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LEVY MWANAWASA REGIONAL CENTRE FOR DEMOCRACY AND GOOD GOVERNANCE

CENTRE RÉGIONAL LEVY MWANAWASA POUR LA DÉMOCRATIE ET LA BONNE GOUVERNANCE

Addressing Challenges of Natural Resource Governance in the Great Lakes Region

Status of the implementation of the Extractive Industries Transparency Initiative (EITI) in ICGLR Member States

September 2016

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

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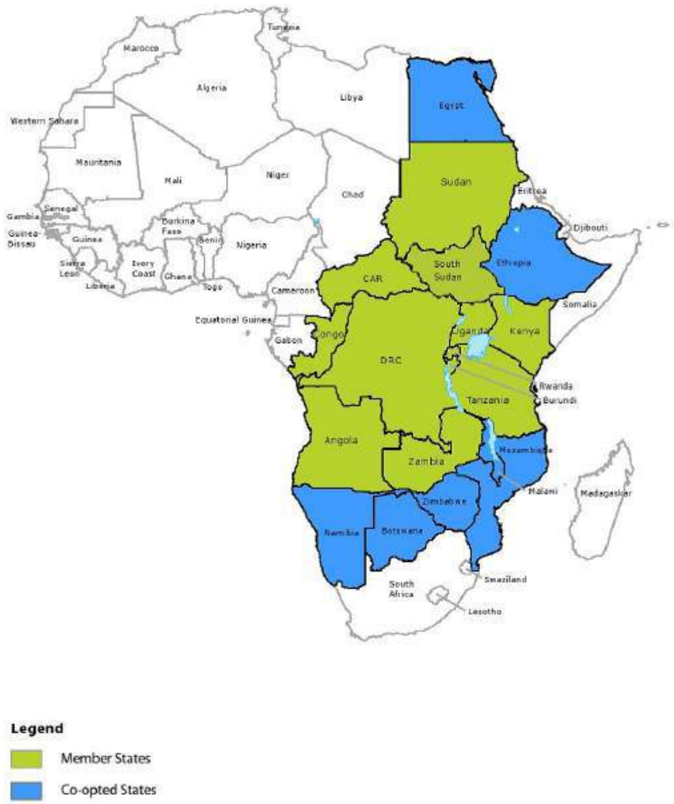

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Addressing Challenges of Natural Resource Governance in the Great Lakes Region

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September 2016

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ACRONYMS

2D	Two-dimensional
3T	Tin, Tantalum, Tungsten
AGA	Anglo Gold Ashanti
ASM	Artisanal and small-scale mining
BTC	Belgian Technical Cooperation
CAR	Central African Republic
CNOOC	China National Offshore Oil Corporation
CSO	Civil society organization
DFID	Department for International Development
DGDA	General Customs and Excises Directorate
DGDDI	General Customs and Indirect Taxes Directorate
DGF	Democratic Governance Facility
DGI	Tax General Directorate
DGID	General Tax and Domains Directorate
DGRAD	General Directorate for Administrative and Domain Revenues
DRC	Democratic Republic of the Congo
EITA	Extractive Industries Transparency Alliance
EITI	Extractive Industries Transparency Initiative
GIZ	Deutsche Gesellschaft für International Zusammenarbeit (German International Cooperation Agency)
GRA	Global Rights Alert
ICGLR	International Conference on the Great Lakes Region
LMRC	Levy Mwanawasa Regional Centre for Democracy and Good Governance
MDA	Mining Development Agreements
MoU	Memorandum of Understanding
MP	Member of Parliament
MSG	Multi-Stakeholders Group
NGO	Non-Governmental Organisation
OECD	Organization for Economic Co-operation and Development
OLUCOM	Anti-Corruption and Anti Economic Mismanagement Watch
PROMINES	Project to Support Mining Sector Governance in the DRC
PSA	Production Sharing Agreement
PTA	Potential Target Area
PWYP	Publish What You Pay
RNIR	Regional Initiative against the illegal exploitation of Natural Resources
SARW	Southern Africa Resource Watch
SEC	US Securities and Exchange Commission
SNPC	Congo National Oil Authority
TEITI	Tanzania Extractive Industries Transparency Initiative
TRE	Tanzania Royalty Exploration
UNDP	United Nations Development Programme
VAT	Value Added Tax
ZEC	Zambia Extractive Industries Transparency Initiative Council
ZEIW	Zambia Extractive Industries Watch

FOREWORD BY THE EXECUTIVE DIRECTOR

The Great Lakes Region has abundant natural resources yet there is increasing high level of poverty and unemployment. Having realized the intractable relationship between natural resources and conflicts in the Region, Member States of the International Conference on the Great Lakes Region (ICGLR) are committed to addressing this challenge. In 2010, the Special Summit of ICGLR Heads of State and Government adopted the Regional Initiative on the Fight against the Illegal Exploitation of Natural Resources (RINR). This is the Action Plan to operationalizing the Protocol on the Fight against the Illegal Exploitation of Natural Resources contained in the 2006 *Pact on Security, Stability and Development* in the Great Lakes Region that Member States committed to implement effectively.

The RINR seeks to curb the illegal exploitation of natural resources in the Region by implementing six tools that are independent and yet complement each other. These tools are: (1) the regional certification mechanism, (2) the harmonization of national legislations, (3) the regional database on minerals flows, (4) the formalization of the artisanal mining sector, (5) the Extractive Industries Transparency Initiative (EITI), and (6) the whistle-blowing mechanism. The commitment to implement the RINR was reinforced during the 2014 Luanda 5th ICGLR Ordinary Summit when the Heads of State and Government called for accelerated implementation of the six tools and in particular the EITI (tool five) by Member States.

In line with its mandate of monitoring the domestication and implementation of ICGLR Protocols by Member States, the Levy Mwanawasa Regional Centre for Democracy and Good Governance, the technical and scientific organ of the ICGLR in collaboration with the Southern Africa Resource Watch (SARW) and with support from ICGLR-GIZ Programme conducted an operational research to assess the status of implementation of EITI in the 12 ICGLR Member States.

This research report on the status and challenges of implementation of EITI in ICGLR Member States unravels the process and benefits for implementing the tool. It further presents good practices and highlights challenges being faced by countries currently implementing the initiative. It also identifies impediments that are causing other countries not to join the initiative that they adopted as part of the RINR. Notwithstanding challenges that come with implementing the initiative, both complaint and non-complaint countries recognize EITI as a tool for promoting revenue transparency of natural resources in the region if implemented effectively.

This report whose preparation benefited from intensive consultations with experts on natural resource including Member State representatives of governments, civil society organizations (CSOs) and the private sector mainly the Chambers of Mines identified policy options to be submitted to the ICGLR decision making organs and other key stakeholders. We hope that the Report will strengthen evidence-based policy making in implementing the Regional Initiative on Natural Resource as well as contribute to addressing challenges in the promotion of transparency and accountability in natural resource governance.

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September 2016

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This Research Report has been made possible through support of partners of the Levy Mwanawasa Regional Centre for Democracy and Good governance (LMRC) to undertake evidence-based research on issues related to security, governance, and economic development so as to inform formulation and implementation of relevant policies and programmes in the Region. The Regional Centre is hereby extending its gratitude to the following key stakeholders.

First and foremost, the Regional Centre extends its gratitude to ICGLR National Coordinators who facilitated appointments with key stakeholders in their respective countries. Many thanks to various stakeholders (representatives of governments, civil society organizations, private sector particularly the Chambers of Mines) who shared their experiences, views and challenges in implementing the Regional Initiative on Natural Resources (RINR), and the EITI in particular. For without them, this report would not have been valuable.

Second, the Regional Centre is indebted to the ICGLR-GIZ Programme of German Development Cooperation, co-funded by the European Union, for its financial support that facilitated not only the recruitment of Southern Africa Resource Watch (SARW) to assist in conducting the study but also the whole process including publication of the Research Report. Third, thank you to our colleagues of the Technical Unit on Natural Resources under the Democracy and Good Governance Programme of the Conference Secretariat and GIZ Team who contributed to the Study Launch Workshop during which the methodology and questions for interviews were finalized. A special thank you goes to Gerard Nayuburundi, Henri Gebaur and Tim Scholoesser for their close collaboration and inputs during the entire process.

Finally, we wish to thank consultants from SARW, including Dr. Claude Kabemba, Mr. Georges Mukuli and Mr. Edward Lange who contributed in conducting the assessment in the company of ICGLR LMRC representatives namely Dr Frank Okuthe and Mr. Pamphile Sebahara.

EXECUTIVE SUMMARY

The Extractive Industry Transparency Initiative (EITI) is one of the six tools of the ICGLR Regional Initiative on the fight against the illegal exploitation of natural resources in the Great Lakes region adopted in December 2010 by ICGLR Special Summit of Heads of State and Government held in Lusaka, Zambia. The ICGLR was mandated to foster EITI implementation in its Member States through the promotion of peer-learning. The EITI is an international standard that promotes worldwide revenue transparency in the extractive industries (mining, oil and gas). The EITI is also a process through which stakeholders, through periodic reports put together by independent administrators, avails to populations the declarations on state revenues and contextual information coming from natural resource exploitation such as taxes, signature bonus, production bonus, royalties, dividend and other taxes. Out of the twelve ICGLR Member States, five - Democratic Republic of Congo, Central African Republic, Republic of Congo, Tanzania and Zambia - have joined and are implementing the EITI. Central African Republic has since 2013 been suspended from the initiative following political instability in the country. The remaining seven - Angola, Burundi, Kenya, Rwanda, Uganda, South Sudan and Sudan are yet to join, but some (Uganda, Burundi and South Sudan) have expressed strong interest. The EITI reports published by the five countries show the traceability of these revenues and their immediate consequences are the increase of state profits and the adoption by governments of accountability principles.

This operational research shows that all five implementing countries joined the EITI before the ICGLR Lusaka 2010 Heads of State Special Summit. No country so far has embarked on the implementation of the EITI as a result of the decisions taken by the Heads of State in Lusaka. The reasons for the seven countries not implementing the EITI are many but show some similarities. These include lack of significant industrial minerals sector in the country, lack of political will, weak advocacy from civil society, and most notably, poor understanding of the benefits of the EITI. However, the discussions held with the different stakeholders suggest that these hindrances can be resolved.

This report is a situation analysis and needs assessment of the EITI in the region[1]. It identifies good practices and highlights challenges for the consolidation of the EITI in implementing countries. It also identifies obstacles that prevent countries from joining. It provides a country-by-country portrait and recommendations based on peer-learning. Judging from a number of benefits such as full publication of revenues, publication of mining contracts, the drafting of the law on transparency and fiscal responsibility as well as the enhanced missions of the Court of Audits and General Secretariats of Finances, it is clear that the EITI if properly implemented, can improve resource governance in compliant countries. This research has established that for most implementing countries the principle of transparency is no longer voluntary but it is becoming a compulsory norm for the country and its industrial partners. The EITI is therefore an important governance tool for countries with mineral and energy resources, especially those that are experiencing poor governance and those whose extractive sector is still in its early stage. The EITI imposes a culture of accountability, fights corruption, improves government revenue collection, and builds trust among key agents of change—governments, companies and civil society. The progress made by implementing countries in the area of natural resource governance as well as identification of challenges and obstacles faced by other ICGLR Member

[1]Data and information in this Report are updated up to March 2015.

States gave opportunity to identify policy options which should be used both to strengthen EITI in the implementing countries and to encourage others to become part of the process.

Key learning points emerging from this study include:

- In the CAR, the creation of 16 EITI regional sub-committees has helped to decentralise the issue of revenue transparency to local levels. The EITI has also created space for parliament to get involved in overseeing extractive industries revenue. The EITI has triggered the creation of a special line in the national budget just for the extractive industries. The National Council for EITI is chaired by the Prime Minister and the Central Bank, and parliament is represented as well. Civil society is widely represented, including labour, religious denominations, the public and private press, the human rights observatory and lawyers.
- In the DRC, the EITI has facilitated the integration of transparency principles into the new draft mining code as well as in other laws that govern the natural resources sector. It has also helped improve relations between the three key groups— government, civil society and companies. The composition of the multi-stakeholder group has become a model used in other public reform processes, such as the process of reviewing the mining code and the drafting of the hydrocarbon code. The publication of contracts involving natural resources has become compulsory.
- In the Republic of Congo, the government has produced a draft law on fiscal transparency and accountability. The country publishes all the information related to extractive industries, including contracts. Maybe the greatest impact has been parliament consulting the figures in the EITI report before the adoption of the national budget. The participation of all government services responsible for collecting taxes and royalties in EITI-related activities is a demonstration of the positive impact that the EITI has had on improving revenue governance.
- In Tanzania, the country's initial approach of consulting stakeholders before taking the decision to join the EITI is a useful learning point for other countries that are considering joining. The approach contributed to the rapid and smooth implementation of the EITI, and helped to increase a sense of ownership. Even if challenges are still there, both in terms of setting up legislation and effective implementation, Tanzania has shown that with sufficient political will the EITI can be a useful tool to advance transparency and increase government revenues.
- In Zambia, the EITI has improved access to information for many key stakeholders and increased the level of debate on the extractive industries. Zambia’s effort to expand the EITI to forestry is a demonstration of governments' increasing confidence in the initiative. Zambia has made progress in its efforts to legislate the EITI, and draft legislation is ready to be signed into law.

INTRODUCTION

Background and objectives of the study

This report is the culmination of a study entrusted to the Southern Africa Resource Watch (SARW) by the Levy Mwanawasa Regional Centre for Democracy and Good Governance (LMRC) of the International Conference on the Great Lakes Region (ICGLR), with technical and financial support from the German Development Cooperation Programme "Support to the ICGLR" implemented by GIZ and co-funded by the EU. The research was coordinated by the LMRC as part of its mandate to monitor and follow up on the implementation of the ICGLR *Pact on Security, Stability and Development in the Great Lakes Region* (2006), specifically the implementation of the Regional Initiative on Natural Resources (RINR).

The main objective of the study was to take stock of the implementation of the Extractive Industries Transparency Initiative (EITI) within ICGLR Member States, identifying good practices and challenges that the ICGLR will use for setting up a regional EITI peer learning platform[2].

Other objectives of the study included:

- The evaluation of the contribution of EITI[3] implementation in Member States as a tool of the RINR.
- The production of an evaluation report focusing on the overall situation of EITI implementation in ICGLR Member States, the status and the interest of each Member State regarding the implementation and the value of the EITI standard (the experiences gained, the advantages and disadvantages; the viewpoints of the government, civil society and extractive industry companies).

The recommendations from this study will contribute to the enforcement of decisions taken by both the ICGLR Heads of State and Government Special Summit held in Lusaka, Zambia in 2010, and the2014 Ordinary Summit held in Luanda, Angola. Regarding the Lusaka Special Summit, the Heads of State and Government approved six tools developed by the ICGLR Secretariat for fighting the illegal exploitation of natural resources: (1) the regional certification mechanism (2) the harmonisation of national legislation, (3) the regional database on minerals flows, (4) the formalisation of the artisanal mining sector, (5) the promotion of EITI, and (6) the whistle-blowing mechanism.

At the 2014 Luanda Ordinary Summit, the ICGLR Heads of State and Government encouraged the acceleration of the implementation of the six tools and requested those Member States that have not yet done so to accede to the EITI process. It is worth mentioning that the Heads of State from the region have also made commitments in the Addis-Ababa Peace, Security and Cooperation (PSC) Framework for the DRC and the region, in which the implementation of EITI for non-members and the reinstating for suspended countries has been declared as a benchmark for strengthening regional cooperation, with special consideration of the exploitation of natural resources.

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[2]The World Bank and the EITI International Secretariat documents initiatives on the best EITI practices. See https://eiti.org/node/3666

[3]PROMINES has just launched a project evaluating EITI implementation in the DRC through the communiqué AMI N° 43/UEP-PROMINES/10-2014 of October 16, 2014 in connection with a study on the implementation, the structure and the impact of the EITI process in the Democratic Republic of Congo.

This study contributes to the implementation of the fifth tool of the RINR, paving the way for ICGLR to support peer-learning between Member States on EITI implementation.

Methodology

The research was launched in August 2014 during a technical meeting organised by ICGLR Levy Mwanawasa Regional Centre (LMRC) and ICGLR-GiZ Programme on 5th and 6th August 2014 in Bujumbura, Burundi. During that workshop, ICGLR LMRC, SARW, and GIZ jointly finalised the terms of reference, the general questionnaire, the list of resource-persons to be interviewed and the programme of the study. Notification letters for the study field missions were dispatched to the respective ICGLR National Coordination Mechanism Offices. The field research was conducted by the ICGLR-LMRC in collaboration with SARW. The ICGLR National Coordinators provided key support for the success of this mission on the ground by securing appointments for interviews.

The study mainly used interviews and documentary techniques to collect information. Interviews were conducted with various groups of stakeholders representing governments, civil society, private sector, and development partners. Some interviews were conducted face-to-face, and others were conducted over the telephone for countries where the researchers could not travel. In total, 87 individuals were interviewed. In terms of documentation, various EITI conciliation reports, reports from civil society organisations, the EITI International Secretariat website, government decrees and other deeds and official documents were used and analysed.

A joint mission of ICGLR LMRC and SARW visited nine ICGLR Countries, namely: Burundi, Rwanda, Kenya, Uganda, DRC, Republic of Congo, United Republic of Tanzania and Zambia from 6 to 27 August 2014 and Angola in October 2015. Relevant documents were collected during these visits. The SARW team conducted telephone interviews with stakeholders in the Central African Republic, South Sudan and Sudan. Finally, a draft research report and recommendations were presented at a meeting of ICGLR Regional Committee on Natural Resources held on 20th March 2015 in Nairobi, Kenya, who validated it after discussion and inputs. This is why data and information contained in the Report are updated up to March 2015. It must be noted that the findings on the status of EITI in Angola will be updated and shared after the Inter-Ministerial Commission set up in December 2014 to assess advantages and disadvantages of the EITI, as well as the opportunity for the country to join the Initiative has made its recommendations public.

I. UNDERSTANDING THE EITI PROCESS AND BENEFITS FOR ICGLR MEMBER STATES

Establishment of the EITI

The Extractive Industries Transparency Initiative (EITI)[4] was first announced at the World Summit for Sustainable Development in Johannesburg (South Africa) in 2002 (the Earth Summit). The EITI was founded on the recognition that natural resources such as oil, gas and mineral resources can contribute to raising the standard of living across the globe. “Paradoxically, however, lack of transparency in the management of these resources has often contributed to conflict linked to weak governance of natural resource, corruption and poverty.”[5]The initiative was created to fight corruption and reduce conflicts linked to weak governance of natural resources through the promotion of open and accountable management of natural resources.

Objectives of the EITI

EITI is an international mechanism which aims at improving transparency of revenues from extractive activities in countries that produce oil, gas and mineral resources through the disclosure of taxes and other payments made by companies operating in the extractive sector and through the disclosure by government bodies of revenues received from these companies. The mechanism aims to reduce the risk of embezzlement of revenues from the extractive industries.

Becoming a member

There are countries that have expressed their intention to join but are still not ready to do so. These countries are important to the EITI because they allow for further engagement, and provide an understanding of the reasons for which they are unable to make full commitment.

Countries wishing to implement the EITI Standard must submit candidature applications to the EITI Board, which decides on each country’s status. The EITI standard sets out four steps that need to be satisfied in order to become an EITI candidate country:

- The government is required to issue an unequivocal public statement of its intention to implement the EITI;
- The government is required to appoint a senior individual to lead the implementation of the EITI;
- The government is required to commit to work with civil society and companies, and to establish a multi-stakeholder group to oversee the implementation of the EITI;

[4]The EITI Board oversees the EITI and comprises an elected chair and members representing resource-rich countries, supporting countries, international and domestic oil, gas and mining companies, civil society representative and investor representatives. International ddevelopment agencies such as the World Bank, the Africa Development Bank (AfDB) and the International Monetary Fund support the EITI. See The World Bank Handbook (2013), *Implementing the EITI for Impact* by Anwar Ravat and Sridar P Kannan (editors).

[5], Extractive Industries Transparency Initiative, African Development Bank. http://www.afdb.org/en/topics-and-sectors/initiatives-partnerships/extractive-industries-transparency-initiative/. Accessed 25 January 2015.

- The multi-stakeholder group is required to maintain a current work plan, fully budgeted and aligned with the reporting and validation deadlines established by the EITI Board.

