

# Validation of Madagascar:

Final assessment of progress in  
implementing the EITI Standard

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## Acronyms

ANOR	Agence Nationale de l'Or (Gold Regulator)
CSO	Civil Society Organisation
BCMM	General Directorate for the Mining Cadastre
EITI	Extractive Industries Transparency Initiative
ESAAM	Intergovernmental Action Group vs Money Laundering in Southern and East Africa
KRAOMA	State-owned company
IA	Independent Administrator
FATF	Financial Action Task Force
MGA	Malagasy Ariary (national currency)
MMRS	Ministry of Mines and Strategic Resources
MSG	Multi-Stakeholder Group
OSCIE	Organisations de la Société Civile sur les Industries Extractives (CSOs)
NASSCO	State-owned company
PWYP	Publish What You Pay
QMM	Qit Madagascar Mineral (Rio Tinto mining operation)
RSF	Reporters without Borders (Reporters sans Frontières)
SAI	Supreme Audit Institution ( <i>Cour des Comptes</i> )
USD	United States Dollar

## Executive summary

This Validation report presents the findings of the International Secretariat's Validation of Madagascar, which commenced on 1 July 2023. The draft report was finalised for review by the multi-stakeholder group (MSG) on 12 December 2023. Following comments from the MSG received on 17 January 2024, the Validation report was finalised for consideration by the EITI Board. The assessment suggests that Madagascar has fully met eight EITI Requirements, mostly met 19 and partly met two requirements, with three requirements assessed as not applicable.

### Key achievements

- Since late 2022, new leadership at government level and EITI Madagascar has driven efforts to secure stable funding and reinvigorate EITI implementation, with the adoption of a new status for the organisation and a renewal of MSG membership. There are plans to develop the EITI Madagascar website by improving the accessibility of mining contracts and enabling companies to disclose their payments online. This renewed high level engagement must be matched by commensurate operational engagement, as Madagascar risks facing severe delays in the production of its 2021 report which could lead to temporary suspension.
- Madagascar has used its EITI reporting to substantially enhance transparency on the management of subnational transfers (“ristournes”) related to large mining projects such as QMM by providing an annual diagnostic of shortfalls in disbursements of subnational transfers up. It has also produced a study on contract disclosure to clarify bottlenecks in the publication of oil and gas contracts.
- Once it publishes summaries of data in open format for the 2019-2020 period, Madagascar will have an extensive database of 16 years of EITI data that provides a strong basis for evidence-based public debate. Time series analyses of key aspects of the upstream value chain such as licensing practices in the mining sector during the licensing moratorium, modelling of payments to government from the largest mines or subnational transfers of royalties disaggregated by municipalities could make a meaningful contribution to public debate and help inform policymaking in these areas where there is a strong public demand for transparency.

### Areas for development

- While the media and journalists continue to cover extractive industries issues, there is a need for the Madagascar EITI to establish mechanisms to monitor developments in the civic space environment for the EITI process and for addressing any concerns from CSOs on alleged limitations on their freedom of expression and association in relation to public debate on extractive industry governance.
- Time is of the essence for Madagascar to enact legal and regulatory reforms to collect data on beneficial owners of extractive companies, as recommended in the latest EITI

Report and in the 2018 Eastern and Southern Africa Anti-Money Laundering Group<sup>1</sup> (ESAAM) mutual review of Madagascar. The disclosure of beneficial owners will also be key in the ongoing formalisation of the artisanal and small-scale mining sector.

- Although Madagascar has expanded the scope of its disclosures on licensing to include the artisanal sector, there is opportunity to include more information on small-scale and artisanal mining when it comes to production and exports stemming from these activities. The reopening of license awards in the mining sector will likely lead to increased activity in both the industrial and artisanal sectors.
- While Madagascar covers the statutory rules and practice of transfers of the “ristournes” and administration fees to the regions and municipality, there are opportunities to monitor and improve the effectiveness of these subnational transfers. Less than half of the transfers from the Ambatovy project have been used for the period under review, and the transfers from the government to municipalities have been suspended since 2020 over weaknesses in the management of the funds.

### Progress in implementation

EITI Validation assesses countries against three components – “Stakeholder engagement”, “Transparency” and “Outcomes and impact”.

#### *Stakeholder engagement*

Although all stakeholders consulted agreed that issues around the sustainable funding of the EITI process had heavily impacted the MSG’s functioning during the period under review, funding for the EITI has now been enshrined in the state’s budget including the payment of annual membership fees to the EITI for 2022 and 2023. The renewed government’s strong high-level leadership of implementation must now be matched by commensurate operational engagement, including in the provision of technical and financial resources to the EITI and government agencies, following the finalisation of the Mining Code and the reopening of the mining sector. Concerns remain regarding the MSG and national secretariat capacity to exercise active and meaningful oversight of all aspects of EITI implementation, which is reflected in delays in the preparation of the 2021 EITI Report by Madagascar. There are also opportunities for the three constituencies to strengthen their engagement in all aspects of the EITI process. Civil society and industry have remained engaged in MSG meetings and EITI activities, and have renewed several of their members to better reflect the different components of the constituencies. Civil society MSG members reported no constraints on their engagement within the EITI. However, CSOs engaged in the extractive sector in Madagascar have published a report at the start of the Validation highlighting several alleged restrictions on civic space and individuals from the legal framework in Madagascar. While these allegations do not appear to constitute a breach of the EITI protocol: Participation of civil society, there is a need for more robust monitoring of civic space developments by the MSG to ensure that any alleged constraints are addressed in a timely

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<sup>1</sup> <https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/ESAAMLG-MER-Madagascar-2018.pdf.coredownload.pdf>

manner. There is also a need to address weaknesses in coordination and communication between MSG members from civil society and their broader constituency.

### *Transparency*

In a context of COVID-19 pandemic and limited funding from the government, Madagascar has successfully maintained its coverage of the extractive sector by publishing a flexible report. Government revenues are comprehensively disclosed and remnant licensing activity under the moratorium on license awards is well covered, although the practice could be more detailed. Madagascar expects reinvigorated exploration and production activity in the mining sector in the coming years, and many aspects of the EITI that Madagascar is still progressing to address, such as state-owned enterprise (SOE) transparency, license management, publication of contracts in the oil and gas and mining sectors and beneficial ownership transparency, are directly aligned with government commitments for reforms under the current International World Bank Programme. The subnational transfers of “ristournes” and administration fees are covered in the EITI Reports, although the actual transfers from the Ambatovy project have been suspended in 2020 following an audit by the Cour des Comptes of the use<sup>2</sup> of the transfers uncovering irregularities. There are opportunities to better link Madagascar’s EITI process with other ongoing reforms including the formalisation of the artisanal sector, the restructuring of the subnational transfers of royalties, or the African Development Bank’s (AfDB) technical assistance for the Supreme Audit Institution (SAI), the Cour des Comptes. Madagascar website is stepping in as the key channel for publishing documents and data as part of the EITI process, although this should be an interim solution pending the strengthening of government websites including those of the Ministry of Finance, the Ministry of Environment, the Ministry of Mines and the Cour des Comptes.

### *Outcomes and impact*

Madagascar has a fully costed biannual work plan, which is the result of consultation with constituencies and some feedback from stakeholders outside of the MSG. It is loosely aligned with national objectives, and activities related to improving transparency on artisanal mining could be further strengthened given this sector’s importance to the country’s extractive industries. EITI implementation would benefit from reviewing its objectives regularly in light of pertinent recommendations and studies that were issued in the meantime, to further strengthen the EITI’s role as a monitoring tool for addressing governance risks and to contribute to reform. There is evidence of a sporadic use of data from EITI Reports by journalists, companies and within government. The follow-up mechanisms on recommendations from reporting and Validation are functioning well according to stakeholders, but follow-up has been slow in 2021 and 2022 due to governance and funding challenges. As noted above, broadening work beyond the strictly EITI-related recommendations to recommendations for wider sector reforms would further strengthen the relevance and impact of the EITI. Madagascar has an active public debate on the environmental impact of extractive activities. While the MSG has undertaken efforts to disseminate EITI data and findings to relevant audiences, the COVID-19 has led to constraints on in-person debates and workshops in mining regions, resulting in limited outreach. More broadly, Madagascar has now an opportunity to strengthen the impact of the EITI process as a platform for supporting broader reforms in the governance of the extractive industries. There is broad

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<sup>2</sup> <https://ccomptes.mg/uploads/Livret-simplifi%C3%A9-Rapport-Public-2022-Cour-des-Comptes1671530931.pdf>

recognition among stakeholders consulted that the new Mining Code voted in 2023 and the reopening of license activity in the mining sector have been including civil society organisations but not the EITI specifically, although a special article is dedicated to EITI provisions such as beneficial ownership.

## Validation scorecard

Component & module	EITI Requirement	Progress	Score	
<b>Outcomes and impact</b>		<b>Fairly low</b>	<b>66.5/100</b>	
Extra points	Effectiveness and sustainability indicators		1	
Outcomes and impact	Work plan (#1.5)	Mostly met	60	↓
	Public debate (#7.1)	Mostly met	60	↓
	Data accessibility and open data (#7.2)	Mostly met	60	-
	Recommendations from EITI (#7.3)	Fully met	90	=
	Outcomes & impact (#7.4)	Mostly met	60	↓
<b>Stakeholder engagement</b>		<b>Fairly low</b>	<b>67.5/100</b>	
Multi-stakeholder oversight	Government engagement (#1.1)	Mostly met	60	=
	Industry engagement (#1.2)	Fully met	90	=
	Civil society engagement (#1.3)	Mostly met	60	=
	MSG governance (#1.4)	Mostly met	60	↓
<b>Transparency</b>		<b>Fairly low</b>	<b>66/100</b>	
Overview of the extractive industries	Exploration data (#3.1)	Fully met	90	=
	Economic contribution (#6.3)	Fully met	90	=
Legal and fiscal framework	Legal framework (#2.1)	Fully met	90	=
	Contracts (#2.4)	Mostly met	60	=
	Environmental impact (#6.4)	Not assessed	-	-
Licenses	Contract and license allocations (#2.2)	Mostly met	60	=
	License register (#2.3)	Mostly met	60	=
Ownership	Beneficial ownership (#2.5)	Partly met	30	
State participation	State participation (#2.6)	Mostly met	60	=
	In-kind revenues (#4.2)	Not applicable	-	=
	SOE transactions (#4.5)	Mostly met	60	↑
	SOE quasi-fiscal expenditures (#6.2)	Mostly met	60	=
Production and exports	Production data (#3.2)	Mostly met	60	↓
	Export data (#3.3)	Fully met	90	=
Revenue collection	Comprehensiveness (#4.1)	Fully met	90	=
	Barter agreements (#4.3)	Not applicable	-	=
	Transportation revenues (#4.4)	Not applicable	-	=
	Disaggregation (#4.7)	Mostly met	60	=
	Data timeliness (#4.8)	Fully met	90	=
	Data quality (#4.9)	Partly met	30	↓
Revenue management	Distribution of revenues (#5.1)	Mostly met	60	↓
	Revenue management & expenditures (#5.3)	Not assessed	-	-
Subnational contributions	Direct subnational payments (#4.6)	Mostly met	60	↑
	Subnational transfers (#5.2)	Mostly met	60	↑
	Social and environmental expenditures (#6.1)	Mostly met	60	↓
<b>Overall score</b>		<b>Fairly low</b>	<b>67/100</b>	



## How EITI Validation scores work

### Component and overall score

The three components of EITI Validation – “Transparency”, “Stakeholder engagement” and “Outcomes and impact” – each receive a score out of 100. The overall score represents an average of the component scores.



### Assessment of EITI Requirements

Validation assesses the extent to which each EITI Requirement is met, using five categories. The component score is an average of the points awarded for each requirement that falls within the component.



- **Exceeded** (100 points): All aspects of the requirement, including “expected”, “encouraged” and “recommended” aspects, have been implemented and the broader objective of the requirement has been fulfilled through systematic disclosures in government and company systems.
- **Fully met** (90 points): The broader objective of the requirement has been fulfilled, and all required aspects of the requirement have been addressed.
- **Mostly met** (60 points): Significant aspects of the requirement have been implemented, and the broader objective of the requirement is mostly fulfilled.
- **Partly met** (30 points): Significant aspects of the requirement have not been implemented, and the broader objective of the requirement is not fulfilled.
- **Not met** (0 points): All or nearly all aspects of the requirement remain outstanding, and the broader objective of the requirement is far from fulfilled.
- **Not assessed**: Disclosures are encouraged, but not required and thus not considered in the score.
- **Not applicable**: The MSG has demonstrated that the requirement doesn’t apply.

Where the evidence does not clearly suggest a certain assessment, stakeholder views on the issue diverge, or the multi-stakeholder group disagrees with the Secretariat’s assessment, the situation is described in the assessment.

## 1. Effectiveness and sustainability indicators

The country is awarded 0, 0.5 or 1 point for each of the five indicators. The points are added to the component score on Outcomes and impact.

### 1.1 National relevance of EITI implementation

This indicator considers the extent to which EITI implementation in Madagascar addresses nationally relevant extractive sector challenges and risks.

EITI Madagascar implementation did not address many of the relevant extractive sector challenges during the period under review. Despite the publication of the 2019-2020 report, the main focus of the MSG during the last two years has been centred around governance issues, preventing the EITI-Madagascar to reflect on and address sector challenges such as artisanal mining and gold smuggling, environmental impact of QMM's mining exploitation, or the revision of the Mining Code. EITI has been instrumental in collecting the data on beneficial owners of mining companies, despite its limited results in terms of actual disclosure. Madagascar disclosures on monitoring and tracing administration fees and royalty transfers to local stakeholders has led to increase transparency of the subnational transfers towards local municipalities and region. However, despite the inclusion of the ANOR to the EITI process, there are opportunities to extend implementation to cover artisanal mining more comprehensively, both in terms of representation and reporting, given its importance to economic activity and revenue loss through gold and gemstones smuggling, estimates of the sector, social and environmental impacts as well as progress on the recent formalisation efforts. There are opportunities for EITI Madagascar to draw on the large public interest and extensive disclosures on the legal framework of environmental monitoring to include more broadly this topic in its scope. Most stakeholders consulted consider that Madagascar is making some progress towards its EITI objectives, but that these have not yet been achieved. Funding constraints and COVID-19 have hindered more proactive outreach and dissemination, weakening the EITI's impact to date.

The Secretariat proposes that zero additional points be added to the score on Outcomes and impact for this indicator.

### 1.2 Systematic disclosures of extractive industry data

This indicator considers the extent to which extractive sector data in Madagascar is disclosed systematically through routine government and corporate reporting.

Some data required by the EITI Standard is systematically disclosed by government entities in Madagascar, although company disclosures are far more limited. Government entities systematically disclose summaries of some extractive SOEs' financial statements on the MoF [website](#), the budget law and budget execution report on the MoF [website](#), and the Cour des Comptes' reports on [government accounts](#). The Ministry of Petroleum publishes a low-definition oil and gas [cadastral map](#) with some basic information on active oil and gas contracts, and the

[mining cadastre](#) presents an up to date permit register and the amount of administration fees transferred to subnational governments. However, the online cadastre that used to present an interactive map of Madagascar's mining squares does not seem to be operational anymore, which is a backsliding.

Systematic disclosures by extractive companies are far more limited. Rio Tinto appears to publish payments online through annual payments to government reports on its corporate [website](#), which includes its payments to Madagascar for its QMM operations.

EITI Madagascar discloses various documents on its website, and the national secretariat has leveraged the approach of Validation to work with government entities to disclose key documents such as the revised QMM contract that was of high interest to civil society and development partners. Madagascar 2022-2023 EITI work plan includes activities to develop an EITI eReporting system thanks to US support and funding. However, there are few more developed plans for further strengthening government and extractive companies' systematic disclosures of EITI data and restructuring EITI reporting to build on these systematic disclosures. Rather, the planned activities appear to aim to render the EITI Madagascar's standalone reporting more efficient. A report on systematic disclosure was published by the EITI-Madagascar in 2022, exploring several options to improve systematic disclosure. As part of the follow-up to the recommendations of the report, efforts were made in 2023 to make the EITI website operational again as a source of information online on the extractive industry, but the objective is not reached yet.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

### 1.3 Environment for citizen participation in extractive industry governance

This indicator considers the extent to which there is an enabling environment for citizen participation in extractive sector governance, including participation by affected communities.

