EITI Extractive
Industries
Transparency
Initiative

This guidance note has been issued by the EITI International Secretariat to provide guidance to implementing countries on meeting the requirements in the EITI Standard. Readers are advised to refer to the EITI Standard directly, and to contact the International Secretariat to seek further clarification. Contact details can be found at www.eiti.org

Suggested checklist for establishing the scope of EITI reporting

Guidance note 9

1. Introduction

In order to be useful, EITI Reports must include timely, comprehensive, reliable, and comprehensible information that addresses or identifies governance challenges in the country's extractive sector. The EITI Standard sets minimum requirements and recommendations for EITI Reports, and the national EITI workplan outlines the multi-stakeholder group's objectives for EITI implementation. Scoping helps the multi-stakeholder group assess which provisions of the EITI Standard are applicable to their country, which encouraged elements they wish to include in the report, and whether locally relevant issues that are not featured in the EITI Standard should be covered.[1]

A number of countries are increasingly exploring opportunities for entrenching EITI reporting in government systems. This means that rather than making data transparent through an EITI Report, EITI data is made available at source, e.g. on government websites, online license cadastres and annual reports. **Another key objective of scoping prior to producing the EITI Report is therefore to help the MSG explore opportunities for integrating EITI disclosures into government and company systems.** Specifically, scoping helps the MSG (i) identify whether the information that is required to be disclosed under the EITI in accordance with the Standard and the MSG's workplan is already available in the public domain; (ii) identify any information gaps or weaknesses; and (iii) outline what improvements are needed in order to address the gaps. The scoping study then serves as a baseline assessment of gaps and opportunities in existing government reporting systems. This assessment helps the multi-stakeholder group to determine what data can simply be drawn from available sources, and what data needs to be collected by an Independent Administrator. It guides the multi-stakeholder group in determining whether the EITI Report should include a link to another source of information such as for example a cadastre, or a full or partial disclosure of the information.

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[1] Innovative examples and best practices are available from your Country Manager at the International Secretariat.

Finally, one of the most common challenges with EITI implementation to date has been to ensure that the EITI Report provides a comprehensive account of payments and revenues, as well as the legal framework, licenses, production and revenue allocations. A related concern is demonstrating that the figures in the EITI Report are reliable, i.e., based on a credible assurance process applying international standards. These issues have often been a barrier to achieving compliance. Scoping helps the multi-stakeholder group ensure that required information, revenue streams and reporting entities will be covered and that the published data is reliable.

This guidance note suggests a checklist of issues that the multi-stakeholder group may wish to consider as it undertakes scoping work. It should be noted that the checklist is not intended to be exhaustive and the MSG is advised to consult the EITI Standard as the definitive reference regarding the EITI requirements. It is recommended that in order to ensure timely reporting, the multi-stakeholder group begins scoping work as soon as the financial year to be covered by the EITI Report has ended.

2. Background

Scoping work aims to identify what the EITI Report should cover in order to contribute to public debate, facilitate governance reforms and meet the requirements of the EITI Standard. Scoping sets the basis for producing a timely, comprehensive, reliable and comprehensible EITI Report. It commonly involves looking at issues such as the fiscal period to be reported, non- revenue information about the extractive sector such as licensing, production etc., that should be part of the EITI Report, reviewing the types of assurances that are needed for ensuring that the data submitted by reporting entities is credible, determining which revenue streams from oil, gas and mining are significant, and consequently which companies and government entities should be required to report. It is an opportunity for the multi-stakeholder group to consider the feasibility of extending the scope of EITI reporting beyond the minimum requirements to address the objectives outlined in the EITI workplan. In some cases, scoping may investigate certain issues or challenges in more detail with a view to identify options or solutions for consideration by the multi-stakeholder group.

EITI implementing countries are required to consider scoping questions in developing and revising their workplans (EITI Requirement 1.5-c-ii). Early scoping considerations are particularly important for new EITI Candidates, which are required to publish the first EITI Report within 18 months of attaining Candidate status. An increasing number of countries conduct scoping studies for this purpose. Implementing countries that have produced one or several EITI Reports also need to regularly revisit the scope of EITI reporting to reflect changes in workplan objectives, industry structure, fiscal regimes and revenue fluctuations. It is common to review the scope on an annual basis, at the outset of each reporting cycle. On an annual basis, the multi-stakeholder group should at least review i) the materiality threshold, and revenue streams and reporting entities to be included, ii) current audit practices and assurances required from reporting entities, and iii) whether the workplan's objectives are reflected in the scope. When considering revenue streams and reporting entities, the multi-stakeholder group should explore whether there have been changes in the materiality of transport revenue, barter agreements, sales of in-kind revenue, quasi-fiscal

expenditure by state-owned companies , social expenditure, sub-national payments and transfers, or other aspects required by the Standard (Requirements 4, 5 and 6).