The “sign-up” steps are described in detail in the Requirements 1.1 – 1.4 of the EITI standard.[6]

The new EITI standard makes provision for:

- **Candidate countries**: countries which have publicly committed to implement the EITI, but which have not yet gone through all of the required stages. Being a candidate country is a temporary status, and the aim is to move to full EITI compliance in due course.
- **Compliant countries**: countries that meet all EITI[7] standard requirements.
- **Suspended countries**: countries whose status of compliant country or candidate country has been temporarily suspended.[8]

When a country has been admitted as an EITI candidate, it works to become a fully EITI-compliant country. This involves the appointment of a “credible and independent” administrator for communicating and disseminating information on payments for oil, gas and mineral revenues from companies to the government in line with the standards.[9] Candidate countries are allowed a reasonable amount of time (often two years) to become fully EITI-compliant.

The EITI establishes an international standard enabling companies to publish how much they pay to governments and the governments to disclose how much they receive. With good governance, the exploitation of these resources can generate significant revenues for economic development. However, when poorly managed, resource extraction accelerates poverty, corruption and discontent, which are the forerunners of conflicts.

EITI benefits for ICGLR member states

EITI implementation comes with a range of benefits to governments, companies and civil society as outlined below:

For Governments: governments benefit from increased international credibility by implementing an internationally accepted standard that promotes transparency in the management of natural resources. EITI implementation helps improve the investment climate because it clearly signals to investors that the country is committed to the principles of good governance and transparency. The EITI also strengths government’s capacity regarding natural resource management—good governance can help mitigate the “resource curse” and foster increased economic and political stability. It also helps to increase state revenues by reducing tax evasion and funds embezzlements. Consequently, the government has increased revenues to invest in other key sectors of the economy. This in turn helps to prevent the conflict that affects the oil, gas and mining sectors. The commitment to reconcile payments made by companies to governments through a multi-partite procedure, demonstrates commitment to good governance.

[6] How to become an eligible country, *Guide on admission process to EITI, EITI International Secretariat*, June 2013.
[7] EITI International Secretariat’s, 2013 *Follow up Report: Beyond EITI*, Oslo 2013, p10.
[8] http://eiti.org/document/standard
[9] See :Code of conduct for national structures: www.eiti.org/document/code-of-conduct

For companies: political instability caused by opaque governance is a clear threat to investments. In extractive industries, where investments are capital-intensive and dependent on long-term stability to generate revenues, reducing such instability is beneficial for business. Transparency creates a stable environment for companies' investment. By publishing what they pay to the government, companies are protecting investment in the country. Companies' commitment to the principles of EITI signifies a commitment to good governance and transparency, which creates an improved investment climate.

For civil society: increased information is available in the public domain on revenues from extractive industries that governments collect and manage on behalf of citizens. The EITI creates space for dialogue amongst various stakeholders –government, civil society and the companies. Dialogue is of particular importance in high-conflict and corrupt risk-areas where oil, gas and minerals are exploited. The EITI empowers citizens to hold their governments and companies to account by monitoring whether the latter are paying what they should to government, and whether the former are receiving and managing properly what they receive in ways that "support the necessary investments to the benefit of the population and the nation's sustainable development".[10]

The EITI Standard

The EITI has shown flexibility and the ability to adapt and to reform. A new standard was approved by the EITI in 2013 and it replaces the EITI rules published in 2011. According to Clare Short, Chair of the EITI Board, the new standard "encourages more relevant, more reliable and more usable information, and better linkage to wider reforms."[11]

Table 1: The new EITI standard[12]

The key changes in the EITI standard are the following: 1. Effective oversight by the multi-stakeholder group. 2. Timely publication of EITI Reports. 3. EITI reports that include contextual information about the extractive industries. 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. 5. A credible assurance process applying international standards. 6. EITI reports that are comprehensible, actively promoted, publicly accessible, and that contribute to public debate. 7. The multi-stakeholder group is to take steps to act on lessons learned and to review the outcomes and impact of EITI implementation.

Increased EITI relevance

The EITI standard is based on the need to entrench the implementation of the national dialogue on natural resources governance. Each country, through its multi-stakeholder group, is required

[10] Secrétariat technique, ITIE/RDC, *Bien connaître l'ITIE, Kinshasa*, décembre 2012, p8-9.
[11] EITI International Secretariat. The *EITI Standard*. EITI website: https://eiti.org/files/English_EITI%20STANDARD_11July_0.pdf
[12] EITI International Secretariat, *The EITI Norm.* July 11th 2013.

to agree on a work-plan with clear objectives, outlining the activities linked to national policies and reforms. The multi-stakeholder groups are encouraged to clearly specify the achievements that they expect from EITI and how they intend to reach them, and to indicate how they plan to measure results and determine whether the objectives have been reached in their countries.

Enhanced use and clarity of EITI reports

Reading and interpreting EITI reports containing information on government revenues coming from the exploitation of natural resources have previously often proven difficult. These documents often require of the reader the mastery of technical knowledge on the extractive sector and on government accounts. The EITI Board has agreed that EITI reports should include explanatory information on the contexts of countries concerned. The EITI standard stipulates that these reports should include information on the contribution of the extractive sector to the economy, a description of the taxation regime, an overview of the relevant legislation and an outline of the inclusion of extractive revenues in national budgets.

The EITI standard also requires that the country guarantees the disclosure of figures related to the production, the ownership of licences, and state shareholding in the extractive sector. The multi-stakeholder groups are invited to examine issues touching on the actual ownership of concessions and the transparency of extractive contracts.

Finally, countries are encouraged to make their data electronically accessible to citizens, journalists and analysts who can use them to examine, visualise and compare them to other sources of information.

Production on a regular and timely basis of exhaustive and reliable data

EITI requirements have been reviewed in order to better underscore the importance of the regular and timely production of exhaustive and reliable information. It is now required that EITI reports contain the full disclosure of extractive revenues collected by the state. Publications per project are also required, in line with the US Stock Exchange Commission (SEC) and with future EU requirements. The standard also includes provisions related to the building of infrastructure, barter agreements, social expenses, transit and transport payments, and international payments and transfers related to the extractive industries. In addition, publication procedures have been enhanced, now requiring that the independent administrator and the multi-stakeholder group evaluate current audit practices and set quality assurance procedures for the data to be disclosed in EITI reports. These provisions aim to help EITI reports to provide a comprehensive picture of the state extractive revenues and better guarantee the reliability of data.

Improved validation process

In order to improve quality, effectiveness and coherence of validations, validators will be recruited and their mission will be managed by the International Secretariat, and not by EITI implementing countries. This will *inter alia* help multi-stakeholder groups to focus on EITI implementation. The frequency of validations will be quite high, especially as compliant countries will need to get revalidated every three years instead of the current five-yearly revalidation. The EITI Board is currently designing guidelines for validators to ensure that innovative approaches are adopted by countries to enable the EITI to achieve its objectives and deliver impact on the ground.[13]

[13] Secrétariat international de l'ITIE*. Rapport de suivi de l'ITIE 2013 : Au-delà de l'ITIE*, Oslo, p.8.

II. EITI-COMPLIANT COUNTRIES

There are currently four EITI compliant countries in the ICGLR—the Republic of Congo-, the Democratic Republic of Congo, the United Republic of Tanzania, and Zambia and Central African Republic has been suspended.

United Republic of Tanzania

Context of natural resources[14] in Tanzania

Tanzania's mining sector is dominated by industrial gold mining. It is the fourth largest gold producer in Africa. The minerals in Tanzania are classified in five groups:

- Metallic minerals group –gold, iron ore, nickel, copper, cobalt and silver;
- Germstone groups –diamonds, tanzanite, ruby, garnets; etc.
- Industrial minerals group – limestone, soda ash, gypsum, salt and phosphate;
- Energy-generating minerals like coal and uranium; and
- Construction minerals like gravel, sand and dimension stones.

Table 2: Confirmed mineral reserves in Tanzania

Type	Amount
Gold	2 222 tonnes[15]
Nickel	209 million tonnes
Copper	13.65 million tonnes
Iron Ore	103.0 million tonnes
Diamond	50.9 million ounces
Tanzanite	12.60 tonnes
Limestone	313.0 million tonnes
Soda ash	109 million tonnes
Gypsum	3.0 million tonnes
Phosphate	577.04 million tonnes
Coal	911.0 million tonnes

Source:The Bomani Report, 2008[16]

Recently, the country discovered uranium. These minerals are spread throughout the country.

From independence in 1961 to early 1990s, the mining sector in Tanzania did not attract much investment compared to other sectors. Most mines were those started by colonialists and state-owned companies. Most of those mines were diamond mines in Mwadui and Buckreef, and gold mines in Geita and Buhemba in Musoma. During that period, there was a tin mine in Karagwe

[14]Even if natural resource is too wide, the focus of the Report is on minerals, oil and gas.
[15]These include, proven reserves (866 MT) and inferred reserves (1,356MT).
[16]Responding to a number of concerns about mining laws, the President of Tanzania commissioned a high-level review of mining legislation and policies in 2008, led by the Bomani Presidential Mining Sector Review Committee. The findings of the Bomani Review Committee emphasised the need to amend the mining legal framework and associated mining policies, particularly so that Tanzanian citizens have greater opportunities to benefit from and participate in the mining sector. This led to anew mining law being passed in 2010.

district. There were also small gold miners in Lupa (Chunya), Mpanda and other areas in the Lake Victoria zone. The contribution of the mining sector to the national economy and community development was insignificant.

The opening up of Tanzania's extractives sector to foreign investors was engineered by the Bretton Woods institutions. In September 1990, the World Bank published a Mining Sector Review for Tanzania. It was followed in 1992 by the publication of the Strategy for African Mining Technical Paper.[17] The paper urged African governments to open up their mineral resources to penetration by multinational corporations and finance capital. Since the early 1990s, the Tanzanian Government has been reforming its mining sector with a view to increase investment that had been declining. Some notable reforms include the 1990 National Investment Promotion Policy and the 1994 Mining Sector Policy Framework which was operationalised through the implementation of the Mineral Sector Development Project of the Ministry of Energy and Minerals with support from the World Bank that began in 1994.[18] Due to the implementation of the reforms, there has been increased investment in the mining sector, attracting big companies such Barrick Gold. In recent years Tanzania has also seen increased investment in the off-shore gas discovery.

Implementation of the EITI in Tanzania

This increase in investment has coincided with the demand for transparency and accountability. The people have been unhappy with the way the sector was managed, prompting perceptions of corruption against senior government officials. For example, the government is accused of entering into secret mining development agreements (MDAs) and gas production sharing agreements (PSAs) with extractive companies.[19] According to Professor Luoga F.D.A.M, the Deputy Vice Chancellor in charge of Research and Knowledge Exchange at the University of Dar-es-Salaam (who is also chairperson of the Experts Panel on Benchmarking of natural resources laws in Tanzania) "it was the youth that started to ask questions as to how government was managing the mineral resources, how much was being generated and how it is being used".

Contrary to other countries, Tanzania's decision to join the EITI was driven by pressure and complaints from the people. The pressure led government to create a committee to gather views from all concerned stakeholders (local and international) on resource governance in the country. It is this committee that recommended that the country joins the EITI. The Bomani Committee, as it was called, concluded that misunderstandings where raised between the government, mining companies, small scale miners and the society around the mining sites. It proposed that issues to do with natural resources be subjected to clear laws. Benedict Mushingwe, Head of TEITI Secretariat, confirms the assertion that "Tanzania was not influenced by any external forces to join EITI. It was an internally driven process and that is why we are making progress, and the government has been providing all the resources. It is only in June 2013 that the G8 group of countries decided to support the EITI in Tanzania." He further argues that Tanzania opted to join the EITI because it considers the EITI not as institution, but as a tool or standard

[17] The World Bank, *Strategy for African Mining*, Technical Paper , Washington DC, 1992 cited in Lissu, T.A.M. (2003), Supra, note 2.
[18] The World Bank, 2010.*The World Bank Evolutionary Approach to the Mining Sector Reform. Extractive Industries for Development Series.* No.19.http://www.eisourcebook.org/cms/files/attachments/worldbank/4_The%20World%20Banks%20Evolutionary%20Approach%20to%20Mining%20Sector%20Reform.pdf Accessed on 16.04.2015.
[19] Kaiza, B 2013,"EITI myths and reality: The case of Tanzania"*, GREAT Insights, Volume 2*, Issue 2. February-March 2013. Maastricht: ECDPM.

which brings together useful information to promote transparency. For Tanzania, EITI is a tool that supports the existing national regulation arsenal on transparency and accountability.

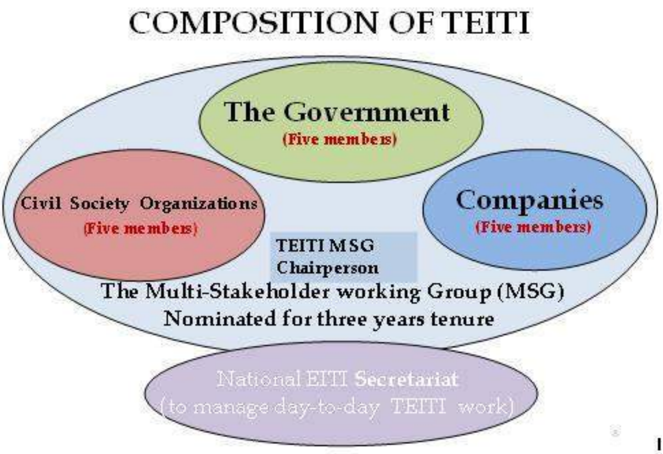
Legal status of EITI in Tanzania

Tanzania joined the EITI on 16 February 2009, and it was declared compliant on 12 December, 2012. EITI compliance means that the country has an effective process for annual disclosure and reconciliation of all revenues from its extractive sector. Tanzania has not passed a law to domesticate the EITI as the TEITI bill is still in its draft form. However, there exists a Memorandum of Understanding (MoU), which guides the EITI process in the country.

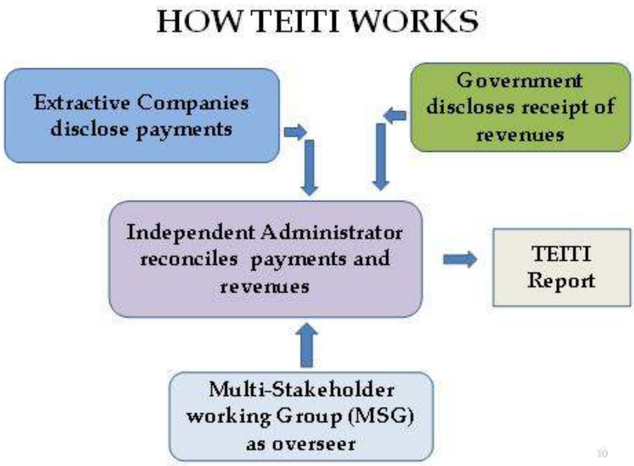
The EITI process in Tanzania covers the industrial mining and oil and gas sectors.[20] The Ministry of Mining and Energy has been assigned to champion the implementation of the EITI and ensure that the main objective is realized for the benefit of the country.

EITI structure in Tanzania

There exists a multi-stakeholder group (MSG), which is a tripartite partnership involving the government, the mining companies (private sector) and civil society. Each of the three stakeholders nominates five representatives to sit on the MSG. There is also an independent person who is appointed by the president to chair the group, bringing the total number to 16. The MSG acts as the board, while a full time secretariat executes the day-to-day operations. The MSG meets once a month and decides by consensus.



[20]See www.teiti.or.tz/fourth-teiti-reconciliation-report



Source: Tanzania Extractive Industries Transparency Initiative (TEITI) official website

The technical staff that is mandated with the day-to-day running of the secretariat includes:

- The Head of Secretariat;
- An economist;
- A communication specialist;
- A monitoring and evaluation specialist;
- Accounts and finance.

Stakeholders involvement

The three key stakeholders on the MSG in Tanzania have their own respective roles that they play, aimed at ensuring that there is some form of accountability and transparency in the sector.

Implications for government

The government was open to the initiative and decided to join when the Bomani Report made the recommendations. Tanzania has published four EITI reports since its inception. Government political support ensures its sustainability. The government of Tanzania is committed to the principles and criteria of the EITI.[21] The level of support that this process receives from the highest office in the land is a clear testimony that political will exists. Right from the word go, the process has been riding on the political will platform and decisions of government, and this has reinforced the national character of the EITI, rather than creating the perception of EITI as an external or foreign initiative. Government support includes provision of the required financial resources and space given to parliament to play its oversight role. In Tanzania, Parliament

[21] www.teiti.or.tz

debates and allocates budget to the EITI, which is supported by members of parliament in the house.

Five government representatives sit on the MSG, representing the following institutions:

- Ministry of Finance;
- Prime Minister's Office: - Regional Administration and Local Government Administration;
- Tanzania Petroleum Development Cooperation;
- Tanzania Revenue Authority;
- Ministry of Energy and Minerals.

Implications for civil society

According to Kaiza Bubelwa[22], Publish What You Pay (PWYP) coordinator and a member of the MSG representing civil society, the Tanzania EITI process started with a weak civil society participation base. Only a few civil society representatives, acting on sheer activism, gate-crashed their way into an EITI inception workshop organized by the government in January 2009. Noteworthy is the fact that gate-crashers won the trust of the conference.

CSOs, however, developed their own criteria to select who should represent them on the MSG. A meeting was held in 2012 to nominate people. They were selected from the following sectors of civil society:

- Publish What You Pay;
- Conventional (NGOs Platform);
- Disabilities Group;
- Interfaith – both Christians and Muslims;
- Trade Unions.

The election of civil society members to the MSG has enhanced the credibility of the initiative and that of civil society itself. Civil society selection of members of the MSG provides for succession. The biggest challenge that civil society is faced with comes from within. There exists a communication problem between those in the MSG and those outside. Those inside fail to report back to those outside. The relationship with other players in the MSG (government and companies) is cordial, as they are guided by the MoU and all decisions are based on mutual understanding.

Civil society is still faced with many challenges, including limited knowledge on how to interpret the EITI reports and funding. These factors limit civil society's effective and meaningful participation in the EITI process.

Implications for the private sector

Based on the signed MoU and the agreement by the mining companies to be part of the process, companies have been disclosing their payments to the auditors engaged by the MSG, and so far, there are no substantial obstacles. The number of reporting companies has increased from 11 companies in 2008to 44 companies in 2014. Although, there were some isolated campaigns for the mining companies not to accept the disclosure of information through the MSG, they were engaged and a team of auditors has been employed. This team decides in case of any disputes.

[22] M. Bubelwa works for FORDIA (Concern for Development Initiative in Africa), an NGO representing Public What You Pay in Tanzania.

Five representatives of the private sector sit at the MSG, representing the following organizations:

- Chamber of Mines and Energy (2);
- Tanzania Oil and Gas Association (2);
- Small Scale Mining (1).

Implications for cooperation and development partners

Apart from the World Bank that supported the TEITI since its inception, other donors joined the process much later, and their support was in response to the progress the initiative had made. So far the following cooperating and development partners are supporting the initiative both technically and financially:

- Norwegian Embassy;
- African Development Bank;
- The World Bank;
- Canadian Embassy;
- GIZ;
- G8 Group of Countries.[23]

Impact of the EITI

From government perspective, the implementation of the TEITI is creating a healthy debate on mining revenue. Further, there is less discrepancy between receipts and payment, an indication for improved data capture and management. The number of companies including mineral traders been covered by the EITI is also increasing resulting in increased transparency and revenue.[24] However, there is still a challenge on the transparency use of revenue by government.

There are varying civil society views on the impact of EITI. According to Lugha Bash, the impact of the EITI can be seen in two ways: an increase in state revenue from extractive industries, and the implementation of various reforms including legal reforms, local government reforms, public management reforms and a national anti-corruption strategy programme. On 30 June 2014, Tanzania launched its fourth EITI reconciliation report, which covered the financial year 2011/2012. All four reconciliation reports that have been published by the government disclose revenue receipts of Tanzania shillings 1.8 trillion (approximately US$1.2 billion) received by government from July 2008 to June 2012. The EITI has simply been used as a tool. It is the level of involvement and the alertness of the general citizenry that has brought about high levels of accountability in the sector.

A number of civil society groups on the other hand, still question the effectiveness of the EITI despite the fact that reforms are underway to legislate it. The improved revenue collection from the mining sector has not been attributed necessarily to the EITI. Some members of civil society have raised difficulties with regard to quantifying the impact of the EITI. As one civil society member argued, “One could be misled when reading the EITI reports and think that the country

[23]Members of the G8 are France, German, Italy, Japan, United Kingdom, United States, Canada and Russia (now suspended).http://en.wikipedia.org/wiki/39th-G8.Summit, G8-Tanzanian Partnership in the extractive Sector: Annual Progress Report, July 1st, 2013- June 30th, 2014. Accessed on 20- 02- 2015

[24]Please see the TIETI Website: http://www.teiti.or.tz/fourth-teiti-reconciliation-report/

is already benefiting from the extraction of minerals and natural gas." Behind the colourful numerical figures there exist a lot of obscurities. Most Tanzanians think that there are policies, legal, institutional and structural barriers that act against a positive and progressive use of revenues from extractive industries, which is not entirely true. The growing revenue declared is due mostly to the growing number of new mining and gas contracts that government is signing, as well as the revision of some mining contracts, which has contributed significantly to the increased taxes paid by companies to government.