During the period under review, stakeholders are of the view that EITI Madagascar's action did not really constitute a forum for discussion on the major topics in the sector. There is no evidence of an expansion of the environment for citizen participation in the period under review.

The new Mining Code promulgated in 2023 establishes the EITI in the legislation and mentions the topic of gender. The civil society freely operates and organises meetings, debates, press conferences, including in the mining communities, like QMM, to discuss with the local population. It has been mentioned that CSOs have been largely included during the consultations on the new Mining Code.

The Secretariat considers that there is a remaining scope for improvement in the MSG's review of policies and practices related to citizen participation in decision-making about how extractive resources are governed, of the EITI process having an effect on communities in extractive regions or of the EITI contributing to changes in civic space related to extractive governance.

The Secretariat proposes that zero additional points be added to the score on Outcomes and impact for this indicator.

#### 1.4 Accessibility and use of extractive industry data

This indicator considers the extent to which extractive sector data is accessible and used for analysis, research and advocacy.

The data and information provided by governments and companies in the EITI report is published in a timely manner. The Cour des Comptes, Madagascar's Supreme Audit Institution (SAI), used the subnational transfer data contained in EITI Reports to prepare their [audit on the transfers and use of royalties](#) (October 2022). On artisanal and small-scale mining, The Cour des Comptes published [their latest report on the monitoring of gold panning activities in the production and marketing phases](#). Government revenue data has also been used by a [detailed report](#) on artisanal gold mining from the Anti-Corruption Resource Center. This subject, along with the information on the subnational transfers and environmental impact of large extractive projects, has been widely, both at the national and subnational level, during dedicated events, in the medias. Some stakeholders considered that the EITI could do more to increase local citizens use and uptake of industry data, specifically for the populations located on mining sites and mining regions.

Overall, there seems to be a limited number of data users and public debate opportunities due to a lack of dissemination and synergies between data use and analysis being produced.

The Secretariat proposes that zero additional point be added to the score on Outcomes and impact for this indicator.

#### 1.5 EITI-related changes to extractive industry policy and practice

This indicator considers the extent to which EITI has informed changes in extractive sector policies and practices.

There is little evidence or reports that stakeholders used the data, analysis or recommendations that were published as result of EITI implementation when revising or implementing extractive sector policies or practices during the period under review. The subnational level, in particular the transfers towards the local communities, has been the focus of the EITI for several years now. EITI Reports have pointed to significant gaps between revenues due and actually paid (for 2019 and 2020, in the section on tracing of subnational transfers through the payment of royalties and administration fees), following the suspension of transfers from Ambatovy in 2020<sup>3</sup>.

Although the "Outcomes and impact" form submitted by the multistakeholder group mentions that the EITI data has been used in drafting the Mining Code, it is not clear how decision-makers exercised oversight of the extractive sector using the EITI data. While there is tangible evidence of several recent improvements and major changes in government systems and procedures, policies and practices, with the lifting of the ban on license award in the mining sector, the reopening of gold exports, the new Mining Code, they seem to be more the result of the government efforts with support from partners such as the World Bank than an outcome of EITI

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<sup>3</sup> <https://www.studiosifaka.org/articles/actualites/item/6971-ristournes-minieres-les-capacites-des-elus-locaux-a-renforcer.html>

implementation. However, the government recently designated the EITI as the institution in charge of the consultations for the executive decree of the new Mining Code, which represents a concrete example of the EITI directly informing changes in extractive sector policies of the country.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

## 2. Outcomes and impact

This component assesses EITI Requirements 7 and 1.5, which relate to progress in addressing national priorities and public debate.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Work plan (Requirement #1.5)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 1.5 is mostly met, which represents backsliding since the last validation. Key stakeholders consulted considered that the objective of this requirement, ensuring that the annual planning for EITI implementation supports implementation of national priorities for the extractive industries while laying out realistic activities that are the outcome of consultations with the broader government, industry and civil society constituencies, is mostly met. While the annual EITI work plan should be a key accountability document for the MSG vis-à-vis broader constituencies and the public, it seems that there were only limited consultations beyond the MSG during the preparation of the work plan. In addition, the link between national priorities and the work plan activities could be strengthened.</p> <p>EITI work plans have been published yearly in the EITI Madagascar website since 2011, including those covering <a href="#">2021</a> and <a href="#">2022-2023</a>. According to <a href="#">the MSG review of results and impact</a> published in EITI Madagascar website, the work plans are linked to national priorities given its alignment with the General State Policy (<a href="#">PGE</a>) entitled "Initiative for the Emergence of Madagascar (IEM) 2019-2023". Despite that the PGE did not include dedicated sections to the extractive sector, it covers strategic orientations on anticorruption and digitalisation relevant to the good governance of the extractive sector. There is no clear link to Anti-Corruption in the work plans except in the activity 2.2 of the work plan 2022-2023 which prompted the MSG to consider the findings and conclusions of Transparency International's forthcoming study on the corruption risks associated with licensing, in order to</p>

	<p>formulate recommendations to guard against these risks. On digitalisation, the work plans did not include activities relevant to this national priority except the implementation of a software to follow up subnational transfers. With regards to consultations of key stakeholders during the preparation of the work plans, while some stakeholders consulted confirmed their participation to the consultation aiming to prepare the work plans, other stakeholders have not been consulted.</p> <p>The 2021 work plan presented objectives and activities linked to EITI requirements and detailed indicators to be used for the assessment of progress of the implementation of the activities, in addition to the cost of the implementation and source of funding (government or donors without specifying the name of the donor). The 2022-2023 work plan kept the same format and presented a more detailed information such as the link to the corrective actions of the last validation and the implementation quarter.</p> <p>The work plan activities were detailed by requirement and corrective action raised in the previous validation. It responded to stakeholders' capacity needs through the planification of various training activities (capacity building to public administration, CSO, training on QFE, new validation model...) and covered a wide range of requirement such as the contract transparency through the implementation of contract transparency roadmap and beneficial ownership through the adoption of the decree and the implementation of a register for B.O. The work plans included activities aiming to address legal barriers on contract transparency and beneficial ownership and covered activities related to systematic disclosure, revenue management, subnational transfers and transportation revenues.</p>
<p><b>Public debate (Requirement #7.1)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 7.1 is mostly met, which represent backsliding since the last Validation. Stakeholders consulted considered that the objective of enabling evidence-based public debate on extractive industry governance through active communication of relevant data to key stakeholders in ways that are accessible and reflect stakeholders' needs is mostly met. The Secretariat's assessment is that this objective is mostly met given the limited dissemination activities and the decline in public debate based on EITI data in the country.</p> <p>The EITI Madagascar website includes a comprehensive disclosure of EITI reports starting with 2007 EITI Report and 2010-2020 EITI reports. <a href="#">The outcome and results</a> template mentioned that 2017-2018 EITI report was disseminated in 2021 and 2022 and that 200 copies of 2019-2020 EITI reports were disseminated to national and local targeted groups. The template mentioned the organisation in 2021 of a feedback session on the results of analysis of the tax and non-tax contribution of the extractive industries sector carried out by CSOs based on 2010-2020 EITI reports.</p> <p>EITI Madagascar published in April 2022 an assessment of <a href="#">the use of EITI data</a>. This assessment presented an overview of the EITI Madagascar efforts to promote EITI data, assessed the impact of the use of EITI data since 2017 and suggested an action plan to enhance of impact of EITI. This study acknowledged the impact of the COVID 19 on the use of EITI in 2020 and</p>

	<p>2021 as compared with previous years, given the travel restrictions and confinement that slowed down dissemination activities. EITI Madagascar published also a <a href="#">study on systematic disclosure</a> in April 2022 and another study on <a href="#">contract disclosure</a> in December 2021.</p> <p>Apart from the EITI Madagascar website, SOEs, companies and government did not seem to disclose any information about EITI implementation in the country nor updated EITI data through their respective websites, as confirmed by stakeholders consulted.</p> <p>Minutes of recent MSG meetings mentioned that the MSG discussed the possibility of inclusion of debates on subjects of high public interest such as gold smuggling, the disposal of ASM permits or environmental and social impacts of the extractive sector, although those debates did not take place at the MSG level and EITI data was not used to stimulate public debate outside the MSG. Views on the Wagner Group’s current involvement with the mining SOE Kraoma were split during consultations. Some stakeholders considered the involvement possible, but most considered that the Wagner group has already sold its interests in this SOE, and that this company is facing financial issues. Nevertheless, most of stakeholders consulted agreed on the importance of covering this issue in MSG discussions to enrich the public debate with reliable information.</p> <p>Stakeholders consulted and the Validation ‘Outcomes and impact’ template mentioned that the EITI Reports were disseminated to targeted CSOs at a national and local level. Summary EITI Reports, including information on subnational transfers and economic contributions were distributed in relevant producing areas, although no information was provided explaining if the diversity of population was taken into account during those dissemination activities, if there was any workshop held outside the capital and if explanatory documents were distributed in local languages or in a more reader friendly format.</p>
<p><b>Data accessibility and open data (Requirement #7.2)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 7.2 is mostly met. Stakeholders consulted did not express particular views on progress towards the objective of publication of extractive information in open data and interoperable formats. The Secretariat’s view is that the objective has been mostly fulfilled given the existence of an incomplete open data policy for the EITI Madagascar which does not provide any provision on the access, release and reuse of EITI data and does not make users aware that information can be reused without prior consent.</p> <p>The EITI Madagascar Open Data Policy was agreed in December 2016, although only published in the International Secretariat <a href="#">EITI website</a>. The policy acknowledges the importance of the publication of EITI data in an open format and inform that starting from the 2014 EITI report, open data documents are published including the details of companies and government entities disclosed payments as well as the list of permits and summary data. The policy did not include any provisions on the access, release and reuse of</p>

	<p>EITI data and did not made users aware that information can be reused without prior consent.</p> <p>With regards to the availability of data in an open format, EITI Madagascar published its Summary data and financial data in open format covering 2017-2020.</p> <p>It is interesting to note that for 2019-2020 EITI Report, the subnational transfers are available in open data format. The government websites do not disclose data in open format despite the adoption in 2019 of <a href="#">the decree 2019-2136</a> on open data providing access to “Basic Payment and Collection” data relating to the budget execution of Public Bodies.</p> <p>A study on systematic disclosures published by EITI Madagascar <a href="#">in April 2022</a> confirmed those findings and provided a roadmap for the systematic disclosure at the government platforms and EITI Madagascar websites .</p>
<p><b>Recommendations from EITI implementation (Requirement #7.3)</b></p> <p><i>Fully met</i></p>	<p>The Secretariat’s assessment is that Requirement 7.3 is fully met, as in the previous Validation. Stakeholders consulted did not express any particular opinion about progress towards the objective of this requirement. The Secretariat’s view is that the objective of ensuring that EITI implementation is a continuous learning process that contributes to policy making, based on the MSG regularly considering findings and recommendations from the EITI process and acting on those recommendations it deems are priorities, is fully met. This is based on there being a clear mechanism to follow up on the recommendations raised in the EITI Reports and Validation materialised by the MSG regular discussions about the causes of any information gaps or discrepancies in EITI implementation, although this requirement is not assessed as beyond given that main recommendations discussed and followed are related to the governance of the MSG and the national secretariat rather than strengthening government systems and natural resource governance.</p> <p>Records of MSG discussions indicate that EITI Madagascar has regularly discussed the causes of information gaps and discrepancies, particularly when examining the governance issues related to the national secretariat. Minutes of MSG meetings indicates regular multi-stakeholder discussions about the reasons for information gaps, such as those related contract transparency.</p> <p>Madagascar appears to have continued to take steps to follow up on lessons learned from EITI implementation. Available documentation indicates that EITI Madagascar followed up regularly on recommendations from EITI reporting and Validation. Minutes of MSG meetings reviewed indicated that there is a regular review of weaknesses raised by EITI Reports or previous Validations. The EITI Madagascar Secretariat appears to maintain a matrix of past EITI recommendations in order to track the status of follow-up and implementation. Work plans include a column for every activity that mentions if it is related to a corrective action raised in the second validation.</p>



	<p>Nonetheless, the MSG's 'Outcomes and impact' template provides an update on the status of follow-up on nine past recommendations from EITI Reports and eight corrective actions and recommendations from the previous Validation in 2019. Of the nine past EITI recommendations, five are marked as partly implemented, 2 as mostly implemented, 1 as totally implemented and one is considered as non-applicable. Every recommendation in the table includes an explanation of the action that was implemented by the MSG to respond to the recommendation raised. With regards to the corrective actions raised in the 2019 validation, 7 have been considered by the MSG as mostly implemented and 1 as party implemented.</p>
<p><b>Review the outcomes and impact of EITI implementation (Requirement #7.4)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 7.4 is mostly met which represent a backsliding since the previous Validation. Several stakeholders consulted considered that the objective of regular review of the EITI's outcomes and impacts to ensure the EITI's public accountability mostly met in the period under review, given that key stakeholders consulted beyond the MSG considered that they have not been given the opportunity to provide their inputs.</p> <p>The 2021-2022 Annual Progress Report (APR) presented the MSG's review of the outcomes and impact of EITI implementation, and shed light on areas where the EITI's impact can be improved. EITI Madagascar faced several governance challenges during the last few years, although it has continued to regularly document the EITI's impact, including the adoption of the Mining Code's implementing decree and the revisions EITI Madagascar's legal status. EITI implementation helped to present the big picture about the systematic disclosure through the publication of <a href="#">a study</a> about it late 2022 and shed the light on the areas where more progress is needed and helped to continue the debate about the extractive sector.</p> <p>The APR presented a full overview of the progress in the implementation of the work plan, the APR mentioned that 35% of the activities were implemented, while 38% and 26% were respectively on going or not yet implemented. The APR recalled that the EITI Madagascar faced during this year the COVID situation and a lack of funding. The APR presented a follow up of the corrective actions and recommendations raised during the last validation and in the previous EITI report.</p> <p>Finally, the APR presented the strengths and weaknesses of the EITI implementation in Madagascar and presented concrete actions to both maintain the strengths and overcome the weaknesses.</p>
<p><b>New corrective actions and recommendations</b></p>	
<ul style="list-style-type: none"> <li>• In accordance with Requirement 1.5, Madagascar should ensure that its annual EITI work plan reflects the result of consultations involving a broad spectrum of stakeholders engaged in the EITI process, including, but not limited to, members of the Multi-Stakeholder Group (MSG) and stakeholders outside the MSG. The country should utilise its annual EITI work plan as a tool to identify and articulate strategies for addressing potential legal or regulatory barriers to EITI implementation and clearly link its activities to the national priorities identified in the strategic orientations of the government such as the PGE. Furthermore, it should provide comprehensive</li> </ul>	

plans for mitigating potential capacity limitations within government agencies, businesses, and civil society that could impede effective EITI implementation. To boost the implementation process, Madagascar is encouraged to explore innovative approaches for expanding EITI implementation. This expansion should aim to inform public discourse on natural resource governance while fostering heightened standards of transparency and accountability in government activities.

- In line with Requirement 7.1, Madagascar should ensure that EITI data are readily accessible and widely disseminated. The country should use the EITI to initiate the debate on subjects relevant to the extractive sector. Madagascar's EITI efforts are encouraged to break this information down into thematic reports and make them accessible online. The country should also ensure that outreach events, whether organised by the government, civil society, or companies, are carried out to promote awareness and facilitate constructive discussions on the management of extractive resources. To enhance implementation, Madagascar is advised to produce concise summary reports of EITI data. These reports should include clear and balanced analyses of the information. Madagascar might also consider conducting capacity-building initiatives, particularly focusing on civil society and utilising civil society organisations. The goal of these efforts should be to improve comprehension of the information and data found in EITI Reports and online disclosures, while encouraging the use of this information and findings by citizens, the media, and other stakeholders.
- In accordance with the requirement 7.2, Madagascar should amend its Open Data Policy to include provisions on the reuse of EITI data. This new provision should clearly state that information can be reused without prior consent. This provision should be expanded to government agencies and companies EITI data published under an open license. In addition, Madagascar is encouraged to make systematically disclosed extractive data machine readable and inter-operable, and to code or tag EITI disclosures and other data files so that the information can be compared with other publicly available data.
- To strengthen implementation of Requirement 7.3, Madagascar may wish to consider streamlining its process for following up on recommendations with a view to institutionalising the use of the EITI as a tool to support reform.
- In accordance with Requirement 7.4, Madagascar should ensure that all stakeholders have the opportunity to participate in assessing the impact of EITI implementation. This inclusivity should extend to civil society organisations and industry representatives engaged in EITI, particularly, though not exclusively, those who serve on the Multi-Stakeholder Group (MSG) and stakeholders outside the MSG. They should be consulted to provide feedback on the EITI process and ensure that their perspectives are incorporated into the annual evaluation of its impact and outcomes. The yearly assessment of results and impacts should encompass a descriptive account of initiatives aimed at enhancing the impact of EITI implementation on the governance of natural resources, which may include measures to foster greater engagement with various stakeholders.

