



> Retouradres P.O. Box 20401 2500 EK The Hague

Mr. M. Robinson
Executive Director of the EITI
EITI International Secretariat
Radhusgata 26
0151 Oslo
Norway

**Ministry of Economic Affairs and
Climate Policy**

Bezuidenhoutseweg 73
2594 AC The Hague
P.O. Box 20401
2500 EK The Hague
www.rijksoverheid.nl/ez

Contactpersoon

Alex Harteveld
Advisor NL-EITI

T 00 31 (0)6 15 51 64 31
alex.harteveld@rvo.nl

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Dear Mr. Robinson,

The Netherlands Multi Stakeholder Group (MSG) has discussed the draft validation report of the EITI International Secretariat in its meeting October 6, 2021. We would like to thank Mr. Gordy and his team for an extensive and stimulating draft assessment. The MSG is pleased to see that the key achievements, as we see them, are acknowledged in the report. In general the MSG is also in agreement with the scorecard, as presented in Figure 1 of the draft report.

The MSG recognizes most of the recommendations in the draft report, as these are subjects that have been discussed in the MSG over the past years. The reconciliation process being established, the MSG wants to take a broader view to the role EITI Netherlands can fulfill, in particular where its contribution to the public debate is concerned. The draft validation report certainly offers tools for discussing the next steps.

General comments

Our general comments relate to two subjects:

1. The ambition of the Dutch MSG

The draft validation report rightly notes that implementation of the EITI Standard still shows some gaps, even where the minimum requirements are concerned. But the report also seems to suggest that the process could and should have been further advanced, for instance where it says: "The MSG has tended not to discuss other issues related to extractive sector governance [...] In developing EITI implementation in a silo from the broader context of extractive industry governance, the Netherlands' EITI has not led to tangible outcomes and impact." (page 9)

It is true that the focus in the past years has been on building and executing a robust reconciliation process and apart from that tangible outcomes and impact are very

limited. But that does not mean that other issues have not been discussed. The MSG minutes and our reporting clearly demonstrate that other subjects, like the energy transition, open data or systematic disclosure are on the agenda and that we are making progress in some areas, notably with the new website that will be online before the end of this year.

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2. The scope of the EITI Standard

The draft validation report raises questions about the interpretation of the (Requirements of the) EITI Standard. From the report it seems that the EITI International Secretariat reads certain requirements in a different way than we have done so far. We have, for instance, never perceived that the outcomes of the EITI implementation have to be aligned with public demands for information on the energy sector (page 9), especially where these demands seem to lie (partly) outside the scope of the EITI, like the energy transition or forward fiscal projections (apart from the question whether this is of great public interest).

For instance, with respect to the energy transition, the MSG considers opportunities to add value to the (already crowded) energy transition debate. And there are certainly topics - aligned with public demand - that directly relate to the extractive industries, like security of supply, the necessity and desirability of gas production in the Netherlands or the use of the subsurface and the existing infrastructure for the energy transition. But the energy transition debate is much broader and the MSG has not yet been able to define its role in the EITI context. The MSG wants to create more transparency and by doing this contribute to the public debate. But we have to be realistic about the impact we can have, also looking at the available resources.

The ambitions of the Dutch MSG start with fully meeting the requirements of the EITI Standard, so it is important that these requirements are crystal clear, if only for a constructive dialogue within the MSG. We suggest that the EITI International Secretariat looks into the definition of the requirements of the EITI Standard and where necessary makes these more specific, in order to avoid any confusion. We know that other supporting countries also struggle with the scope of the EITI implementation. We hope that the EITI Board Meeting on 20 and 21 October 2021 will give us more guidance.

Specific comments

- Requirement 1: The draft validation report states that there “are weaknesses in the three constituencies’ engagement in EITI implementation” (page 5). The report clarifies that we have to discuss how to improve this and at least comply with the requirements of the EITI Standard.
- Requirement 7.3.: The draft validation report states: “Besides the table in the EITI Report with the status overview of previous recommendations, there is no evidence of the MSG following up on lessons learned from reporting beyond the inclusion of the IA’s list of recommendations from the latest report in the Annual EITI progress report. There is no evidence of steps identified to follow-up on information gaps. The work plan does not refer to any activities that result from recommendations from the latest report. Stakeholders consulted explained that the process for follow-up on recommendations consisted of the National Coordinator following up with the MSG Chair, without a clear MSG mechanism for consistent follow-up on recommendations aside from ad hoc MSG discussions based on follow-up by the National Secretariat.” (page 13/14)

In our opinion the MSG discusses lessons learned each year, in particular when the

yearly progress report and the workplan for the new year are on the agenda. And this has certainly led to steps following up on information gaps, for instance with the new website and open data. Of course we are talking about small steps, but given the limited resources of the Dutch NL-EITI Secretariat, the Chair and the MSG-members our workplan aims for realistic targets.