Challenges and weaknesses

Because of its bottom-up approach, Tanzania did not struggle to attain compliant status. However, the country has a long way to go to ensure smooth implementation due to the following challenges:

- Low awareness levels among the stakeholders in the country.
- Different levels of understanding of the initiative.
- The EITI remains an elitist initiative which is failing to connect with citizens.
- "Lack of teeth to bite" – there is no legislation in place which provides legal mandate and regulatory powers to TEITI.
- The size of the country vis-à-vis financial resources allocated to TEITI reduces the impact.
- Weak companies' familiarization with the evolving EITI standards, and
- Lack of a continual capacity building especially for new mining companies.

The process itself has weaknesses, the EITI does not address fundamental problems of the extractive industries(e.g. transfer pricing, illicit financial flows and negotiation of fair investment agreements); and the EITI sits as isolated initiative and does not link up to other policy initiatives including the country's fiscal policy. The voluntary nature of the initiative makes it difficult to get information from the private sector.

Innovations and lessons

- The approach that Tanzania took of starting with stakeholder's consultations to discuss their problems or concerns on the sector have provided a useful learning point for other countries.
- The approach helped the rapid and smooth implementation of the EITI. It is proof that a sense of ownership and massive political will be key to a stronger EITI.
- The composition of the MSG has proved successful, and there is a full time secretariat to execute the day-to-day operations of the initiative. An MoU binds and guides MSG members, and decisions in the MSG are based on mutual understanding.

Recommendations

- Government should accelerate setting up a legal framework for the EITI. The process should take into account existing policy frameworks like the ICGLR Protocol on Natural Resources as well as national fiscal policy and programmes on good governance.
- TEITI should carry out sensitization campaigns to increase awareness among stakeholders (civil society organizations, mining companies, and public institutions in charge of implementing EITI) in the country.

- There is a need for independent research to establish civil society's role and contribution, while underscoring its strengths and weaknesses in Tanzania's EITI process. It should focus on the identification of weaknesses, obstacles and challenges that civil society organizations face, and propose concrete measures to further improve their effectiveness in promoting good governance of natural resources.
- The ICGLR-Lusaka Regional Centre must be supported to develop capacity building initiatives in regard to the EITI and natural resources governance in general. The ICGLR-Lusaka Regional Centre should develop capacity building programmes for EITI stakeholders (MSG members, EITI national secretariat, and the media) on technical skills for analyzing the reports published and figures.
- Civil society organizations specialized on EITI should sensitize other CSOs active in the area of governance and promoting transparency and accountability in the country in order to allow them adopt EITI as a tool in their programmes.

Republic of Zambia

Context of natural resources in Zambia

Zambia is one of Africa's largest producers and exporters of copper and cobalt. The mining sector accounts directly for 9.5 per cent of the GDP. Indirectly, the mining sector may contribute as much as half of the GDP. In addition to copper and cobalt, Zambia's mineral resources include gold, manganese, gemstones and various industrial minerals. Zambia has no proven oil reserves but exploration is taking place. The first licenses under the 2008 Petroleum Act were issued in 2011.

According to the Ministry of Mines, the government has adjusted royalties from 0.5 per cent to 6 per cent, and the companies are paying. The 2008 Mines and Minerals Development Act is being reviewed, and the Minerals Policy was launched in 2013. Currently, the government is working on the policy to guide the legislation process. The pillars of the draft bill are beneficiation, ownership, utilization of the revenue, and community empowerment.

Implementation of the EITI in Zambia

The government of Zambia with assistance from the World Bank carried out a scoping study on the EITI in order to help the country decide whether the initiative was relevant for Zambia. In May 2007, a World Bank team visited Zambia and undertook a scoping study on the possible implementation of the EITI. The team met with representatives from government, the Bank of Zambia, the private sector, civil society and the donor community in the Copperbelt and Lusaka provinces. The study recommended that further research be undertaken to finalize the scoping, and a local consultant was engaged to carry out the second phase of the study. The study which was conducted between July and August 2007 had two main objectives:

- To analyze stakeholders' attitudes toward the EITI;
- To analyze and propose how the EITI might be implemented in Zambia.

The final draft submitted to government recommended that the country should join the EITI and at the same time create the operational structure and governance system for the initiative. Government accepted the recommendations and proceeded to implement them. Accordingly, the Zambian government joined the EITI in an effort to promote transparency and increase its benefits from its minerals. However, there are some stakeholders who feel that the Government was under pressure from donors to join the Initiative. The Ministry of Mines, Energy and Water Development announced the intention in 2008.

Zambia so far has published four reports and the fifth one is in progress. Outlined below is the summary of how Zambia has progressed with the implementation of the EITI.

2008	-	Government announced its commitment and the MSG was formed
2009	-	Candidature application submitted
	-	Candidacy status attained
2011	-	1st EITI report for 2008 reconciliation published
	-	Validation report submitted
	-	Board declared that Zambia had made "meaningful progress"
2012	-	2nd EITI report for the 2009 reconciliation is published
	-	Underwent secretariat review

- Declared compliant country
2013 - 3rd EITI report published for 2010 reconciliation
2014 - 4th EITI report published for 2011 reconciliation
2015 - Deadline for the 5th EITI Report covering 2012/2013

Legal status of the EITI in Zambia

The EITI has not yet been legislated. It is based on the Memorandum of Understanding (MoU) signed between the three stakeholders (the government, mining companies and civil society) represented on the council. Currently the EITI focuses only on mining. There are efforts to extend the scope to include forestry.

EITI structure in Zambia

EITI in Zambia is implemented by the Zambia EITI Council (ZEC). The council is composed of three stakeholders: the government, mining companies, and civil society organizations. ZEC has a total of 18 members, each of the three stakeholders being represented by six members. ZEC is chaired by the Secretary to the Treasury and coordinates and oversees the implementation of EITI. The ZEC secretariat is located in the Ministry of Mines, Energy and Water Development.

The secretariat has four full time staff:

- Head of secretariat;
- Administrative officer;
- Communication specialist;
- Accountant.

Stakeholder involvement

Government involvement

The Government of Zambia is committed and has embraced the EITI. There is political will, although it cannot always be said to be adequate. Government's support to the EITI process has been increasing steadily over the years. The government through the Ministry of Justice has prepared an EITI law and is organizing a mini-cabinet legislative meeting to review all the protocols pending domestication (including the EITI law).

Also, government through the Office of the Auditor General responds to issues raised in EITI reconciliation reports and tries to resolve them.

Government has in the recent past started to provide budgetary support to the initiative. In 2014, government contributed 30 per cent to the EITI budget. The government has also been providing office space for the ZEC and seconded staff.

Civil society involvement

Civil society is actively involved in the EITI process. Their Involvement started after a workshop organized by the Southern Africa Resource Watch (SARW) in 2008 in partnership with the Zambia Institute for Policy Analysis and Research. Civil Society in Zambia is still not well organized, and it has a lot of internal governance issues. Since the inception there has never been effective representation of CSOs in the EITI process and this has been as a result of lack of clear terms of reference for civil society representatives on the MSG. It seems that there is no solidarity between the civil society representatives who are in the MSG and those who are not. Those participating in the MSG do not feel obliged to report to those outside, and there is no mechanism to compel them to report to their peers. As a result, there are many different civil society platforms that engage with the EITI including:

- The Zambia Extractive Industries Watch (ZEIW), a consortium of civil society and community based organizations working in the sector, and supported by the World Bank;
- The Extractive Industries Transparency Alliance (EITA), an alliance of NGOs working in the sector, also supported by the World Bank;
- The Civil Society Organizations EITI Forum, a coalition of NGOs supported by the World Bank and Oxfam, established by the University of Zambia;
- The Copperbelt Civil Society – EITI Forum, a coalition of NGOs based in the Northern, Luapula and Copperbelt regions of Zambia, established by the University of Zambia;
- The North Western Civil Society – EITI Forum, a coalition of faith-based NGOs based in the north western region of Zambia, established by the University of Zambia;
- Publish What You Pay (PWYP), which is an international campaign and has a chapter in Zambia, with membership from around the country.

Most of these initiatives were set up following a genuine World Bank intention to increase the capacity and knowledge of civil society organizations on the EITI at the provincial level. The World Bank engaged the University of Zambia to provide training to Zambian civil society. Unfortunately, many participants in the training, attracted by the possibility of accessing funds, created competing structures to engage the EITI. Creating regional civil society structures to support the EITI is not necessarily a bad thing, but they should be organized in a manner that strengthens the EITI rather than weakens it. Of all the above-mentioned platforms, only PWYP sits on the MSG.

One area of contention has been whether traditional leaders, who are represented on the MSG as part of civil society, should be considered as such? Traditional leaders who are normally part of the government through the Ministry of Chiefs and Traditional Affairs have been allocated one civil society seat on the MSG, although they have never attended any MSG meetings. Trade unions also have one member in the civil society quota. This approach to civil society representation has weakened civil society presence on the MSG.

Private sector involvement

There are over twenty companies involved in the large scale Mining of Copper and cobalt in Zambia.[25] In terms of mine production volume , Zambia ranked seventh and third in the world in copper and cobalt respectively in 2010, producing 820,000 tonnes of copper and 5,700 tonnes of cobalt.[26] The mining companies in Zambia are organized through their affiliation to the Chamber of Mines, and their selection or nomination to the MSG is done through the chamber and the Association of Small Miners of Zambia. Two (02) slots are taken by the Secretariat of the Chamber of Mines, Three (03) Member Companies (First Quantum Mines, Chibuluma Mine and Konkola Copper Mines), and one from the Association of Small Scale Miners of Zambia.

[25]KPMG (2013). Mining. Zambia. Country Mining Guide. Strategy series. KPMG International. http://www.kpmg.com/Global/en/issuesandinsights/Articlespublications/Documents/zambia-country-guide.pdf. Accessed on 20-02-2015.
[26]ZDA (2013). Sub- Sector Profile: Mineral Beneficiation Industrial Minerals. Zambia: “Africa’s New Frontier for Investments and Profits.”http://www.zda.org.zm/sites/default/files/Mineral%20Beneficiation-June%202013.pdf. Accessed on 20-02-2015

The chamber's role is to ensure that its members give full attention to the EITI process by disclosing information to the consultants engaged in the reconciliation of their payments to the government.

Zambia like many other developing countries has witnessed an increase in Chinese investment. Most Chinese-owned mines are not members of the chamber and it has been difficult to access information from such companies. Mining companies have shown a strong commitment to the EITI. Besides being part of the MSG, they have contributed about US$100 000, and have committed to increase this support.

The involvement of cooperation and development partners

Development partners (especially the World Bank and the African Development Bank) have been very instrumental in the initial actualization of the initiative through the provision of both technical and financial support. The World Bank has also provided support to train and organize civil society.

Impact of the EITI

There is consensus among key stakeholders in Zambia that the EITI has contributed to transparency through easy access to information, and increased debate on the extractive industries in the country. However, stakeholders share different views on EITI's contribution to increasing government revenue. There are those who argue that it has contributed to the increase in revenue collection over the years since Zambia joined the initiative. According to the ZEITI website, Zambia received US$ 1,360 million from the mining sector in 2011 almost double the 2010 revenue (representing 98 per cent increase), and represented over 30 per cent of government revenue.[27] The global EITI website however indicates US$ 1.5bn as revenue that Zambia received annually from the extractive industry for the period 2011- 2013.[28] This incoherence in information calls for harmonization of data. Others dispute this assessment; as in the case of Tanzania, arguing that the increase in revenue has to do with increased production.

Table 3: Revenue collection from 2011-2014

Period Covered	Publication Date	Sectors Covered	Government Revenues (US$ millions)	Company Payments (US$ millions)	Number of Companies Reporting	Reconciler
2008	January 2011	Mining	517 450 000.00	521 140 000.00	16	Price Water House Coopers
2009	February 2012	Mining	533 783 358.00	540 308 363.00	28	Moore Stephens
2010	February 2013	Mining	758 825 945.00	757 063 737.00	20	Hart Nurse Ltd & Baker Tilly Meralis
2011	February 2014	Mining,	1 550 189 000.00	1 547 148 000.00	26	Moore Stephens LLP

[27] http://www.zambiaeiti.org/index.php/ct-menu-item-35/35-zambia-s-mining-revenues- doubled-from-2010-to-2011-eiti-report-reveals. 17th February, 2014. Accessed on 21-02-2015.
[28] https://eiti.org/Zambia. Accessed on 21-02-2015

Period Covered	Publication Date	Sectors Covered	Government Revenues (US$ millions)	Company Payments (US$ millions)	Number of Companies Reporting	Reconciler
		Oil, Gas		1,360,000		

Source: ZEITI Official website (www.zambiaeiti.org)

Challenges and weaknesses

Most noticeable is the lack of a legal framework for EITI implementation and strengthening. Due to this lack of a clear legal framework, obtaining information from some mining companies and government agencies is a challenge for civil society, and there is no legal ground to force Chinese-owned companies to join the EITI (considering that they are not members of the chamber of mines).

There is a lack of skills on EITI and resources for CSOs to engage more efficiently on monitoring and sensitization on EITI process. Late disbursement of funding by the cooperating partners to civil society (because of some procedural requirements) negatively impacts on civil society ability to effectively engage the EITI.

There is a low participation of the media in the EITI process especially at the stage of dissemination of reports.

Problems have emerged regarding the composition of the MSG. What weakens the process is the nomination and appointment of the office of the Secretary to the Treasury as the chairperson of the MSG. This has not worked well as the Secretary does not attend MSG meetings.

In general, the voluntary nature of the initiative has created some weakness, especially on the part of remedial measures on report findings.

Innovations and lessons

- Traditional leaders are members of the MSG. They are part of the civil society quotas.
- There is consensus among Zambians that the EITI should be expanded to include forestry.
- Zambia has drafted a legislation which will domesticate the EITI.

Recommendations

In order to tackle the above challenges and weaknesses, the following actions are recommended:

- Government should accelerate setting up the EITI legal framework. The process should take into account existing policy frameworks like the ICGLR Protocol on Natural Resources (in which EITI is one of the tools) as well as national fiscal policy and programmes on good governance.
- ZEC in partnership with CSOs specialized on EITI should carry out sensitization campaigns to increase awareness among stakeholders throughout the country.

- The ICGLR-Lusaka Regional Centre should develop capacity-building programmes for key EITI stakeholders (MSG members, EITI national secretariat, and the media) on technical skills for analysing reports published, figures; etc. This should be given a priority in the regional peer-learning mechanism of EITI.
- The ICGLR-Lusaka Regional Centre should develop specific capacity-building programmes for CSOs on their role in defining and implementing public policies and governance in general.
- EITI should be considered by all stakeholders (including the donor community) as a tool to promote transparency and accountability in the country.
- Donors should harmonise strategies and procedures for supporting CSOs engaged in the EITI in order to increase the impact of their projects and programmes.
- Efforts to expand the EITI to forestry should be encouraged and supported.
- Efforts are needed to source full EITI funding internally from government and companies. These stakeholders should engage dialogue on this issue during the process to set up legal framework for EITI.

Republic of Congo

Context of natural resources in the Republic of Congo

The oil sector is the backbone of the country's economy, constituting 90 per cent of the total exports. The extractive industries contribute more than 80 per cent of revenue to the government budget. The Republic of Congo produced more than 300 000 barrels per day in 2012 and collected more than US$5 billion in revenues.[29] This was slightly less than the revenue collected in 2011.

Republic of Congo is among the top 5 oil producers in Sub Sahara Africa (with Nigeria, Angola, Gabon and Equatorial Guinea), with proven reserves of 1.6 billion of barrels of oil.[30] The Congolese oil, especially offshore, is of good quality, not too heavy, and does not contain too much sulfur. Republic of Congo also has considerable reserves of gas estimated at 391 billion m^3, making it third in sub-Saharan Africa (after Nigeria and Cameroon). Most gas reserves are associated with oil. Oil production is carried out exclusively in two cities, Pointe Noire and Kwilu, and the offshore production is valued at 95 per cent of the total production of the country, while on-shore production covers the remaining 5 per cent. Key oil companies operating Congo are TOTAL, ENI, CHEVRON, CONGOREP, MOREL&PROM, SNPC, and PERENCO EP CONGO.

Oil exploitation in Congo was historically done in the framework of concession contracts, but since the hydrocarbons code came into existence by the promulgation of Law No 24-94 of August 1994, it is now done under the regime of production-sharing contracts (PSCs). The traditional regime of concessions continues to be applied for the Yombo exploitation permit detained by CMS Nomeco, a company of the Perencogoup, in partnership with SNPC, the Yanga &Sendji permit (15 per cent of the production going to the state) as well as the terminal of Djeno.

It is worth underlining the role of SNPC, the state-owned oil company, which is authorised to commercialise hydrocarbons delivered to the state by the various operators in lieu of taxation. SNPC further commercialises shares of crude oil which the company is entitled to as part of its shareholding in PSCs producing oil.

The country has started experimenting with industrial mining. Most of the mining projects are still at the exploration phase. The Executive Committee (GMP) integrated in the perimeter of the 2012 EITI report all mining companies (73 companies) registered. Considering the very limited level of contribution of the sector to national revenue, only the data submitted by the companies holding an exploitation licence was factored in. The total contribution of the mining sector to government revenue stood at around US$3 million, which represented 0.04 per cent of the country's revenues.[31]

There is no established industrial mining production yet. Nevertheless, the mining company MAG MINERALS may in the near future move into major production of phosphate. On the other hand, a subsidiary of the Swiss company Glencore, CMPD, has just signed its convention with the government to mine iron ore. The country's mining activity is essentially artisanal. It has

[29] 2012 EITI Report. https://eiti.org/news/congo-brazzaville-quarterly-reporting-brings-new-level-transparency.25th August, 2014. Accessed on 22-02-2015

[30] http://www.eia.gov/countries/cab.cfm?fips=cf. 29th January, 2014. Accessed on 21-02-2015.

[31] EITI Independent Administrator Report, year 2012, *Fair Links*, December 2013, p.7.

more than 200 gold mining sites, situated mainly in the areas of Sangha, Kelle-Mbamo and Chaillu, and about 30 sites of artisanal exploitation of diamonds in Chaillu. It is also worth mentioning that the Republic of Congo has a legal framework which includes laws such as Act No 24-94 related to Hydrocarbons and Act No 4-2005 related to the mining code passed on 11 April 2005.

Implementation of the EITI in the Republic of Congo

The EITI was launched in 2004 following a declaration by the Head of the State. This was followed by strong civil society advocacy which culminated in consultation meetings between the three stakeholders—government, companies and civil society—in 2005. The consultations culminated in the decision to put in place two structures, the Executive Committee and the Advisory Committee. In 2006, the president signed two decrees. The first decree created the Executive Committee composed of twenty-four members, and the second related to the creation of the Advisory Committee, composed of seven members. The members of both of these committees were appointed in 2007.

The adoption of the two Decrees instituting the EITI multi-stakeholder group constituted the first step in the normalisation of relations between the government and civil society following a long period of tension which saw some civil society members imprisoned. The resolve to resume a sustainable dialogue happened in May 2007 when a meeting between the government and civil society was organised on transparency in the extractive industry and the Kimberley Process Certification Scheme. The dialogue and the two decrees of August and September 2007, made it possible to launch the work of the multi- stakeholder group. The first activity of the MSG was the adoption of an action plan in December 2007.The country obtained EITI candidate status in 2008. In 2012, the country introduced reforms which saw the merger of the two bodies—the Executive Committee and Advisory Committee—and the creation of a Permanent Technical Secretariat under the supervision of the executive president.

On 27 February 2013, in Oslo, Norway, the EITI International Board approved the Republic of Congo as a compliant state. The first EITI report for the fiscal years 2004, 2005 and 2006 was released in 2008. In 2010, Congo-Brazzaville published its second report for the fiscal years 2007-2009. The 2011 EITI report, containing a scoping survey, was launched in July 2012.The final version of EITI report for fiscal year 2011 was finalised in October 2012.The country is currently preparing its sixth report for fiscal year 2013.

