

Protecting the Cornerstone

Assessing the Governance of
Extractive Industries Transparency
Initiative Multi-Stakeholder Groups

Summary Report

February 2015



Please note: This is a summary of **Protecting the Cornerstone: Assessing the Governance of Extractive Industries Transparency Initiative Multi-Stakeholder Groups**, an assessment conducted by MSI Integrity in 2014. The full report is available at: www.msi-integrity.org/EITI.



The **Institute for Multi-Stakeholder Initiative Integrity** (MSI Integrity) is a nonprofit organization dedicated to understanding the human rights impact and value of voluntary initiatives that address business and human rights. MSI Integrity researches key questions surrounding the effectiveness of these initiatives, facilitates learning in the field, and develops tools to evaluate initiatives from a human rights perspective. MSI Integrity takes a particular interest in how initiatives include, empower, and impact affected communities.

This assessment of national-level multi-stakeholder group governance in the Extractive Industries Transparency Initiative (EITI) was prompted by a request for research by Publish What You Pay (PWYP) in December 2013. It was conducted independently of both EITI and PWYP. MSI Integrity engaged with and sought feedback from all EITI stakeholders, including EITI Board members from all constituencies, throughout the process. The World Bank Multi-Donor Trust Fund reimbursed MSI Integrity for direct travel costs incurred in conducting interviews and attending meetings, however all research and activities were conducted independently of both the World Bank and the contributors to the Multi-Donor Trust Fund.

MSI Integrity welcomes suggestions for further research projects relating to the impact and effectiveness of multi-stakeholder initiatives. MSI Integrity's assessments are conducted independently of multi-stakeholder initiatives and their members, and are premised on rigorous, transparent, and inclusive research processes.

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Background



The need for a governance assessment

Multi-stakeholder governance is a relatively novel approach to decision-making. By harnessing the perspectives and knowledge of government, industry, civil society, and communities, it has the potential to be a powerful governance tool. To realize this potential, it is critical that all stakeholders can meaningfully participate in the decision-making processes and that these processes are inclusive, fair, and efficient.

Many multi-stakeholder initiatives are only now beginning to realize how important their internal governance processes are to their ability to affect change. EITI appears to have taken a positive step in this direction with the release of the EITI Standard in July 2013. The EITI Standard includes a handful of specific requirements for domestic multi-stakeholder groups (MSGs) – which are responsible for implementing EITI in each country – regarding their internal governance practices.¹ In the past, EITI has had few requirements to ensure that MSGs adopt robust internal governance procedures.²

The introduction of the EITI Standard presented a timely moment for MSI Integrity to conduct an independent assessment of the internal governance practices and processes in MSGs. In 2015 MSGs will be validated for compliance with the EITI Standard, and will therefore need to review their governing documents to ensure compliance with the new internal governance procedure requirements. It is hoped that the findings, recommendations, and practical guidance in this report are useful to MSGs as they review their governance procedures, as well as to the wider EITI community as they seek to improve their governance and enhance the potential for EITI to effect meaningful change.

¹ See *EITI Standard*, Requirement 1.3(f)-(g).

² The *EITI Principles and Criteria* (agreed in 2003 and 2005 respectively), and the *EITI Rules* that followed in 2009 and 2011, contained very few provisions regarding MSG internal governance: see *Methodology*, page 7, for further discussion of the new requirements.

Summary



In 2014, MSI Integrity conducted the most comprehensive assessment of national-level MSG governance practices in the EITI that, to our knowledge, has ever been completed. The assessment included a review of the publicly available governance materials released by every implementing country in EITI.³ Beyond reviewing governance documentation, MSI Integrity also examined the actual governance practices of 15 countries through a combination of discussions with MSG members and in-country visits to five countries: Azerbaijan, Cameroon, the Democratic Republic of the Congo, the Philippines, and Tanzania.⁴ In total, over 60 MSG governance documents were reviewed and analyzed for compliance with the EITI Standard and other relevant guidance materials; more than 80 interviews were conducted with MSG members, as well as community members and civil society organizations (CSOs) outside of MSGs; and, this was supplemented by observing seven in-country MSG or civil society meetings and discussing the research and preliminary findings with interested EITI International Board members at two international board meetings in 2014.