### 3. Stakeholder engagement

This component assesses EITI Requirements 1.1 to 1.4, which relate to the participation of constituencies and multi-stakeholder oversight throughout the EITI process.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Government engagement (Requirement #1.1)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 1.1 is mostly met, as in the previous Validation. Industry and civil society representatives, as well as partners, expressed concerns around the government's concrete engagement to improve the governance of the EITI and the extractive sector during the first half of the period under review. Examples cited by stakeholders included the sporadic participation to MSG meetings, the slow progress on contract disclosure, or the funding difficulties in the years following the second Validation in 2020. Several partners noted that the government seemed serious about increasing revenues from the extractive sector through increased transparency, revenues which effectively increased in 2021 and 2022. A new Mining Code, lifting the ban on exploration activity, has been adopted by Parliament in May 2023 and includes provisions directly related to several transparency requirements from the EITI Standard. The MSG's comments on the draft Validation report argue for an upgrade in the assessment of Requirement 1.1 to 'fully met', based on the argument that government MSG members are now appointed, the government has made some budget transfers to Madagascar EITI in 2023 and the government has seconded staff to the national secretariat. The International Secretariat acknowledges these points, but given that Validation reviews the entire period since the previous Validation, it considers that government leadership of all aspects of the EITI process has not been consistently full, active and effective during the whole period under review.</p> <p>More strictly on EITI implementation, stakeholders from all constituencies noted that the prospect of the third Validation and the EITI Board Chair's letter to the government of Madagascar in April 2023 had prompted the government to send clear signals of its commitment in the months preceding the Validation. There have been several<sup>456</sup> public commitments to the EITI from high-level government officials in 2022 and 2023. There has been concerns within the MSG on the participation of government members, with some members having only attended only one or two of the 25 MSG meetings. After a renewal of their mandate in 2022, coinciding with the nomination of the new EITI Champion, the constituency has been more regular in its attendance of MSG meetings and participated in each working group. Furthermore, previously vacant seats, such as the representative of the Presidency of the Republic, have been filled since this latest renewal. The</p>

<sup>4</sup> <https://midi-madagasikara.mg/transparence-dans-les-industries-extractives-lamelioration-du-score-eiti-sur-la-bonne-voie/>

<sup>5</sup> <https://midi-madagasikara.mg/itie-madagascar-bien-placee-pour-une-troisieme-validation/>

<sup>6</sup> <https://www.agenceecofin.com/investissement/1406-109274-dr-olivier-herindrainy-rakotomalala-la-transparence-du-secteur-extractif-a-ete-positive-pour-madagascar-des-2022?fbclid=IwAR1CTJe9JcOYHMBiOPjObUdzm4AOMPFgVSvfW5w9G4VAjZYP9OVZWf35IVo>

	<p>MSG’s comments on the draft Validation report confirm that all government MSG members have now been appointed.</p> <p>While funding challenges have negatively impacted the technical and financial capacity of the MSG during the period 2020-2022, there has been a recent financial commitment by the government to the EITI, through the earmarking to EITI Madagascar of a share of the government’s administration fee revenues from mining companies. Adoption of the new status of the EITI as a Public Administration Entity (EPA) has also been decided to ensure sustainable financing from the government. The MSG’s comments on the draft Validation report emphasise that the government has made budget transfers to Madagascar EITI since 2023, including transfers of a share of mining royalties and mining administration fees. The MSG’s comments also noted that several government civil servants had been seconded to the Madagascar EITI Secretariat, including both managers and technical staff.</p> <p>There has been slow progress since the last Validation to resolve bottlenecks identified such as legal barriers to contract disclosure or beneficial ownership. As mentioned above, the government only recently included transparency provisions through the Article 297 of the new Mining Code, with the obligation to disclose contracts and licenses and beneficial owners of companies. Some civil society stakeholders consulted also raised concerns over their perception that the government had not undertaken sufficient reforms to remove any barriers to civil society’s freedoms of expression and of operation in relation to the EITI process and public debate on extractive industry governance (see <i>Requirement 1.3</i>). Central government agencies included in the scope of the last EITI reporting cycle have comprehensively provided the required data.</p> <p>There is a limited use of EITI data from government agencies, although government officials consulted mentioned that revenue data had been used for the revision of the contract of QMM, as well as social and environmental expenditures data. Overall, stakeholders acknowledged the gaps in participation during the period under scrutiny but saluted the recent renewal in government engagement, and highlighted that the political commitment of the government needs to be further strengthened following the adoption of the new EITI status and the payment of the arrears of the national secretariat. While not being representative of the entire period under review, the government’s recent commitment to the sustainability and funding of the EITI, as well as follow-up on EITI recommendations, demonstrates a renewed commitment to the EITI.</p>
<p><b>Industry engagement (Requirement #1.2)</b></p> <p><i>Fully met</i></p>	<p>The Secretariat’s assessment is that Requirement 1.2 is fully met. Most stakeholders consulted from the different constituencies considered that companies’ engagement in the EITI process since the previous Validation remained strong, including during the Covid period. The Secretariat’s view is that the objective of active and effective industry engagement in the EITI process is fully met in the period under review. The slow progress on certain areas traditionally involving extractive companies such as contract disclosure seem to be more the consequence of gaps in MSG governance than a lack of</p>

	<p>involvement from the industry constituency. Attendance of MSG meetings was very high for the seven of the eight industry representatives, with the exception of Base Tolaria<sup>7</sup>, which only participated in two out of 25 meetings. All 17 companies participated in reporting for the 2020 fiscal year and supplied the necessary assurances (with exception for the 2020 EITI Report). Six out of 17 companies did not provide legal ownership information. There were gaps in submission of beneficial ownership information, with only three companies providing their beneficial owners through the EITI Report<sup>8</sup>. For an assessment of representativeness of the MSG members to the wider company actors in the country, see requirement 1.4.</p> <p>It is unclear from the terms of reference how the Chamber consults non-Chamber members. When it comes to nomination, companies that are not members of the Chamber can be nominated to represent companies on the MSG by being selected through a public call. The constituency regularly meets and updates on EITI are channelled through the Chamber of Mines for the mining companies, and the APPAM for the oil and gas sector. Companies not represented on the MSG confirmed that they were consulted ad-hoc through these instances and feel adequately represented. In terms of topics to cover, companies on and off the MSG highlighted the lift of the 12 years-long ban on license award and renewal in the mining sector, as well as a recent ban on oil and gas license awards passed in 2019 as urgent governance issues to resolve. Companies participate in several EITI-Madagascar working groups and in outreach activities for the dissemination of EITI Reports. Company stakeholder highlighted in consultations that they also actively took part in explaining the subnational transfers “ristournes” from Ambatovy to local communities. The stakeholder engagement template lists different activities where companies, mainly through the Chamber of mines, draw on data from EITI disclosures in their communications. Consultations with stakeholder made it clear that a large share of the activities for the period under review focused on the governance of the EITI itself, in particular the change of status of the EITI in Madagascar to get access to regular funding and the replacement of a new National Coordinator.</p>
<p><b>Civil society engagement (Requirement #1.3)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 1.3 is mostly met, as in the previous Validation. Both publicly available evidence and stakeholder consultations point to a positive tendency in civil society’s engagement in EITI implementation, in a context of broader shrinking civic space at the national level. Opinions of consulted stakeholders were split over whether there was a pattern of government restrictions on civil society’s ability to engage in all aspects of the EITI process and public debate on extractive industry governance. Several government, industry and civil society stakeholders consulted considered that there were no such constraints. However, several CSOs consulted and a submission of a civil society report ahead of this Validation argued that there were government constraints on civil society’s freedom of expression and of association in relation to the EITI process. The Secretariat’s view is that there is no tangible evidence of a pattern of government constraints on civil society’s ability to engage in the EITI or public</p>

<sup>7</sup> The activity at Base Tolaria has been stopped in 2020

<sup>8</sup> See Requirement 2.5

	<p>debate related to the extractive industries, despite the regression in some (but not all) international rankings of Madagascar's broader civic space. Criminal prosecutions for defamation in retaliation against certain CSOs' public expression on issues related to extractive industries and other sectors are a concern, but are driven by complaints by private individuals rather than state entities. While the Secretariat has not identified documented breaches of the EITI protocol: Participation of civil society, it considers that Madagascar EITI should monitor developments related to civic space much more closely. However, the Secretariat's view is that the objective of full, active and effective civil society engagement is only mostly fulfilled given weaknesses in coordination between MSG members and the broader civil society constituency, exacerbated by technical and financial capacity constraints as identified in previous Validations.</p> <p>With regards to the <u>broader civic space context</u>, while the MSG's stakeholder participation template noted an absence of restrictions on the ability of civil society to engage in all aspects of EITI, several CSOs shared a <a href="#">report</a> with the International Secretariat ahead of Validation arguing that there had been breaches of the EITI protocol: Participation of civil society during the period under review. As noted in the civil society report, there has been a deterioration in Madagascar's civic space score in international rankings by organisations such as <a href="#">Civicus</a> and Reporters without Borders (<a href="#">RSF</a>). However, other international rankings have remained consistent, for instance with Madagascar's ranking in <a href="#">Freedom in the World</a> remaining constant at 61 points out of 100 between 2020 and 2023.</p> <p>The civil society report for this Validation argues that the legal framework does not guarantee basic human rights and that there has been a decline in civic space in Madagascar, citing incidents both during the period since the last Validation as well as prior. Citing examples of arrests (and subsequent releases) of protesters at mine sites and lawsuits from private citizens in reprisal for public statements or publications. Several CSOs consulted echoed these views, considering that the legal environment was restrictive given the existence of legal criminal defamations provisions. However, several other CSOs and members from other constituencies held different views and considered that there were no such restrictions on civil society's ability to express views related to the EITI process or participate in public debate on extractive industry governance. The MSG's comments on the draft Validation report present both sets of views about whether there is evidence of restrictions on civil society engagement in the EITI process and public debate on extractive industry governance.</p> <p>With regards to <u>expression</u>, the civil society report cites elements of the legal framework, such as the criminalisation of vague forms of online expression under the Cyber Crime Law, that it considers create conditions for what it terms "potential" self-censorship by civil society when combined with defamation lawsuits and arrests of protesters at mine sites. One of the key arguments of the CSO report concerns the alleged abuse of criminal defamation and spreading incorrect information provisions of the 2020 Media Communications Law. Many stakeholders consulted deemed the legal</p>
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	<p>framework restrictive. However, the Secretariat was only able to identify cases of lawsuits against civil society activists from private citizens and groupings, not from government officials.</p> <p>There is evidence of robust and critical civil society public expression on all topics related to the EITI process. Civil society organisations member of the constituency engaged in the EITI publish some research and analysis, and undertake public advocacy around the EITI, within their technical and financial capacity constraints. None of the CSOs substantially engaged in the EITI process, members of the broader constituency beyond those members of the MSG, have appeared to have faced reprisals from the state for public expression on issues related to the EITI or broader extractive industry governance. The civil society report cites one instance of a private prosecution for slander and denigration of the National Coordinator of PWYP Madagascar, the head of Transparency International, who was called in for questioning by police on two occasions without being charged to date. The context was a lawsuit from the litchi exporters' association following publication of an article on alleged corruption in the litchi supply chains. While the Secretariat notes with concern the questioning of a prominent civil society activist for publication of an article in the media, it does not consider this to be either related to the extractive industries, nor leading to arrest or a pattern of government constraints on civil society.</p> <p>The MSG's comments on the draft Validation report argue that there are no government constraints on the ability of CSOs substantially engaged in the EITI process to engage in public debate on extractive industry governance. However, the comments also argue that local civil society activists not members of the MSG "can be" harassed and prosecuted due to their work on the impact of mining, particularly on the environment. The MSG comments argue that civil society individuals and organisations can be targeted with lawsuits, arrest or repression if they express views in public that are critical of anyone, although the comments do not reference specific cases where CSOs substantially engaged in the EITI process have been targeted in this way in relation to public expression on extractive industry issues. Rather, it references the cases of QMM protests in 2021 (see <i>below</i>) and the questioning of the PWYP Madagascar National Coordinator in connection to the litchi affair. However, elsewhere in the MSG comments, it is argued that civil society activists do not face any repression or harassment, which appears inconsistent with the earlier MSG comments.</p> <p>In terms of <u>operation</u>, all CSOs engaged in the EITI process appear duly registered and do not face any excessive hurdles for reporting, as in the previous Validation. Civil society in Madagascar has access to foreign funding and cooperates regularly with international organisations without constraints, particularly on environmental issues. The MSG comments confirm that CSOs are able to raise funding, including from international sources. However, the constituency engaged in the EITI has continued to face funding challenges for their work on extractive issues, with donors no longer funding these issues even though they recognise their importance.</p>
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	<p>With regards to <u>association</u>, the constituency appears to have continued to coordinate and meet on EITI issues, but the broader environment appears to have become sporadically more restrictive, particularly around the elections. The civil society report describes one of the demonstrations by fishermen from the villages in the third quarter of quarter of 2021 that led to the intervention of law enforcement to disperse the demonstrators, four of whom were injured. Two community leaders from the organisation LUSUD were arrested by the police<sup>9</sup>, Eugène Chrétien Ratovondrainy and Simon Bedango-Razafinandriana. After being released, arrest warrants were issued against them following another demonstration in June 2023, being considered to be "strike leaders " (and therefore liable to repression by the authorities). The civil society report argues that a ban on public demonstrations since May 2023 ahead of the presidential election has constrained civil society's ability to organise events around extractive industry governance or the EITI process. Consulted stakeholders' views and the MSG's comments on the draft Validation report were split over whether the ban on public demonstrations had had an impact on CSOs' ability to associated in relation to the EITI process. The civil society report also describes an older incident in 2019 at Base Toliara when a protest leader was arrested for participating in an unauthorised protest, which the report argues indicates a trend to ban public demonstrations and curb civil society's ability to associate.</p> <p>While one group of civil society expressed concerns over civic space constraints, available evidence in the Validation templates and stakeholder consultations indicates that civil society organisations have been able and active in organising themselves on EITI issues through WhatsApp groups and in-person meetings in 2020-2023, particularly driven by the CSO coalitions OSCIE and PWYP. Yet stakeholders consulted off the MSG views raised concerns that the communication with the broader civil society constituency on EITI issues remained sporadic and mainly limited to the official documents of the EITI such as the work plan or the annual EITI Report.</p> <p>With regards to <u>engagement</u>, civil society's contribution to the EITI process has been led primarily by a few organisations. The challenges in securing nominations for vacant seats from the previous Validation seems to have been resolved. As a result, several civil society representatives contribute actively and regularly to the process, and civil society organisations have participated in several capacity-building and outreach activities in the period under review. There are tangible examples of advocacy and policy recommendations issued by civil society organisations on key developments of the sector, such as environmental issues, contract disclosure and beneficial ownership. Aside for a <u>thematic review</u> on contracts published by the MSG in December 2021, PWYP has participated to the campaign "<u>disclose the deal</u>" pushing for contract disclosure in the extractive sector in Madagascar. Nonetheless, civil society engagement remains affected by limited capacity and resources, particularly during the 2020-2022 period.</p>
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<sup>9</sup> <https://www.businesshumanrights.org/fr/derni%C3%A8resactualit%C3%A9s/madagascar-deux-manifestantsarr%C3%AAt%C3%A9s-et-enferm%C3%A9s-%C3%A0-la-gendarmerie-de-fort-dauphin-tolagnaro/>