The meetings of the Executive Committee are convened once a month for ordinary meetings by the Permanent Technical Secretary after consultation with the executive president. The permanent secretary who manages the Permanent Technical Secretariat is the only one recruited based on a bid, but the staff are not yet recruited due to a lack of budget. With regard to the dissemination of EITI reports, the Technical Secretariat is responsible for it, mainly in Brazzaville and Pointe Noire.[32]Civil society from time to time organises the dissemination in two other provinces—Niari and Kumu. It should also be noted that EITI reports are never translated into national languages for the general public.

The year 2013 was a special year in the history of EITI in THE Republic of Congo because of the new status reached by the country, but also and especially as it inaugurated a new phase representing the implementation of a post-validation period. This period requires the country to prove its capacity to maintain the compliance standards and to consolidate them.

[32]These two cities represent more than half of the population of Republic of Congo (about 2 300 000 inhabitants out of 4 million).

EITI legal framework and structure

In 2006, the President of Republic signed two decrees establishing the Executive Committee (with 24 members) and the Advisory Committee (with 7 members). The members of these two structures were appointed in 2007. The Minister of State and Treasury Secretary is the EITI chair. There exists an office within the Executive Committee that is made up of three members— an executive president and two vice-presidents. The two vice -presidents come from civil society and the extractive industries. Companies rotate for their 2nd Vice-presidency. Each stakeholder has eight-members. Of the 24 members in the MSG, only two are women, both coming from extractive companies –public corporations and private companies.

A “Draft Law on Fiscal Transparency and Accountability” has been drafted with the World Bank and IMF support. It may be passed by the National Assembly in the near future. Its objective is to regulate issues of transparency and fiscal responsibility to improve the way companies and public administrations make available and publish financial information, and to encourage accountability in the way government is managing revenues from extractive industries.[33]

Stakeholders involvement

Government involvement

Some of the people interviewed suggested that the Congolese government was at first hesitant to join the EITI (although for the Technical Secretariat, the word “hesitate “seems inappropriate). It is argued that the Republic of Congo acceded to the EITI in 2004, two years after government’s public statement, placing the country among the first countries to join the EITI. Also, in 2003 civil society and churches activists were already demanding more transparency in the management of natural resources. Despite these different viewpoints, what is reassuring is that today the government is fully involved in the EITI with a strong political will and financial support to the tune of US$2 million annually.

However, after acceding to the process in 2004, meeting the requirements to obtain the status of candidate country took much longer: the appointment of a coordinator and the publication of the decrees on the multi- stakeholder group, only took place at the end of 2006. Despite an early membership, the implementation of requirements turned out to be complex. The appointment of members to the multi stakeholder group started with wide consultations, which slowed down the process. Discussing oil was for a long time considered a taboo topic in the country. Even for the public service, it took long to effect a mind-shift. The EITI was perceived in the early stages as an audit structure for public accounts. This perception provoked very little cooperation from a number of administrators during the production of the first EITI reports, prompting civil society to continue to demand an irrevocable commitment to the EITI by political authorities. In short, despite a clearly expressed commitment by government, many obstacles (including the old structural order) blocked the smooth implementation of the EITI in the early years.

The EITI in the Republic of Congo is chaired by the Treasury Secretary, and one of their advisers is appointed as executive chair of the Executive Committee. The government's services in charge of collecting taxes and royalties regularly participate in all EITI activities, particularly during the development of the reports. It is necessary to note that the Republic of

[33] *Annual Activity Report 2013*, p.22.

Congo has two revenue-collection departments fully involved in the implementation of the EITI. These are the General Taxes and Domains Directorate (DGID) and the General Customs and Indirect Taxes Directorate (DGDDI). It is important to point out an indirect involvement of members of parliament, especially during the preparation of laws on finances during which they are called upon to consult the EITI data. In the beginning, the presidency of Republic had a delegate in the committee, but since the new restructuring this representation no longer exists.

Civil society involvement

The Kimberley Process Platform and the national coalition of Publish-What-You-Pay are two structures of Congolese civil society that urged the government to join the EITI. At first civil society faced serious challenges when it was campaigning to convince government to join the EITI. Two of its members were arrested in 2006. However, in the same year, the government made a U-turn and created a conductive environment for civil society participation in the EITI, by passing several laws giving a large place to civil society organisations. For example, the Presidential Decree No 2006-626 of 11 October 2006 related to duties and composition of the Executive Committee of the EITI implementation allocated 7 out of 24 seats to the civil society.

Civil society organisations freely appoint their delegates to the Executive Committee, in line with the 2007-403 Decree of 30 August 2007 related to the appointment of Executive Committee members. However, some civil society members are not happy with the way civil society members are selected.

Indeed, there is a free and independent involvement of civil society in the EITI, with regular and active involvement in the Executive Committee. Civil society delegates are in perfect harmony within the Executive Committee. However, a deficit in communication exists among the delegates in the Executive Committee and those outside. Also there is no coordination between committee members, with every delegate organising their own feedback within their own organisation. There are no assessment meetings of the EITI held by civil society. There is a real need to build the capacities of civil society organisations, mainly the technical capacity, so that they really play their role as a stakeholder. Civil society also needs the financial resources to elaborate and to execute their programme. There are no partners in Congo who support the actions of civil society.

Involvement of the extractive industries

The Congolese government created favourable conditions for the involvement of all stakeholders in the EITI, by passing several laws – also leaving an important place for the extractive companies. The presidential decree 2006-626 of 11 October 2006 creating duties and the composition of the Executive Committee of the EITI allocates 6 out of 24 seats to extractive companies. Companies freely appoint members to the Executive Committee in line with Decree 2007-403 of 30 August 2007.

A new Presidential Decree 2012-940 of 22 August, 2012 defining the duties and composition of the Executive Committee repeals any prior provisions, including Decrees 2006-626 of 11 October 2006. This piece of legislation provides the new Executive Committee with 27 seats, of which 7 are allocated to extractive companies. In 2011 all oil companies operating in Congo-provided information. This is a real improvement from the 2010 report when some companies were not included in the reconciliation process. Similarly, the first validation report found that the involvement of companies in the data reconciliation of 2004 to 2006 was generally weak "[34]

It should be noted that the involvement of the representatives of extractive companies in Executive Committee meetings is regular and active. The attendance of oil companies should be also noted in several sensitisation and training workshops. Extractive companies have contributed in kind to the activities of the EITI, including the preparation and printing of documents and dissemination of the third and fourth EITI reports. They have also contributed equipment and logistics.

Finally, it is necessary to underline that the contracts between the government and oil operators, irrespective of the concession or production contract, are published in the official Gazette and do not impose on parties confidentiality clauses.

Involvement of development partners

In Congo-Brazzaville, the World Bank has supported the EITI process through its transparency and governance programme. The Executive Committee was assisted by the World Bank with US$350 000. The African Development Bank has also contributed with US$495 000. However, development partners are not as active as in other countries.

Impact of the EITI

The strength of EITI in Congo-Brazzaville is mainly related to the political will of the government to implement the EITI process. The government funds 75 percent of the EITI budget.[35] The Congolese authorities effectively contribute to the process because they consider EITI as a tool contributing to transparency and public service reforms. Another major strength of the process is the collaboration and the consensus existing among the three stakeholders. This consensus is maintained by a permanent dialogue among the stakeholders. The decisions of the multi-stakeholder group are consensually made, and when a decision is not made on a consensual basis, the question is adjourned until the parties reach an agreement. The multi-stakeholder group is therefore operational and meets regularly, even if the financial resources are sometimes insufficient.

In addition, we should add that the country has established a Court of Auditors to certify all states accounts. The EITI has helped to expand the role of the auditor general which was only auditing state accounts on an *ad hoc* basis. Today it certifies all state accounts as requested by the MSG. There are plans to have the auditor general become a permanent and professional entity. Efforts to fight corruption are intensifying with random questioning of administrators when any information becomes public. Finally, the publication of information which previously was only accessible to companies and the state, has increased people’s interest in the sector. The Republic of Congo is among the rare countries implementing the EITI, which regularly publishes the data of the incomes of extractive industries.

Challenges and weaknesses

Despite the efforts of the Republic of Congo to implement the EITI, weaknesses still exist, including:

[34] Republic of Congo. *EITI 2010. Final Validation Report*. CAC 75. 2012.
[35] *Annual Activity Report 2013*, p.21.

- Weaknesses in the sharing of information or data among administrations and companies. Besides the information on the reported incomes, the challenge is to use these revenues to reduce the contradiction between the incomes collected and the poverty of the population.
- Weak data collection and capturing within state departments and companies.
- Weak dissemination capacity of EITI-related information. Most people do not have access to the information.
- Poor quality of the information published by companies and tax services.
- Confusion between the role of the Board and other organs in the Executive Committee. The Board is appointed by a presidential ordinance while members of the group are appointed by a decree of Minister of Finance.
- Insufficient budget which stands at US$4 million, only half of which is disbursed by government.
- Limited interest from development partners to the EITI in Congo.

Innovations and lessons

The Republic of Congo views EITI as a driver of reform, especially as it enables people to differentiate various types of state revenues, and all the information related to the revenues derived from natural resources is now accessible to the citizens. Some of the innovations include:

- The existence of a “Draft Law on Fiscal Transparency and Accountability”.
- The publication of all the information related to extractive industries, including contracts etc.
- The existence of an EITI Action Plan which is seen as the best response to the new EITI standard. This Action Plan contains a key communication component, including activities for the dissemination of the reports to the public.
- Parliament consults the EITI information before the adoption of the national budget.
- Rotation of companies’ representatives in the MSG.
- Government takes steps to improve the management of its national oil company by regular publication of oil sales as part of EITI reporting.
- Government's services in charge of collecting taxes and royalties participate in all EITI activities.

Recommendations

In view of the weaknesses and challenges identified, it is recommended that:

- The country should reinforce the capacity of state tax collectors and companies in an effort to improve the data on payment declarations.
- The country should put in place an interconnected system between financial administration and companies to facilitate the communication of data and other information related to the EITI process.
- The country should design a communication strategy to increase the dissemination reach of the EITI reports to the public.
- Development partners should be sensitized on the importance of the EITI process in order to get the buy in.

- The MSG should be prepared to include information from the mining sector in its next report.

Democratic Republic of Congo (DRC)

Context of natural resources in the DRC

The DRC is known for its extraordinary wealth in natural resources, including minerals, oil, and forests that cover more than two-thirds of the national territory. With regard to mining resources in particular, the DRC industrially exploits copper, cobalt, gold, and diamonds. A significant production of cassiterite, tantalum, wolframite, gold and diamond is produced by artisanal and small-scale miners.

The industrial sector has approximately 500 mining companies registered at the Mining Cadastral, an estimated 15 which are already in the production phase. In 2014 the DRC expected to produce 922 000 tonnes of copper, nearly55 540 tonnes of cobalt, and 18 872 tonnes of industrial gold.[36] There are several buying houses for minerals produced by artisanal miners, but the statistics on artisanal production are patchy. The oil sector has 27 companies registered, mostly in the exploration phase, and a small number already in production with an estimated 30 000 barrels per day. It is these two sectors, mining and oil, which are taken into account in EITIDRC.

The MSG decided not to include artisanal mining in the EITI. The Congolese mining sector has both industrial and artisanal mining. These two sectors each have a significant number of operators, but only data from the industrial sector can be easily captured and audited. The artisanal sector remains informal and it is difficult to capture and reconcile the information even though it has been referred to in the second EITI report of 2008/2009. Artisanal mining happens throughout the national territory.

In the framing study for the 2012 report, it is clearly said that "Declarations in the EITI- report 2012 will only focus on the oil, gas and mining sectors and will involve only the companies in production and exploration. The materiality threshold is set at US$500 000 for the mining sector while there is no materiality threshold for the oil and gas sector". The decision excludes the artisanal sector.

Implementation of the EITI in the DRC

The DRC joined EITI during the transition period which started in 2003, following the Inter-Congolese Dialogue held in South Africa and which recommended the 1+4 formula (1 Head of state + 4 vice presidents) hailing from various belligerent groups. Amongst the key determinant factors for the DRC to join the EITI was the commitment made by delegates at the Inter-Congolese dialogue to put an end to the opacity and corruption that characterised the management of the country's natural resources. In 2005, through its vice-president in charge of economy and finance, DRC expressed to the EITI Board its interest in joining the initiative. This interest was made concrete with a Decree No 05/160 of 18 November 2005 related to the creation, organisation and functioning of the National EITI Commission in the DRC. This decree was amended in 2007 by Ordinance No 07/065 of 3 September 2007. However, the complex organisation of the structure and the transitional political context prevailing at the time in the DRC were not conducive to the efficient implementation of the initiative. In 2009, new reforms were introduced through Decree No 09/28 of 16 July 2009 to streamline the structures of the initiative which then became leaner.

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[36] Rapport ITIE/RDC 2011.

The multi-stakeholder group comprises two organs; the Executive Committee which decides on the implementation of the initiative and the Technical Secretariat, which is the executive organ. The MSG comprises government, extractive companies and civil society representatives. In total it has 19 members, including nine from government, five from companies, and five from civil society. The nine government members, who also constitute the Executive Committee, include:

- Minister of Planning (Chair);
- Minister of Mining (first vice chair);
- Minister of Environment (second vice chair);
- Minister of Hydrocarbons;
- Minister of Finance;
- Minister of Budget;
- Special Adviser to the Head of State;
- Two Deputy Cabinet Directors of the Prime Minister.

The internal regulations related to the organisation and functioning of EITI are adopted by the Executive Committee.

The DRC has already published four reports. The first was published in 2010 for the 2007 fiscal period. The second was published in 2011 for the 2008-2009 period, the third was published in 2012 for 2010 fiscal period, and the fourth was produced in 2013 for the 2011 fiscal period. The country is currently (2014) preparing for the publication of its fifth report related to the 2012 fiscal period. At the time of finalising this report, the scoping mission was under preparation.

Following the publication of its third report which pertained to 2010, the DRC saw its status as candidate country suspended temporarily for 12 months by the EITI Board, because six requirements (9, 11, 12,13,14 and 15) were not met. They are all about setting the materiality threshold as well as the completeness and reliability of EITI reporting statements.

In accordance with requirement 9, there should be an agreement on a definition of materiality specifying the income stream that will be included in the tax declarations, including and particularly payments made to public enterprises and performed by them, coverage of payments and revenues paid to sub-national governments and coverage of payments in kind, by provisions for the creation of infrastructure or other type of exchange.

In accordance with requirement 11, the government should ensure that all the relevant companies and state institutions take part in the declaration process and also ensure that public companies participate fully.

In accordance with requirement 12, government should ensure that companies declarations made to the independent administrator are based on audited accounts following international standards.

In accordance with requirement 13, government should ensure that the statements of government entities made to the independent administrator are on audited accounts according to international standards.

In accordance with requirement 14, the government should ensure that all companies falling within the scope of the agreed reporting process comprehensively disclose all of their material payments in accordance with the declaration forms agreed upon.

In accordance with requirement 15, government should ensure that all state entities falling within the scope of the agreed reporting process comprehensively disclose all of their major payments in accordance with the declaration forms agreed upon.

In order for the suspension to be lifted and for the country to become compliant, the DRC had to publish before 31 December 2013, its fifth report related to year 2011 which needed to factor in the corrective measures. These measures mainly pertained to the definition of the materiality and exhaustiveness of publications by all the companies of the sector/perimeter and of all the flows of the reference framework. The EITI Board designated the DRC a compliant country on 2 July 2014 in Mexico, subsequent to the publication of the fifth report. The suspension provided an opportunity for all stakeholders to regroup, work together and redouble their efforts to ensure that the country was validated again.

The suspension of the DRC was communicated to the Prime Minister by the Chair of the EITI. It included recommendations and specific guidance. She encouraged all stakeholders involved in the process to use the temporary suspension as an opportunity to focus on the corrective measures required by the Board of Directors. These included the publication of a supplementary EITI 2010 report or report EITI 2011by 31 December 2013. As a result of the guidance from the EITI Board of Directors, the DRC EITI Executive Committee put in place an implementation roadmap focusing on the following aspects:

- Awareness of the stakeholders in the development of the scoping study;
- Realization of the scoping study to define the threshold of materiality, the perimeter of the companies and the frame of reference of significant flows;
- The design and adoption of the declaration forms;
- Data collection campaign;
- Reconciliation and production of the 2011 report.

The adoption of this roadmap was supported by civil society, companies and state financial agencies which are all represented on the Executive Committee and participated fully in the process of preparation of the 2011 report. This clear roadmap and the involvement of all stakeholders made it possible to meet the deadline set by the Board of Directors of the EITI. The multi-stakeholder group published the 2011 EITI report on the oil and gas sectors, and on the mining sector in November 2013 and December 2013 respectively. After the release of the 2011 report, the Executive Committee presented the report to the general public followed by an open debate.

For the 2011 report, 83 mining companies and 27 oil companies published their payments corresponding to more than US$1 408 273 353, while three national collection services and one provincial collection service also published the payments they received from companies.

EITI legal framework and structure

Currently, EITI DRC operates as per Decree No 09/28 of 16 July 2009 of the Prime Minister. It has two organs, namely the Executive Committee, which is a decision-making organ, and the Technical Secretariat, which is an implementation organ. The Head of State appoints the national coordinator and the Minister of Planning, in the capacity of EITI Chair, appoints members of the Executive Committee.

It is important to note that a draft decree amending the 2009 Decree has been sent to government; it will enter into effect as soon as it is signed by the Prime Minister.

Stakeholders involvement

Government involvement

The government is politically and financially fully involved in the EITI. The DRC is the only country in ICGLR that has five ministers who are legally members of the Executive Committee (the Minister of Planning, the Minister of Mining, the Minister of Environment and Forestry, the Minister of Hydrocarbons, and the Minister of Finance). The Minister of Budget also participates in the Executive Committee meetings although not authorised by law, making it six in total. The draft decree waiting to be signed by the Prime Minister makes room for the Minister of Budget as a full member of the EITI Executive Committee. In addition to the six members of government who attend EITI works on a regular basis, the Office of the Head of State and Office of the Prime Minister are represented by the Chief Advisor and by two members respectively. There is also a personal representative of the Prime Minister who attends the meetings.

It is worth mentioning that DRC government was considered as the weakest link of all EITI stakeholders at the start of the process, characterised by weak participation due to the lack of political will, so much so that several criticisms were levelled against it. The suspension of the DRC in 2013 prompted the Congolese government to increase its commitment and involvement, which also saw all its tax agencies namely the DGI, the DGDA, and the DGRAD taking part in the EITI meetings. Other state services such as the General Finance Inspectorate have also jumped on the bandwagon.

Financially, the government was not much involved at the start, which means only donors—the World Bank, DFID (as part of the Trust Fund) and development partners GIZ and BTC provided support to the EITI. However, over the past three years, the government has been fully committed, providing 90 per cent of the operational budget of EITIDRC. This covers all the activities of the process. On a total annual budget of US$3 718 000, the Congolese government monthly grants the EITI an amount of US$285 000, making it US$3 420 000 per year. The World Bank has made provision of US$500 000 for the EITI for three years, and other donors collectively contribute with US$128 000.[37]

Civil society involvement

DRC civil society is complex and diverse and several organisations are involved in the promotion of governance and transparency in the management of extractive industries. These organisations participate actively in the development of public policies in the natural resources sector. At the start of EITI implementation, a delegate of civil society presided over the consultative committee, one of the two EITIDRC organs, as organised by the first EITI implementation decree. Civil society played a pivotal role in the reforms introduced in 2009. The decree that reformed the EITI was drafted and proposed by civil society, with SARW’s support.

[37]Source : DRC EITI Technical Secretariat

Five members represent civil society in the EITI Executive Committee and attend all the meetings. SARW has funded the participation of two civil society representatives from the provinces to all the meetings of the Executive Committee. The selection of the first four representatives of civil society to the committee, following the restructuring of 2009, was based on a wide consensus of the organisations involved. Nonetheless, the replacements which followed the departure of certain members from the Executive Committee were done in a non-democratic manner, without involving a large number of civil society groups. This approach caused discontent within civil society.

It is worth pointing to the work that Congolese civil society does in implementing the EITI. It conducts a lot of activities as part of EITI implementation, either jointly or individually, across the country. Civil society was tasked by the EITI Executive Committee to carry out the dissemination of EIT/DRC reports, an assignment that is always positively delivered.

Those interviewed for this research unanimously agreed on the fact that civil society representatives sitting on the Executive Committee enjoy freedom of expression. The majority of civil society representatives have affirmed that the government is not opposed to their participation; in fact government ensures that civil society has an active, full and effective participation. Civil society had independently (without any external pressure) appointed its delegates to the Executive Committee, and those delegates freely exercise freedom of speech. This largely accounts for civil society's ability to negotiate and play its gatekeeper or watchdog role better than other stakeholders in the process. That said, certain members of Congolese civil society feel that the Publish What You Pay coalition and the Natural Resources Network exercise a negative influence on the choice of civil society delegates on the EITI Executive Committee.