The assessment concludes that there are significant shortcomings of internal governance in many MSGs. None of the countries reviewed met all of the requirements set out in the EITI Standard regarding internal governance procedures,⁵ and there are several critical aspects of internal governance that the EITI Standard does not address. Indeed, a quarter of all EITI implementing countries could not be fully assessed as their governance materials were not publicly accessible or provided to MSI Integrity upon request, which itself highlights a basic failing of governance. This in turn implicates a failure at the global level of EITI to provide guidance and ensure oversight of MSG governance and country-level compliance with EITI's core requirements. The consequences of this are profound. Inadequate internal governance of MSGs may be affecting their ability to reach decisions efficiently and fairly, to uphold principles of inclusivity and transparency, and to ensure that civil society is independent and effective within the MSG. This raises significant questions about whether countries are implementing EITI as effectively as possible, and therefore whether this is limiting the potential for EITI to have real impact on the ground.

Post-2015: Opportunities to address shortcomings in MSG governance?

Many MSG members recognized some of the problems raised in this report, but were simply unaware of how to address the issues or were unfamiliar with good multi-stakeholder governance processes. The willingness and excitement to improve governance within MSGs is very positive. This represents an opportunity for EITI to support countries to adopt good governance as they revise their terms of reference and ensure compliance with the revised expectations of the EITI Standard, as a part of the preparation for validation and candidature assessment under the EITI Standard in 2015.

³ There were 41 countries implementing EITI at the start of the study on March 1, 2014. However, because many countries did not accessibly publish their governance materials and did not share them upon request with MSI Integrity, only 29 countries could be reviewed. See the Methodology and Part 1.1 of the full report for more details.

⁴ The 15 countries were selected based on factors to achieve diversity, such as geographic location, length time of time implementing EITI and the country's present EITI compliance status. Stakeholders were consulted extensively during the selection process. Ultimately, the 15 countries selected for an assessment of their governance practice were: Albania, Azerbaijan, Cameroon, Colombia, Democratic Republic of the Congo (DRC), Guatemala, Nigeria, Norway, Papua New Guinea, the Philippines, Senegal, Solomon Islands, Tanzania, United States of America and Yemen. See the Methodology and Part 1.1 of the full report for more details.

⁵ In particular, there was not full compliance with Requirement 1.3(g) of the EITI Standard.

In many ways the integrity of the EITI faces a watershed moment as countries are validated from 2015 onwards: it is critical that countries are rigorously tested to ensure they meet every single requirement in the EITI Standard, including those relating to internal governance and ensuring meaningful civil society participation.

One of the major challenges for EITI is that even if MSGs update their governance charters to conform to the EITI Standard, many fundamental aspects of MSG governance may remain unaddressed. This is because the EITI Standard and associated materials issued by EITI do not go far enough to provide sufficient guidance and expectations for MSGs to address all the fundamental aspects of multi-stakeholder governance. For example: EITI does not require MSGs to set conflict of interest policies, despite the centrality of CSO independence to the EITI; it does not create processes for resolving disputes if members allege misconduct or become unable to resolve procedural issues; and, it does not offer any guidance to ensure national secretariats are accountable to the MSG and efficiently support MSG operations.

To provide practical assistance on this path to improved governance, the full report contains a protocol for MSGs on how to develop a terms of reference, and a guidance note for civil society representatives outlining some good practices for engaging in the MSG. These are both available on MSI Integrity's website and as Annexes to the full report. We hope these documents will be immediately circulated to all existing MSGs and CSOs, and that they help inform the basis of subsequent official policy or guidance notes approved by the EITI Board. We also hope that the proposed protocols are helpful to MSGs, many of which expressed a strong desire for more guidance on good governance practices.

The steps that need to be taken to ensure better governance require action not only by individual MSGs, but also the EITI Board, EITI International Secretariat, and the donors and international organizations that support EITI. The full report sets out a roadmap for how EITI at the global level can demonstrate that it recognizes the importance of supporting and requiring MSGs to develop robust internal governance practices, as well as the value of more active and in-depth monitoring of MSG activities and CSO participation. This includes steps ranging from updating the EITI Standard and associated materials, through to developing grievance mechanisms to allow allegations of non-compliance to be reported and enhancing the validation processes to better oversee the EITI process.

Please note that this is only a summary of some of the key findings contained in **Protecting the Cornerstone: Assessing the Governance of Extractive Industries Transparency Initiative Multi-Stakeholder Groups**. The full report also contains:

- Detailed analysis and recommendations addressing five major issues:
 1. MSG Internal Governance Processes
 2. National Secretariat Organization and Operation
 3. Participation of Independent and Effective Civil Society
 4. Wider Stakeholder Representation and Involvement in MSGs
 5. The EITI Global Framework and Oversight of MSGs
- Case studies of good practice in different MSGs
- A guidance note for civil society containing good practices for participating in EITI MSGs
- A protocol for MSGs regarding how to develop a robust terms of reference

In addition, individual country evaluation reports, data sets, and other materials relating to this study are available at: www.msi-integrity.org/EITI.

