

EITI and Parliamentary Oversight of Oil, Gas and Mining Revenues

THE ROLE OF THE EITI IN EXTRACTIVE TRANSPARENCY

Two-thirds of the world's poorest people live in countries that are rich in natural resources. With effective, responsible governance, revenues from the extraction of these resources can deliver development gains. Transparency is an essential part of this equation. It allows MPs to determine whether the country has secured a fair share of the resource revenues, and empowers citizens and their representatives to ask questions about how the government is using the revenues.

During the last few years the transparency movement has made big strides in pushing for the disclosure of data on revenues generated by oil, gas and mineral extraction. This was the original objective of the Extractive Industries Transparency Initiative (EITI) when it launched in 2003. Reflecting recent global advances on transparency, the EITI launched a new standard in 2013 which requires more robust reporting by participating countries.

Furthermore, the EITI, which is a voluntary initiative, is complemented by mandatory reporting requirements that obligate companies registered or trading in the United States (via the Dodd-Frank Act) and the European Union (via the EU Accounting and Transparency Directives) to disclose their payments in all countries of operation, regardless of whether the countries are EITI members.

THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI)

EITI is an international initiative to improve transparency and accountability in the oil, gas and mining sectors. Countries voluntarily apply for candidacy and must meet a number of minimum requirements to obtain and preserve the status of compliance with the initiative. By August 2014, 29 countries had become compliant, and 17 more were candidates.

Key messages

- The 2013 EITI Standard has robust requirements that improve transparency and accountability in the oil, gas and mining sectors. This is essential for members of parliament (MPs) who seek to effectively monitor natural resource revenues.
- Engaging with the EITI informs MPs' oversight and lawmaking activities, and allows them an additional avenue through which to raise constituent concerns.
- Each EITI member country must form a multi-stakeholder group (MSG). MPs may want to seek membership in this group.

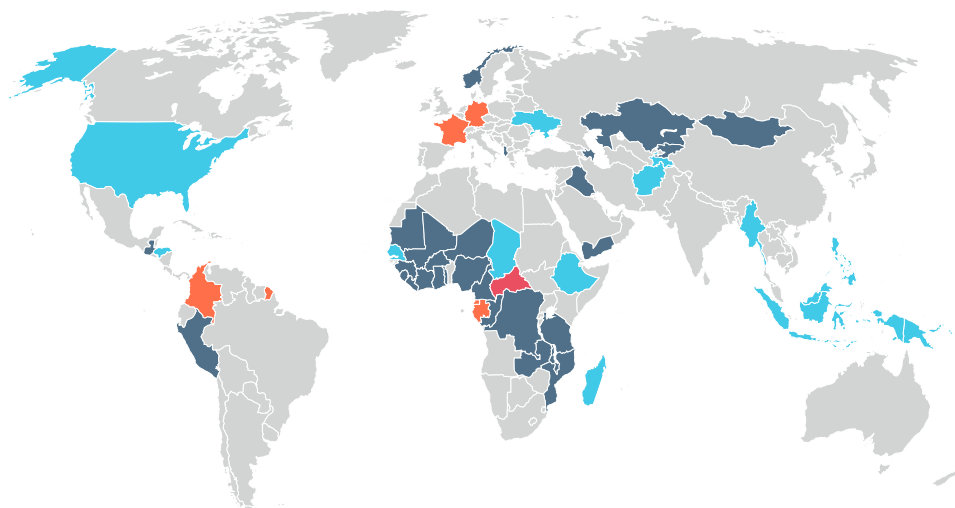
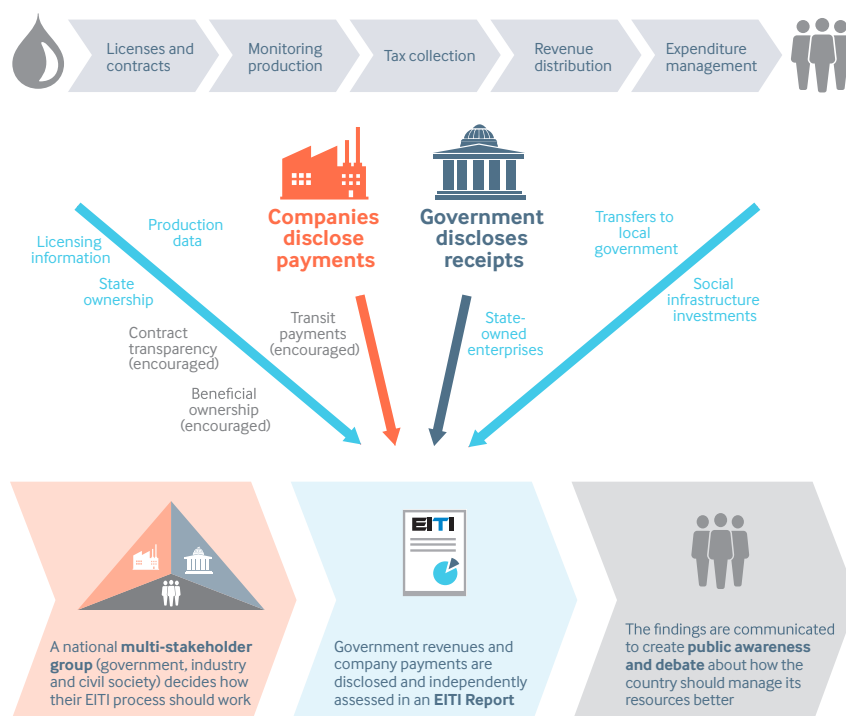