The multi-stakeholder group is often supported by the national EITI secretariat and/or an external consultant in its scoping work, which usually leads to a 'scoping report' that informs the work to be undertaken by the Independent Administrator (the firm hired to conduct the reconciliation). [2] The multi-stakeholder group may also task the Independent Administrator to undertake scoping, in which case the additional work should be taken into account in the terms of reference for the Independent Administrator and the work schedule.

The EITI Standard mandates the multi-stakeholder group to decide who compiles information on, for example, licenses, state participation, contracts, beneficial ownership, exploration, production and exports (Requirements 2 and 3). The scoping phase provides a good opportunity to discuss the division of work between the multi-stakeholder group and the Independent Administrator, and identify sources of information. Thorough scoping will enable the MSG to agree clear terms of reference for the Independent Administrator. One of the first tasks that the Independent Administrator will undertake is to review the scope agreed by the multi-stakeholder group and propose modifications where relevant[3]. This ensures that there is a common understanding between the multi-stakeholder group and the Independent Administrator with regards to the work that needs to be undertaken by each party in preparing the EITI Report, and this understanding is documented in an inception report. As part of the scoping work, the MSG is encouraged to review any existing disclosure mechanisms related to legal and institutional framework, allocation of contracts and licenses, exploration and production, revenue collection and allocation and social and economic spending, and identify whether the EITI can draw on or strengthen such systems with regards to EITI reporting.

3. Checklist for establishing the scope of EITI reporting

The multi-stakeholder group is required to agree the scope and the approach for publishing information about the extractive sector. The following checklist is intended to guide multi-stakeholder groups in establishing the scope of EITI reporting. Addressing these questions will help ensure that the multi-stakeholder group has an agreed position on the scope of the EITI Report prior to engaging the Independent Administrator and developing the reporting templates. The multi-stakeholder group is expected to document the process, so that the information is readily available during Validation. Multi-stakeholder groups are also encouraged to make scoping decisions publicly available to raise awareness and engage the stakeholders outside the multi-stakeholder group in these discussions.

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[2] Template Standard Terms of Reference for scoping studies: https://eiti.org/guidance-notes-and-standard-terms-reference#ToRScoping
[3] See the Template Standard Terms of Reference for Independent Administrator services in accordance with the EITI Standard:
https://eiti.org/guidance

Linking the scope of the EITI Report with workplan objectives

Has the multi-stakeholder group …

◯   reviewed the objectives and activities set out in the workplan to ensure that the scope of the EITI report is in line with the MSG's overall objectives?

◯   explored opportunities for addressing recommendations from previous EITI reports?◯ considered extending the detail and scope of the EITI report to issues such as revenue management and expenditure (5.3), discretionary social expenditures (6.1), ad-hoc sub-national transfers (5.2), beneficial ownership (2.5) and contracts (2.4)?

Timeliness of data

Has the multi-stakeholder group …

◯   agreed the fiscal period to be covered in the report?

◯   assessed whether it is feasible to include information on the legal framework, licensing, production and revenue allocations that is more recent than the financial data?

Disclosure of legal framework, licensing, production and revenue allocations

Has the multi-stakeholder group …

◯   reviewed the legal framework and fiscal regime governing the extractive industries (requirement 2.1)?

◯   developed a good understanding of the extractive resources and industries in the country and its contribution to the economy (requirements 3.1 and 6.3)?

◯   identified timely, comprehensive and reliable sources of information about production and exports (requirements 3.2 and 3.3)?

◯   investigated the role of any state-owned enterprises in the extractive sector, including the financial relationship with the government, quasi-fiscal expenditures, and government ownership in oil, gas and mining companies (requirements 2.6 and 6.2)?

◯   considered how extractive industry revenues, whether cash or in-kind, are recorded in the national budget (requirement 5.1), and opportunities for reporting on expenditures and revenue management as encouraged in requirement 5.3?

◯   investigated the timeliness and comprehensiveness of the available information about license holders and license allocations as per requirement 2.2 and 2.3?

◯   considered the feasibility of disclosing information about the beneficial owners of extractive companies operating in the country and explored the government's policy on beneficial ownership transparency (requirement 2.5)??

◯   explored the government's policy on contract disclosure and considered contract transparency as encouraged in requirement 2.4?

◯   explored to what extent the information listed above is already publicly available and whether the EITI Report could include links to the existing information?