Selected key findings

1. The EITI Standard: Low levels of compliance and shortcomings in content

Lack of transparency regarding internal governance

Less than two-thirds of all EITI implementing countries published their terms of reference or other core governance documentation on either the national or international EITI websites. As a result, only 29 of the 41 EITI implementing countries could be assessed by MSI Integrity, as the remaining countries did not have accessible governance documentation and did not respond to MSI Integrity's requests for access to the material (see Part 1.1 of the full report). This is a clear breach of both the EITI Rules and EITI Standard, which require countries to agree to a public terms of reference for the MSG.⁶ It should be noted that in June 2014, MSI Integrity shared a copy of a progress paper outlining our preliminary findings with the EITI Board and raised this transparency and accessibility concern. Since then, the EITI International Secretariat appears to have uploaded the governance materials of some countries onto the international EITI website. This is encouraging, and MSI Integrity hopes that the other recommendations in this report will be implemented as quickly.

Low levels of compliance with the EITI Standard

Of the 29 reviewed EITI countries, not a single country included all the internal governance expectations in Requirement 1.3(g) of the EITI Standard in their governance documentation. The requirements in the EITI Standard are not strenuous, focusing only on requiring MSGs to agree to the most basic procedures, such as keeping written records of MSG discussions or using an inclusive decision-making process. It is very concerning that MSGs have been operating – some for almost a decade – without basic documented governance procedures (see Part 1.2 of the full report). For example, only 41% of countries reviewed included provisions regarding nominating or changing MSG members, and only 59% had rules limiting the duration of MSG members' mandates.

The EITI Standard does not provide sufficient internal governance requirements

Even if MSGs were to re-draft their governance procedures to meet the requirements of the EITI Standard, there could still be major shortcomings in their governance procedures because the EITI Standard does not cover all the fundamental aspects of MSG governance. This is explored in detail in Part 1.3 of the full report. Examples of some of the governance issues omitted in the EITI Standard include:

- **Not establishing accountability for national secretariats.** Most MSG members interviewed viewed their national secretariat as important, yet closely aligned to government and, in many cases, under-resourced (see Part 2 of the full report). This perceived lack of independence or under-resourcing was problematic in many countries. However, there are no requirements in the EITI Standard or other supplemental guidelines to ensure that: (i) national secretariats are accountable to the MSG, as opposed to government; (ii) the MSG is satisfied with the independence of the secretariat (who, in 77% of MSGs assessed, were based in government offices); or, (iii) MSGs sufficiently staff, structure, and finance secretariats so that they can operate effectively.

⁶ EITI Standard, Requirement 1.3(g)(ii); EITI Rules, Requirement 6(b).

- **Not requiring guarantees of stakeholder independence.** This is highly problematic given the importance of civil society independence to the integrity of EITI, yet **only 14% of countries reviewed had conflict of interest policies for MSG members** and only 7% require stakeholder group constituencies or MSG members to develop and adopt codes of conduct.
- **Not establishing any requirements regarding the transparency and accessibility of the MSG's activities to the public.** Half of the countries reviewed did not publish or provide a current list of their MSG members; some countries, such as Azerbaijan and Nigeria, had restrictive presumptions of confidentiality regarding MSG activity or records; and, of the 15 MSGs assessed, **over a third of the MSGs did not actively make meeting minutes publicly available.** See Part 1.1. of the full report for more discussion.

While the EITI Standard is supplemented with additional policies, such as *EITI Guidance Note 14* and the *EITI Protocol: Participation of Civil Society*, that sometimes touch on issues overlooked by the EITI Standard, most countries have only selectively followed these supplements. In addition, a number of important governance issues, such as establishing dispute resolution mechanisms and requiring reviews of internal governance practices, are not mentioned at all (see Part 1.4. of the full report). The full report has detailed recommendations for MSGs, the EITI Board, and the EITI Secretariat to help address these shortcomings. MSI Integrity's protocol for MSGs to develop terms of reference also provides guidance to address many of these issues (Annex I in the full report).

2. Civil Society in EITI: Governance processes are failing to ensure the independence and effectiveness of civil society

Civil society often disproportionately experiences adverse effects from the inadequate or non-comprehensive internal governance processes in MSGs. Civil society and MSG members frequently raised concerns about the independence or effectiveness of CSO representatives. As Part 3 of the full report explains, many of these concerns could be resolved through more vigilant oversight of compliance with the EITI Standard by the international community or by CSOs themselves following good governance procedures. The ***Guidance Note on Good Practice for Civil Society Participation in MSGs*** (available at MSI Integrity's website and as Annex II to the full report) provides some suggested approaches for civil society to adopt good practices in these areas.