Figure 1. EITI Countries¹

- **EITI Compliant Country**
Meeting all requirements in the EITI
- **EITI Candidate Country**
Implementing EITI, not yet meeting all requirements
- **Suspended**
Compliant/Candidate status is temporarily suspended
- **Other**

In countries participating in EITI, oil, gas and mining companies must publish what they pay to governments, and governments must publish what they receive. An independent administrator then reconciles these figures, and investigates any discrepancies. Implementing countries also disclose information on licenses and license allocations, in-kind revenues, mandated social expenditures, subnational payments, transportation revenues, and production data. The EITI also encourages the disclosure of contracts, and the release of information that identifies the real, ultimate owners of extractive companies (rather than just company names).

Figure 2. The EITI Standard²

Each EITI member country forms a multi-stakeholder group (MSG) including representatives from civil society, industry and government to oversee the EITI process and the production of the reports that document it. This group must ensure that the national EITI addresses the key policy challenges the country faces in managing its extractive industries. MPs may want to seek membership in the MSG.

BENEFITS OF ENGAGING WITH EITI

Parliaments play an essential role in working to ensure that oil, gas and mining resources benefit the public interest.

The EITI and the information that it produces can offer many benefits to MPs, such as:

- Informing oversight.** EITI reports identify governance weaknesses, which helps MPs to monitor how well government is managing the oil, gas or mining sector. Many EITI reports identify discrepancies between company payments and government receipts; process weaknesses such as in the collection of taxes or allocation of licenses; and sources of revenue loss like unpaid debts. Through inquiries and other methods, MPs can then call on the government to address these problems and track progress made.

² The EITI Standard, pg. 8, available at: http://eiti.org/files/English_EITI%20STANDARD_11July_0.pdf.

- **Informing sector lawmaking.** Parliaments must propose, review and amend legislation that governs the oil, gas and mining sectors. These decisions should take into account the specificities of the sector—information which is often difficult to come by.
- **Informing annual appropriation decisions.** In resource-dependent countries, budgetary decisions should be informed by a strong understanding of the oil, gas and mineral revenues that dominate state accounts. EITI reports, particularly if detailed and maintained regularly over time, can explain the origin of revenues and how they are likely to vary from year to year.
- **Raising constituent concerns.** The Standard gives legislators an opportunity to bring the concerns of their constituents to the EITI for further investigation. Participation in the EITI multi-stakeholder group can help parliament to fully embed EITI in its involvement in oil, gas and mining sector oversight.

STRATEGIES FOR MPs WISHING TO ENGAGE WITH THE EITI PROCESS

Parliaments can use their legislative and political power to constructively engage with the EITI process. Below are a series of possible actions MPs can take at each step of the EITI process. Further actions can be found in Appendix B of the *EITI Guide for Legislators* (www.eiti.org/files/MP_EITI_Guide.pdf).