	<p>While there has been some EITI-related outreach and dissemination in mining producing regions of the country, lack of coordination and communication has weakened outreach to the broader constituency.</p> <p>The MSG's comments on the draft Validation report emphasise the outreach and dissemination activities undertaken by civil society on behalf of the constituency as a whole. For instance, it describes how some 60 CSOs were convened in November 2022 to establish a discussion group to strengthen coordination on extractive industry governance issues. The comments also describe the establishment of the ARADIA platform in February 2020 to strengthen communications and coordination within the constituency. Thus, the MSG comments argue that civil society is proactively engaged in the EITI process.</p> <p>With regards to <u>access public decision-making</u>, civil society appears able to influence public policy-making and debate around the extractives, although this engagement seems to have happened outside of the EITI process. Multiple stakeholders recognised that civil society has been largely consulted during the development of the new Mining Code, but through their own organisations rather than through the EITI platform. The MSG's comments argue that CSOs have often proposed topics for discussion by the MSG, including the disbursement of mining ristournes from the Ambatovy mine and civic space issues, but argues that the MSG only discussed these issues briefly. The MSG comments argue that the MSG should pay greater attention to discussing issues related to civic space in Madagascar. Thus, the Secretariat considers that, while there do not appear to be government constraints on civil society's ability to use the EITI process to influence public decision making, the constituency does not appear to have been able to maximise its use of the EITI in this manner to its full potential to date.</p> <p>Overall, the deteriorating national context and the legal framework do not seem to have had a negative effect on the environment for public debate on extractive activities for individuals and organisations operating in the broader constituency engaged in the EITI process on extractive industry governance or public finance management. However, the disconnect between civil society members on and off the MSG is exacerbated by the constituency's technical and financial capacity constraints, which has only reinforced the limited outreach to the broader constituency. Thus, the Secretariat's assessment is that the objective of full, active and effective civil society engagement in the EITI process remains mostly fulfilled. However, it does not consider that there have been any breaches of the EITI protocol: Civil society participation to date, even if there is a need for Madagascar EITI to establish mechanisms to closely monitor developments in civic space with potential impact on broader EITI stakeholders.</p>
<p><b>Multi-stakeholder group (Requirement #1.4)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 1.4 is mostly met, as in the previous Validation. Stakeholders from all constituencies and members outside of the MSG share the view that the three main constituencies' interests are being considered in a consensual manner, but that governance issues have severely delayed MSG activity and oversight on many aspects of</p>

	<p>the EITI during the past three years. It should however be noted that during the last months preceding the Validation, several obstacles have been lifted due to active engagement from the government, alongside renewed activity in the governance of the mining sector (see <i>Requirements 1.1 and 2.1</i>). The MSG's comments on the draft Validation report argue for an upgrade in the assessment of Requirement 1.4 to 'fully met', based on the fact that all MSG members are appointed and that the MSG meetings are open to observers. While the International Secretariat acknowledges this view, it considers that weaknesses in the MSG's technical and financial capacities, including support from the Madagascar EITI Secretariat, imply that the objective of balanced multi-stakeholder oversight of the EITI process has been mostly achieved in the period under review.</p> <p>While civil society and industry have adopted procedures for nominating and changing their MSG representatives, it would be helpful to publicly clarify the way new organisations or companies can put forward their nominations to ensure that appointments are open to new entrants. Outreach and consultation efforts of civil society in particular have improved, but communication with stakeholders off the MSG remains weak. A strategic <a href="#">new decree</a> has been adopted in March 2023, and together with the <a href="#">terms of reference of the MSG</a> describe the status of the EITI, as well as the roles and responsibilities of participants. According to stakeholders from all three constituencies, the MSG's ToRs have been followed in practice, although communication has been made difficult during COVID.</p> <p>In terms of codification of the process by which each stakeholder group nominated their representatives, the MSG ToRs<sup>10</sup> (Article 7) describe the nomination process, term lengths, mandate and communication methods of the constituency members. The company constituency does not have its own ToRs, and it is unclear how it selects who participates in the nomination of its MSG members. During consultations, company stakeholders confirmed their independence to nominate their own candidates, and highlighted selection procedures were currently being drafted.</p> <p>The draft Validation report found that civil society did not have its own ToRs. Like the industry constituency, they use the MSG ToRs as a reference point for their nomination and renewal processes. It is not described how the constituency assembles members that are not already part of the MSG to nominate new members of civil society to join the MSG. The nomination clause in the MSG ToRs only refers to how they chose a member from their own organisation. However, each nomination that happened in practice is described in the Validation template submitted at the start of Validation and referenced. Civil society members confirmed their independence in nominating their own candidates, free of coercion, during consultations. In its comments on the draft Validation report, the MSG explained that the civil society constituency contested the statement that it did not have its own ToR to structure its engagement in the EITI process. The MSG's comments argue that, for each nomination or replacement procedure for civil society MSG members, ToR have been developed that were based on the MSG's ToR and</p>
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<sup>10</sup> <https://eitimadagascar.mg/wp/wp-content/uploads/2023/05/Reglement-Interieur-Comite-National.pdf>

	<p>the statutes of Madagascar EITI. The MSG argues that these ToR for the nomination and replacement of MSG members also provide a basis for monitoring civil society MSG members' fulfilment of their duties. The International Secretariat acknowledges these points, but notes that a permanent ToR do not yet appear to have been consolidated to structure the civil society constituency's coordination and engagement in the EITI process, which could help improve coordination between MSG members and the broader constituency (see <i>Requirement 1.3</i>).</p> <p>There are eight MSG members from each constituency. Both constituencies confirmed that internal rules for changing MSG representatives have been followed, this was confirmed in consultations and the desk review. The MSG's comments on the draft Validation report confirmed that all MSG members had now been duly appointed. The gender balance within the government and industry constituencies is respected, while there are only two women representatives out of the eight in the civil society constituency.</p> <p>Consultations confirmed that the individual constituencies have members that have sufficient capacity to carry out their duties. In terms of representation, consultations with members of civil society not represented on the MSG and organisations that support or partner with the EITI have shared the sentiment that the civil society constituency has improved its representation, thanks to a recent renewal in the past two years. While the International Secretariat acknowledges the limitations on effective participation and communication due to the COVID, it considers the lack of specification on the nominations procedure for MSG membership as a weakness which should be addressed to ensure that any organisation can be appointed to represent civil society at the MSG.<sup>11</sup> The companies represented on the MSG are representative in terms of importance of revenues to government and includes companies engaged in both exploration and production. It is unclear how small-scale and artisanal miners are consulted and represented through the company constituency, despite a large interest from all constituencies to work with the actors of the sub-sector. Three seats are reserved for oil and gas companies, which ensures that virtually all companies engaged in the sector are represented as of 2023. For government, other constituencies confirmed that they believe the members adequately represent the government. The MSG's comments on the draft Validation report emphasise that Article 20 in the MSG's internal rules (<i>'règlement interieur'</i>) allows members of the public, government agencies and companies to attend MSG meetings as observers.</p> <p>For the codification of the MSG's composition and operation, the <a href="#">2023 decree</a> instituting the MSG is now the legal basis, together with the <a href="#">2017 decree</a>. Changes in the leadership and membership of the MSG are published on the Madagascar EITI website, with the latest decree on nominations being published in <a href="#">July 2023</a>. Desk research and consultations confirm that these two documents are completed by the <a href="#">MSG's Règlement Intérieur</a> adopted in 2018, which contains all the elements as described in Requirement 1.4.b,</p>
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<sup>11</sup> See above references in requirement 1.4.

	<p>including outreach activities and constituency coordination.<sup>12</sup> MSG stakeholders confirmed that decision-making is conducted in an inclusive way and that they are treated as partners. Work plans, APRs and EITI Reports are approved by the MSG. All constituencies are represented in the working groups as listed in the Stakeholder participation template. Stakeholders consulted are not aware of breaches of the EITI Association code of conduct. The ToRs, published on the Madagascar EITI website, specify in Article 12 that the participation to the EITI is voluntary, but that per diems can be agreed and included to the annual budget. Stakeholder consultations and the Validation template confirmed that no per diem was paid in practice.</p>
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**New corrective actions and recommendations**

- In accordance with Requirement 1.1, Madagascar should ensure that the government is fully, actively, and effectively engaged in the EITI process, including in the provision of technical and financial resources for implementation.
- To strengthen implementation of Requirement 1.2, companies could further their commitment to resolving legal and practical bottlenecks such as barriers to the disclosure of contracts and beneficial ownership information.
- In accordance with Requirement 1.3 the civil society constituency should ensure that it is fully, actively and effectively engaged in all aspects of the EITI process and that it has sufficient technical and financial capacities to fully contribute to EITI implementation. The MSG is expected to ensure that it regularly considers developments in civic space that could have an impact on civil society’s ability to engage in all aspects of the EITI process and public debate on extractive industry governance. The government and MSG are urged to regularly monitor developments in civic space and ensure that any reforms to laws, regulations or administrative procedures do not constrain any aspect of civil society’s engagement in the EITI process and public debate on extractive industry governance. The MSG is encouraged to regularly monitor developments regarding civil society’s ability to engage in the EITI, and bring any ad hoc restrictions that could constitute a breach of the protocol to the attention of the MSG.
- In accordance with Requirement 1.4, Madagascar should provide a secure framework where the EITI and its MSG can exercise active and meaningful oversight of all aspects of EITI implementation. To strengthen implementation of Requirement 1.4.a.i, company and civil society constituency are encouraged to specify how entities that are not already members of the current organisations represented on the MSG can participate and put forward their entity for nominations to the MSG, to ensure continued representativeness and open and transparent nominations procedures. The civil society constituency is encouraged to have its own ToRs in order to structure its engagement in the EITI process.

<sup>12</sup> Non-MSG members from civil society and companies confirmed that they are consulted ad-hoc on the work plan and annual activity reports, but that the communication could be more timely.

## 4. Transparency

This component assesses EITI Requirements 2 to 6, which are the requirements of the EITI Standard related to disclosure.

### Overview of the extractive sector (Requirements 3.1, 6.3)

#### Overview of progress in the module

In the context of a national moratorium of license awards in the mining sector, followed by a similar measure in the oil and gas sector in 2019, EITI Madagascar has built a central repository of information about the extractive sector, including a presentation of the mining and the oil and gas sector. The main companies operating in the country are described, as well as a short history and future projects for both sectors. Some of this information is also available on government websites, but not on the level of details than the EITI Report. EITI Madagascar has played a key role in improving the accessibility of information on the extractive industries' contribution to the economy, including by centralising access to this information. While government portals and some company websites such as the [QMM website](#) provide some information on extractive activities, much of the economic data listed in Requirement 6.3 is still primarily disclosed through annual EITI reporting.

#### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Exploration (Requirement #3.1)</b></p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 3.1 is fully met, as in the previous Validation. Stakeholders consulted did not express particular views on progress towards the objective of transparency in extractive deposits and exploration efforts. The objective of ensuring public access to an overview of the extractive sector in the country, and its potential, is fully met.</p> <p>While there are few systematic disclosure of exploration activities, Madagascar's 2019-2020 EITI Report provides an overview of the extractive industries, including major deposits, companies engaged in the mining and oil and gas sector and, despite the ban on licence awards, remaining ongoing exploration activities.</p>
<p><b>Contribution of the extractive sector to the economy (Requirement #6.3)</b></p>	<p>The Secretariat's assessment is that Requirement 6.3 is fully met, as in the previous Validation. Stakeholders consulted did not express particular views on progress towards the objective of transparency in the contribution of the extractive industries to the national economy, although some pointed that export figures should be disclosed by companies. Most of the information on</p>

<i>Fully met</i>	<p>the macro-economic contribution of the extractive industries remains disclosed through EITI Reports, not yet through systematic disclosures by government and extractive companies.</p> <p>Madagascar has used its EITI Report to centralise information on the contribution of the extractive industries to the national economy. The 2019-2020 EITI Report provides the contribution of the extractive industries, in absolute and relative terms, to GDP, government revenue and exports. The report provides available public data on extractive employment (in absolute and relative terms), and contains a detailed section to gender disaggregated employment data.</p> <p>There are no up-to-date statistics on the contribution of the artisanal and small-scale mining sector to Madagascar's economy. The latest official estimate from the Ministry of Mines, which dates from 2015 and relates to the employment from the informal sector and the artisanal mining sector estimates that around 1 million workers are involved in small-scale mining activity.</p>
<b>New corrective actions and recommendations</b>	
<ul style="list-style-type: none"> <li>• To strengthen implementation of Requirement 3.1, Madagascar is encouraged to strengthen government agencies and extractive companies' systematic disclosures of information on the mining and petroleum sectors, including deposits and significant exploration activities.</li> <li>• To strengthen implementation of Requirement 6.3, Madagascar may wish to strengthen systematic disclosures of the mining and petroleum sectors' contributions to the national economy, including GDP, government revenues, exports and employment, as well as providing up-to-date figures on the contribution of the artisanal mining sector.</li> </ul>	

## Legal environment and fiscal regime (Requirements 2.1, 2.4, 6.4)

### Overview of progress in the module

Madagascar is already systematically disclosing information on the legal framework for its oil and gas and mining sectors, for example on the [mining cadastre website](#), although the more complete overview of the laws and implementing regulations related to the extractive sector is provided through the EITI Report. EITI implementation has recently led to the strengthening of the contract and license disclosure framework in the mining sector, in accordance with the [2023 Mining Code](#). In the oil and gas sector, contracts signed prior to and after 1 January 2021 are still being considered confidential despite several studies concluding and public pressure for the disclosure of contracts.

Environmental impact of the extractive industries in Madagascar, especially mining projects, has been the focus of the public<sup>13</sup> and international<sup>14</sup> civil society organisations. Madagascar has expanded the scope of its EITI implementation to cover the framework of management of environmental impacts of the extractive industries, in line with significant public interest in the topic and solid disclosures from government agencies, although the actual practice of this monitoring could be published, such as environmental impact assessment of mining projects.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Legal framework and fiscal regime (Requirement #2.1)</b></p> <p><i>Fully met</i></p>	<p>The Secretariat’s assessment is that Requirement 2.1 is fully met, as in the previous Validation. Although government websites provide some of the information in a dispersed manner, Madagascar has addressed all aspects of this requirement through EITI Reporting, by providing summaries and descriptions of the legal environment and fiscal regime for the extractive sector, including the roles of government entities and the level of fiscal devolution. Current and ongoing reforms in the extractive sector are highlighted in a very detailed manner in the 2019-2020 EITI Report.</p>
<p><b>Contracts (Requirement #2.4)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 2.4 is mostly met. Contract transparency was highlighted repeatedly throughout stakeholder consultations as a priority topic for the public debate around the extractive sector. Many stakeholders highlighted that both the new provisions in the 2019 EITI Standard (including the mandatory disclosure of all contracts granted, entered or amended from 1 January 2021) and the EITI Supporting Company expectations were helpful tools in advocating for implementation of contract disclosure at the national level. While the government policy for contract and license disclosure in the mining sector has been clarified by the new mining code, stakeholders consulted agreed that the government’s policy on contract disclosure remained unclear in the petroleum sector, with oil and gas PSCs considered de facto confidential. The MSG’s comments on the draft Validation report argue for an upgrade in the assessment of Requirement 2.4 to ‘fully met’, based on the view that the BCMM website provides a list of all active mining licenses and that a list of active oil and gas contracts is available on the OMNIS website, with confirmation that none of the active contracts have been amended to date. The International Secretariat acknowledges these points, but notes that the public lists of active licenses do not indicate which license and contract has been published in full, with specific links to where each published document can be accessed. Moreover, while the MSG’s clarification around the</p>

<sup>13</sup> <https://www.rtb.be/article/quand-linacceptable-devient-acceptable-comment-la-multinationale-miniére-rio-tinto-legitime-ses-activites-dextraction-11172160>

<sup>14</sup> PWYP study on QMM environmental impact, accessed [here](#) in August 2023