Inappropriate government involvement in the selection of CSO representatives

In at least 7 of the 15 MSGs assessed, the government was involved in the selection of CSO representatives in a way that risked undermining the possibility of finding independent and effective representatives. The most clear-cut cases were when the government itself managed the selection process or, worse, directly selected civil society representatives. However, it was also found that two other indirect forms of government involvement risked compromising the civil society selection process:

- Where the government pre-defines the types of civil society organizations that may participate in the MSG without input from civil society.** For example, governments in many countries, such as Senegal and Nigeria, have unilaterally reserved seats for trade union or media representatives. Yet, there is no certainty that within such groups there are engaged, effective, or independent advocates with expertise and skills suitable for CSO MSG representation.
- Where the government empowers an inappropriate organization(s) to select the CSO representatives.** This is often because the selected organization(s) were insufficiently resourced, experienced, or independent to ensure the selection of effective, independent, and legitimate representatives.

MSGs that were selected through these forms of government involvement were more likely to have concerns about the effectiveness, independence, or legitimacy of their CSO representatives. These forms of involvement, even if well-meaning, also breach the provisions of the EITI Standard and EITI Rules that protect civil society's right to independently select its representatives,⁷ and the government obligation to ensure that the invitation to participate in the MSG was open and transparent.⁸ Unfortunately, EITI has not always detected this problem or intervened, permitting MSGs such as Cameroon to allow individual CSO members that were handpicked by government to remain on the MSG since 2007, despite vocal concerns from other CSO in the country. These issues are discussed further in Part 3.1 of the full report.

There also needs to be greater clarity that political and for-profit actors, as well as any organizations that advocate on behalf of, or directly benefit from, the extractive industry or the national government, should not be considered civil society. There remain some instances where individuals who should not be considered "civil society", such as local government officials or for-profit consultants, have been selected as CSO representatives.

The full report also includes a case study of the Philippines, which highlights the value of civil society transparently and inclusively establishing clear qualification criteria for their representatives (regarding independence, expertise, standing and diversity) and conducting robust selection processes. Civil society that adopted qualification criteria to help select the most robust and effective candidates reported very positive results.

Processes within the MSG may undermine civil society independence and effectiveness

Many MSGs were not aware of the specific demands that effective participation in the MSG places on civil society, such as the costs of traveling to MSG meetings for CSOs based in extractive regions, or the greater capacity needs to learn the technicalities of revenue transparency. Those MSGs that were conscious of these demands were often unsure how to facilitate participation in a constructive manner, or to do so without undermining the actual or perceived independence of CSOs.

For example, in one-third of the MSGs assessed, there was no reimbursement available for MSG members who need to travel to the large cities where MSG meetings are generally held. This creates an exclusionary effect for CSOs based in areas of extractive activity, and limits their ability to join or participate in the MSG. While a number of MSGs remedied this by transparently offering reimbursements for the actual or proportionate cost of attending, some MSGs offered per diem payments that were significantly greater than the costs incurred to attend the MSG meetings, or did not disclose the rates. For example **the per diem payments in the Democratic Republic of the Congo and Cameroon amounted to up to \$6000 USD a year⁹ – an amount that is more than triple the per capita income in these countries.¹⁰** Such high payments raise questions about the independence and legitimacy of CSO representatives who accept them. MSGs need to be better informed about how to adopt processes that can better support CSOs participation in the MSG without compromising their integrity (addressed in more detail with recommendations in Parts 3.2 – 3.4 of the full report).

⁷ EITI Standard, Requirement 1.3(f)(ii); EITI Rules, Requirement 4(c) (both stating that each stakeholder group must have the right to appoint their own representatives).

⁸ EITI Standard, Requirement 1.3(f)(i); EITI Rules, Requirement 4(h)(ii) (both requiring the government to ensure that the invitation to participate in the group was open and transparent).

⁹ **Cameroon:** According to the national secretariat, a per diem of XAF 300,000 (approx \$620 USD) per meeting attended and a bonus of XAF 500,000 (approx \$1035 USD) is also paid if the MSG achieves successful validation or reconciliations. The establishing decree requires at least two meetings each year, but in practice there are normally between 4 - 8 meetings each year. This results in approximately \$2480 - \$4960 USD per year, with a possible \$1035 USD bonus. Note that some CSO representatives refuse to accept the payments on the basis it creates a conflict of interest.

DRC: According to MSG members, a per diem of \$500 USD is payable per regular meeting attended. CSO representatives explained that this might be lowered to \$300 USD in the future. As the Règlement Intérieur requires meetings to be held once a month, a total of \$6,000 USD per year is paid to each member.