- **Preparation:** promote full engagement by civil society and companies in the MSG; encourage government to address obstacles to civil society and company participation in the MSG; seek parliamentary membership of the MSG; track whether the country is implementing the “encouraged” as well as the required elements of the new EITI Standard; ensure the EITI covers key public concerns.
- **Disclosure and review:** hold public hearings to discuss the report’s findings; seek government action through parliamentary questions; produce committee reports highlighting areas for government action.
- **Dissemination:** ensure the EITI report is made public; coordinate efforts with civil society; conduct committee-based outreach on EITI.
- **Validation:** hold public hearings on report findings to encourage government to carry out validation; request copies of the validation report; compare report to issues identified through previous oversight of EITI.

In addition, MPs can leverage their powers to build a robust EITI standard. In particular, MPs can follow the examples of Liberia and Nigeria by enshrining the process in law to guarantee that EITI survives changes in government and is integrated in the budgeting and auditing processes.

“Participation in the EITI multi-stakeholder group can help parliament to fully embed EITI in its involvement in oil, gas, and mining sector oversight”

DISCUSSION QUESTIONS FOR MPs

- Has the multi-stakeholder group been established? Is it equipped to perform its mandate?
- Is the legislature represented in the multi-stakeholder group? If not, did parliament or its relevant committee discuss joining EITI?
- Do the objectives the EITI work plan reflect national extractive sector policy priorities, and is the EITI process producing information that is relevant to decision-making on these issues?
- Have all government entities that manage revenues and companies that make payments disclosed information to the EITI administrator? Did any of them fail to report?

- Does the EITI report disclose payments received from each company for each extractive project according to EITI best practices? If not, has the government provided a reason?
- Is the data in the report audited to international standards? For instance, did companies' external auditors certify company declarations? If not, why not?
- Does the report include information about quantities produced and sale prices? If so, what percentage is my country earning from the total value of sales?
- Does the report highlight unresolved discrepancies? If so, has the government taken steps to address them?
- Do the figures in the report match the information available in the national budget?
- Has the report been widely publicized and submitted to parliament for debate?
- Has the parliament or relevant committee followed up on the recommendations made in the report?
- Does the government intend to submit an EITI law? If so, does it contain EITI best practices (e.g., contract transparency)? If not, can parliament introduce a draft bill or amend existing oil or mineral laws to facilitate best practice in EITI implementation?

Lessons learned from Yemen and Liberia about parliamentary engagement with the EITI

Only eight candidate and compliant EITI countries—of a total of 46—had members of parliament in their MSGs as of July 2014. Here are some of the lessons learned from two of them—Liberia and Yemen:

- MPs should make full use of their legislative powers to seek reform of the oil, gas and mining sectors through the EITI process. Hon. Mr. Ali Ashal, member of Yemen's House of Representatives and an advocate of transparency, initiated a bill aimed at improving access of information held by government. As a result, the Freedom of Information Act of 2012 now allows citizens to request and receive information of public interest from the government.
- When accessed by parliaments, EITI reports have strengthened accountability. In Liberia, Hon. Gbehzohngar, an independent senator and member of the EITI board, has publicly denounced some extractive companies for not reporting the correct information to the EITI administrator.
- Active membership in the EITI MSG gives MPs a better understanding of extractive sector issues. The benefits of increased access to information, progressive learning and networking opportunities that come with MSG membership outweigh the costs in terms of dedicated time and effort according to the MPs interviewed by NRG.
- Legislation and regulations can help institutionalize and sustain the EITI, but clear rules for the appointment of the parliamentary MSG members and regular rotation are necessary to ensure a meaningful representation of all voices in parliament.
- MPs who serve on MSGs might be more effective when they bring solid knowledge of, and experience in, the extractive sector. This is all the more important when MPs cannot rely on support from the parliamentary administration.

Further reading and engagement

For more general information on EITI please refer to www.resourcegovernance.org/issues/eiti and www.eiti.org

Read the EITI case study in full at www.resourcegovernance.org/publications/eiti-parliamentary-tool-extractive-sector-governance-liberia-and-yemen

- Read the *EITI Guide for Legislators* at www.eiti.org/files/MP_EITI_Guide.pdf
- For more information on parliaments and extractives visit www.resourcegovernance.org/parliaments