	<p>lack of amendments to oil and gas contracts is helpful, this does not appear to be publicly clarified in a public inventory of all active oil and gas contracts, indicating where each contractual document has been published in full.</p> <p>A thematic report was <a href="#">published</a> by the EITI at the end of 2021, identifying remaining obstacles to the full publication of extractive contracts in Madagascar. It confirms that decrees awarding contracts and licenses in the mining, oil and gas sectors are systematically disclosed through the official gazette, but that the full text of extractive contracts is not included and therefore not available to the public. The report provides links to the few publicly available contractual documents online. It lists the clauses typically included in model oil and gas PSCs, and clarifies the elements that are negotiable and therefore considered confidential (e.g. profit oil), as well as the fact that annexes are not publicly available and could contain provisions related to fiscal terms. These conclusions are confirmed in a <a href="#">parallel review led by PWYP</a> available online.</p> <p>In the oil and gas sector, the government's official policy on contract disclosure has yet to be clarified, despite the MSG's efforts and written commitment in December 2019 from the former EITI Champion and Minister of Mines and Strategic Resources Fidiniavo Ravokatra to progressively move towards contract transparency. The oil and gas industry association APPAM officially stated its willingness to discuss contract disclosure during the previous Validation, but there has been little progress to date. The Petroleum Code provides for two types of contracts: Production Sharing Contract (PSC) and joint ventures. In Madagascar, only the PSC is currently used, and there is a confidentiality clause in the PSC template covering profit oil between OMNIS and the contracting company in this model of contract. Government representatives noted the highly sensitive nature of the issue, particularly for PSCs in the oil and gas sector. Representatives from the oil and gas constituency noted that although industry's support for contract disclosure was noted, the process leading to such disclosure had yet to be discussed in detail.</p> <p>Mining rights are predominantly awarded in the form of licenses, with the exception of one mining contract backed by law. No contracts have been awarded since the 1<sup>st</sup> of January 2021, although some mining licenses have been delivered since then. The only existing contract currently active in the sector is QMM's "Establishment Agreement", which has the force of law due to its approval by the National Assembly and its promulgation in the official gazette. The agreement is available online, including the most recent amendment from 2023<sup>15</sup>. As far as Ambatovy is concerned, the two companies (AMSA and DMSA) are governed by the Law on Major Mining Investments (LGIM) which is published on the EITI Madagascar website. However, there is no contract between the Office des Mines Nationales et des Industries (OMNIS) and Ambatovy. While the LGIM and QMM convention are publicly available, the full text of licenses and other documents signed between the companies and the government are not publicly available and only accessible through the official gazette. An overview of the contracts and permits held by material</p>
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<sup>15</sup> <https://eitimagascar.mg/wp/conventions-et-protocole-daccord/>



	<p>companies is available in the 2019-2020 EITI Report (p.87) indicating which contracts and licenses are publicly available, and which are not. However, it does not include all active extractive contracts and licenses, including exploration permits. There was consensus amongst CSO representatives that contract and license disclosure should be a priority for the government, with several noting that contract disclosure was key to strengthening companies' social license to operate and help citizens understand companies' financial, social and environmental obligations.</p>
<p><b>Environmental impact (Requirement #6.4)</b>  <i>Not assessed</i></p>	<p>The Secretariat's assessment is that Requirement 6.4 remains not assessed, given that encouraged aspects of this requirement remain to be addressed by Madagascar. The management and monitoring of the environmental impact of the extractive industries, including the relevant legal provisions, administrative rules as well as environmental liabilities, environmental rehabilitation and remediation programs are systematically disclosed on the <a href="#">website of the National Agency for the environment</a> (ONE). An environmental <a href="#">dashboard</a> allows the public to monitor the impact of all activities and the deterioration of the environment. In terms of practice, the process and legal framework of Environmental Impact Assessments are <a href="#">clearly described</a> on the site of the National Agency for the environment (ONE). However, the assessments are not available to the public.</p>
<p>New corrective actions and recommendations</p>	
<ul style="list-style-type: none"> <li>• To strengthen implementation of Requirement 2.1, Madagascar may wish to work with relevant government ministries and agencies to strengthen systematic disclosures on the legal environment and fiscal regime for the extractive industries on government websites, including ongoing and planned regulatory reforms.</li>   <li>• In accordance with Requirement 2.4, Madagascar should disclose the full text (including annexes, riders, amendments) of any contract and license governing the terms attached to the exploitation of mineral, oil and gas resources that are granted, entered into or amended from 1 January 2021 onwards. Madagascar should publish a list of all active contracts and licenses (including annexes, amendments and riders), indicating which are publicly available and which are not. For all published contracts and licenses, it should include a reference or link to the location where the contract or license is published. If a contract or license is not published, the legal or practical barriers should be documented and explained. To strengthen implementation of Requirement 2.4, Madagascar may wish to systematically disclose the full text of mining licenses through the BCMM register, including the decree awarding and transferring licenses and the terms and conditions ("cahier de charges") to which companies subscribe, as well as the full text of oil and gas PSCs on the OMNIS website.</li>   <li>• To strengthen implementation of Requirement 6.4, Madagascar could publish through the Ministry of Environment the environmental impact assessments conducted on extractive projects and other results of its environmental monitoring tools.</li> </ul>	

## Licenses and property rights (Requirements 2.2, 2.3)

### Overview of progress in the module

A moratorium on the award of mining licenses has been in place in Madagascar since 2011, as well as in the oil and gas sector since 2019. Licensing has been one of the key areas of focus of the three constituencies of EITI Madagascar, leading to the identification of inefficiencies in the licensing process in several studies. In a report [published](#) by Transparency International in 2020, several risks related to the current licensing system have been identified, including high corruption risks tied to deviations in awarding land moving licenses in the mining sector and political interference in these awards. In August 2023, the ban on license awards in the mining sector was lifted, opening the sector to renewed licensing activity, but also posing the challenge of processing the backlog of more than 1600 applications received by the cadastre to date.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Contract and license allocations (Requirement #2.2)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 2.2 is mostly met, as in the previous Validation. EITI Madagascar has made progress towards the overall objective of the requirement by providing a public overview of awards and transfers of oil, gas and mining licenses, the statutory procedures for license awards and transfers and a limited attempt at assessing whether these procedures are followed in practice. Several CSOs, and development partners considered that the objective was still in the process of being fulfilled, given the lack of clarity on the way in which extractive licenses and contracts were awarded in practice, despite the moratorium on new license award since 2011. Madagascar’s EITI reporting has provided annual disclosures of the numbers and identities of licenses awarded and transferred, the general award and transfer procedures, as well as distinct procedures regarding other license activity, such as farm-out agreements in the mining sector (“amodiations”). The MSG’s comments on the draft Validation report argue for an upgrade in the assessment of Requirement 2.2 to ‘fully met’, based on the view that a model work programme for licensing has been agreed following a new decree in 2022, alongside a sanitisation plan for previous license applications, clarification that licenses categorised as ‘awarded’ in 2020 were in fact “re-awards” of licenses that had previously been allocated, as well as the BCMM’s operation of a ‘first come first served’ procedure for mining licensing. The International Secretariat acknowledges these important points, but considers that the objective of transparency in licensing practices remains mostly fulfilled given the opportunities for greater transparency on the practice of licensing practices in 2020, including in the re-award of previously allocated mining licenses and the</p>

	<p>specific technical and financial criteria assessed for licensing activities in this period, particularly given the lack of statutory rules regarding the assessment of technical and financial criteria in reviewing license applications.</p> <p>On mining, the 2019-2020 EITI Report provides a detailed description of the process for awarding and transferring mining licenses, which follows a “First come first served” system, including the documents that should be provided by applicants and the role of government agencies. It notes that applicants do not have to provide evidence of their expertise when submitting a request and that the regulation does not include specific criteria for granting awards or transfers, as long as the list of documents that should be provided is complete. Several stakeholders noted that the creation of a “cahier des charges” would be addressed with the publication of application decrees in the new Mining Code voted in June 2023. The MSG’s comments on the draft Validation report highlight that the procedure for mining licensing has been updated following the new Mining Code in 2023, introducing an evaluation of the model work programme.</p> <p>Despite the moratorium on new license awards since 2011, three mining permits have been awarded in 2020. The MSG’s comments on the draft Validation report contest the characterisation of these licenses as being “awarded” in 2020, arguing instead that they should be considered as “re-awards” of previously allocated licenses to the same companies, following the lifting of the moratorium on mining licensing. The Secretariat understands this view, but considers that such “re-awards” should nonetheless be considered as forms of awards of mining rights for the purposes of EITI reporting, given that they involve the allocation of mining licenses by the state to companies. The EITI Report contains some information on these three awards, including the identity of the applicant, the date of award and the commodity. Regarding transfers and other license activity, no movements has been noted in 2020. In the mining sector, non-trivial deviations on the three awards have not been investigated by the 2019-2020 EITI Report. However, it notes two general deviations from agreed procedures, drawing from the <a href="#">study</a> from Transparency International on corruption risks in the mining license award in Madagascar: deviations from the first-come-first-served principle given the large backlog of applications and weaknesses in the registration of the applications and application dates, as well as long delays in the award process. In 2020, the BCMM had still more than 1600 applications waiting to be processed. The MSG’s comments on the draft Validation report highlight that the BCMM has developed a plan for clearing the backlog of license applications which was approved by the Minister of Mines. The plan covers applications for license renewals. The MSG argues that the resumption of license awards does not depend on BCMM, which is already operating a system of ‘first come first served’ for recording license applications.</p> <p>The MSG’s assessment of non-trivial deviations in practice consisted in asking the regulators if they followed agreed licensing procedures, which was answered by the affirmative by the BCMM. Information on the criteria and selection procedures that will be used to sign applications already pending since the freeze on the awards of licenses are yet to be published.</p>
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	<p>In the oil and gas sector, award procedures are thoroughly described in the 2019-2020 EITI Report. Transfers procedures are clearly described online on the <a href="#">OMNIS website</a>, although criteria to evaluate the technical and financial capacity of beneficiary are not disclosed. The gap is covered in the section dedicated to license awards and transfers in the EITI Report which details the technical and financial criteria for both awards and transfers. Given the lack of new oil and gas license awards and transfers in 2020, the MSG did not carry out an analysis of non-trivial deviations from the regulatory framework on petroleum license awards and transfers. The Secretariat’s assessment is that the overall objective of Requirement 2.2 is mostly fulfilled, especially in a context of significant interest from the public and mining companies in licensing issues.</p>
<p><b>Register of licenses (Requirement #2.3)</b>  <i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 2.3 is mostly met, which represents backsliding since the previous Validation. Most stakeholders consulted considered that the objective of transparency in property rights related to extractive deposits and projects had not yet been given the lack of publicity of the dates of demand in the mining sector, in a context of large amounts of licenses waiting to be processed following the ban on license awards. The MSG’s comments on the draft Validation report argue for an upgrade in the assessment of Requirement 2.3 to ‘fully met’, based on the view that the BCMM website provides the required information on active mining licenses, and that missing information such as license coordinates and dates of application could easily be added to the BCMM website since there was no particular reason for such data not having been publicly accessible to date. The comments include a commitment for the BCMM to publish this missing information in future. The International Secretariat notes these clarifications but considers that the objective of transparency in extractive property rights is mostly fulfilled pending the BCMM’s publication of dates of application and license coordinates for all active mining licenses, as planned in the MSG’s comments.</p> <p>In the mining sector, the online cadastre appears to contain all active licenses held by material and non-material companies in the sector. A map from the BCMM of all active mining licenses has also been made available through the 2019-2020 EITI Report. The names of the holders, contact information, commodity produced, and the dates of award and expiration are comprehensively included. However, dates of application are missing. They are provided but only for the licenses transferred and awarded in 2019-2020 in the annex 14 of the EITI Report. License coordinates are not compiled, but the location (name of the municipality) and area (number of “carrés”) covered by the licence are disclosed. According to the BCMM during consultations, it is also possible to receive the full coordinates on written request to the Director General of the BCMM, subject to payment of a fee. There is no indication that EITI Madagascar has tried to get access to these coordinates. The MSG’s comments on the draft Validation report note that this missing data will be published in future on the BCMM website. The comments note that license coordinates can be purchased from the BCMM, at a low (unspecified) cost. However, data such as coordinates is free of charge for employees of government entities, including Madagascar EITI.</p>

	In the oil and gas sector, active licenses are disclosed by the Omnis on the <a href="#">Oil and gas online map</a> , updated in December 2022. Only the name of the block and the license owner are indicated. The 2019-2020 EITI Report also includes a detailed overview of licenses held by material companies in 2019, 2020 and 2021, comprehensively disclosing all information listed under Requirement 2.3.b and beyond, such as a short description of the award process or planned and actual investment.
<b>New corrective actions and recommendations</b>	
<ul style="list-style-type: none"><li>• In accordance with Requirement 2.2, Madagascar should undertake a broad analysis of the potential non-trivial deviations in the awards of licenses in the mining and oil and gas sector. The MMRS and the BCMM should provide explanations on the selection procedures and the criteria used to sign applications already pending since the freeze on the granting of licenses.</li><li>• In accordance with Requirement 2.3, Madagascar is required to maintain a publicly available register or cadastre system(s) with timely and comprehensive information on all active mining licenses in accordance with Requirement 2.3.b, including license coordinates and dates of application.</li></ul>	

## Beneficial ownership (Requirement 2.5)

### Overview of progress in the module

Adherence to Requirement 2.5 on beneficial ownership is assessed in Validation as of 1 January 2022 as per the framework agreed by the Board in June 2019.<sup>16</sup> The assessment consists of a technical assessment and an assessment of effectiveness.

#### *Technical assessment*

The technical assessment is included in the Transparency template, in the tab on Requirement 2.5. Given that this Validation is conducted under Phase 2 of the beneficial ownership Validation framework, there are significant aspects of Requirement 2.5 that remain outstanding.

The assessment shows that Madagascar has made progress but not fully established a legal basis for the collection and disclosure of beneficial ownership information. A draft law has been in preparation since 2018 and remains under discussion, with the last MSG meeting on this topic in June 2023. The draft includes the definition of beneficial ownership and identifies the BCMM as the national agency responsible for establishing the registry, as well as detailing the several categories for PEP. The MSG's comments on the draft Validation report clarify that the 2023 Mining Code formalises the legal requirement to publicly disclose beneficial owners, but notes that the specific regulations are still under development pending the Mining Code's implementation decree. There is no evidence of BO data collection from non-reporting companies. As a result, beneficial ownership reporting templates were only distributed to material companies as part of the 2019-2020 EITI reporting cycle and the collection of data do

<sup>16</sup> <https://eiti.org/document/assessing-implementation-of-eitis-beneficial-ownership-requirement>.

not yet appear to be institutionalised within government systems. There is no evidence that beneficial ownership data has yet been requested from any companies applying for extractive licenses since 1 January 2020. Public access to legal ownership data is contingent on the payment of a very low fee (MGA 2000 – around USD 0.44) per company record. The MSG has published a list of companies holding extractive licenses in Madagascar that are subsidiaries of companies publicly listed on foreign stock exchanges. References (links) to their statutory filings to their respective stock exchanges are available in the EITI Report.

### *Assessment of effectiveness*

There have been delays in implementing the government’s commitment to beneficial ownership transparency in practice. In the absence of reporting templates sent to extractive companies by the government, only the ones included in the scope of EITI reporting disclosed some information through the 2019-2020 EITI Report. The section on beneficial ownership includes an overview of the submission of the material companies, but the MSG does not yet appear to have commented on these submissions or planned any activity or strategies to expand the data collection to the whole spectre of companies engaged in the extractive sector. There has not been any attempt to capture beneficial ownership data from license applicants, even though mining license awards is a topic of significant public interest given corruption allegations related to licensing activities in the past. Although Madagascar has recently implemented a requirement to disclose the beneficial owner of the gold export counters, follow-up on the recommendations from the last [FATF Mutual Evaluation Report](#) has been slow, and the follow-up report from 2021 points out that beneficial owner information is only asked by the commercial banking sector. Stakeholders consulted highlighted that they have identified beneficial owners as a key information that could be included under the license award process, although there are no traces of discussion at the MSG level to identify priority companies who should disclose their BO data.

