

International Secretariat response to MSG comments on draft Validation report (November 2021)

Dear NL-EITI MSG,

Many thanks for your comments on the draft assessment for the Netherlands' 2021 EITI Validation. We appreciate the thorough comments and the structured approach to the input to the final Validation report.

Please find below the International Secretariat's response to the MSG's feedback on the draft assessment. The final Validation report has been communicated for information, we hope you will appreciate the way in which your comments have been addressed in the final assessment. We remain at your disposal to discuss this feedback in more detail. Many thanks for your engagement throughout this Validation process.

Best regards,
Alex, Christina, Chris, Hugo and Riley

1. General comments on the ambition of the Dutch MSG

The MSG's comments are well noted. The section on **page 9** of the Validation report has been revised to acknowledge the MSG's discussion on other extractive industry governance issues beyond EITI reporting, such as the energy transition and open data, as part of its regular meetings.

2. General comments on the scope of the EITI Standard

The MSG's comments are well noted. The section on **page 9** of the Validation report to reflect the MSG's initial ambitions for EITI implementation, as well as the MSG's continued discussions about a potential role in the energy transition debate.

At a general level, both the comments under points 1 and 2 highlight a difference in understanding of the scope of the EITI Standard which is reflected in how the Secretariat has evaluated the MSG's work in positioning the EITI and the outcomes achieved. Indeed, the new Validation model gives much more importance to the **relevance of the EITI** – both in aligning it with relevant country/sectoral priorities, and monitoring and assessing outcomes and impact.

The Board deliberately considered these issues when revising the Validation model, placing more weight on ensuring the EITI is relevant and has an impact. While the requirements of the 2019 EITI Standard have remained unchanged, the new Validation model includes an assessment of each EITI Requirement focusing both on the technical aspects of the requirement as well as the broader objective. The Validation Guide 2021 defines the underlying objectives of *all* requirements. The International Secretariat stands ready to support the MSG to explore how the EITI can be made more meaningful in the Dutch context, to respond to public demand for information on extractive industry governance.

3. Specific comments

a. Requirement 1:

The MSG's comments are well noted.

b. Requirement 7.3:

The MSG's comments are well noted. The section on [pages 13-14](#) of the Validation report have been revised to acknowledge the MSG's review of lessons learned from implementation as part of its discussion of the annual progress report and EITI work plan. Reference is also included to the MSG's aims to agree realistic targets as part of the work plan, in light of limited resources available for EITI implementation.

c. Requirement 4.1:

The MSG's comments are well noted. The sections on pages 18 and 39 of the Validation report has been revised to acknowledge the MSG views, although we believe there may have been a typo in the MSG's statement that the reconciliation coverage of the 2018 EITI Report was 95%, when the report itself notes that the coverage was 85% of government extractive revenues (table 3, p. 51 of the 2018 Report. It was the 2017 Report that achieved a coverage of 95%). Nonetheless, it does appear that there were companies making material payments to government (i.e. above the EUR 100,000 materiality threshold) were not included in the scope of reconciliation of the 2018 EITI Report. Our revisions are placed in the context of one such example (see [page 39](#) of the final Validation report).

d. Requirement 7.2:

The MSG's comments are well noted. The section on [page 11](#) of the Validation report has been revised to acknowledge the MSG's efforts and plans to improve the accessibility of EITI data, not least through the new website planned to be launched before the end of 2021. While more information is available in the 2018 Report, it is nevertheless "locked" in the PDF. This requirement specifically looks at the provision of information in open format.

e. Requirement 2.4:

The MSG's comments are well noted. The section on [page 26](#) of the Validation report has been revised to reflect the MSG's views regarding the content of cooperation agreements and ongoing work by EBN and NOGEPa to assess the feasibility of public disclosure of these agreements in future. A comprehensive description of the content of cooperation agreements still appears to be lacking in the public domain to justify the MSG's position that cooperation agreements do not constitute 'contracts' in the definition of EITI Requirement 2.4.d. More broadly, a comprehensive list of all active extractive licenses and contracts with specific links to published documents also does not yet appear to be available in the public domain. The section on page 5 of the Validation report has been revised to acknowledge the MSG's recent work on this issue.

f. Requirement 2.6:

The MSG's comments are well noted. The section on [page 35](#) of the Validation report has been revised to reference the MSG's confirmation about the lack of government transfers to EBN and the lack of sovereign guarantee on EBN's third-party financing. The assessment of Requirement 2.6 has been upgraded to 'fully met' in the final Validation report.

g. Requirement 6.2:

The MSG's comments are well noted. The section on **page 35** of the Validation report has been revised with reference to the MSG's confirmation that EBN does not undertake any quasi-fiscal expenditures. The reference to the lack of evidence of quasi-fiscal expenditures in EBN's annual report, which we assume is based on its financial statements audited to international standards, supports the upgrade in the assessment of Requirement 6.2 to 'not applicable' in the final Validation report.

h. Requirement 4.2:

The MSG's comments are well noted. The section on **page 33** of the Validation report has been revised to indicate that EBN does in fact collect in-kind revenues of natural gas from smaller gas fields. While the 2018 EITI Report provides the value of proceeds of those sales that are transferred to the state, it does not appear to provide the volumes of in-kind natural gas collected by EBN nor the volumes sold by EBN to GasTerra. Therefore, the assessment of Requirement 4.2 has been revised to 'mostly met' in the final Validation report.

i. Requirement 4.6:

The MSG's comments are well noted. The section on **page 47** of the Validation report has been revised to reference the MSG's argument that direct subnational payments are not material as well as its plans for the 2019-2020 EITI Report to include unilateral disclosure by extractive companies of their direct subnational payments. However, given the absence of publicly available data demonstrating that direct subnational payments in 2018 were below the EUR 100,000 materiality threshold set by the MSG, there still appear to be gaps in fulfilling the objective of the requirement (which is that stakeholders gain an understanding of benefits that accrue to local governments and to strengthen public oversight of subnational governments' management of their internally generated extractive revenues). Nonetheless, the assessment of Requirement 4.6 has been revised to 'partly met' in the final Validation report.