PWYP[38] considers that the members of civil society cannot share the same views on all issues and frustrations or disputes within civil society component actually contribute to a healthy debate on the implementation of the EITI. The general view in civil society is that the issue can be addressed if the selection approach is democratic and transparent. In trying to resolve the problem, civil society, through a process initiated by the PWYP, has adopted a code of conduct for civil society organizations involved in EITI implementation. It regulates the participation of civil society with clear procedures and criteria for appointing representatives to the EITI in a participatory and consensual manner and proposes accountability and feedback mechanisms between delegates and their peers. It is also significant to note that the PWYP coalition organises quarterly implementation review meetings of the EITI with the support of its partners – it plays a coordinating role in the EITI process. It also keeps track of EITI implementation, evaluation and strengthens the participation of civil society in the EITI through different capacity-building activities.

Extractive companies' involvement

As underlined above, there are several extractive industries in the DRC, close to 500 mining companies registered by the Mining Register and 27 oil companies. Mining companies are organised through the Chamber of Mines and it is the latter that represents mining companies on the Executive Committee. PERENCO, an oil company, represents oil companies on the committee.

[38] The Coalition provides efforts to harmonize collaborative relationships within this stakeholder.

For extractive companies, EITI has a critical importance because it has helped put to an end to accusations from the population that they do not pay their taxes to the state. Companies' participation is a signal that they are keen to support the process because their credibility is at stake, especially as the new standard obliges them to also publish their social interventions.

Companies are therefore part and parcel of the EITI process with five members sitting on the Executive Committee, including two delegates from the Chamber of Mines, one delegate from oil companies, one delegate from GECAMINES(the state-owned mining company), and a delegate from a timber company. In 2012-2013, they provided financial contributions to the operational budget of the Technical Secretariat.

The involvement of development partners

The contribution of development partners is crucial. It was very visible at the start of EITI implementation when the government was reluctant to get involved. The PROMINES project, funded by the World Bank and DFID has supported the activities of EITIDRC to the tune of US$1 000 000. The World Bank funded the mission of a consultant to put in place the structure of the EITI and an action plan adapted to the particular conditions of the DRC, which contributed to the reform of 2009. GIZ provides significant support through its Mining Sector Good Governance Programme (MSGP) which supports training, sensitisation, dissemination of reports, the refurbishment of the Technical Secretariat office, and payment of consultants' fees for the scoping mission for the 2010 report. GIZ also support activities of civil society allowing it to participate in debates, and thus contributes directly to the scoping for the 2011 and 2012 reports which have taken into account a lot of comments and propositions made by civil society. The Centre Carter, CORDAID, OSISA, Natural Resource Governance Institute and SARW[39] provide support to civil society in the area of capacity building, analysis and evaluation of the EITI reports, dissemination of the EITI reports, and participation in meetings. In addition, it is important to note that PROMINES has launched a call for proposals for conducting an assessment on the implementation, the structure and the impact of EITI processes in the DRC.

It is important to emphasise the regular attendance of development partners at Executive Committee meetings. These delegates represent the World Bank, DFID, EU, BTC, GIZ, and SARW.

Impact of the EITI

A significant impact of the EITI has been the publication of payment of tax by companies to government. The EITI has helped increase accountability in the extractive industries, though it is far from being sufficient. Before the EITI, the management of natural resource revenues was opaque. Another contribution of the EITI is to have created a rapprochement between the three key stakeholders which did not exist before. The EITI tripartite structure has now been replicated in many other activities. DRC is in the process of revising its Mining Code of 2002.Civil society, mining companies and the government are all stakeholders in the process. Several dispositions relative to transparency are included in the revised code.

Other impacts of the EITI include the following:

[39]SARW has supported civil society participation in the MSG meeting; it also supported the first televised campaign on Publish What You Pay, the fees for the participation of civil society provincial delegates in the works of the Executive Committee and financed the disseminating the first EITI report (2007).

- It has forced government to commit to revenue transparency;
- It has brought together all stakeholders, government, companies and civil society into a harmonious working relationship;
- It has provided reassurance to companies, especially those that are listed on stock exchanges, of the investment climate in the DRC;
- It reassures government that it will have a picture of what companies pay and has the possibility to hold accountable its recovery services for public revenues;
- It provides an opportunity to understand the challenges that government and its ministries and agencies face in the collection of extractive revenues;
- It promotes full participation of civil society in the implementation and evaluation of revenue management;
- It has increased the sanction level in case of mismanagement by involving the justice department in identifying the causes of gaps noted between the companies published figures and the state reports;
- It has contributed to the revival of the Finance Inspectorate General (State Auditor General) in its work of auditing the state's finances (a very positive step);
- It has contributed to the traceability of mining production and tax collection;
- Information is now available on companies' production, the investments and the revenues collected by the state, and civil society now demands the reconciliation between the reported production and the revenues collected by the government.

Challenges and weaknesses

EITI implementation in DRC is also facing challenges and weaknesses, including the following:

- The major problem in EITI implementation in DRC is the complexity of the Congolese mining sector. The biggest problem is linked to the flows of materials and to the number of companies retained in the scoping exercise. This means that only payments made by major mining companies are considered while those made by small or medium companies are left out, due to the difficulties in data collection. There is therefore a wide variety of extractive operators that are included in framing study (for example, more than 100 for the 2012 report), a large geographical space for extractive activities, an expanded central and provincial fiscal regime, multiple streams selected (more than 20), but a less organised and computerised tax administration.
- The lack of means by the civil society organisations active in the area as well as insufficient coordination of their interventions constitute another weakness. Civil society needs to be strengthened in capacity and financial resources. However, its contribution to the framing for the 2012 financial year report has been remarkable.
- The dissemination of EITI reports does not yet reach the major part of the population across all DRC provinces, due to lack of financial resources. The development partners should regularly support this activity which is carried each time by civil society.
- The conformity of the country could lead to negligence with the possibility of reversal or sagging in the efforts of transparency and governance of natural resources. There is a need for additional efforts by the Congolese government and other stakeholders in order to maintain the compliance status of the DRC in an effort to spare it from another suspension or exclusion.
- Some interviewed persons expressed a desire for improved collaboration between the EITI Technical Secretariat with different groups of civil society.

- It is difficult to convince some companiesto join the process. However, an awareness campaign began to convince all hesitant companies to join the process, as they previously considered themselves exempt.
- Finally, the difficulty for the consolidation of good practices remains. The EITI continues to encounter difficulties in the collection of data as experienced in the early years. There is insufficient integration of the EITI criteria in the national system of governance of the extractive industries.

Innovations and lessons

EITI process has brought innovations to the governance process in the DRC, including:

- Integration of several transparency principles in the Draft Law amending Law No 007/2002 related to the mining code.
- The EITI tripartite format has been adopted by other processes in the country such the revision of the mining code and the drafting of the hydrocarbon code in which civil society plays an active role.
- The publication of the contracts is mandatory (Decree No 011/26 of May 20, 2011). The government has requested the Minister of Mining, the Minister of Hydrocarbons and the Minister Forestry to publish all contracts signed in these sectors, within 60 days of the entry into force of the contracts. To this end, under the said decree implementing measures, the Minister of Mines has taken the Ministerial DecreeNo.0186/CAB.MIN/ Mining/ 01/2012 of 23 March2012 on obligation to all mining companies to report payments made to the State under the Transparency Initiative Extractive Industries-ITIE
- The two chambers of parliament have asked the national EITI secretariat to publish the report by 30 September each year to allow parliament to check government figures.
- The EITI reports have started publishing the list of persons who directly or indirectly own or control a company, a licence or other property in the country.
- The EITI Board intervention to guide the DRC out of its suspension.

Recommendations

- Strengthen the capacity of tax administrations by providing them with means to operate, and create a system that will link services in order to promote speedy collection of information and reliability of data
- MSG should have permanent control over the Technical Secretariat, under the coordination of the Minister of Planning. The control must ensure the optimization of the performance of the Technical Secretariat.
- It is important that development partners continue to support civil society, strengthening its capabilities, especially in the work of dissemination of the EITI reports throughout the country. Civil society organizations will also have to implement the code of conduct recently adopted to resolve significant disputes that divide its members from time to time.
- Awareness campaigns for all companies without exception must continue and be strengthened so that all comply with the EITI criteria and standards through regular statements of their payments to the State.
- The Technical Secretariat should create appropriate mechanisms for close collaboration with all stakeholders and will also organize abroad awareness to integrate all the mining companies into the EITI process.

- The Government should take advantage of the implementation of the EITI to strengthen services in charge of the collection and management of the budget.

The Central African Republic (CAR)

Context of natural resources in the CAR

CAR is a central African country with an estimated population of 4 500 000 inhabitants and an area of 623 000 km². The country has vegetation ranging from savannah to the equatorial forest (to the south) and mainly enjoys a tropical climate. CAR is covered by forests: 3.8 million hectares including 3 million that are said to be exploitable. The country has highly prized, precious timbers for carpentry.

CAR sub-soil is far from poor. It contains significant quantities of diamonds, gold, uranium, and iron. The search for oil seems promising. Despite its potential, the country exported in 2012 only US$198.5 million worth of diamonds, timber, cotton, coffee and tobacco. The mines are essentially alluvial, which means that their exploitation is largely artisanal. Former President François Bozizé did try to develop the sector with the support of South African companies, but to no avail.

About 30 per cent of diamond production reportedly goes out of the country illegally.[40]According to several media and civil society organisations, illegal diamond trade from CAR is contributing to financing armed groups.

With regard to uranium, the other resource of the country, it is on standby. The promising Bakuma deposit was given to the French mining company Arevaon a long-lease, but the opening of the large-scale uranium site has been delayed due to lack of infrastructure, and also due to a steep drop in the international prices of this mineral. In the field of hydrocarbons, things are moving, but quite slowly. The Chinese oil company, CNPC, has taken over the exploration, development and exploitation permit of Boromata, located to the north-east, which was initially given to the American oil company Gynberg RSM by Ange-Félix Patassé, Bozizé's predecessor. CNPC's exploration, like that of certain mining companies, is progressing slowly.

As reflected in the 2010 EITI report, after the diamond production peak of 450 000 carats in 2007, production decreased slightly in 2010 to about 301 550 carats, making the CAR the 14th largest diamond producer. Gold production is marginal but has been growing for several years. It reached 60kg in 2010 compared to 10kg in 2006.[41]

As a result of the war, the CAR was excluded from the Kimberley Process Certification Scheme, leading to massive fraud and a massive drop in legal exports. The diamond economy represents a major prize for all the factions that have been pitted against each other in the country. The illegal trade in what is known as CAR heavenly stones has financed the war in CAR, which influenced the EITI Board to suspend the country.

Implementation of the EITI in CAR

CAR was designated a candidate country on 21 November 2008. The country publishes as part of the process government revenues from artisanal diamond production, being one of the few countries that have included artisanally mined minerals in EITI reporting. CAR was designated a compliant country on 1 March 2011.

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[40] https://www.stratfor.com/sample/analysis/legal-trouble-central-african-republics-diamond-industry. 13th May, 2013. Accessed on 23-02-2015.

[41] *Rapport ITIE/RCA 2010*, p.7.

The EITI Board decided to temporarily suspend the country as an EITI-compliant country on 10 April 2013 due to political instability. The Board decided that CAR did not have a recognised government, which is pre-condition for the implementation of the EITI. According to EITI rules, CAR may seek for the suspension to be lifted at any time when the conditions have normalised.

The country has produced three EITI reports so far:

- On 23 March 2009, it produced the first report on the 2006 data.
- On 6 December 2011, it produced a second report concerning 2007, 2008 and 2009.
- On 26 December 2012, a third report was produced for the 2010 fiscal period.

The fourth report, which is being drafted (in 2014), will cover 2011 fiscal data. This fourth report will combine data from the mining, forestry and oil sectors. It was in July 2012 that the multi-stakeholder group decided to extend EITI criteria to the forestry sector.

Following validation in March 2011, CAR won the fastest EITI implementation prize and was considered as a global leader for EITI implementation. On 11-14 March 2012, the Regional EITI Conference for the CEMAC zone was hosted in the country in order to enable Member States to learn from the CAR experience.

Following the country's suspension in April 2013 due to political turmoil, certain actions were undertaken by the civil society, the media and all the mining operators to ask the government to continue with the implementation of the EITI and to get EITI Board to lift the suspension. Likewise, the National Council of Transition (parliament) made a recommendation to the government to carry on with the implementation, and requested the EITI Board to lift the suspension.

During the press conference in September 2013, in front of ambassadors, the government and other stakeholders, the transition president, Michel Djotodia, reaffirmed the country's commitment to EITI implementation and working hard to avoid expulsion. On 14 April 2014, the government requested the Board to extend its suspension to avoid being expelled from the initiative as soon as it is reintegrated.

The EITI in CAR has three organs:

- The National Board, chaired by the Prime Minister with 26 ministers sitting on it;
- The Steering Committee, chaired by the Minister of Mining comprising 23 members; and
- The Technical Secretariat.

The EITI was formalised with the adoption of the Decree N°08-260 of 18 July 2008, which provided mechanisms for the creation, organisation, operationalisation and monitoring of the implementation of the EITI. The National Council is chaired by the Prime Minister and is composed of 15 members which include eight government representatives, two from civil society, three representatives from the extractive sector, one representative of the central bank, and a representative of the parliament. Government representatives include the following ministers: Mines, Finance, Planning, Trade, Environment, Water and Forests. In addition, the Steering Committee is composed of 21 members including nine from the government, six from civil society and six from the extractive sector. For the government, there are two representatives of the Ministry of Mines, three financial authorities, and one each from the Ministry of Trade, the Ministry of the environment, the Ministry of Planning, and the Ministry of

Forests and Water. Civil society representatives come from labour, religious denominations, the public press, private press, the human rights observatory and lawyers. The extractive sector in the Steering Committee is represented by a representative of the mining companies in exploration, one of purchasing offices, two from artisanal mining and two representatives from the National Union of Mining Cooperatives.

Stakeholders involvement

The involvement of the government

The CAR government is fully involved in EITI implementation. It finances all the activities of the process. The EITI is considered as a key instrument for CAR's extractive policy.

The involvement of the civil society

At the start of EITI implementation in CAR, civil society was very active and was freely represented both on the National Board and on the Steering Committee. But the crisis which has hit CAR has considerably affected civil society organisations, some of which are bound to disappear. During the suspension, civil society initiated a memorandum requesting the EITI Board to lift CAR's suspension.

Civil society representatives on the EITI come from faith groups, NGOs, media, the Publish What You Pay coalition and the unions. All civil society representatives enjoy their freedom of opinion and freely participate in the EITI meetings. However, civil society faces a serious financial constraint that reduces its effectiveness. Civil society continues to seek support from development partners.

The involvement of companies

There are four groups of operators in the CAR:

- Mining companies in the exploration phase;
- The buying houses for minerals or the purchasing houses;
- Cooperatives;
- Collectors.

All these four groups declare all the payments they make to the state. In 2010, the contribution of the mining sector to the CAR state budget was around 3 per cent. In 2012, that contribution reached 6 to 7per cent.

The involvement of development partners

EITICAR has operated with the total financial support of the government. Development partners, such as the World Bank, GIZ and Embassy of France have provided limited technical support to the process.

Strengths of the initiative

The biggest strength of EITI in CAR was the speed at which the country produced its EITI reports. Because of that, CAR was designated EITI global leader by the EITI Board.

As is the case with other countries, the government took into its hands the initiative and used it as a good governance and national policy tool. The fourth report (which is being drafted) will include data from three sectors (mining, oil and forestry), even though the country is dominated by artisanal exploitation.

Challenges and weaknesses

The biggest challenge is the weak capacity of all stakeholders involved in the implementation process. State entities in charge of revenue collection are extremely weak. Other stakeholders, civil society and companies must be supported with capacity building. The other challenge (and probably the biggest) is the ongoing political instability. Unless total peace is restored, it will be difficult for the Board to lift the suspension.

The EITI is also facing weak financial support. For the past three years, state financial support for the functioning of the process has been dwindling. Donors are not keen to support the EITI Technical Secretariat.

Innovations and lessons

CAR's greatest innovation is the fact that the country bases its implementation on the data collection of revenues from artisanal diamond mining. The country has properly identified the various actors in the artisanal sector.

It is worth mentioning that CAR would have published its fourth Report on the data related to timber if it was not for the war situation. It should have been the first member of the ICGRL to include timber in the EITI.

The following innovations have taken place in the CAR[42]:

- Establishment of 16 regional sub-committees of the EITI;
- Development of a reporting methodology in a completely informal sector;
- Official announcement of the integration of the forest sector in the 2011 report;
- Media campaign and awareness on the ground conducted nationally and in local languages;
- Institutional cooperation with the national assembly (including a parliamentary declaration of support);
- Independent annual budget allocated to CAR EITI, systematically making it part of the state budget;
- Films on EITI (targeting, for example, parliamentarians);
- Joint organization of the regional conference of the EITI in Bangui in March 2012 to promote peer learning.

Recommendations

- The return of peace in Central Africa Republic is a priority for the EITI to be relevant.
- As soon as peace has been re-established and the suspension has been lifted, development partners should provide technical and financial support to the initiative and

[42] Site officiel de l'ITIE RCA : www.itierca.org

similarly strengthen the capacities of the civil society which should immediately play an important role in the resumption of the activities of the EITI.

- The Government should increase its financial contribution to the functioning of the EITI in the country

III. COUNTRIES THAT HAVE NOT YET JOINED THE EITI

Six ICGLR Member States have also signed the 2010 "Lusaka Declaration of the ICGLR Special Summit to fight illegal exploitation of Natural Resources in the Great Lakes Region" which contained the six tools of the Regional Initiative on Natural Resources, including the EITI but as of March, 2015, they have not yet joined the initiative. The Republic of South Sudan has also adopted the Lusaka Declaration when she joined ICGLR on 24th November 2012 but has not yet applied for EITI membership. However, the following analysis presents the situation of each country highlighting experiences, challenges, level of involvement of key stakeholders and some areas where capacity needs are required.

Republic of Burundi

Context of natural resources in Burundi

In its new poverty reduction strategy, the Burundi government describes mining as a key pillar for the country's economic development. Burundi mining potential is mainly composed of significant mineralization of world-class nickel alongside cobalt and platinum, tin, tantalum, vanadium, gold, wolframite and rare earth deposits, industrial minerals such as phosphates, lime, kaolin, clay and various other construction materials.[43] The sector is dominated by artisanal mining. Close to 70 000 artisanal miners are active in the country and generate approximatively 1 700 000 000 Burundian Francs according to the Ministry of Mines. These miners mainly exploit gold, tantalum, cassiterite and wolframite.

Currently, prospection, exploration and exploitation work is under way across various areas of the country and for different types of minerals. A big reserve of Nickel has been discovered, but it requires a significant amount of energy for its exploitation. Exploitation sites are located in the provinces of Bubanza, Cibitoke, Kayanza, Kirundo, Muyinga, Ngozi and Ruyigi which share the border with Rwanda, the DRC and Tanzania[44].. The Burundian state promulgated the mining code on 15 October 2013, and it is now preparing to draft implementation measures. At the time of collection of data for this research, a national mining policy was being drafted to be validated in September 2014 during the work of the Sectorial Group on Mines and Quarries. The iTSCi traceability system scheme was launched in Burundi since April 2014. The country has registered 38 mining cooperatives and 8 buying houses for various minerals. There has been a spectacular increase in the fees for opening mining cooperatives from US$400 for associations to US$5 500 for mining cooperatives just for one hectare and 1 000 000 FBu to 50 000 000 FBu (US$32 000) for the 3T. The fee for opening gold-buying houses has increased to US$64 000 (up from US$10 000). Consequently, the number of gold-buying houses fell in 2014 from 17 to 3, and 3T-buying houses from 8 down to 5. In 2014 Burundi had only 38 cooperatives and 8 buying houses (three for gold and five for 3T).

With regard to the hydrocarbons sector, four oil blocks have been allocated, including one onshore and three offshore, with licence holders being junior companies. Each company holding an oil block pays to the Burundian State the amount of US$200 000 per year in terms of royalties. To date, only one company has handed the block over to the state without having

[43] OLUCOME, *Livret de sensibilisation en faveur de l'ITIE au Burundi*, Bujumbura, mars 2014, p.5.
[44] OLUCOME, *Livret de sensibilisation en faveur de l'ITIE au Burundi*, Bujumbura, mars 2014, pp.5-6.

started exploration works. This sector is therefore not developed, but the country has significant potential, especially in Lake Tanganyika.