### *Progress by requirement and corrective actions*

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<b>Beneficial ownership (Requirement #2.5)</b>  <i>Partly met</i>	The Secretariat’s assessment is that Requirement 2.5 is partly met. Stakeholders consulted considered that the objective of transparency in ownership of extractive companies is still not achieved, given that the legal and regulatory framework had yet to be fully developed in order to enable the collection and public disclosure of beneficial ownership data. Partial BO data collection has started through an online platform supported by the BCMM and OMNIS and through the traditional EITI reporting cycle. It allowed BO data to be disclosed for some companies engaged in the extractive sector, although this is still at an early stage. Most civil society stakeholders consulted considers the lack of progress in BO disclosures as an issue and highlighted a possible lack of political will. The Secretariat’s view is that the objective is only partly met. The MSG’s comments on the draft Validation report argue for an upgrade in the

	<p>assessment of Requirement 2.5 to ‘mostly met’, based on the view that the legal and regulatory framework for public disclosure of beneficial owners is in the process of being established, with the development of the implementing decree for the 2023 Mining Code, and the partnership agreement between OMNIS, BCMM and the Financial Intelligence Unit to establish a public beneficial ownership register. The International Secretariat acknowledges these points, but notes that the objective of transparency in beneficial ownership is still far from being fulfilled pending the establishment of clear regulations for the collection and public disclosure of beneficial owners of extractive companies and the lack of attempt to date to collect beneficial ownership information from all companies holding or applying for extractive licenses.</p> <p>There have been delays in implementing the government’s commitment to beneficial ownership transparency in practice. The EITI Report did not identify clear government policies nor a legal framework on beneficial ownership disclosure. A draft law on the disclosure of beneficial owners exists since 2018. This text has been widely shared with stakeholders and addresses the issue of politically exposed persons for the first time. Pending the adoption of this law by the parliament, EITI Madagascar, supported by the BCMM and the OMNIS, undertook the collection of beneficial ownership data through the EITI reporting cycle. The MSG’s comments on the draft Validation report clarified that Article 297 of the 2023 Mining Code requires beneficial ownership information to be publicly disclosed, although the specific modalities of this public disclosure are yet to be formalised pending enactment of an implementing decree for the new Mining Code.</p> <p>In the absence of reporting templates sent to extractive companies by the government, only the ones included in the scope of EITI reporting disclosed some information through the 2019-2020 EITI Report. The section on beneficial ownership includes an overview of the submission of the material companies, but the MSG does not yet appear to have commented on these submissions or planned any activity or strategies to expand the data collection to the whole spectre of companies engaged in the extractive sector. The 2019-2020 EITI Report presents the result of the data collection from extractives companies and pointed that among the companies included in the scope of the EITI Report, only three (3) companies did submit their beneficial ownership declaration form. The report provides the information on legal owners of the material companies only. Information seemed to have been requested only from the material companies holding an active permit and links to the market exchange for listed companies have been correctly provided for half of the relevant companies. Annex 3<sup>17</sup> of the 2019-2020 EITI Report discloses the detailed legal structure of eight material companies. The MSG’s comments on the draft Validation report note that a partnership agreement has been concluded between BCMM, OMNIS and the Financial Intelligence Unit to establish a public beneficial ownership register.</p> <p>There has not been any attempt to capture beneficial ownership data from license applicants, even though mining license awards is a topic of significant</p>
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<sup>17</sup> EITI Madagascar website, accessed [here](#) on October 2023

	<p>public interest given corruption allegations related to licensing activities in the past. Stakeholders from government agencies consulted highlighted that they have identified beneficial owners as a key information that could be included under the license award process. The lack of a publicly accessible review by the MSG of the comprehensiveness and reliability of beneficial ownership data collected and disclosed to date raises concerns about the prospects for fully addressing the provisions of Requirement 2.5 in the medium term. Several civil society stakeholders consulted expressed concerns over the lack of progress on establishing a legal and regulatory framework for public beneficial ownership disclosures since 2018, given delays in drafting implementing regulations related to beneficial ownership. These gaps support the Secretariat's assessment that Madagascar has yet to achieve the objectives of Phase 2 of the Validation framework for beneficial ownership transparency and has partly met Requirement 2.5.</p>
<b>New corrective actions and recommendations</b>	
	<ul style="list-style-type: none"> <li>In accordance with Requirement 2.5, Madagascar is required to disclose the beneficial owners of all companies holding or applying for extractive licenses. To achieve this target, Madagascar should request all license holders to disclose beneficial ownership information and to require all applicants of extractive licenses to disclose their beneficial owners. EITI Madagascar should strengthen a public register of beneficial owners with an effective legal framework providing the obligation to companies to disclose their beneficial owners according to a definition in line with the requirement 2.5. To this extent, Madagascar may wish to consider the potential synergies with the existing the trade registry.</li> </ul>

## State participation (Requirements 2.6, 4.2, 4.5, 6.2)

### Overview of progress in the module

The state is represented in the extractive sector through both state-owned enterprises and autonomous sector entities. While the role of SOEs declined during the recent years given the financial issues that they are facing, Autonomous sectorial entities continued to play their roles in revenue collection and regulation, in addition to holding the state's participations in the sector. Madagascar used EITI to enhance the transparency of the state participation through the publication of their financial statements in the EITI Madagascar website, although additional efforts are still needed to ensure the publication of the audited financial statements of all material SOEs. Whereas the EITI Report clarified the legal framework governing the financial relationship between the state and material SOEs, additional efforts are needed to clarify practices and fully disclose the state's and SOEs' participations in extractive companies and changes over the years.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.



EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>State participation (Requirement #2.6)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 2.6 remains mostly met, as in the previous Validation. Stakeholders consulted did not express particular opinions about this requirement. The Secretariat's view is that the objective of this requirement – to ensure an effective mechanism for transparency and accountability for well-governed SOEs and state participation more broadly through a public understanding of whether SOEs' management is undertaken in accordance with the relevant regulatory framework – is mostly met given that the financial statements of some SOEs are not public which limits public understanding of the relationship between SOEs and the state. In addition, while general information was disclosed on the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises/public establishments, there are weaknesses regarding information presented on the third-party financing of the state's participation in the QMM project.</p> <p>The International Secretariat agrees with the justification contained in the EITI Report for the categorisation of five entities as material SOEs for the current EITI reporting cycle. The section dedicated to SOEs also includes a comprehensive overview of the SOEs roles and responsibilities. These entities can be classified into two categories: state owned enterprises (KRAOMA and NASSCO), and government regulator entities (BCMM, ANOR and OMNIS).</p> <p>KRAOMA and NASSCO represent SOEs in line with the definition stated in the requirement 2.6, although no significant payments were paid or collected by those SOEs. With regards to the Autonomous sectorial entities included in the EITI report, they have their own financial autonomy and a portion of taxes that they collect on behalf of the State remains in their own account, they also publish separate financial statements which increase the relevance of their inclusion in the EITI report.</p> <p>The EITI Report presented prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises as mentioned in the <a href="#">law 2014-014</a> and <a href="#">law 2003- 036</a> including applicable rules of transfers to the State, retained earnings, reinvestment and third-party financing. With regards to the financial relationship of the autonomous entities with the State, the 2019-2020 EITI Report adequately describes the regulating rules, noting that the financial and accounting management of a public institution is subject to the rules and procedures governing public finances. On third-party financing of SOEs, the specific case of the state's participation to QMM through its SOE OMNIS benefits from a cursory description in the EITI Report, noting that the company currently holds a USD six million interest representing 20% of the joint venture, which was advanced by his partner in the project. However, it is unclear how this information takes into account the several refinancing steps taken by QMM that should have resulted in an increase of the debt of OMNIS. While the new <a href="#">contract</a> signed in 2023 mentions the cancellation of the total debt of USD 77 million</p>

	<p>from OMNIS towards QMM, the 2020 audited financial statement noted a debt of USD 83 million. Both the audited financial statement and the EITI Report highlight the lack of information over the debt level of OMNIS in the QMM project, with a clear recommendation stemming from the EITI Report for the SOE to disclose the evolution of its participation and its debt towards the Rio Tinto Group for the period 2019-2021.</p> <p>The EITI Report mentioned that KRAOMA and NASSCO did not collect revenues on behalf of the state, yet no information was published on their financial transfers to the government, dividend payments or loans/loan guarantees to mining, oil and gas companies operating within the country. The last audited financial statements that are publicly available for KRAOMA cover <a href="#">2018</a>, while none of NASSCO's audited financial statements have been made public to date.</p> <p>With regards to the sectoral entities, The EITI Report mentioned that the BCMM is in charge of collecting three types of taxes on behalf of the state (administration fees, permit provision fees and mining administration fees). The <a href="#">audited financial statements</a> of BCMM covering 2019 confirmed that the administration fees are collected by the BCMM, recorded separately and transferred to other public entities whereas permit provision fees and mining administration fees are recorded within the revenues of the entity. The MSG's comments on the draft Validation report clarify the sharing of mining administration fees collected by the BCMM. With regards to OMNIS, the EITI Report mentioned that it is in charge of collection of administration fees and training fees in behalf of the State in the oil and gas sector, the published financial statements <a href="#">covering 2020</a> mentioned that its revenues are mainly composed of administration fees for more than MGA 2.2 billion and a negative net result of MGA 0.4 billion, whereas the net result of 2019 was MAG 12 billion, although the EITI Report did not mention the transfer of dividends to the state for 2019. The EITI Report mentioned that the state did not grant any loan or guarantee to OMNIS.</p> <p>With regards to the state participations in the extractive sector, the EITI Report notes that the SOE KRAOMA did not submit its reporting template for 2019 and provides the SOE's disclosures from the 2018 EITI Report. The report did not provide an updated overview of the SOE's participation in the extractive sector.</p> <p>For NASSCO, the EITI Report includes its participation in the extractive sector including 20% of the capital of the mining company Madagascar Consolidated Mining or MCM, without specifying if there was any change in the year under review. The EITI Report mentioned that the SOE financial statements for 2019 are published on the EITI Madagascar website, although the financial statements seemed unavailable.</p> <p>For autonomous sectoral entities, the report mentioned that BCMM and ANOR do not hold any participation in the companies in the extractive sector, whereas both the EITI Report and the audited financial statements of OMNIS presented its participations in the extractive sector and its evolution between 2019 and 2020. Among other participations, OMNIS represents the state's interests in the mining project QMM, holding 20% in the joint venture between Rio Tinto and Madagascar. A new contract between the two partners was signed in 2023,</p>
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	<p>modifying the conditions of participation of OMNIS from full-paid equity to free equity.</p> <p>The EITI Report did not provide any information about loans and guarantees provided by the SOEs KRAOMA and NASSCO to extractive companies. With regards to the autonomous sectoral entities, the financial statements of BCMM and OMNIS did not reveal the existence of any loan or guarantee to extractive companies.</p> <p>For KRAOMA the last financial statements <a href="#">available</a> cover the fiscal year 2018 and did not include the notes needed to understand the nature of each item of the financial statements.</p> <p>The <a href="#">law 2014-014</a> presents applicable rules to the governance and appointment of board members for autonomous sectoral entities, whereas <a href="#">law 2003- 036</a> presents applicable laws and regulations to commercial companies which is applicable to SOEs. Neither of these laws provide information about operating and capital expenditures, procurement or subcontracting.</p>
<p><b>Sale of the state's in-kind revenues (Requirement #4.2)</b></p> <p><i>Non applicable</i></p>	<p>The Secretariat's assessment is that Requirement 4.2 is not applicable, as in the previous Validation. Stakeholders consulted considered that this requirement is not applicable given that the state and SOEs are not collecting in kind revenues during the period under review. The EITI Report stated that despite the existence of an obligation to the oil companies to perform in kind payments to the state, only Madagascar Oil is in the production phase on the Tsimiroro block, and this production has been suspended since March 2016. The report also stated that in kind payments performed by this company to OMNIS of this previous years are confidential and have not been disclosed by both OMNIS and Madagascar Oil. The review of SOEs financial statements did not reveal the existence of any in kind revenues collected. For the years 2019, 2020 and the first half of 2021, none of the SOE reported any payments to state related to the sale of the government in-kind revenues.</p>
<p><b>Transactions related to state-owned enterprises (Requirement #4.5)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 4.5 is mostly met, a change since the previous Validation when it was assessed as not applicable. Stakeholders consulted did not express any particular opinion related to this requirement. The international secretariat considers that the objective of this requirement, which is to ensure the traceability of payments and transfers involving SOEs and strengthen public understanding of whether revenues accruable to the state are effectively transferred to the state and of the level of state financial support for SOEs, is mostly met given the lack of clarity over the transfers for the year under review from the state to three of the SOEs (KRAOMA, NASSCO and ANOR) and vice-versa. The MSG's comments on the draft Validation report argue for an upgrade in the assessment of Requirement 4.5 to 'fully met', based on the explanations of the revenues collected by the BCMM and clarification that BCMM does not transfer any dividend to the state given its status as an EPIC. The International Secretariat acknowledges these points, but considers that the objective of transparency in transactions involving SOEs has only been mostly fulfilled in the period under review, given the need to further clarify transactions related to KRAOMA and ANOR. For instance, it remains</p>

	<p>unclear what financial flows accrue to KRAOMA to ensure that it is able to continue paying staff or suppliers.</p> <p>The EITI Report clearly stated that the SOE NASSCO and KRAOMA did not collect any revenues on behalf of the state, which is confirmed by the government revenues disclosed for the fiscal year under review. With regards to autonomous sectoral entities namely BCMM, OMNIS and ANOR, BCMM is collecting one revenue flow from extractive companies, the administration fees, although those revenues are then transferred to other governmental entities and not to the State budget. The published financial statements of this entity presented the list of beneficiaries. With regards to OMNIS, the published financial statements confirm that this entity is collecting training fees and administration fees from extractive companies, although it did not clarify if the entity is transferring those funds to the State or other governmental entities. Finally, the EITI Report did not specify if ANOR is collecting revenues on behalf of the State.</p> <p>The EITI Report mentioned that both SOEs and Autonomous Sectorial Entities did not perform any significant payment to the state, including any payment of dividends. Following the review of the published audited financial statements of BCMM and OMNIS, we understand that this latter made a profit in 2019 of more than MAG 12 billion, but neither the EITI Report nor the audited financial statements mention a distribution of dividends. With regards to BCMM, this entity made a profit of more than MAG five billion in 2019, without paying any dividends to the state. The MSG's comments on the draft Validation report confirm that BCMM is not required to make any transfers of dividends to the state.</p> <p>The EITI Report did not mention the transfer or grant received by any SOE or autonomous sectorial entities from the State, although the audited financial statements of OMNIS stated that the entity deducted a share of the government subsidy from the training fees collected amounting to MAG 7 billion. Neither the EITI report nor the audited financial statements give more details about this subsidy.</p>
<p><b>Quasi-fiscal expenditures (Requirement #6.2)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 6.2 is mostly met, which represents backsliding since the previous Validation. Stakeholders consulted did not express particular opinion about the objective of this requirement, which is that where state-owned enterprises undertake extractive-funded expenditures on behalf of the government that are not reflected in the national budget, these are disclosed to ensure accountability in their management. The Secretariat's view is that the objective of this requirement is mostly met given the limited review of the existence of quasi fiscal expenditures from all SOEs. The MSG did not put in place an adequate mechanism to report quasi-fiscal expenditures with SOEs and autonomous sectorial entities, especially given that KRAOMA did not submit its reporting template and that ANOR, KRAOMA and NASSCO did not publish their financial statements.</p> <p>According to the EITI Report, the autonomous sectorial entities (BCMM, OMNIS and ANOR) were requested to report their quasi-fiscal expenditures, although the report did not mention if the SOEs NASSCO and KRAOMA were requested to report this information and KRAOMA did not submit its filled reporting template. The EITI Report notes that the review of their financial statements did not reveal</p>

	the existence of any quasi-fiscal expenditure. Regarding OMNIS, the 2019-2020 EITI Report identified social expenditures performed by OMNIS (an autonomous sectoral entities)
<b>New corrective actions and recommendations</b>	
<ul style="list-style-type: none"> <li>• In accordance with Requirement 2.6, Madagascar should ensure that the details about third-party financing from mining, oil and gas companies operating within the country are adequately disclosed. To strengthen implementation of Requirement 2.6, Madagascar is also encouraged to institutionalise and systematise its review of state participation in the extractive industries, in order to improve understanding of the contributions of SOEs to the country's economy, whether from a financial, economic or social perspective. To strengthen implementation, extractive SOEs are encouraged to regularly publish audited financial statements on their respective websites, to systematically inform the public on the practice of the financial relationship between the State and its companies.</li> <li>• In accordance with Requirement 4.5, Madagascar should comprehensively disclose transactions related to SOEs, including government transfers to SOEs.</li> <li>• In accordance with Requirement 6.2, Madagascar is required to develop an EITI reporting process for material SOEs and autonomous sectorial entities' quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams and should include SOE subsidiaries and joint ventures. These disclosures should cover all material SOEs' public social expenditures, such as loans and other advance tax payments to the state, undertaken outside of the national government budgetary process.</li> </ul>	

