are individually immaterial but collectively significant, representing a large share of government revenues (Ravat & Kannan 2012).

Company materiality

The EITI Standard requires all relevant companies to disclose material payments. However, it does not set any criteria to define which companies are considered relevant. Similarly, there is no recognised best practice and the decision should be made by the MSG based on the information about the extractives sector in a specific country.

Company materiality thresholds are usually set based on previous total taxation payments. The revision of data from ministries may also help to identify the largest taxpayers. In addition, attention should be paid to the fact that companies that are not necessarily “extractives” may also make material payments and therefore should be included in the report.

In [Ghana](#), for instance, payments made by the largest eight mines operating in the country – which together contribute to 99 per cent of the royalties paid – should be included in the EITI report and verified by the IA (Revenue Watch Institute 2008b). Smaller companies (more than 300) that contribute to approximately one per cent of the government’s revenue were excluded from the process as it would be too complex to collect this information and it is unlikely that the data provided would have an impact

on the findings.

In Mongolia, companies making more than US\$170,000 in payments to the government per year are required to report. All other companies can voluntarily provide information if they wish (Revenue Watch Institute 2011).

Specificities of the mining sector

The implementation of EITI in the mining sector may require certain specific considerations given the nature and type of companies operating in the sector.

EITI countries have tended to define materiality based on the value of a company's production or the amount of payments made. However, such an approach may not be appropriate in the mining sector where the production value of single participants may fall below the threshold if considered individually but significant when analysed cumulatively (Revenue Watch Institute 2008)

Good practice would thus require a materiality scheme in which all companies that cumulatively contribute to a significant part of the mining revenues have to report. This proportion is to be decided by the MSG based on the analysis of the sector in a given country.

In addition, there have been discussions on whether artisanal and small-scale mining should be included in the EITI. Thus far, none of the implementing countries have included artisanal mining in their reports. The fact that artisanal mining often involves informal activities that are subjected to very limited regulation and low contribution to the national revenue makes it difficult to have it included in the EITI. However, in many countries, artisanal mining is responsible for a great part of the mineral production. Excluding artisanal mining thus suggests an imprecise or inaccurate account of the sector.

One way of analysing payments and revenues related to artisanal mining would be to look at the value chain and more specifically at activities that result in revenue streams to governments, such as exports and trade. In Ghana, for example, one single exporter buying mainly from artisanal miners is responsible for 10 per cent of the total gold production in the country. Within this framework,

experts have recommended that countries consider how to best represent the revenues from artisanal activities and include those in the EITI reporting (Revenue Watch 2008b).

Sectors included in the EITI

EITI covers countries and companies in the oil, gas and mining sectors. Countries may expand the scope to include other sectors considered important, such as forestry or fisheries. Liberia, for instance, has included timber and other agricultural sectors in its EITI report. Togo has included the water sector. However, the great majority of implementing countries have focused on oil and gas and/ or mining (please see the comparison of EITI reports [here](#)).

There is no recognised best practice regarding the sectors to be included in EITI. Here it is important to strike a balance between the number of sectors covered and the quality of reporting. Implementing EITI in different sectors will also require more resources, the involvement of different stakeholders, as well as specific expertise (Ravat & Kannan 2012; Revenue Watch Institute 2008).

Besides including other sectors, the scope of EITI implementation may also be extended to include other aspects not related to the exploration or production of oil, gas and minerals. It could include other processes such as refining, processing or other key transactions, which are currently not part of the EITI standard (for example the award of extractive licenses).

The decision on which sectors to include and which aspects to cover is made by the MDG and it should be described in the country work plan. Scoping studies can play an important role in defining the key sectors and transactions that should be analysed during the EITI implementation.

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