EITI pre-candidate stage

The Minister of Energy and Mines presented to the Council of Ministers a note requesting the accession of Burundi to the EITI. The Council of Ministers, chaired by the Head of State praised the initiative but noted that Burundi was still at the stage of artisanal mining. Since it has no extractive industries, it would be necessary to turn to countries where there are mining companies that are already members of the EITI for lessons, to know the benefits of membership, but also the reasons why some countries which have a large extractive industries sector have not joined the EITI— especially countries that are living in a state of constant internal conflict. On 20 January 2015 the Minister of Mines and Energy publicly declared intention of the Government of Burundi to initiate the EITI process.

The World Bank and the GIZ-GeRI (Global Extractive Resource Initiative) programmes are supporting the Burundian government for the EITI pre-candidate stage. A recent World Bank report entitled “Study on the feasibility of EITI pre-candidate stage” concludes that the mining sector in Burundi is informal and that production data and fiscal revenues from the sector are very modest. However, a country does not join the EITI necessarily in order to become EITI-compliant. A country may join the EITI with a view to enhance good governance and transparency. A government that intends to move forward in order to improve governance and investment in its mining sector may use EITI as an oversight and multi-stakeholder accountability body for the mining sector. Civil society has taken initiatives by putting in place a project entitled “Campaign for joining and implementing EITI” in Burundi with UN and UNDP funding. However, the project’s activities were suspended by the government for three months under the pretext of “unauthorized activity”.

Key stakeholders involvement

Government

The government has already undertaken initiatives which demonstrate its interest in the EITI process. In this regard, the following actions have been taken:

- It has conducted a high-level fact-finding mission at the EITI International Secretariat in Oslo, Norway, jointly with a delegation of the ICGLR, in January 2014;
- It participated in the scoping study commissioned by the World Bank; and
- It has conducted a fact-finding mission to Tanzania to learn from the Tanzanian EITI implementation experience and gain experience from the Tanzanian Mining Registry.

For the government operational programme, it is clear that it was important for the Ministry of Mines to thoroughly understand the EITI prior to submitting a file to the Cabinet meeting. It was expected that an EITI focal point would be created after the mission to Tanzania.

Amongst the challenges that are worth the attention of the government as part of EITI, the delegation from the Ministry in charge of Mines and Energy (MEM) mentioned the difficulty of cohabitation between the government and civil society organizations. According to interviewees, the two parties do not trust each other and are mutually accusing each other of undermining the efforts to join the EITI.

Another challenge facing the government is the lack of industrial activities. The government is reluctant to incur expenses for EITI implementation while the sector is not generating enough revenues to the public treasury. Although development partners are committed to support the initiative, especially in its initial phase, governments are expected to be committed and contribute to the functioning of the process for its sustainability. Burundi must be prepared to fund the EITI when it decides to join.

Civil Society organizations

There are not many civil society organizations which are involved in the promotion of transparency or good governance of natural resources in Burundi. However, a campaign for joining and implementing EITI was launched by the Anti-corruption and Anti-mismanagement Watch (OLUCOME) in January 2014 with the support of the United Nations and the UNDP. These international organizations contribute to building the capacities of Burundian stakeholders on transparency and accountability of the revenues from the mining sector.

Several sensitization actions have been undertaken by the project, including:

- Production of sensitization tools on EITI such booklets, stickers, sketches produced in French and in Kirundi. The booklet produced by OLUCOME aims at sensitizing stakeholders in the mining exploitation in Burundi with a view to a better understanding of the EITI process and best way to join its launch and effective implementation in Burundi.
- Study on the stocktaking on finance management, transparency and accountability in the mining sector. The validation of the study was scheduled for 25-27 August 2014.
- Holding of seven workshops for sensitization on transparency, targeting local stakeholders, including heads of quarries, artisanal miners, and local civil society representatives.
- A workshop for training and sensitization on EITI was organized for 30 local civil society organizations.

Civil society organizations fully support the EITI, but it is facing the lack of collaboration or mistrust from the government. The government, through the Ministry in charge of Mines and Energy (MEM), suspended civil society EITI campaign for three months because of the lack of consultation, and only reversed the decision after several negotiations that were conducted in the presence of UN and partners. Civil society organizations were obliged to include representatives of MEM in all their campaign activities. This is a major challenge for the implementation of the process which necessitates the collaboration of all stakeholders, government, the civil society and mining companies.

Civil society organizations noted a real willingness of the population through several stakeholders to see Burundi join the EITI.

Private Sector

The Burundi Chamber of Mines is active. It holds various mining activities. In 2011, the Chamber of Mines organized artisanal miners into two associations. This led to the grouping of about 19 cooperatives in 2013. It has also registered about 17 buying houses and exportation houses for minerals (gold, cassiterite, wolframite and tantalum).

With regard to EITI, the chamber of mines is of the view that it is important to resolve the problem of collaboration between key stakeholders before the implementation of the EITI because the government has not resolved the question of tax increase. There is need for a conductive environment that allows stakeholders to communicate and collaborate.

The Chamber of Mines also notes that it is important to harmonize Burundian legislation with that of countries in the region to avoid tax evasion and loss of income for the country. Indeed, the minerals can be transported illegally to neighboring countries if they have better tax incentives and a better business climate.

Challenges and weaknesses

According to Government and CSOs, EITI has potential in terms of strengthening transparency and accountability in natural resource governance. However, the following challenges need to be addressed:

- The lack of trust between the government and other stakeholders remains a challenge. The initiatives of civil society have been suspended by the government and the claims of the Chamber of Mines have not been taken into account by the government.
- There are not enough skills and resources to support sensitization activities of CSOs.

Areas of peer-learning

- ICGLR Lusaka Regional Centre should facilitate dialogue among government and CSOs via ICGLR fora at the national level;
- Sharing best practices on collaboration between governments and CSOs within the region;
- Draw lessons from local and national consultations carried out in the campaign for adoption and implementation of the EITI in Burundi.

Recommendations

- ICGLR Levy Mwanawasa Regional Centre should facilitate dialogue between the Government and civil society organizations in promoting the EITI implementation through peer-learning activities.
- The government should create confidence among stakeholders in the initiative.
- Civil society should be encouraged to continue its advocacy work on EITI implementation, and receive technical and financial support from development partners.
- Companies should be involved in promoting the EITI in Burundi and the Chamber of Mines should sensitize its members to ensure massive support for the process.

Republic of Uganda

Context of natural resources in Uganda

Uganda has high expectations from its extractives sector, especially following the discovery of oil and gas reserves. Although the hunt for oil in Uganda dates back to the 1920s, commercial discoveries were only made in the recent past. The first explorations took place in the 1950s, and were re-launched in the late 1980s, but plans for exploitation were interrupted by both local and international political and economic uncertainties, as well as the difficulty and expense of extracting oil from a land-locked country.[45]Resumption of the current ongoing exploration started in the late 1990s, increasing in 2003–2004, and major finds were confirmed in 2006 and 2007 both offshore and onshore of Lake Albert, placing Uganda among Africa's "hottest inlands exploration frontiers". The country has about 3.5 billion barrels of oil reserves (with an actual production estimate of about 1.7 billion barrels), estimated to last around twenty years when production finally begins. Many argue that the value of this estimate is difficult to ascertain given the volatility of oil prices on the world market, but at the current world market price for crude per barrel the estimated revenue could reach US$166.5 billion in oil revenues. The companies currently licensed to operate in the country are Tullow Oil, Total E&P, China National Offshore Corporation (CNOOC Uganda Limited) and Dominion Petroleum.

The status of explorations in Uganda and plans for 2011 and 2012 are outlined in the table below. The table is an extract from Derrick Petroleum Services "Exploration Database" so it shows limited information about exploration in Uganda.

Table 4: Uganda Oil and Gas Exploration in 2011 and 2012

Block/ License Name	Operator	Status	Wells planned in 2011	Wells planned in 2012+	Date of last update
Block 3A	Tullow Oil	Announced		2	7/8/2011
Block 1	Tullow Oil	Announced	1		6/7/2011
Block 2	Tullow Oil	Ongoing	1		4/6/2011
Exploration Area 4B or EA4B	Dominion Petroleum Ltd	Ongoing		2	7/13/2011
Block EA5	Tower Resources Plc	Ongoing	1		5/18/2011

Source: Derrick Petroleum Services 'Exploration Database'

The discovery of commercially viable oil has created great expectation in the country. It took place in a context where the population began to lose confidence in the government's plans because of its difficulties in providing basic public services.

The Ugandan government enacted a *National Oil and Gas Policy* in 2008. Later it was signed into Law as the *Petroleum (Exploration, Development and Production) Act* of 2012 together with

[45] Ben Shepherd, 2013, *Oil in Uganda: International Lessons for Success*, The Royal Institute for International Affairs, Chatham House: https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Africa/0113pr_ugandaoil.pdf

other petroleum-related statutes. Initially the bill accorded the Minister of Energy broad unchecked power, which caused civil society organisations to critique the minister's powers to license and create oil regulations. It has been argued that this unfettered discretion is technically bad for a robust industry. Giving one-person unchecked power to both issue oil licenses and regulate the oil industry creates potential for insufficient capacity and conflicts of interest.[46]

The Ministry of Energy and Mineral Development recently conducted a two-day consultative workshop to review the mineral policy, law and taxation. The draft revised mineral policy has also adequately addressed measures to implement EITI in Uganda.

In addition, the highly-geared second edition of the Uganda Mining, Energy, Oil and Gas conference and exhibition is scheduled for May 20 and 21, 2015.Uganda Chamber of Mines and Petroleum, in partnership with the energy Ministry, is also organizing the 3rdMineral Wealth Conference, scheduled for 1 and 2 October 2015 under the theme "Uganda's Transformation: A New Era in Mining". These and other efforts are an indication that the extractive industry is taking centre stage in the country's political economy. Hitherto, Uganda deliberately undertook the Sustainable Management of Mineral Resources Project (SMMRP), from 2008 to 2012, with financial and technical support from World Bank, the African Development Bank and the Nordic Development Fund. Under this project, the government undertook geo-surveys and a mineral resources assessment in which it identified potential mineral target areas for exploration and development.

Currently, there are 773 licenses in mineral development and mining issued, compared to100 in the previous ten years. This means that Uganda's prospective bases have increased over time, expanding the extractives sector as well as increased payments in terms of revenues from (what are so far) the concessional licenses.

Table 5: Companies with significant mining operations in Uganda

	Company	Commodity	Location by district	Contact person	Phone	Fax no.
1.	Anglo-Uganda Corporation	Gold	Mubende	Moses Masagazi	256-414-200743/ 256-712-848906	256-414-345580
2.	Ataco Services Limited	Gypsum	Bundibugyo	Not available	Not available	
3.	Busitema Mining CIE Ltd	Gold	Busia	Paul Sherwen busitema@mac.com	256-772-2230005	256-414-231327
4.	Busongora Lime Ltd	Limestone	Kasese	Not available	Not available	Not available
5.	Gulf Resources Limited	Vermiculite	Manafwa	Dennis Kusasira	256-414-230151	Not available
6.	Hima Cement Ltd	Limestone	Kasese	David Njoroge	256-414-241552/ 256 031213100	Not available
7.	Kasese	Cobalt	Kasese	Adrian Gale	256-414-251175	Not available

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	Cobalt Co.Ltd					
8.	Kelvin Shaun Investments Limited	Limestone	Kasese	Charles Musekuura	256-772-664030	Not available
9.	Kalembe Mines Ltd	Base metals	Kasese	Fred W. Kyakoye	256-414234909/ 256 772445642	256-414-245687
10.	Kisita Mining Co. Ltd	Gold	Mubende	Edward Ssenfuma info@kisitamining.com	256-772-310457	Not available
11.	Krone Uganda Limited	Wolframe	Kabale	KakizaAmooti	256-414-236638/ 256-772553862	256-414259201
12.	Tororo Cement Limited	Pozzolan/ limestone/ Apatite	Kapchorw/ Bududa/ Moroto/Tororo	B. M. Gagrani tcl@tororocement.com	26745442481	Not available
13.	V.E.K Global Mining Limited.	Tantalite/ Columbite	Ntungamo	Not available	Not available	Not available
14.	Kigezi Steel Company Limited	Iron ore	Kabale	Hon. SarapioRukundo	0772626253	Not available
15.	Great Lakes Iron and Steel Company Limited	Iron ore	Kisoro	Not available	Not available	Not available
16.	Zarnack Holdings (U) Limited	Cassiterite/ Tin	Ntungamo	Dennis Kusasira	0414230152	Not available
17.	Berkeley Reef Limited	Wolfram	Kabale	Not available	Not available	Not available
18.	Simba Mines and Mineral Resources	Gold & Lead	Ibanda&Kamwenge	Not available	Not available	Not available
19.	Building Majesties Ltd	Dimension stones	Mubende	Not available	Not available	Not available
20.	Jan Mangal (U) Ltd	Gold	Moroto	Not available	Not available	Not available
21.	Uganda International Mining Co. Ltd	Iron Ore	Kanungu			Not available
22.	Sino Minerals Investments Company Limited	Wolfram/ Base Metals/ Iron Ore/Gold	Kabale/ Bushenyi	MuruliMuyamba johmmuruli@yahoo.com	0772428332	Not available
23.	Moroto Cement Industries (U)	Marble, Limestone	Moroto	Mawanda Michael	0752750250	Not available

	Limited					
24.	Dao Marble Limited	Marble	Moroto	Not available	Not available	Not available
25.	Sun and Sand Mines and Minerals Limited	Cassiterite/ Tin	Isingiro	Not available	Not available	Not available
26.	Guangzhou Dong Song Energy Group Company Limited	Iron ore, Phospahat es, Niobium, Tantalum, Scandium, REE and Zirconium	Tororo	Not available	Not available	Not available
27.	BNT Mining Limited	Tantalite	Ntungamo	Kajura Bernard	0772504856	Not available
28.	AUC Mining (U) Limited	Gold	Mubende	Moses Masagazi	0712848905	Not available
29.	Muhindo Enterprises	Kaolin, Tin, Feldspar, Beryl, Tantalite/ Columbite	Bushenyi	Muhindo Jamal	0752731951	Not available
30.	Greenstone Resources Limited	Gold	Busia	Paul Sherwen busitema@ mac.com	0772223005	Not available
31.	Marubeg Company Limited	Tantalite/ Columbite	Ntungamo	Kayonga Kellen	0772415138	Not available
32.	Tibet Hima Mining Company Limited	Base metals	Kasese	Stan Chu stan_09@1 26.com	0716988888	Not available

Source: Mines Department, Ministry of Energy and Mineral Development of the Republic of Uganda. Accessed on 14th April 2015.

Implementation of the EITI in Uganda

There have been a lot of pronouncements by the government giving indications that the country could soon sign the EITI. Uganda has also been present at International conferences where such declarations have been made. For example, during the sixth global conference of the EITI in Sydney, Australia, the Minister of Energy and Mineral Development, Irene Muloni, re-affirmed Uganda's commitment to the initiative. She assured the 1 300 delegates in attendance that Uganda would soon apply to join EITI, effectively subjecting the country to the highest global standards of good resource management. She informed the meeting that "Also, the National Oil and Gas Policy explicitly commits government to join EITI and participate in the process of EITI implementation. Engagement with EITI (Secretariat) continues and significant progress has been made in preparing the country to join EITI. I therefore have no doubt that very soon we shall apply and be allowed to join EITI".[47]

Despite all these declarations, Uganda has not yet taken solid steps towards achieving that goal. The reasons given by government officials during the interviews include the fact that Uganda needs to deepen understanding of the initiative and the modalities of its application. They raised two challenges in terms of its implementation: first, how to handle the clauses of confidentiality and secrecy included in contracts already signed, and second the need to find balance between transparency and national security. Even if government is still consulting on these questions, it is important to note that parliament has also recommended the adoption and application of the EITI. In 2013, during a meeting with development and cooperating partners, President of the Republic mentioned that he had mandated the Ministry responsible to move forward with the EITI.

The government has been under pressure from civil society to fast-track the process of joining the EITI. The Religious Council of Uganda recommended in its submission to the parliamentary committee on finance in June 2014 that the government should consider joining EITI. According to Micheal Werikhe Kafabusa (MP), chair of the Parliamentary Natural Resources Committee, parliament has received submissions from different stakeholders and his committee has advised the Ministry in charge of the committee's recommendations that the government should make the first step to joining the EITI.

For the Government representative, the reason for the slow pace is the government's position that the country is first working on the harmonization of the national legal framework so that it is able to accommodate the EITI. It is not known when the country will join the EITI. Despite Government's inclination toward the EITI, there is also a perception that the EITI is an imposition from western governments.

Furthermore, Uganda is engaged in setting up the ICGLR regional certification mechanism. It has also set up a parliamentary committee to verify signed contracts with mining companies without publishing these contracts (which contain confidentiality and secrecy clauses).

Key stakeholders understanding of the EITI

Most of the key stakeholders in the country (government, CSOs and companies) are aware about the EITI but they do not have same understanding of its benefits for the country. There is currently no tool or framework that involves public in monitoring revenue from the extractive industries, and there is limited access to information due to the nature of contracts which have a clause of confidentiality.

Government

According to the National Coordinator of ICGLR and Permanent Secretary in the Ministry of Foreign Affairs in Uganda, James Mugume, Uganda is engaged in a process to domesticate the Protocol on the fight against illegal exploitation of natural resources. The process will set up the legal framework to implement the Regional Initiative on Natural Resources, including the six tools.

[47]Mussime Chris, "Uganda to join EITI soon, says Energy Minister" in Oil in Uganda: http://www.oilinuganda.org/features/international/uganda-to-join-eiti-soon-says-energy-minister.html

Uganda has not yet implemented EITI because the consultation process is still going on. The main challenge identified in this area is how to reconcile the issue of confidentiality and secrecy included in the contracts already signed with mining companies with the principles of transparency of EITI. At the moment, Uganda has found an alternative option to promote transparency and accountability by creating a parliamentary committee which looks at the contracts signed and makes recommendations. The chair of the committee in charge of natural resources has confirmed that parliamentarians recommended that the government join the EITI. The new finances bill in discussion at the Parliament recommends that all contracts signed be made public. All due processes for the preparation of the Domestication Bill were finalized early this year (2015) and the bill is only awaiting presentation to Cabinet by the responsible Minister for consideration before tabling in Parliament for a first reading.

Civil Society Organizations

Civil society is organized in thematic groups, but because of mistrust between it and the Government, the impact of its action is low. Civil society doubts government commitment to the EITI. In the initial stages, civil society was able to engage with the Ministry in charge of mining, and from time to time the two exchanged notes. But when matters relating to the EITI were transferred to the Ministry of Finance, the collaboration ended. Relations between the government and CSOs in this area need to be improved.

Private Sector

There are few companies so far whose role has been more than doing business and making profits, they only deal with the government.

Cooperation and development partners

Cooperation and development partners have been involved in the process of undertaking technical studies, and also offering guidance to the government where needed. Prominent partners in this sector are:

- The World Bank;
- The Norwegian Embassy;
- The Democratic Governance Facility (A group of 8 countries which have come up with a basket fund).

Challenges and weaknesses

One of the main challenges in Uganda is that key stakeholders do not have the same understanding of the challenges to be dealt with in the process related to EITI.

For government officials, the main challenge is how to handle the issue of “confidentiality” and “secrecy” included in the contracts already signed with mining companies. The second challenge is the low level of understanding of what is EITI, its procedures and requirements for implementation, and its implications for the national economy. In this regard, sensitization of different stakeholders is needed.

However, for a representative of the CSOs, the biggest challenge in Uganda remains lack of political will from government to implement the EITI. Other stakeholders, especially civil society, are ready to support government once it makes an announcement on the EITI. Even if there is a misunderstanding of the above, the two key stakeholders continue to collaborate via the parliamentary committee in charge of natural resources where CSOs can submit proposals.

Recommendations

- ICGLR Lusaka Regional Centre should carry out sensitization campaigns to increase awareness among stakeholders (namely civil society organizations, mining companies, and public institutions in charge of implementing EITI) on the benefits of EITI as well as its procedures.
- Technical skills are needed for analyzing EITI reports for government officials, CSOs and mining companies.
- Capacity building programmes are needed for CSOs on their role in efficient monitoring and advocacy of public policies and governance processes in general.
- New ways must be found to support stakeholders involved in promoting and implementing EITI.
- Stakeholders need to share experience and best practice in managing contracts signed before adoption of the EITI.