- Requirement 4.1.: The draft validation report states that “it is unclear whether all companies making material payments to government participated.” (page 18) The NL-EITI report over the year 2018 shows that the reconciliation covers 95% of all payments to the government. In the upcoming reconciliation over the year 2019 this percentage will be up to 99%.
- Requirement 7.2.: The draft report states: “Beyond reviewing existing systematic disclosures of extractive data however, there is no evidence that NL-EITI has made efforts to ensure that data is accessible and responds to stakeholders’ needs, beyond publishing the EITI Reports online.” (page 11) We don’t think this is a fair assessment. The 2018 NL-EITI report makes more data from more companies available and more data accessible on a project level than the 2017 NL-EITI report. Furthermore, these data will be available on the new NL-EITI website before the end of this year, often in an open data format.
- Requirement 2.4.: In the draft validation report we read that there is a “lack of clarity over whether EBN’s “cooperation agreements” constitute contracts [...] in accordance with the definition of requirement 2.4.d.” (page 27). We would like to point out that the “cooperation agreements” do not provide any terms attached to the exploitation of oil and gas, as the definition in the EITI Standard requires, so there can be no lack of clarity. This does of course not change the fact that more transparency with respect to the relationship between EBN, the license-holders and the State, for instance disclosure of the cooperation agreements, would be welcomed by some stakeholders. Former Minister Wiebes of the Ministry of Economic Affairs and Climate Policy has, in the context of a parliamentary debate, said that these agreements should be revised, so they could be made public. The legal possibilities to disclose the agreements are presently under investigation by EBN and NOGEPa.

In light of the foregoing we think the next section of the draft report should be reviewed: “Despite frequent parliamentary debate on the issue of confidentiality of cooperation agreements between EBN and oil and gas license-holders, NL-EITI has not made progress in working with stakeholders including EBN and industry to plan a transition to the full disclosure of such contracts.” (page 5).

- Requirement 2.6.: In the context of requirement 2.6 the draft report is referring to “government transfers to EBN” (page 34) as follows: “Concerning fund transfers between the State and the SOE and third-party financing, the EITI Report does not clarify whether government transfers to EBN are applicable for exploration, drilling, and transportation phases of the oil and gas value chain, or only for production, and whether sovereign guarantees are granted to loans contracted by EBN”. We would like to point out that there are no government transfers to EBN for exploration, drilling and transportation phases nor for production. Furthermore there are no sovereign guarantees granted to loans contracted by EBN.
- Requirement 6.2.: The concern of some stakeholders over EBN expenditures also leads to the conclusion in the draft validation report that “accountability in the management of extractive-funded expenditures by EBN on behalf of the government [...] is still far from being fulfilled”. (page 35). We don’t recognize this. EBN does not

pay quasi-fiscal expenditures outside the national budget. This is further evidenced by a review of the 2018 annual report of EBN.

- Requirement 4.2.: On page 33 of the draft validation report it says: “The situation is similar in the smaller gas fields, where the state’s share is sold to the operator, with EBN subsequently receiving its share of the proceeds in cash.” This is not correct. EBN receives gas produced from the smaller fields in kind and sells this to GasTerra, as set out in the 2018 NL-EITI report.
- Requirement 4.6.: Subnational payments have not been part of the reconciliation process, because of the materiality and the disproportionate burden this would put on the many provinces, municipalities and water boards. The amounts paid by oil and gas companies however will be unilaterally reported in the upcoming NL-EITI reports over the years 2019 and 2020. To say that requirement #4.6 has not been met (page 47) therefore seems a bit harsh and does not give consideration to the information included in the report and the efforts preceding this.

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Please do not hesitate to contact me, should you have any questions or require further information.

Yours sincerely,

Mr. J. Haenen,
Chair of the NL-EITI MSG



Extractive Industries Transparency Initiative
The Netherlands