¹⁰ See World Bank, *World Bank Open Data: GDP Per Capita (current US\$)*, available at <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> (last accessed October 1, 2014).

Civil society are not adequately utilizing internal governance processes

Most civil society – particularly at the local or community level – are unfamiliar with the opportunities and challenges that may arise in the multi-stakeholder format. Too often, civil society representatives did not work together before or after MSG meetings; did not understand how internal governance processes affect their ability to participate effectively in the MSG; nor did they seek to ascertain or advance the views of their wider public constituency. These CSO representatives risked becoming unnecessarily divided into factions or isolated from CSOs outside of the MSG. As a result, civil society – already a large and diffuse group of actors by definition – face being the weakest and least organized stakeholder group in the MSG. CSOs should be utilizing internal governance processes within their own constituency (i.e., outside of the MSG) to overcome this, for example by developing civil society codes of conduct and developing nomination and selection processes to choose the most effective representatives, and should also be advocating for fair and inclusive governance processes within the MSG (see the *Guidance Note on Good Practice for Civil Society Participation in MSGs* available at MSI Integrity's website and as Annex II to the full report).

3. EITI Culture: Learning to value the importance of robust internal governance and involve stakeholders in areas of extractive activity

Overall, most MSGs were neither exhibiting, nor necessarily even familiar with, good governance practices for multi-stakeholder decision-making. This includes not only ensuring the MSG has robust decision-making processes, but also ensuring that the appropriate decision-makers are selected to the MSG and that they are accountable to the stakeholders and constituencies that they represent. Critically, **the voices of stakeholders from areas of extractive activity were often absent from MSG decision-making processes**. See Part 4 of the full report for more in-depth analysis of these issues.

The need to recognize how internal governance processes affect EITI outcomes and to encourage the development of comprehensive governance procedures

There is insufficient encouragement or guidance for MSGs regarding the importance of robust internal governance procedures and how they should be developed. Instead, once a country has signed up to EITI there is often momentum and pressure to become EITI Compliant as quickly as possible, by agreeing to reporting frameworks and producing reports. Consequently, MSGs tended to be formed with only very basic decision-making processes agreed in writing, and other governance processes adopted ad hoc or not at all.

This approach is sanctioned at the global level. The EITI International Secretariat has not required MSGs to agree to comprehensive internal governance procedures at the outset. The Secretariat reported being concerned that this can be time-consuming and risks causing disagreements over processes, thereby distracting or undermining countries from getting to the substance: EITI reporting. However, the failure to agree, in writing, to comprehensive internal governance procedures that draw from good practice has often allowed a culture of fraught decision-making to be tolerated. It needs to be recognized that this, in turn, greatly affects the decisions, outputs, and thereby the impacts of EITI.

For example, it was common for MSG members to report that: they were not given adequate notice of meetings or that meetings are too short or infrequent to address concerns; MSG members had been selected who were compromised or lacked commitment or availability to participate; and, that decision-making is closed, rushed, or ill-informed. These factors all invariably affect the quality or legitimacy of the decisions made throughout the EITI process. Worse, if an MSG experiences conflict or disagreement, the initial failure to establish clear governance processes risks contributing to the entire EITI process stalling and possibly failing within a country.

Underrepresentation of stakeholders in areas of extractive activity in EITI processes

MSGs need to be reminded that they are accountable to, and should be representative of, a wider constituency. This means that those most interested in, or affected by, extractive activity should be included in the process. However, the 15 MSGs assessed in detail frequently failed to include or consider the perspectives of those living or operating in regions with extractive activity, such as local governments, affected communities, and grass-roots civil society. These stakeholders often have the greatest interest, knowledge, and concern regarding transparency in the extractive industry, yet are frequently either entirely unaware of EITI or feel unable to contribute to its process. The EITI Standard and related guidance material contain no indication that local actors, especially affected communities, are crucial stakeholders to the EITI process; indeed, the assumption throughout the EITI Standard that an MSG consists only of government, industry, and civil society may have an exclusionary effect on community-based organizations or community leaders seeking to participate.