Republic of Rwanda

Context of natural resources in Rwanda

According to the World Bank "Mining in Rwanda concentrates on base metals such as cassiterite, coltan, and wolfram, and is primarily small scale in size and method. By global standards, Rwanda has no operations considered either medium sized (cumulative investment of about US$250 million to US$750 million, though less for gold) or large (investment of more than US$750 million."[48]

The Ministry of Natural Resources is responsible for designing the mining sub-sector's legal framework and also for granting exploration and mining licenses. The Ministry is comprised of two structures: the Rwanda Natural Resources Authority through Geology and Mining Department which provides technical and administrative support, follow-up to the performance of the mining sector, and to generally implement policy, and the Rwanda Environmental Management Authority which takes care of the environment. The mining policy covers not only mineral extraction, processing and export, but also quarrying, extraction and processing of semi-precious stones.

The mining sub-sector is one of five sub-sectors that constitute the environment and natural resources sector. Mining is identified in the country's 2020 Vision as one of the sub-sectors that should be developed to expand the economic base (and especially exports). It has been recognized that there is need to know the country's mineral potential in order to strengthen investment and for the purpose of diversifying the mineral base beyond the traditional ones (especially tin). The mining sub-sector is one of the major sources of income for the country through minerals exportation. The average export volume for Tin per year is estimated at 5 802 tonnes. Important exploration in potential targeted areas (PTAs) has been conducted in seven of the PTAs for a wide range of metals.

In terms of the legislative framework, the county has a new (amended) mining law and related ministerial decrees. Unlike the old mining law that only allowed licenses for five years for artisanal mining and 30 years for large scale mining, the new law is flexible. The duration for the smallest license is five years and the longest is 25 years. However, the duration of the license is dependent on the size and nature of mineral deposits, the size of investment in the concession and a feasibility study.[49]

Implementation of the EITI in Rwanda

Rwanda is not yet ready to implement the EITI at the moment. According to the Government and civil society representatives, the country has adequate measures in place to foster transparency and accountability in the sector. However, the government of Rwanda is aware of the benefits of the initiative. According to Michael Biryabarema, Deputy Director General, Geology and Mines Department, the country is committed but is not ready to join the EITI yet. The country needs more time to implement other mechanisms which have the same objectives

[48]http://www.worldbank.org/en/country/rwanda/publication/rwanda-economic-update-unearthing-subsoil-mining-contribution-national-development
[49]http://eafricaenergy.blogspot.com/2014/07/new-mining-laws-in-rwanda-target-large.html. 16 July, 2014. Accessed on 23-02-2015.

of promoting transparency and accountability, such the ICGLR regional certification mechanism. Considering the size and the nascent nature of its mining sector, the time is not yet ripe for the country to join the EITI. However, there is adequate political will to join and to implement it when the time is right. It is important to note that eventually joining the EITI is expressed in the current Mining Policy.

In general, the Rwandan Government is working hard to improve the management of its mining sector. This can be seen in efforts already undertaken by Government such as VAT reduction on importation of equipment, reduction in energy cost, public consultations on mining law, and good relations between communities and investors for a win-win relation. Also, Government works in partnership with local communities involved in artisanal mining in building their technical and managerial capacities. This approach has helped reduce illegal mining. To illustrate how Rwandan resource management is progressive and in line with best practices, Jean-Malic Kalima, President of the Rwanda Mining Association says that: *"All employers have to ensure that all their employees are taken care of. This is a requirement here in Rwanda, we do group insurance, and we always ensure that we put long term measures in place".*

According to Kalima, "the sector currently (August 2014) employs 33 000 people, and the aim is to reach 40 000 before the end of the year. The background of the sector is that because of the conflicts, for the past four years marketing Rwandan minerals was only possible with a tag indicating clear traceability of the minerals from the mine site. This has helped to attribute to Rwanda being a conflict-free state, which is now attracting investment".

Rwanda has made significant progress with the implementation of the ICGLR regional certification mechanism. Rwanda issues ICGLR certificates for export of 3Ts and has setup a traceability system which is accepted by the downstream buyers of the minerals. That is the reason why the Government does not think it is necessary to implement an additional initiative at this stage, especially because of the requirements that would burden the industry further at this point.

For a member of Civil Society: "We have to ask ourselves this question, is EITI relevant? We are currently doing the certification process, it was brought to us by the ICGLR, and now we are talking of the EITI. The country has spent a lot of resources to ensure that there is transparency especially in this sector, as it could be evidenced by the implementation of the certification, which led to employing a lot of staff; how different is the EITI from the one we are doing now?"[50]This question, while important, indicates the need to better inform the key stakeholders on the functioning and benefits of EITI.

Key stakeholders understanding of the EITI

Government

The Government of Rwanda recognizes the EITI as a tool to be implemented and it is written in the Ministry Mining Policy. Rwanda is willing to implement EITI but it needs more time ("three or four years") because it is, not only implementing other tools[51] whose objective is to promote transparency, but also mines are not contributing much to its GDP.

[50]Interview with Edward Munyamaliza, President of the Rwanda Civil Society Platform, August 2014.
[51]These Tools include the ICGLR certification mechanism, ITSCI, due diligence mechanism, etc.

Another reason given by government representatives to explain the delay in implementing the EITI is the lack of information on steps and requirements to implement this initiative. For government representatives, some important questions have to be answered as pre-requisites:

- The cost of EITI for countries with low levels of contribution of natural resources to the GDP;
- The cost of ITSCI and the due diligence mechanism;
- Modalities of developing synergy among different initiatives and structures;
- The question of harmonization of different tools whose objectives are to strengthen transparency and accountability.

Civil Society

Many civil society organizations in Rwanda are not well informed about the EITI. In general, there is limited participation on issues related to extractive industries by CSOs. However, CSOs believe that the EITI is a good and well-conceived concept as it promotes transparency and accountability among different stakeholders and raises confidence in doing business. This is why some Rwandan CSOs have joined a regional coalition, called ECOSOC, composed by civil society organizations working on natural resource governance in Burundi, DRC, Uganda and Rwanda. But CSOs still have a capacity deficiency on research and advocacy in this sector.

Considering the existence of many tools related to the management of natural resources, a member of one CSO recommends that the ICGLR technical Unit on natural resources takes the initiative to debate and propose modalities of harmonization of the existing tools in collaboration with the OECD and other key stakeholders.

Representatives of civil society organizations interviewed confirmed that Rwanda benefits from its minerals because the latter are now second in terms of contribution to foreign exchange earnings. They think that government is willing to implement its regional commitments.

The Private Sector

According to the Rwanda Mining Association, initiatives have been taken to ensure transparency and accountability in the country. The current reporting systems are adequate and that information is readily available at the Rwanda Natural Resources Authority. According to the Chairperson, Mr. Kalima, “the private sector in the country is aware of the EITI process and its benefits to the country and the sector in particular. We are also aware about the Lusaka Declaration on natural resources. We commend the government of the Republic of Rwanda for their support to build the private sector and more importantly their transparent and accountable approach to the way of doing business.”

The Rwanda Mining Association was set up three years ago to help coordinate the activities of mining companies.

Challenges and weaknesses

Challenges for Rwanda in relation to the EITI implementation are threefold:

First is the concern about the cost that government and mining companies will have to carry to implement the initiative while they are already engaged in implementing the other five tools of the ICGLR Regional Initiative on Natural Resources and due diligence, namely regional certification and the ITRI Tin Supply Chain Initiative.

Second is the concern about the multiplicity of initiatives that government needs to implement with limited capacity and finances, also considering that the industry is in its infancy stage. For mining companies, if taxes continue to increase, they will be supported through the reduction of salaries and reducing workers, and this will have negative impact on the economy and the people.

The last challenge is the timeframe. For the Deputy Director General, Geology and Mines Department, Rwanda is willing to implement the EITI but this needs more time as it is engaged in implementing other tools. He mentioned three or four years from now.

Areas of peer-learning

- Training of CSOs on EITI and other 5 Tools of the ICGLR Regional Initiative on Natural Resources to allow them to conduct advocacy and sensitization of people;
- Sensitization of key stakeholders (Government officials, CSOs and mining companies) on EITI benefits and procedures;
- Development of technical capacity for key stakeholders (government representatives, private sector and CSOs) to analyze and implement different steps of the EITI. (August, 2014)

Recommendations

- ICGLR should strengthen sensitization and advocacy for the 6 tools of the Regional Initiative on Natural Resources in order to accelerate their implementation in Member States and facilitate synergy and complementarily.
- The Rwandan government should be encouraged to consider the EITI as a supportive initiative to what already exists, including the mineral certification mechanism;
- The ICGLR Regional Centre should set up capacity building programmes to facilitate the engagement of civil society organizations in research and monitoring of the extractive industries, especially on issues of revenue transparency and accountability.

Republic of South Sudan

Context of natural resources in South Sudan

South Sudan gained independence from Sudan in July 2011. It is rich in natural resources, especially oil, and heavily depends on revenues from this resource. South Sudan gained control of about three-fourths of the oil production when it became independent. It is among the biggest African oil producing countries, which contributes(in times of peace) about 60 percent of GDP in terms of direct exports as well as associated investments, and about 70 percent of government revenue.[52] Sudan and South Sudan's combined oil production put them as the fourth-largest non-OPEC African oil producer in 2013.[53] According to the IMF, oil represented 98 per cent of South Sudan government revenue after the country became independent.[54] With recurrent interruption in oil production that picture is not always clear due to oil production interruptions. The civil war which started in December 2013 between President SalvaKiir and former Vice President Riek Machar has had a negative impact on oil production. A dispute which started as a struggle for political power quickly turned into a struggle for control of the strategic oil-rich regions.

In 2013, before the war started, the total oil income was US$3.38 billion from the sale of 36.6 million barrels.[55]The impact of the war on oil production has been huge. The production fell from 245 000 barrels per day (bpd) before the conflict to 160 000 bpd.[56] Besides the internal conflict, South Sudan also experiences from time to time conflict with Sudan which also impact on its oil trade. Following the secession, most of the oil production capacity went to South Sudan, but the country is landlocked and remains dependent on Sudan for its export pipelines and port. The dispute with Sudan in 2012 led to the shutdown of oil production, which created a large fiscal gap and a substantial deficit in balance of payments.[57] According to the *Oil & Gas Journal* (OGJ), Sudan had 1.5 billion barrels and South Sudan had 3.5 billion barrels of proved oil reserves, as of 1 January 2014. The majority of reserves are located in the oil-rich Muglad and Melut basins, which extend into both countries.[58]

The South Sudanese government, in an effort to increase transparency and accountability of its oil industry, started before the war broke to introduce reforms to existing legislation and to introduce new laws, including the Petroleum Act of 2012, Mining Act 2012 and the Mineral Title Regulations 2015. It immediately started to draft the Petroleum Revenue Management Bill (PRMB). The bill has been finalized and it is awaiting the president's signature. In South Sudan, the Ministry of Petroleum and Mining is responsible for the management of the petroleum and Mining sector. However, the National Petroleum and Gas Corporation (NPGC), created by the Petroleum Act is the main policymaking and supervisory body in the upstream, midstream, and downstream segments of the hydrocarbon sector, and is authorised to approve petroleum

[52]Joseph Muvawala and Frederick Mugisha, *South Sudan 2014*; *African Economy Outlook 2014*, AfDB, OECD, UNDP. www.africaneconomioutlook.org
[53]*Country Analysis Brief: Sudan and South Sudan*, US Energy Information Administration, September 3, 2014.
[54]Ibid.
[55]South Sudan Oil revenue at $3.38 bn hit by conflict and price falls. Reuters, Saturday 3 January 2015.
[56]Ibid.
[57]In May 2013, South Sudan was forced to partially shut production for a few days at Blocks 3 and 7 after Sudan turned off the pump station at the central processing facility in Jebelein, Sudan. Sudan claimed it turned off the pump station because of technical problems, but South Sudan believes the decision was politically motivated. In June 2013, Sudan threatened to cut South Sudan's access to its two export pipelines after accusing South Sudan of backing anti-government rebels in Sudan, an allegation that South Sudan denies. South Sudan reduced its production until September 2013, when Sudan announced it would continue to allow South Sudan to export its oil through Sudan's pipelines.
[58]Ibid.

agreements on government's behalf. In general, the bill makes strong advances in the promotion of a transparent revenue management. It includes provisions that seek to prevent corruption and mismanagement by demanding the publication of contracts, and ensuring the regular release of production and revenue data.

The Republic of South Sudan Ministry of Petroleum and Mining also as in an effort to increase transparency and accountability of its mining sector, this year (2015) has installed flexi cadastre to implement Mining Cadastre Systems to facilitate all aspects of the application, evaluation, granting and compliance monitoring of mineral rights and related permits.

The mining sector in South Sudan appreciates that the transparent and efficient management of mineral rights is a critical factor in the growth and stability of the economy of South Sudan.

The Government of South Sudan is aware of the benefits when using FlexiCadastre to implement a Mining Cadastre System which includes:

- Facilitates maximum revenue collection from the mining sector;
- Enhances investor confidence in the country;
- Ensures mining companies comply with all required legislation;
- Transparency of the first-come-first-served principle and other processes;
- Streamlines processes to validate applications and renewals;
- Limits speculative and illegal practices;
- Provides foundation to eGovernment initiatives;
- Extractive Industries Transparency Initiative (EITI) reporting.

Table 6: South Sudan oil fields and operators

Country	Location	Main Fields	Blend	Operator
South Sudan	Block 1	Unity, Toma, Munga	Nile	GNPOC
South Sudan	Block 3 & 7	Palogue, Adar-Yale	Dar	DPOC
South Sudan	Block 5A	Mala, Thar Jath	Nile	SPOC

Source: Rystad, Middle East Economic Survey (MEES), and Energy Intelligence Group

Implementation of the EITI in South Sudan

Since gaining independence in 2011, there has been little transparency in Sudan's oil sector. This was expected considering that the country was born with serious institutional challenges characterized by a weak administrative capacity and few systems of checks and balances. For this reason, the Government of South Sudan has been under repeated pressure from international NGOs—notably Global Witness—and the international community.[59]South Sudan has made repeated commitments notably by the GoSS in its draft petroleum strategy and by the President.

[59]Jill Shankleman, *Oil and State Building in South Sudan: New Country, Old Industry*, Special Report 282. United States Inisitute of Peace: Http://www.usip.org/sites/default/files/Oil_and_State_Building_South_Sudan.pdf

However, these commitments have not translated into South Sudan becoming an EITI candidate country. Observers have been cautious to push for an early EITI membership of South Sudan. The country has not known peace and stability since 2011. The country's political environment makes the EITI process impossible. The lack of political stability has been identified as a serious hindrance to implementation of the EITI. It is in this perspective that Global Witness has warned that the achievement of internal political stability and peaceful coexistence with Sudan seem fundamental before South Sudan could consider joining the EITI.[60]

The armed conflict between the government and rebels led by former vice president, and the conflict with Sudan do not allow for a proper management of the oil production and revenues. The conflict that erupted in 2013 suggests that it was just as well for South Sudan to not have joined, because otherwise it would have been ineffective and the country would have been suspended. The case of South Sudan provides a clear lesson: countries that are experiencing conflict must resolve the conflict before joining the EITI. At the same time, while considering EITI membership, South Sudan has focused on drafting national regulations such Petroleum Act and the PRMB, which include strong reporting and auditing provisions that fulfill (and sometimes exceed) the requirements of EITI, such as:[61]

- Regular publication by companies of key oil payment to government;
- Regular publication by government of payment received;
- Quarterly and annual reporting of oil revenues by Finance Ministry and bank of South Sudan;
- Payments and revenues are subjected to internal and independent audits; and
- The state owned Oil Company is included among the reporting companies.

South Sudan has put in place institutions to fight corruption such as the South Sudanese Anti-Corruption Commission (SSACC) which was established in 2007. However, it remains ineffective and very seldom attempts to resolve corruption cases brought before it.

Key stakeholders understanding of the EITI

Most of the key stakeholders (government, CSOs and companies) in South Sudan are aware about the EITI and recognize the benefits that the country can draw from joining the initiative. However internal structural, policy and regulatory challenges do not favour a speedy membership. South Sudan has concentrated its efforts in the design of national legislation to manage its oil industry. Equally, the government has preferred first to re-establish peace in the country above many other things.

Government representatives

The government of President Salva Kiir has shown interest in the EITI. The president himself has pledged that South Sudan will implement the EITI.[62] He made this pledge at the International Engagement Conference for South Sudan in Washington convened by the US

[60]The fate of the disputed oil-producing region of Abyei represents one of the most sensitive and divisive post-secession issues between Sudan and South Sudan.
[61]EITI in South Sudan: The case for Caution, October 2013.
[62]South Sudan joins Extractive Industries Transparency Initiative, In Sudan Tribune, 17 December 2011. Also see President of South Sudan Commits to Global Standard, EITI Secretariat, https://eiti.org/news-events/president-south-sudan-commits-global-transparency-standard

Agency for International Development (USAID). It was a commitment to democracy, transparency and accountability. It is a demonstration that government is serious about citizens taking part in the management of their resources.

Civil Society organizations

South Sudanese civil society is in its embryonic stage and does not yet have the capacity to organize and to formulate concrete policy suggestions and follow them through to ensure that they are implemented. There have not been instances where the local civil society has clearly pronounced on the need for the country to join the EITI. In general, civil society does not play its watchdog role. There is a draft of a Non-Governmental Organization Bill (NGO 2013) that would allow civil society to check the excesses of government. This is an important step in the right direction. The EITI is a tripartite arrangement including government, corporate and civil society. It cannot be fully implemented in the absence of civil society, or where civil society is too weak. Civil society is expected to be actively engaged as a participant in the design, monitoring and evaluation of the EITI process, and to contribute to debate. Most civil society pronouncement and policy direction on the EITI has come from international NGOs such as Global Witness.

Private sector

The oil industry in South Sudan has a number of companies, dominated by Chinese companies. This poses a challenge to how South Sudan will implement the EITI, considering that Chinese companies have been reluctant to support the initiative.

Table 7: Oil and gas companies in South Sudan

Oil Block	**Location**	**Consortium**	**Partner/Operator and Shareholding**
Blocks 1,2 and 4	South central Sudan	Greater Nile Petroleum Operating Company (GNPOC)i.e. Greater Nile Oil Project	China National Petroleum Corporation (CNPC) -40% Petronas -30% ONGC -25% Nilepe-5%
Blocks 3, 7	Northeast of South Sudan	Petrodar consortium	CNPC- 41% Petronas-40% Nilepet-8% Sinopec-6% Tri-Ocean Energy of Kuwait-5%
Block 5A	North-central South Sudan	White Nile Petroleum Operating Company WNPOC-1 is a consortium of Petronas, ONGC and Nilepet	Petronas-67.88% ONGC 24.125% Nilepet 7%
Block 5B	Southeastern South Sudan	WNPOC-2Petronas, Lundin, ONGC, Nilepet, and Government of South Sudan	
Block B	Central South	Total leads a	Total-32.5%

Oil Block	Location	Consortium	Partner/Operator and Shareholding
	Sudan	consortium that includes Kufpec, Nilepet, Government of South Sudan	Kufpec-27.5% Nilepet-10% Government of South Sudan- 10% and 20% open
Block 6	Central South Sudan	CNPC leads a consortium that includes Sudapet	CNPC-95% Sudapet- 5%
Block 8	East South Sudan	WNPOC-3 is a consortium of Petronas, Sudapet, and Hi Tech	Petronas -77% Sudapet- 15% Hi Tech- 8%

Other companies include the following:

Blocks	Company	Interests	Partners
Blocks 1, 2 and 4, Blocks 3 and 7, and Block 5A	Petronas	GNPOC-30%, Petrodar Operating Company-40% WNPOC-67.87%	(CNPC), ONGC, China Petroleum & Chemical Corporation and Tri-Ocean Energy
Block 1/2/4, Block 3/7, Block 6, Block 15	China National Petroleum Corporation (CNPC)	Petrodar -41% Petronas -40% Nilepet -8% Sinopec -6% Tri-Ocean Energy of Kuwait-5%	GNPOC, in which CNPC has a 40% share in partnership with Petronas (30%), ONGC (25%) and Nilepet (5%); and CNPCIS, in which CNPC has a 95% share in partnership with Nilepet (5%)

Cooperation and development partners

There is no existing plan from development partners to facilitate the implementation of the EITI once the country decides to join. There has not been a concerted effort from development partners to put pressure on South Sudan to join the EITI. However, there is enough good will to provide technical assistance to South Sudan, as has happened with all other EITI countries.

Challenges and weaknesses

South Sudan is facing a multitude of challenges that could hinder the implementation of the EITI if the country decides to join. The instability which affects the oil sector is currently the major challenge. Along with this challenge, the South Sudan extractive industries regulatory framework, which includes the Petroleum Bill and the PRMB, has not been tested at implementation. It remains unclear whether provisions of the law will be followed in practice. There are also other laws such as Freedom of Information Law that need to be in place to ensure that the public has access to government and company records.