○ explored ways how possible gaps in available data can be addressed to improve comprehensiveness, reliability and complementarity with existing systems, with a view to integrate data disclosure into government and company mechanisms, such as online cadastres, annual reports and websites? For information that is available but not public, has the multi-stakeholder group assessed what measures would be required in order to publish the data in government and company portals?

○ based on the above considerations, determined how each of the above points will be addressed in the EITI Report? Will the EITI Report include only a link to information available elsewhere, together with an assessment on data reliability, or a full or partial disclosure of the information? How will identified challenges and weaknesses be reported?

○ based on the above considerations, determined what information should be collected and what can be drawn directly from source and agreed on who should compile the information to be included in the EITI Report?

○ documented decisions taken on each of the points above?

Disclosure of revenues

Has the multi-stakeholder group …

○ reviewed the fiscal regime and other relevant revenue streams applicable to the extractive sector, with reference to EITI Requirement 4.1, including revenues from the sale of the government's share of production or oil, gas and minerals received in-kind (4.2), social payments (6.1), transit payments (4.4), infrastructure provisions and other barter deals (4.3)?

○ considered transactions between government entities and state-owned companies (requirement 4.5)?

○ identified whether subnational government entities receive direct payments from companies (requirement 4.5) and whether there exist mandatory or ad-hoc transfers between central and subnational levels of government (requirement 4.6)?

○ reviewed existing data from the relevant fiscal period to determine the materiality of these revenue streams (requirement 4.1.a)?

○ agreed a definition of materiality that stipulates which revenue streams are material and will be covered in the EITI Report (requirement 4.1.a)?

○ established payment and revenue thresholds where appropriate (requirement 4.1.a)?

○ identified the extractive companies that make material payments within the scope of the agreed material revenue streams (requirement 4.1.c)?

○ identified the government entities, including subnational levels, that collect material revenues within the scope of the agreed material revenue streams (requirements 4.1.c,d, 4.5, 4.6 and 5.2)?

○ explored to what extent the financial information listed above is already publicly available and whether the EITI Report could include links to the existing information? Explored

whether there are existing systems where revenue and payment data could be published beyond the EITI Report, such as online license cadastres, and government and company reports and websites?

○ documented decisions taken on each of the points above?

Data quality

Has the multi-stakeholder group …

○ investigated the prevailing auditing practices for company and government data (Standard Terms of Reference (TORs) for Independent Administrators[4])?

○ assessed whether the payments and revenues of companies and government entities are subject to credible, independent audit, applying international auditing standards (requirement 4.9.a)?

○ considered the types of assurances that can be provided by companies and government entities to ensure a credible reporting process of the financial data (Standard Terms of Reference (TORs) for Independent Administrators)?

○ documented decisions taken on each of the points above? Note that in accordance with the EITI Standard and Standard TOR for Independent Administrators, the MSG decisions related to data quality are subject to consultations with the Independent Administrator.

Confirming scoping decisions

Has the multi-stakeholder group …

○ reviewed the legal and regulatory framework with a view to identify and remove potential barriers to disclosure, in particular where there are confidentiality provisions in contracts or legislation (requirement 1.5.c.iii)?

○ documented the MSG's agreed positions on scoping considerations (requirement 1.4.b.viii and 1.5.c.ii), including for example summaries that can be made publically available and included in the EITI Report?

○ reflected the agreed scope in the Terms of reference for the Independent Administrator?

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[4] According to EITI Requirement 4.9.b.iii,"the multi-stakeholder group and the Independent Administrator are required to agree a Terms of Reference for the EITI Report based on the Standard Terms of Reference endorsed by the EITI Board". This means that EITI Reports need to address i the provisions in the TORs in order to comply with EITI Requirement 4.9.b.iii. Requirement 4.9.b.ii further states that "should the multi-stakeholder group wish to adapt or deviate from these agreed upon procedures, approval from the EITI Board must be sought in advance".

The Standard Terms of Reference for Independent Administrators are available here: https://eiti.org/guidance-notes-and-standardterms-reference#ToRIA

4. Further guidance

The Secretariat has produced guidance notes covering many of these topics, including **standard terms of reference for scoping studies.** These TORs can be useful both for multi-stakeholder groups that wish to undertake this work themselves and for engaging third parties to assist in the scoping process. Examples of scoping studies are also available from the International Secretariat.

- **EITI Standard**, in particular Requirements 3, 4 and 5: http://eiti.org/document/standard
- **Guidance notes**: https://eiti.org/guidance-notes-and-standard-terms-reference
- **Standard Terms of reference for scoping studies:**
  https://eiti.org/guidance-notes-and-standard-terms-reference#examplesscoping