Within MSGs there is an encouraging awareness of the importance of expanding or evolving EITI at the sub-national level. This is critical and positive, since **sub-national actors in many countries currently lack awareness of the EITI and MSG**. Unfortunately, MSGs are often unsure about how to involve local actors and communities. One of the challenges for EITI is to both encourage localized EITI engagement and provide guidance on how it can be done successfully. There are a number of ways this could be achieved:

1. **Through direct inclusion of locally affected stakeholders on the MSG.** The overwhelming majority of MSG members are based in the metropolitan area where the MSG holds its meetings (ordinarily a major city), which is rarely where extractive activity occurs. **Only 4 of the 15 MSGs assessed had a policy to encourage representation from areas of extraction.**
2. **By government and civil society fulfilling their obligation under the EITI Rules and EITI Standard to liaise with their constituency.**¹¹ **In the five countries visited there was no evidence that government representatives undertook any liaising with their constituents in areas of extraction.** The only outreach that appeared to be done by many governments to their constituents was related to the dissemination of completed EITI reports, which is distinct from seeking their input on the content or goals of the domestic EITI process. Civil society in many countries also had not established sufficient liaising and outreach practices to allow broader civil society or local actors to meaningfully participate in EITI. However, good practices on inclusive liaising have been developed in some countries, such as the Democratic Republic of the Congo, which have reaped demonstrable benefits (see the *Guidance Note: Good Practices for Civil Society Participation in MSGs*¹²).
3. **By innovations, such as the sub-national EITI councils or other efforts that are being piloted in some countries.** Although still in its formative stages, the case study of the initiative under way in Compostela Valley in the Philippines, detailed in the full report, is a good example. There, local indigenous leaders have autonomously championed a local law that is premised upon the multi-stakeholder reporting model of EITI for local extractive activity, but which extends to issues such as assessing the environmental impacts of mining, and monitoring revenue expenditure. It demonstrates the power that EITI can have when the stakeholders affected by extractive activity are directly involved in advancing the process.

Many civil society representatives identified that over time, as more information about EITI became available during the implementation process, apathy from uninvolved CSOs waned. However, **suspicion or confusion about how the EITI process could contribute to improved natural resource governance persisted among CSOs in many countries.**

¹¹ *EITI Standard*, Requirement 1.3(g)(iii); *EITI Rules*, Requirement 6.

¹² Available as Annex II of the full report, or at www.msi-integrity.org/EITI.

Lack of gender diversity in MSGs

In the 23 EITI countries that have published MSG membership lists with sufficient detail to conduct a gender analysis, **the majority of MSGs are composed of less than 25% female representatives**. Some MSGs, such as Côte D'Ivoire and Yemen, have no female representatives; only four countries (Madagascar, Mozambique, Norway, and Trinidad and Tobago) have 40% or more females.

4. EITI Global Oversight and Framework: Greater monitoring and incentivizing of MSGs is needed

Detecting non-compliance: Improving validation and establishing an effective grievance mechanism

In examining the governance of MSGs domestically, it became apparent that there are some deficiencies with the global EITI mechanisms used to detect breaches of the EITI Standard and validate compliance, since **countries with clear violations of the EITI Rules are deemed “EITI Compliant”**. Although a full examination of these mechanisms was beyond the scope of this assessment into governance, EITI needs to focus on addressing these concerns if it wishes to be an effective transparency initiative.

Validation: A more comprehensive validation methodology and set of criteria for the selection of validators is required if EITI's validations are to be credible. For example, validators must obtain the views of civil society from outside the MSG in order to reliably assess whether an MSG has discharged its requirements related to civil society independence, outreach, or the enabling environment. To obtain the necessary information from external civil society, validators will need specific skills and qualities to ensure they locate reliable individuals and foster trust, as explained further in Part 5.1.1 of the full report. At the time of writing, the EITI Standard and related materials did not contain sufficient requirements regarding these issues or many others that are critical to ensuring reliable validations.

Establishing an effective grievance mechanism: Regular and comprehensive validation procedures will help countries move toward true compliance with the EITI Standard – and possibly to consider ways to innovate or improve their existing transparency efforts – but under the EITI Standard it only occurs every three years. **It is crucial to the integrity of EITI that there are well-known, accessible processes in place to detect and address any serious breaches of the EITI Standard that may arise in the periods between validations.**

As discussed in Part 5.1.2 of the full report, MSG members responded positively to the idea of a formal grievance mechanism at the international level to resolve disputes, or raise allegations of noncompliance with the EITI Standard, where those disputes could not first be resolved domestically. EITI does not currently have this type of independent grievance mechanism. While the EITI International Secretariat has historically mediated some MSG disputes, it does not meet the standard of independence, expertise, or procedural fairness necessary to be an effective grievance mechanism. Relevant EITI Board sub-committees, such as the Rapid Response Committee, do not have a formal avenue for filing complaints and only a handful of MSGs were aware of their existence. As a result, many MSG members did not know whether they could bring concerns about compliance to the international level.