## Production and exports (Requirements 3.2, 3.3)

### Overview of progress in the module

Madagascar possesses both mining and petroleum producing sectors, although the latter has seen its output decrease recently. The country produces several minerals crucial to the energy transition, such as cobalt, graphite, nickel and ilmenite. Madagascar has continued to use its EITI reporting to disclose production and export volumes and values, although figures are unilaterally disclosed from the government. Madagascar does not yet include updated estimates of the informal ASM sector's contribution to mineral production and export, despite their importance. The MSG's comments on the draft Validation report note that the government's efforts to formalise artisanal mining are in progress with the establishment of dedicated zones in September 2022. The comments notes that updated estimates of artisanal mining production volumes and values will be developed in 2024. The Secretariat considers that the underlying objectives of transparency in production and export data are only mostly fulfilled to date, given the importance of informal gold and gemstone production and exports to the country's extractive industries. Consultations with ANOR highlighted the government's priority to formalise the artisanal and small-scale mining sector, with opportunities for the EITI to consider activities to support ANOR in fulfilling its mandate.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Production (Requirement #3.2)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat’s assessment is that Requirement 3.2 is mostly met, which represents backsliding since the previous Validation. According to several stakeholders, the objective of this requirement – to ensure public understanding of extractive commodity(ies) production levels and the valuation of extractive commodity output – is mostly fulfilled given the lack of information on artisanal and small-scale mining output and some uncertainties regarding the quality of production data disclosed in Madagascar’s EITI Reports.</p> <p>The 2019-2020 EITI Report clearly documents total production volumes and the value of production by commodity, although it could be further disaggregated given that some categories lump several minerals together. For instance, despite being the target of the Responsible Mica Sourcing Initiative<sup>18</sup>, mentioned in several international media outlets<sup>19</sup> and as a commodity extracted by multiple licenses, there is no production figures for mica. The production figures are further disaggregated by company, project and region. Both the production level and value are provided. The authorities in the mining sector are the sole sources of the data, and stakeholders consulted suggested that the EITI could collect and compare production data from companies.</p> <p>Although the fiscal and licensing framework for artisanal activities is well described (see <i>Requirement 2.1 and 2.2</i>), there is little information regarding the contribution of these activities to the production and exports of the extractive sector. The EITI Report contains sales data on ASM for the gold that transits through the gold buying desks (“comptoirs d’or”). Artisanal gold production provided by the report is one ton, bought by the Central Bank in an attempt to formalise the sector. The EITI Report also highlighted a lack of up-to-date systematic disclosures estimating the contribution stemming from small-scale and artisanal mining, the most recent study dating from 2015 and only covering employment. A thorough study<sup>20</sup> from the Anti-Corruption Resource Center published in 2022 includes various information on the production of artisanal gold, but no estimates of the production. The MSG’s comments on the draft Validation report note that updated estimates of artisanal mining production volumes and values will be developed in 2024.</p>
<p><b>Exports (Requirement #3.3)</b></p>	<p>The Secretariat’s assessment is that Requirement 3.3 is fully met, as in the previous Validation. Stakeholder have broadly highlighted that export data, especially for gold, could benefit for increased scrutiny given the illegal flows</p>

<sup>18</sup> <https://www.dol.gov/agencies/ilab/eliminating-child-labor-mica-producing-communities-and-promoting-responsible-mica>

<sup>19</sup> <https://www.rfi.fr/fr/afrique/20230509-madagascar-nouvelle-alerte-sur-le-travail-des-enfants-dans-les-mines-de-mica>

<sup>20</sup> <https://www.u4.no/publications/le-secteur-de-lor-madagascar-au-cur-des-pratiques-illicites.pdf>

<i>Fully met</i>	<p>running to and from the country. Gold exports have been suspended in October 2020 after several smuggling scandals, and recently <a href="#">reauthorised</a>, following the implementation of stricter rules including the disclosure of beneficial owners of the export counters</p> <p>The 2019-2020 EITI Report documents total export volumes and the value of exports by commodity. This information is further disaggregated by company, project and region. Both the export level and value are provided, as well as the country of destination of exports, sourced from the exporting companies, and the buying companies. The method for calculating the value of each commodity export is often provided, but remains unavailable for some of the transaction from Dynatec and QMM. Export sales from gold counters buying artisanal gold have been recorded by the ANOR and amounted to 1,77 tonnes in 2020. The value, location of the source of export and country of destination is also indicated. On the reliability of the data of exports from the gold sector, the Cour des Comptes has highlighted in a <a href="#">recent report on the mining sector</a>, the discrepancies between the exports disclosed by the Customs and the figures reported by the United Nations with the latter regularly exceeding the official figures from the national government agencies.</p>
<b>New corrective actions and recommendations</b>	
<ul style="list-style-type: none"> <li>• In accordance with Requirement 3.2, Madagascar should disclose estimates of production volumes and values related to artisanal, small-scale and semi-mechanised gold mining and gemstones, supporting ANOR and other agencies efforts to formalise the sector.</li> <li>• To strengthen implementation of Requirement 3.3, government entities and companies could systematically disclose more timely exports data on their own website. Companies are encouraged to describe the methods for calculating export volumes and values with a view to supporting improvements in the government’s oversight of mineral exports and the reliability of export figures.</li> </ul>	

## Revenue collection (Requirements 4.1, 4.3, 4.4, 4.7, 4.8, 4.9)

### Overview of progress in the module

Madagascar has continued to provide comprehensive and reliable disclosures of government revenues from the mining and petroleum sectors and through its EITI reporting since the previous Validation. The last EITI Report has been prepared by the national secretariat supported by a consultant paid by the World Bank. The flexible approach adopted consisted in the unilateral disclosures of revenues and payments from government agencies and companies, without reconciliation. The 2019-2020 EITI Report captures all significant payments received from both extractive companies and government entities. The report presented the information disaggregated per payment flows and companies, but there is still an opportunity to present the information disaggregated per project. Madagascar used its EITI reporting process to provide a certain level of reliability to disclosures of company payments and government revenues, and the EITI Report was instrumental to shed the light on discrepancies between the government entities

reported payments collected and reported companies' payments. EITI Reports were published in a timely manner on the EITI Madagascar website since the 2019-2020 EITI Report presented timely disclosures which allowed to inform policy making and public debate.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Comprehensive disclosure of taxes and revenues (Requirement #4.1)</b></p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 4.1 is fully met, as in the previous Validation. Stakeholders consulted considered that companies and government entities performing or collecting significant payments participated in the EITI process and that the EITI Report captured their payments. The Secretariat considered that the objective of this requirement which is to ensure comprehensive disclosures of company payments and government revenues from oil, gas and mining as the basis for detailed public understanding of the contribution of the extractive industries to government revenues has been fully met, although not yet exceeded given that material extractive companies have not yet published their audited financial statements and most of the government revenue data is not systematically disclosed on government websites.</p> <p>MSG meeting minutes of June 2022 include discussions about the review of the scoping report and the materiality applied for 2020-2019 EITI Report, it includes the number of companies retained in the scope of the EITI Report and decided to exclude three companies from the scope given that they are no longer operating in the country. Material companies, revenue streams, and government agencies are clearly identified in the 2019-2020 EITI report as well as in the scoping report. Following the decision to produce a "flexible" report, payments and revenues are reported unilaterally by the parties and therefore are not reconciled. Discrepancies are presented with limited explanations on the possible sources of those differences given the lack of detailed reconciliation.</p> <p>With regards to collecting government entities, the MSG decided to maintain the same six major entities considered material in the 2018 EITI Report and add other collecting entities identified during the scoping phase of the 2019-2020 EITI Report. This led to the inclusion of 13 government entities in the scope of this report.</p> <p>For companies with material payments to government, the report presented revenue streams disaggregated per company and per revenue stream. For non-material companies, the report presented payments per government entities and per companies without specifying the nature of payment flow or reconciling those payments. For non-material payments from material companies, aggregated payments were compared, and the report presented the discrepancies raised between the total payments reported by government entities and the one</p>



	<p>reported by companies. The report presented the payments of the companies excluded from the scope separately. Total extractive sector revenues, including non-material revenues, are clearly disclosed by agencies and disaggregated by revenue stream.</p> <p>With regards to the comprehensiveness of data, out of the 20 companies selected in the scope in 2019, four companies and four out of the 13 government entities did not submit a reporting template. For 2020, five of 17 material companies and four out of 13 material government entities did not submit a reporting template. The report includes an analysis of the impact of those omissions on the comprehensiveness of data reported and highlighted that for 2019 they represent 2.87% of extractive revenues whereas they represent 3.12% in 2020. The EITI Report recommended that a specific review of the investigation of discrepancies should be drawn up to understand the discrepancies observed between the unilateral declarations of the administration and the unilateral declarations of the companies. The consultant considered that discrepancies raised are significant, although it impacted more the reliability than the comprehensiveness of data reported, especially given that the report is capturing both companies and government entities reporting templates.</p> <p>With regards to audited financial statements, those of companies with significant payments are not public, although BCMM and OMNIS are publishing their audited financial statements covering respectively <a href="#">2019</a> and <a href="#">2020</a> fiscal years.</p>
<p><b>Infrastructure provisions and barter arrangements (Requirement #4.3)</b></p> <p><i>Not applicable</i></p>	<p>The Secretariat's assessment is that Requirement 4.3 is not applicable, as in the previous Validation. According to the EITI Report and data reviewed during this Validation, no active infrastructure provisions and barter arrangements was reported or identified during the period under review.</p>
<p><b>Transportation revenues (Requirement #4.4)</b></p> <p><i>Non applicable</i></p>	<p>The Secretariat's assessment is that Requirement 4.4 is not applicable. Stakeholders consulted did not express any particular views on progress towards the objective of the requirement which to ensure transparency in government and SOE revenues from the transit of oil, gas and minerals as a basis for promoting greater accountability in extractive commodity transportation arrangements involving the state or SOEs. The IA considered that this requirement is not applicable since it is mentioned in the report that "The reporting templates received from the companies within the scope of the report revealed that the companies have not concluded a transport contract with a public entity/State company and that the transport of extractive products from companies in the exploitation phase is provided by private providers." The secretariat view is that this requirement is not applicable since that transportation revenues are collected by SMMC, MICTSL and SPAT : the first 2 entities are private, the third entity is public, although the payments performed by companies to this entity seemed not significant, which confirms the non-applicability of this requirement. It is worth to note that despite that SPAT did not submit its reporting template for 2019 and 2020, the Report did not consider that this impacted the comprehensiveness of data reported.</p>

<p><b>Level of disaggregation (Requirement #4.7)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 4.7 remains mostly met, as in the previous Validation. Most stakeholders consulted did not express particular views on progress towards the objective of disaggregation in public disclosures of company payments and government revenues from oil, gas and mining. The Secretariat's view is that the objective is mostly met, given the lack of project-level disaggregation of government revenues.</p> <p>Madagascar did not address the corrective actions raised in the previous Validation with regards to the project-level disaggregation of data on government revenues from the extractive industries that are levied at project level, rather than by company. The MSG has agreed a definition of project that is in line with the definition in Requirement 4.7, but has not identified which revenue streams are levied on a project basis and which are not. Although licenses substantially interconnected or overarching seem to exist in Madagascar (the company ETABLISSEMENT GALLOIS owns more than ten licenses in the same geographic area according to the <a href="#">license register</a> of the BCMM), there does not seem to have been any discussion from the MSG if it should be considered as one single project.</p> <p>The EITI Report explains the lack of project level disaggregation by the fact that companies are not holding analytical accounting systems allowing the identification of the taxes corresponding to each project on each site, although it is mentioned in the EITI report that some payments broken down by project for the years 2019 and 2020 have been shared by OMNIS and BCMM and will be published on the EITI Madagascar website. Those payments include mining administration fees collected by BCMM, administration fees and training fees collected by OMNIS, although those information are not yet published.</p> <p>The 2019-2020 EITI Report discloses the financial data on government and SOE revenues disaggregated by collecting entity, revenue stream, and company. The Secretariat's view is that most technical aspects of Requirement 4.7 have been addressed, but project-level disclosures of government revenues levied at a project level have not yet been provided. The MSG's comments on the draft Validation report highlighted plans to strengthen systematic disclosures of government extractive revenue data, highlighting the ToR for strengthening systematic disclosures that the MSG agreed in 2023.</p>
<p><b>Data timeliness (Requirement #4.8)</b></p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 4.8 is fully met, as in the previous Validation. Most stakeholders consulted did not express particular opinion about the objective of timely EITI disclosures to inform policy making and public debate had been fulfilled. The Secretariat considers that the objective is fully met given that despite that the 2019-2020 report was published in June 2022 which mean that 2019 data were published after 2 years and half, this extension was approved by the EITI board decision number <a href="#">2022-10</a>, although There is an opportunity for further improvements in the timeliness of EITI disclosures by increasingly building on new systematic disclosures by the government.</p> <p>With regards to prior EITI reports, 2017 EITI report was published in December 2018, 2018 EITI report was published in December 2019.</p>

<p><b>Data quality and assurance (Requirement #4.9)</b></p> <p><i>Partly met</i></p>	<p>The Secretariat's assessment is that Requirement 4.9 is partly met, which represent backsliding since the previous Validation. Stakeholders consulted considered that the objective of this requirement which is to ensure that appropriate measures have been taken to ensure the reliability of disclosures of company payments and government revenues from oil, gas and mining is only partly met due to significant unresolved discrepancies in the 2019-2020 EITI Report. The Secretariat's assessment is that the measures established by the MSG to ensure data quality are insufficient given that important discrepancies were not investigated, and data reported by the government agencies were not certified by the Supreme Audit Institution (SAI). The MSG's comments on the draft Validation report argue for an upgrade in the assessment of Requirement 4.9 to 'mostly met', based on the view that a partnership agreement between Madagascar EITI and the SAI has been in place since 2018, allowing the SAI to provide certification of government EITI disclosures, and the MSG's plans to strengthen systematic disclosures. The International Secretariat acknowledges these points, but considers that the objective is still far from being fulfilled given the weaknesses in the provision of required quality assurances for EITI reporting and the lack of a clear statement in the EITI Report on the comprehensiveness and reliability of EITI data on government extractive revenues.</p> <p>EITI Madagascar adopted the Board-approved "flexible" approach to produce its 2019-2020 EITI Report, based on unilateral disclosures by both revenue-collecting government entities, SOEs and companies without reconciliation and presented discrepancies identified with limited explanations on the possible sources of those differences. In addition, companies were requested to submit a signed reporting template that was certified by its external auditor. Companies with the obligation to certify their financial statements were required to submit them. For the rest, a certified reporting template was considered sufficient. Government entities were required to submit their signed reporting template audited by the SAI or an external auditor (depending on the nature of the government entity).</p> <p>The EITI Report includes data from both sources and detailed the discrepancies but did not provide any investigation on the discrepancies raised. Evidence suggests that the MSG oversaw the procurement of the consultant approved the ToRs in line with the standard TORs approved by the EITI Board for flexible reporting, and agreed the reporting templates with the consultant. The EITI Report did not provide an overview of statutory audit procedures and actual practice for government entities and SOEs.</p> <p>Following the conclusions of the EITI Report on the data quality and with regards to 2019 data, eight out of 20 companies did not submit signed reporting templates and ten out of 20 companies did not submit certified reporting templates or their audit report. For government entities, the SAI did not audit or certify the reporting templates submitted. For 2020 data, seven out of 17 companies did not submit signed reporting templates and nine out of 17 companies did not submit certified reporting template or audited financial statements.</p> <p>The report did not include a clear statement on the overall comprehensiveness and reliability of financial data disclosed in the EITI Report, nor a review of</p>
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	<p>government audit and assurance practices in 2019-2020. Our understanding is that government revenues disclosed in the EITI Report have not been subject to credible, independent audit, applying international auditing standards, no additional procedures were implemented to improve the data quality at the government agencies level. The report includes a recommendation for the MSG to prepare a specific report for the investigation of discrepancies to understand the discrepancies observed between the unilateral declarations of the administration and the unilateral declarations of the companies. The recommendation stated also that the reliability of financial data, particularly for government entities not covered by audits and for companies that have not provided data certification, should be carried out.</p>
<b>New corrective actions and recommendations</b>	
<ul style="list-style-type: none"> <li>• To strengthen implementation of requirement 4.1, Madagascar is encouraged to explore ways of strengthening systematic disclosures of information on company payments and government revenues in the extractive industries. Madagascar is encouraged to use its EITI reporting to map the public accessibility of extractive companies' audited financial statements.</li> <li>• In accordance with Requirement 4.7, Madagascar should ensure that public disclosures of company payments and government revenues from the extractive industries are disaggregated by project for all material extractive revenues that are levied at the level of the individual agreement. To strengthen implementation, EITI Madagascar is encouraged to document which legal agreements are substantially interconnected or overarching.</li> <li>• To strengthen implementation of requirement 4.8, Madagascar is encouraged to consider innovative approaches to EITI reporting that build on government and company systematic disclosures with a view to improving the timeliness of EITI disclosures as a precondition for stimulating public debate and policymaking.</li> <li>• In accordance with Requirement 4.9, EITI Madagascar should ensure that data disclosed in the EITI report are linked to credible, independent audited information and that the MSG has undertaken a review of the audit and assurance procedures in companies and government entities participating in EITI reporting. The EITI Report should provide a summary of the key findings from the assessment of the reliability of the data disclosed by companies and government entities.</li> </ul>	

## Revenue management (Requirements 5.1, 5.3)

### Overview of progress in the module

Madagascar used its EITI reporting process to shed the light on the traceability of extractive revenues to the national budget and explain the level of transparency and accountability for extractive revenues that are not recorded in the national budget. The EITI Report identified exceptions to the single Treasury account rule and the EITI Madagascar website was used to publish financial reports providing more transparency to those exceptions.