Areas of peer-learning

- South Sudan’s reluctance to join the EITI before it has re-established peace and security is a good learning point and raises an important question. Should countries that are experiencing instability which affects their extractive industries desist from joining international standards?
- South Sudan’s approach to putting in place an internal regulatory framework that is in tune with the EITI principles present a strong foundation for successful implementation of the EITI.

Recommendations

- There exists a significant overlap between South Sudan oil regulations and the EITI requirements. South Sudan should strengthen its own regulations and ensure that they are fully implemented. They provide a strong foundation for the implementation of the EITI.
- There is an urgent need to organize and train civil society to be ready to make a meaningful contribution when the country decides to join the EITI. It is important therefore that the NGO bill be signed by the President. Government should commit to a consistent engagement with civil society.
- Donors should not wait until South Sudan has joined the EITI to provide technical assistance to both government and civil society.

Republic of Kenya

Context of natural resources in Kenya

Historically, Kenya has had no significant mining activities. The mining and quarrying sector made a negligible contribution to the economy, accounting for less than one percent of gross domestic product, mostly from the soda ash operation at Lake Magadi in south-central Kenya. Apart from soda ash, the chief minerals produced are limestone, gold, salt, large quantities of niobium, fluorspar, and fossil fuel.

In the last two years, mining firms have discovered oil reserves in Turkana, natural gas reserves in Malindi, and niobium and rare earths in Kwale.

Combined revenue from these mineral exports is expected to reach over US$240 million annually.[63] All minerals are state property, according to the Kenyan Mining Act. The Department of Mines and Geology, under the Ministry of Environment and Natural Resources, is in charge of exploration and exploitation of the minerals. Kenya can avoid the resource curse if it «institutes appropriate institutional mechanisms to leverage its hydrocarbon wealth for economic transformation and avoid the resource curse."[64]

Implementation of the EITI in Kenya

Kenya has not signed up on the EITI, and has not made any declaration pointing toward any possibility of joining in the near future. According to officials from the Ministry of Mines, the country is not yet ready to embark on implementation of the EITI. The country was introduced to the EITI when it was developing its mining code, so the government is aware of the EITI. The government is of the view that it needs first to develop its mining policy and regulations, including institutions to manage the mining sector in an efficient manner. When the correct policy framework and institutions are in place, then government could think of joining initiatives such as the EITI. The Kenyan government position is that without an elaborate mining code, the EITI will not work. There is need for a clear legal framework to make it easier for other external mechanisms to be effective. The government is also adamant that foreign initiatives need to conform to national legislation and legal frameworks so that there are no conflicts arising from their domestication.

Currently, the Kenyan Government is more preoccupied with finding a correct revenue-sharing mechanism that will take into account host communities in a transparent and accountable manner. Government is considering how to create mechanisms to involve local communities in the decision-making process regarding their mineral resources, without which the question of EITI will be irrelevant, as noted by Moses Njeru, the Commissioner of Geology and Mines: *"The question we keep asking ourselves is that the EITI is being done in other countries but why are their local citizens still complaining"?*

The government is undertaking a number of measures which it believes could support the EITI in the future. The mining code has been reviewed and parliament is working on how to give sufficient power to the minister in charge to ensure that the playing field is at all times leveled. Institutions are being harmonized so that they are developed in readiness for the industry's

[63]Robert Manyara, Kenya ripe to adopt extractive industries transparency initiative, News 24 Kenya, 2013.
[64]Alex O Awiti, Kenya can Avoid the Resource Curse, http://allafrica.com/stories/201406110239.html?viewall=1

growth. Government has gone a step further in looking at how best to export the minerals so that the return for the country is significant, and it is also looking into a revenue-sharing mechanism. A revenue bill is being drafted which will make it clear how much is received from different locations.

For the government of Kenya, although it recognizes the intrinsic value of the EITI, it is very clear that it will only be relevant to Kenya if it promotes the interest of citizens. Again, in the words of the commissioner "We are at the discovery stage, hence the need to be cautious; we have a lot of excitement among the local stakeholders and that has made this stage fertile for conflicts. "

There have been calls from Kenyans for the government to join the EITI. For example, Edward Ouko, the Auditor-General of Kenya, writes "Ultimate transparency should guide basic legal instruments such as the Mining and Petroleum Acts. As a starting point, the government should consider joining EITI."[65]Jackson Kiplagat who heads National Environment Civil Society Alliance of Kenya Secretariat argues that "As Kenyans, EITI will help us know the agreements made, firms' turnover and the revenue collected by the government because they will be published in the Kenyan gazette. "[66]

Meanwhile the process of legislation harmonization is going on, and there are two bills before parliament: the Mines Bill (solid minerals) and the Energy Bill (oil and gas). According to the government, this shows how much attention the sector has been accorded. The legal process is moving side by side with the following initiatives: the formulation of the sharing formula; the establishment of the Mineral Audit Unit, to be transformed into the Mineral Audit Agency at later stage; and engaging the private sector and civil society. There is also massive sensitization about the sector.

Key stakeholders understanding of the EITI

The Government

The government generally does not understand how the initiative works and what would be the tangible benefits if it joins. Government has decided to follow a more pragmatic approach of first fixing its own house before looking at regional and global norms.

Civil Society

Civil society is aware of the EITI, although it lacks in-depth understanding. According to civil society representatives, there is very little that in its current form the EITI will do to improve the mining sector in Kenya. Certain members of civil society consider EITI as a borrowed concept.

The Private sector

The private sector understands the initiative, but it is currently following the footsteps of the government by firstly putting in place a clear legal framework.

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[65]Edward Ouko, *Kenya Mineral Deals Must Be Transparen*t, http://www.the-star.co.ke/news/article-154264/kenya-mineral-deals-must-be-transparent.
[66]Robert Manyara, *Kenya ripe to adopt extractive industries transparency initiative*, http://news.xinhuanet.com/english/africa/2013-10/11/c_132787495.htm

Challenges and weaknesses

- The government is in the process of consolidating its mining legislation. In the process the government is faced with difficult decisions to make, especially on issues pertaining to the rights of host communities and revenue-sharing, which are causing a lot of misunderstandings between the citizens and the government.
- There isn't a strong civil society network that is monitoring the extractive industries. The absence of a watchdog has led to a weak governance structure and a weak legislative formulation process.
- In Kenya, the political governance structure involves a lot of self- preservation through the consolidation of power by the ruling party. The political elites, most of them, are said to come from areas where mining is not taking place. A civil society representative hinted that "We are seeing an increase in the geo-politics of minerals, where minorities who happen to have minerals on their territory are not involved in the policymaking."

Recommendations

- The EITI is a good and useful tool for ensuring accountability and transparency of the extractive sector. Kenya must be strongly encouraged to adopt the EITI process, and must consider undertaking a comprehensive scoping study of the possibility of the country adopting the EITI.
- It is possible for Kenya to recognize the EITI in its legislative framework without any commitment to its implementation until such time the country is ready.
- Kenya should institute transparency in the entire supply chain of the extractive industry, from specification of the rights for sale to negotiating resource extraction contracts, to extraction rights, including duration and tax regimes.

Republic of Sudan

Context of natural resources in Sudan

Sudan is a poor country that has experienced protracted social conflict, civil war, and, in July 2011, the loss of three-quarters of its oil production due to the secession of South Sudan. For nearly a decade, the economy boomed on the back of rising oil production, high oil prices, and significant inflows of foreign direct investment. Since the economic shock of South Sudan's secession, Sudan has struggled to stabilize its economy and make up for the loss of foreign exchange earnings.

Sudan has been attempting to develop non-oil sources of revenues, such as gold mining, while carrying out an austerity program to reduce expenditures. The country is rich in the following mineral resources: asbestos, chromite, cobalt, copper, gold, granite, gypsum, iron, kaolin, lead, manganese, mica, natural gas, nickel, petroleum, silver, tin uranium and zinc.[67]

In 1990 the mining industry in Sudan accounted for less than 1 percent of the total GDP. A wide range of minerals existed in Sudan, but the size of reserves had not been determined in most cases. The discovery of commercially exploitable quantities of petroleum in the late 1970s offered some hope that the sector would play an increased role in the economy in the future. The sector is under the Ministry of Energy and Mining.[68]

Mining is mostly done at Small Scale and Artisanal level, which has its own challenges for a country like Sudan.

Commodities production:

Metal	Planned for 2014	The quantity produced
Gold	7.5 t	9.720.3t
Iron	100000 t	82.180 t
Chrome	10000 t	58.834 t
Manganese	8000 t	7000 t
Kaolin	20000 t	18.500 t
Feldspar	50 000	50.680 t
Gypsum	200000 t	150000 t
Marble	1000 t	900 t
Clinker	3000.000 t	3.128.934 t
Granite	100 t	100 t

Gold exports:

The exporter	The amount of gold in Tons
Sudan refinery	**92.8 t**
Companies	**7.2 t**

[67] En.wikipedia.org
[68] US Library of Congress

Total exports during the period	**37.0 t**

The price of gold exported by companies (7.2 tons) =US $288 million
The price of gold exported by the Bank of Sudan (29.8 tons) =US $1,074,800.000
Gold exported by companies' price + Bank of Sudan (37tons) =US $1,362,800,000
Total gold production price (73,375.386 kg) =US $2,935,015,440

Classification of concession companies, according to the type of metal:

Type of metal	Gold	Iron	Diamond	Agro minerals	Black sand	Copper	Coal	Total
Number of companies	129	1	3	1	1	3	2	140

Implementation of the EITI in Sudan

Although Sudan has signed different commitments of ICGLR highlighting the importance to implement Lusaka Special Summit Declaration on Natural Resources, it has not yet announced when it will join EITI. Sudan's economic freedom remains unrated due to the lack of reliable data. Attempts to develop and diversify the economy are constrained by a lack of basic institutional capacity. The large informal economy has been an important source of employment in the fragile economy.[69]

On a positive note, the Government is working towards developing the Mining Code and has put in place an inter-Ministerial committee to work on the Regional Certification Mechanism.

The government of Sudan in 2010 put measures in place in an attempt to bring stability to the sector by mandating the newly established Ministry of Minerals with the following functions:

- Supervision of geological exploration and prospecting for natural resources and minerals throughout the territory, territorial waters and the continental shores;
- Development of policies and national plans in the area of mining;
- Promotion of investment in the mining sector and development of policies that ensure the attraction of investors together with preservation of the rights of the state;
- Signing contracts on behalf of the state with investors and granting licenses according to the law;
- Monitoring of companies licensed for exploration and mining based on signed contracts and licenses;
- Representation of the state in all its rights in the area of mining based on signed agreements;
- Development of technical standards for establishments and products, environmental protection and safety requirements for mining activities in coordination with the relevant authorities;
- Supervision of public companies and those in which the government is a shareholder in the field of mining;

[69] http://www.heritage.org/index/pdf/2014/countries/sudan.pdf

- Supervision of studies and research in the field of mining;
- The development and qualification of human resources in the field of mining and its derivatives;
- The development of national relations with institutions and relevant regional and international organizations.[70]

Key stakeholders understanding of the EITI

Most of the key stakeholders (government, CSOs and companies) are aware about the EITI and recognise the benefits that the country can draw from joining the initiative.

The Government

The Sudanese Government understands how the initiative works but it is constrained by the economic and political instability in the country.

Civil Society

According to Government representatives, civil society organizations are aware of the EITI and the relationship between them and the government are good. According to them, miner's unions have been established to contribute in solving their problems.

Private Sector

The private sector understands the initiative, but it is currently following the footsteps of the government by firstly putting in place a clear legal framework. It is organized through the Sudanese Business Association which waits for the Government to decide the direction to be followed by the country in this area.

Companies in the mining sector:

Type of Agreement	Producing companies	Coming companies to production	Companies in the exploration phase
concession	11	10	119
Small mining	43	-	-

Challenges and weaknesses

The advantage of EITI implementation is that it could harmonize the situation on the ground and give hope and confidence to different stakeholders. There has been some commitment from the rulers of the land on issues to do with ensuring that the general citizenry of the country benefits from their natural resources. For that to happen, the following challenges have to be addressed:

- Lack of confidence among key stakeholders (government, civil society and mining companies) results in low level of collaboration in promoting transparency in the extraction of mineral resources.

[70] http://www.minerals.gov.sd/Eng/About%20the%20Ministry.htm

- Low capacity of the Government to manage the Small Scale and Artisanal sub-sector of the Industry, has contributed to the slow pace in popularizing the EITI concept /initiative among key stakeholders in the country.

Recommendations

- The EITI is a good and useful tool for ensuring accountability and transparency of the extractive sector. Sudan must be strongly encouraged to adopt the EITI process, and must consider undertaking a comprehensive scoping study of the possibility of the country adopting the EITI
- Consider recognizing the EITI in the legislative framework, without any commitment for its implementation until such time as the country is ready.
- Conduct sensitization and advocacy activities on benefits of EITI and modalities of its implementation for key stakeholders (government, civil society and private sector representatives).

IV. CONCLUSION AND OVERALL RECOMMENDATIONS

There are two main groups of countries in the Great Lakes region in relation to the EITI. The first is the group of implementing countries. Five ICGRL Members State have joined the EITI process, although they all did so prior to the Lusaka Special Summit in 2010. These are: the Republic of Congo, the Democratic Republic of the Congo (DRC), Tanzania, Zambia, and the Central African Republic (CAR). The CAR was suspended on 10 April 2013 due to political turmoil in the country, but the remaining four countries maintain their implementation status and are preparing for a new validation cycle. EITI-compliant states have been able to set up multi-stakeholder groups (MSGs) that work harmoniously amongst the three key stakeholders—government, the private sector, and civil society.

There exists a genuine cohesion among the MSG members in the four countries implementing the EITI. The EITI has become a platform for moving to wider governance reforms. In these countries, the EITI has encouraged the state to reform their laws and policies, as is the case with the drafting of the law on tax transparency and accountability and the strengthening of the traditional supervision organs such as the Office of Auditors in the Republic of Congo and the incorporation of EITI principles and criteria of transparency in the new mining code in the DRC. In all the countries that are implementing the EITI, there is a recognition that the initiative has contributed immensely in changing the behaviour of state employees (especially tax agencies) and it has contributed to increasing state revenues. Equally, mining companies are of the view that the EITI has helped to enhance their image in the eyes of the population.

However, challenges still exist in the implementation process in each country. These challenges are mostly lack of financial resources, weak capacity of the stakeholders, conflict within civil society, weak internal rules (in some countries) for changing or replacing members of the MSG, and failure to domesticate the EITI. As already stated above, the civil war in CAR greatly hindered EITI implementation.

While the EITI sets the rules on how it should be implemented, there are differences in the way countries are implementing the initiative. For example, there are differences in the way countries have set up the EITI organs. Some countries operate three organs while others have two. The CAR has three organs: the National Board, the Executive Committee and the Technical Secretariat. The Republic of Congo and the DRC each has two organs: the Executive Committee and the Technical Secretariat. In the DRC, the Minister of Planning chairs the Executive Committee, and is assisted by two ministers (the Minister of Mines and Minister of Environment and Forestry), who are respectively first vice-chair and second vice-chair. In the Republic of Congo, the chair of the Executive Committee is an official from the Ministry of Finances where he acts as Advisor to the Minister, and the Minister of Finances plays a political role as the chair of the EITI.

In general, EITI-compliant countries continue to face very similar challenges, including the sustainability of their compliance, institutional weaknesses of the EITI organs, and a weak financial base for the EITI which could affect the sustainability of the initiative in the long run. It is also important to note that, despite an increase in the publication of revenues from oil and minerals in compliant countries, the EITI has not been effective in curbing corruption. Equally, it can be argued, in view of resource-linked conflict in the CAR and the DRC, that the link between the EITI and conflict reduction is not clear in the Great Lakes region. A careful analysis of the countries of the region suggests that the EITI cannot be a conflict-resolution mechanism; if properly implemented, however, it can be a conflict-prevention mechanism.

The second group of countries are those that have not joined the EITI. There are seven ICGRL countries which do not implement the EITI- Angola, Burundi, Uganda, Kenya, Rwanda, Sudan and South Sudan. Their reasons for not joining are many and sometimes very specific to the country. These include hesitation due to particular political misinterpretation of the role of the EITI (Uganda) or its added value compared to its cost and other tools which are implemented for transparency (Rwanda), the absence of significant industrial activities in the county (Rwanda and Burundi), the lack of political will, lack of interest (Kenya), the weak knowledge within civil society, insufficient support from international partners as well as persistent instability in some countries. Burundi and Uganda are the most active non-EITI members with activities and declarations that give hope that they could soon join. In January 2015, the Ministry of Mines of Burundi announced the Government commitment to join EITI. In Angola, the President of the Republic established in December 2014 an Inter-Ministerial Commission to assess advantages and disadvantages of the EITI, as well as the opportunity for the country to join the Initiative.

More generally, since the decision of Lusaka in 2010 no other country has joined EITI. All five countries that joined the EITI did before the ICGLR Special Summit of Heads of State took the Lusaka commitments to implement the EITI as one of the six tools of the Regional Initiative on natural resources. In this regard, the Lusaka decision has had no effect. It seems that the multiplicity of initiatives in the region has reduced the appetite of some countries to join the EITI. For example, Rwanda and Uganda are not ready to implement the EITI at the moment because they are implementing other regional initiatives. The research revealed that most countries that have not yet joined the EITI seem to favour the strengthening of internal governance mechanisms for the management of resources. This constitutes a solid basis for EITI implementation when they will decide to join.

However, internal factors that are preventing some ICGRL Member States from joining the EITI could easily be resolved. The fact that all countries have signed the six tools of ICGLR (which include the EITI) that were decided by the Heads of State is a demonstration of their commitment to join. They cannot retract this regional commitment. Adhesion to the EITI is one of the key result indicators under the ICGLR in the area of governance and transparency as expressed at the 2014 Heads of State Summit in Luanda, Angola. There are already several initiatives under way, including contacts with the International Secretariat, learning tours, and exchange of experience between implementing and non-implementing countries. These activities should be encouraged and multiplied in the region.

The research found that the EITI has provided several opportunities to the implementing countries, including:

- the rationalisation of the management of natural resources and the strengthening of governance;
- introduction of several reforms of the country’s economic and legal policies;
- strengthened state oversight of public finances;
- improved capacities of state bodies to adapt to new management and communication technologies amongst the economic operators of the state;
- improved communication and dialogue between government and citizens.

One key learning point which has come out of the research is that the EITI is not cost-free to governments. Countries that decide to join must demonstrate clear and sustained political commitment at senior level and assign staff to the EITI effort backed up with sufficient resources.

The research recommends that in trying to expand and consolidate the EITI in the ICGRL Member States, the ICGLR Secretariat and its Levy Mwanawasa Regional Centre for Democracy and Good Governance should take the following steps:

In relation to the ICGLR:

- Further commit to support EITI implementation by becoming a supporting organisation of the EITI.
- Set up an EITI peer-learning platform in which all stakeholders of ICGLR Member States (governments, civil society and companies) participate as part of the RINR.
- Increase support to strengthening governance and transparency in natural resource management to help implementing countries to better manage their own public resources for reducing poverty.
- Conduct a study of EITI implementation in the artisanal and small-scale mining sector (ASM) in order to identify strategies for ICGLR Member States with significant ASM to enhance revenue transparency in the informal sector.
- Develop strategies and tools to harmonise the implementation of the six tools of the RINR on the ground and carry out advocacy to recognise ICGLR instruments at the global level.
- Disseminate this report and create forums for exchanges between implementing countries and those that have not yet joined the EITI.

In relation to non-implementing countries:

- Raise the awareness of the Governments in the region whose countries have not yet implemented the EITI in order for them to take necessary steps toward implementing the decision reached in Lusaka in 2010.
- Sensitise the Governments that the EITI is not a foreign initiative but a regional initiative which is included in the ICGLR Regional Initiative on Natural Resources.
- Sensitise on the need to publish a declaration and appoint a senior official to start the process of implementing the EITI.

In relation to implementing countries:

- Continue the implementation of the EITI through strengthening different structures.
- Initiate substantial reforms of economic and legal policies.
- Reinforce the EITI implementation budgets in order to enable the total execution of the plan of action adopted by the multi-stakeholder groups.
- Support civil society through funding of their sensitisation campaign activities, training and dissemination of the EITI reports.
- Comply with the new EITI standard and take the necessary steps to reach compliance.
- Initiate institutional reforms that promote accountability and control by the citizens.
- Create mechanisms for capacity building of tax base services in order to increase the recovery of state revenues.

Appendix 1: List of Tables