Enabling countries to move beyond the minimum requirements of the EITI Standard

Individual MSG members were often under the impression that the EITI Standard (and EITI Rules) sets the limit, not minimum, for what EITI mandates. However, the EITI International Secretariat has clarified that the EITI Standard is simply the minimum requirement that countries must meet, and that countries are empowered and in fact encouraged to exceed its prescribed requirements. This needs to be expressed more clearly to MSG members, to enable them to innovatively utilize the EITI reporting framework to respond to issues that their constituents deem important. For example, in many countries EITI had, or was facing, dwindling interest because it did not address extractive industry transparency issues that are of pressing relevance to the population, such as environmental or human rights impacts. Yet with the agreement of the MSG, the EITI framework could expand to include transparent reporting on such issues. The full report explores this issue further in Part 5.2.

Similarly, MSG members often reported that once the minimum requirements of the EITI Rules were met, and the country was deemed EITI compliant, little innovation or progress was made within the MSG, and attendance or participation at meetings often dropped. While a thorough examination of this issue was beyond the scope of the assessment, the EITI Association should be aware that many MSG members would like EITI to incentivize countries to move beyond simply meeting the basic requirements of the EITI Standard.

Selected key recommendations

Below is a summarized selection of some of the most critical recommendations that arise from this assessment. Please note these are summaries only, and full comprehensive recommendations are contained at the end of each of the five parts of the Report.

For EITI Board and/or the EITI International Secretariat:

1. Amend Requirement 1 of the EITI Standard or adopt other policies to require that MSGs develop comprehensive internal governance processes before commencing the EITI reporting process or issuing EITI reports. Comprehensive internal governance processes include all the practices identified in the *Protocol for Developing MSG Terms of Reference and Internal Governance Rules and Procedures* drafted by MSI Integrity. See Part 1 of the full Report for more details
2. Develop resources to provide comprehensive guidance to help MSGs achieve compliance with the EITI Standard and good practice for multi-stakeholder governance, including:
 - a. Formally endorsing the contents of the *Guidance Note: Good Practices for Civil Society Participation in MSGs* drafted by MSI Integrity, or otherwise developing comprehensive supplemental guidance for civil society related to: identifying the wider civil society constituency; selecting and nominating civil society representatives; establishing a stakeholder group code of conduct; and, conducting robust outreach and liaising.
 - b. Formally endorsing the contents of the *Protocol for Developing Multi-Stakeholder Group Terms of Reference* drafted by MSI Integrity, or otherwise developing comprehensive supplemental guidance and rules for MSGs that addresses how to develop comprehensive and effective multi-stakeholder governance procedures. .
 - c. Identifying good practices regarding the structure and operation of national EITI secretariats. This should include practices to ensure the MSG is satisfied with the independence, resources, and mandate of the secretariat, potentially by examining various approaches taken in different contexts.
 - d. Identifying good practices on how the MSG and its constituents can conduct effective outreach and liaising, and ensure appropriate gender and geographic diversity in the MSG, with a special focus on prioritizing inclusion of stakeholders in areas of extractive industry activity.
3. Revise the validation process to ensure it can reliably detect non-compliance with all requirements of the EITI Standard. The current and proposed validation methodologies are very focused on ensuring technical compliance regarding reporting procedures, however additional procedures are required for validating the internal governance, independence of civil society, effective liaising and outreach, and wide dissemination of EITI reports. This revision should explicitly seek public and expert input, and draw on good practices for monitoring and evaluation. See Parts 3-5 of the full Report for more details.
4. Develop an independent international-level grievance and dispute resolution mechanism to allow stakeholders in each implementing country to report substantive non-compliance with the EITI Standard, and to resolve internal MSG governance disputes that cannot be resolved in national-level processes. See Part 5 of the full Report for more details.
5. Clarify that the EITI Standard only establishes minimum requirements for MSGs and that MSGs are encouraged to go beyond these requirements. In particular, it should be clarified to all MSGs that the mandate and scope of the EITI MSG does not have to be limited to the provisions of the EITI Standard. See Part 5 of the full Report for more details.

For multi-stakeholder groups in each implementing country:

1. Review governance rules, procedures, and frameworks to identify current strengths and weaknesses from the perspective of each stakeholder group.
2. Revise and formally document new rules, procedures, and frameworks that:
 - a. Comply with the EITI Standard requirements; and,
 - b. Incorporate comprehensive multi-stakeholder governance processes, at least based on the good practices identified throughout this report, and in the *Protocol for Developing the MSG Terms of Reference and Internal Governance Rules and Procedures* (available at MSI Integrity's website or as Annex I in the full Report), as well as *EITI Guidance Note 14*, the *EITI Association Code of Conduct*, and the *EITI Protocol: Participation of Civil Society*.

All new or revised rules, procedures, and frameworks should be: agreed in writing; developed based on inclusive deliberation and agreement of all MSG stakeholders; and, made publicly available.

3. Publish the following information in an accessible format for local and international EITI stakeholders and observers:
 - a. All core governance documents that establish rules, procedures, and frameworks for MSG operations;
 - b. Current MSG member lists, including at a minimum each member's name, organizational affiliation(s), and stakeholder group constituency in the MSG;
 - c. Annual budgets, and audited financial accounts;
 - d. Records of discussions and decisions from meetings (e.g., meeting minutes), including at a minimum a list of people in attendance, and details about the discussion and decisions taken, as well as any dissent or disagreement; and,
 - e. Announcements of meeting details, including at a minimum the date, location, agenda, and the procedure for attending meetings as an observer.
4. Establish a formal, accessible process to resolve disputes that arise:
 - a. From within the MSG related to governance rules and procedures; or,
 - b. From grievances reported by MSG members, constituent stakeholders, or external observers related to inappropriate conduct of MSG members, EITI reports, the reporting process, or substantive non-compliance with the EITI Standard.
5. Design and implement strategies for conducting outreach and liaising with the public and external stakeholders, particularly at the local and regional level in areas affected by extractive activities. This should be based on the good practices identified in Part 4 of the full Report, and should require that government and civil society representatives within the MSG conduct independent outreach and liaising with the public and their wider constituencies (e.g., external civil society organizations, or sub-national governments, and government agencies and ministries) to report discussions and decisions from the MSG, and seek input and feedback on issues related to EITI implementation and MSG deliberations.
6. Consider and support the role of civil society in the MSG by identifying barriers to meaningful participation in the MSG and by taking steps to overcome these barriers.

For civil society active in the EITI in each implementing country:

1. Civil society representatives on the MSG should collaborate with wider constituents throughout the country to:
 - a. Develop a cohesive mandate for civil society by:

- i. Identifying and establishing a wide network of the individuals, communities, and civil society organizations who may wish to be informed of EITI or participate in the process;
 - ii. Liaising regularly with stakeholders interested in ongoing involvement with the EITI to seek input and report feedback about the MSG and EITI processes, and to develop a vision for how EITI can advance the interests of the public and communities affected by extractive industry activity; and,
 - iii. Establishing parameters for civil society MSG representatives to work cohesively together and with their wider constituency.
- b. Establish a code of conduct to:
 - i. Establish expectations and responsibilities for civil society representatives to the MSG, including conflict of interest policies and term limits; and,
 - ii. Develop a transparent, accountable framework for collaboration and cohesive engagement among civil society.
 - c. Revise existing civil society nomination and selection processes to ensure they are designed to select effective, legitimate, and independent representatives to the MSG.
 - d. Formalize eligibility and qualification criteria for civil society representatives to the MSG.

Civil society should utilize the *Civil Society Guidance Note* when undertaking these activities.

2. Ensure that CSO MSG representatives are actively involved in the MSG's review and revision of internal governance procedures in preparation for validation under the EITI Standard. The *Civil Society Guidance Note and Protocol for Developing the MSG Terms of Reference* may be helpful tools to ensure internal governance rules are developed in a manner that allows for inclusive and effective involvement from civil society.

For governments in each implementing country:

1. In advance of establishing the MSG, governments should conduct outreach to inform and educate the public, companies, and civil society about EITI and about the role of each stakeholder group in implementing EITI, taking care to ensure that stakeholders in areas of extractive activity are contacted. See Part 3.1.1 of the full Report for more details.
2. Take care not to influence the selection of civil society MSG representatives, either directly or indirectly, in a manner that undermines their independent selection by civil society. This includes by pre-defining the types of civil society that may participate in the MSG or by delegating the selection of civil society to an insufficiently independent organization. See Part 3.1.1 of the Report for more details.
3. Engage with the public to conduct outreach and liaising on a regular basis. These processes should emphasize seeking input and feedback from constituents located in regions affected by extractive activities. See Part 4 of the full Report for more details.

For funders and international civil society organizations that wish to support EITI:

1. Prioritize support for training and capacity building for civil society to:
 - a. Conduct robust outreach and liaising processes with civil society's wider constituencies, as detailed in the *Guidance Note: Good Practices for Civil Society Participation in MSGs*. In particular, this should enable civil society and communities from areas affected by extractive activities to participate in the EITI processes.
 - b. Draft internal governance rules and procedures that strengthen civil society's capacity to impact decision-making in the MSG.