Madagascar has used its EITI reporting to provide more light on the national budget making and audit cycles, although there is scope for it to further expand these disclosures to cover information that could further public understanding and debate around issues of revenue sustainability and resource dependence.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Distribution of extractive industry revenues (Requirement #5.1)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 5.1 is mostly met, which represents backsliding since the previous Validation. Stakeholders consulted did not express particular opinions on the objective of this requirement, which is to ensure the traceability of extractive revenues to the national budget and ensure the same level of transparency and accountability for extractive revenues that are not recorded in the national budget. While the EITI Report and the audited financial reports published by autonomous sectoral entities provided complementary information about the management of revenues outside the national budget, this is not the case for the revenues managed by the ANOR, due to the lack of publication of its audited financial statements. For entities publishing their audited financial statements, there is an additional effort needed to analyse the data published.</p> <p>The 2020-2019 EITI Report identified the payments flows paid by the extractive companies and clarified those collected by government entities and recorded in the national budget and those collected by autonomous sectoral entities and not recorded in the national budget. The report described the management of public finances according to the single Treasury account principle and clarified that taxes are paid into the treasury single account, although it is impossible to determine the specific allocation of every tax paid by extractive companies. The EITI Report identifies the exceptions to the single treasury account principle, which are the revenues collected by the autonomous sectoral entities BCMM, OMNIS, ANOR and CTD (for subnational payments). For the first three, the revenues are not transferred to the national budget and are partly transferred to other entities or kept financing the entities own operations and investments. The EITI Report did not provide further clarifications if those revenues have the same level of transparency and accountability as the ones recorded in the national budget, although audited financial reports of those entities provided more clarifications about the management of those revenues. In fact, the <a href="#">audited financial statements</a> of BCMM and the published financial statements <a href="#">covering 2020</a> of OMNIS provided detailed practices on the management of the payments they are collecting, although ANOR audited financial statements are not public. With regards to revenues collected and managed by CTD at a subnational level, the EITI report clarified that the budget is prepared by the executive body and approved by the council. To be enforceable, the budget</p>

	<p>must be submitted to the Representative of the State for control of legality, after prior opinion of Financial Control for the Provinces, Regions and Urban Communes which represent procedures allowing a similar level of accountability of the management of those funds as compared with those managed at the national budget level. In addition, <a href="#">an audit</a> of the collection, distribution and transfer of non-tax mining revenues to decentralised local authorities was carried out by the Court of Auditors, on the financial years 2016 to 2019.</p>
<p><b>Revenue management and expenditures (Requirement #5.3)</b></p> <p><i>Not assessed</i></p>	<p>The Secretariat's assessment is that Requirement 5.3 remains not assessed, given that several encouraged aspects of this requirement remain to be addressed by EITI Madagascar. Although the EITI report provided few elements on the budget adoption process, it stated that the Finance Law, which includes the national budget, is prepared under the authority of the Prime Minister, deliberated in the Council of Ministers, voted by Parliament and promulgated by the President of the Republic and is audited by the Court of Auditors, whose reports are available on <a href="#">their website</a>, although no information is available with regards to other aspects such as commodity price assumptions and revenue sustainability, resource dependence, and revenue forecasting.</p>
<p><b>New corrective actions and recommendations</b></p>	
<ul style="list-style-type: none"> <li>• In accordance with Requirement 5.1, Madagascar should ensure that for revenues not recorded in the national budget, the allocation of these revenues must be publicly explained, with a view to achieving a level of transparency commensurate with that of extractive revenues that are recorded in the national budget.</li> <li>• To enhance the effectiveness of implementation of Requirement 5.3, Madagascar is encouraged to utilise its EITI implementation process as a mechanism for facilitating prompt government disclosures. This would contribute to greater public awareness and discussion on matters concerning the sustainability of revenue and reliance on natural resources. This includes a focus on the underlying assumptions in upcoming budget cycles, such as estimates related to projected production, commodity prices, and revenue forecasts from the extractive industries. Additionally, it involves an examination of the expected portion of future fiscal revenues originating from the extractive sector.</li> </ul>	

## Subnational contribution (Requirements 4.6, 5.2, 6.1)

### Overview of progress in the module

The General Tax Code and Law 2014-020 on the resources of Decentralised Territorial Authorities provided the list of local taxes that are collected directly by local authorities including among others the property tax and water and/or electricity tax. In addition, the Mining Code and Law no. 2014-020 provided additional list of payments collected at a local level, although, pending the establishment of effective communal structures, some payments continue to be collected at the national level which include among other royalties and rebates on gold from gold panning and on gemstones, precious stones.

There is significant public interest in subnational transfers of extractive revenues, with historical challenges in transfers of “ristournes” and mining administrative fees. While Madagascar has used its EITI disclosures to shed light on subnational transfers, presenting the legal framework and the discrepancies between expected and actual subnational transfers, transfers have been suspended pending government reforms on the disbursement of said funds by local municipalities. There is an opportunity for Madagascar to strengthen its use of EITI reporting to support reforms in subnational transfers of mining revenues.

Social and environmental expenditures exist in Madagascar, and the country has used its EITI reporting to disclose mandatory and voluntary social payments from extractive companies.

### Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement / past corrective action and assessment	Summary of progress in addressing the EITI Requirement
<p><b>Subnational payments (Requirement #4.6)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 4.6 is mostly met. Stakeholders consulted did not express a particular opinion about the objective of this requirement which is to enable stakeholders to gain an understanding of benefits that accrue to local governments through transparency in companies' direct payments to subnational entities and to strengthen public oversight of subnational governments' management of their internally generated extractive revenues. The Secretariat's view is that the objective of this requirement is mostly met, in the absence of reporting from the beneficiaries of these direct subnational payments.</p> <p>The EITI Report presented the relevant legal framework applicable to the subnational payments including among others <a href="#">the Mining Code</a>, <a href="#">general tax code</a> and <a href="#">law 2014-020</a> related to the resources of decentralised local authorities.</p> <p>Madagascar's 2019-2020 EITI Report explains that there are several types of direct subnational payments according to the applicable regulatory framework, although the EITI Report presented only those specific to the extractive industries. The same materiality and assurance rules were used for the subnational payments as for the other payments flows disclosed in the EITI Report.</p> <p>Depending on their nature, those payments may be collected directly by the decentralised local authorities (CTD) concerned or collected by a central entity and transferred to the CTD by transfer to its account with the Public Treasury or to a CTDs bank account located in areas not covered by the Treasury. The EITI</p>

	<p>report distinguish between payments collected by decentralised local authorities and those collected by national entities.</p> <p>The EITI Report presented the actual value of subnational payments disaggregated by the payees, the collecting entities and the nature of the payment flow. The disclosures cover 2019, 2020 and the first half of 2021. Most of those extractive companies unilaterally reported payments, although only the Ampasy Nahampoana local government reported the payments received, which represents a gap in terms of data reliability. The MSG's comments on the draft Validation report highlight the MSG's plans to strengthen systematic disclosures of EITI data, with reference to the MSG's ToR for this work agreed in 2023.</p>
<p><b>Subnational transfers (Requirement #5.2)</b> <i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 5.2 is mostly met, as in the previous Validation. Stakeholders consulted considered that the objective of this requirement, which is to enable stakeholders at the local level to assess whether the transfer and management of subnational transfers of extractive revenues are in line with statutory entitlements, is mostly met. The Secretariat's view is that despite regular disclosures regarding the transfers of the administration fees and the mining rebates to subnational governments, the overall objective is mostly met given the persistent challenges in disbursement of subnational transfers and the fact that Madagascar's EITI implementation has not yet enabled sufficient accountability in public oversight of the rules and practices related to subnational transfers.</p> <p>Weaknesses in subnational transfers, in particular linked to the Ambatovy project, have been raised by consulted stakeholders and several EITI Reports since Madagascar's first Validation. The 2019-2020 EITI Report clarified practices related to subnational transfers of extractive revenues and presented the list of subnational transfers per nature of payment flow. For every type of transfer, the EITI Report describes the revenue sharing provisions of the legal framework for the mining and petroleum sectors, including the general revenue sharing formula. The EITI Report presented the list of payment flows subject to subnational transfers, which are the mining administration fees, mining royalties and the mining rebates called "ristournes". The notional value of revenue transfers is disclosed (according to the revenue sharing formula) and provide a reconciliation with the actual transfers disaggregated by local government unit. The report clarified that some of those transfers were not yet effective and recommended to investigate the discrepancies raised in the report. In fact, the EITI Report notes that transfers related to 2020 and 2021 for more than MGA 7bn have not yet been executed. The EITI Report stated that the General Treasurer suspended subnational transfers of applicable mining revenues related to Ambatovy to the various beneficiaries. This followed a letter from the General Secretariat of the Ministry of Economy and Finance, with some consulted stakeholders considering this suspension legitimate given the lack of capacity of beneficiaries to manage those funds. A new legal framework is in preparation in order to organise the management of those transfers by local authorities. While Madagascar has used its EITI reporting to address many of the technical aspects of Requirement 5.2, the recent suspension of subnational transfers pending planned regulatory reforms reflects continued</p>



	<p>weaknesses in the public accountability of these subnational transfers, and thus supports the Secretariat’s view that the objective of Requirement 5.2 remains only mostly fulfilled. The MSG’s comments on the draft Validation report describe the suspension of subnational transfers of mining ‘ristournes’ related to the Ambatovy project, including a cabinet meeting chaired by President Andry Rajoelina that identified irregularities in the past use of these funds and the suspension of further subnational transfers pending a new statutory procedure for a “social investment fund”.</p> <p>The EITI Report mentioned that, for the oil and gas sector, the legal framework has not yet been implemented given the lack of adoption of an implementing decree, thus no transfers have been reported.</p> <p>With regards to data quality, subnational transfers followed the same assurance procedures used for the other information included in the EITI Report which mean that the SAI did not certify the data. Also, the report provides that transfers to BCCM were systematically disclosed on their website on a <a href="#">monthly basis</a>.</p>
<p><b>Social and environmental expenditures (Requirement #6.1)</b></p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 6.1 is mostly met. Stakeholders consulted did not express particular views on progress towards the objective of public understanding of extractive companies’ social and environmental contributions. The underlying objective to enable public understanding of social and environmental contributions and companies’ compliance with their obligations was considered met by most stakeholders consulted. However, the limited number of companies that reported mandatory social expenditures raises questions about the comprehensiveness of EITI disclosures of mandatory expenditures, and thus the Secretariat considers the objective mostly fulfilled.</p> <p>The 2019-2020 EITI Report does provide a description of the legal requirements related to social and environmental expenditures. Despite oil and gas contracts not being public, the EITI Report provides clarifications for the public to assess the obligations for extractive companies to undertake social expenditures or environmental payments. Social expenditures and environmental payments were disclosed unilaterally by material companies, and were disaggregated per company, legal or contractual obligation, payment date, nature of expenses, beneficiary and value. There is no evidence if any specific materiality rules were followed for social and environmental expenditures. Although the report provides the definition of social and environmental expenditures and presents the breakdown of payments reported by companies, it specifies that only three companies disclosed their social expenditures and environmental payments in 2019, and four in 2020, which raises questions over the comprehensiveness of disclosures of those expenditures and payments.</p> <p>The MSG’s comments on the draft Validation report describe new provisions of the 2023 Mining Code related to environmental protection, the social and community investment mining fund and to more general transparency and good governance principles. The International Secretariat understands that these</p>

	provisions will come into force with the expected enactment of an implementing decree for the new Mining Code.
<b>New corrective actions and recommendations</b>	
<ul style="list-style-type: none"><li>• In accordance with Requirement 4.6, Madagascar is required to consider the existence and materiality of direct subnational payments by extractive companies on an annual basis, to ensure that all material direct subnational payments are comprehensively disclosed and reconciled with the beneficiary receipt.</li><li>• In accordance with Requirement 5.2, Madagascar should ensure that public disclosures of the rules and practices related to subnational transfers of mining revenues lead to accountability in their management for stakeholders at the local level. Madagascar should ensure that all transfers of national government extractive revenues to subnational governments are comprehensively disclosed, disaggregated by beneficiary subnational government. Madagascar should ensure public disclosure of the specific revenue sharing formula for each subnational transfer of extractive revenues, as well as any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity. To strengthen implementation, Madagascar is encouraged to use its EITI disclosures to support planned government reforms of the rules related to subnational transfers of mining revenues.</li><li>• In accordance with Requirement 6.1 is required to comprehensively disclose all mandatory social and environmental expenditures in order to provide a basis for assessing extractive companies' compliance with their legal and contractual obligations. In particular, all extractive companies undertaking mandatory social expenditures and environmental payments to government must publicly disclose these expenditures and payments, where material, to levels of disaggregation mandated under Requirements 6.1.a-b.. Where EITI Madagascar agrees that discretionary social and environmental expenditures and transfers are material, the MSG is encouraged to develop a reporting process with a view to achieving transparency commensurate with the disclosure of other payments and revenues. EITI Madagascar is encouraged to agree a procedure to address data quality and assurance of this information in accordance with Requirement 4.9.</li></ul>	

## Background

### Overview of the extractive industries

An overview of the extractive industries is accessible on the [country page](#) of the EITI webpage for Madagascar.

### History of EITI implementation

The history of implementation is accessible on the [country page](#) of the EITI webpage for Madagascar.

### Explanation of the Validation process

An overview of the Validation process is available on the EITI website.<sup>21</sup> The [Validation Guide](#) provides detailed guidance on assessing EITI Requirements, while the more detailed [Validation procedure](#) include a standardised procedure for undertaking Validation by the EITI International Secretariat.

The International Secretariat's country implementation support team include Solofo Rakotoseheno, while the Validation team was comprised of Ahmed Zouari and Hugo Paret. The internal review for quality assurance was conducted by Nassim Bennani, Johanne Jones, Bady Baldé and Alex Gordy.

### Confidentiality

The detailed data collection and assessment templates are publicly accessible, on the internal Validation Committee page here.

The practice in attribution of stakeholder comments in EITI Validation reports is by constituency, without naming the stakeholder or its organisation. Where requested, the confidentiality of stakeholders' identities is respected, and comments are not attributed by constituency. This report remains confidential as a working document until the Board takes a decision on the matter, at which point it is published in full.

### Timeline of Validation

The Validation of Madagascar commenced on 1 July 2023. A public call for stakeholder views was issued on 1 March 2023. Stakeholder consultations were held virtually on 25 August – 13 September. The draft Validation report was finalised on 12 December 2023. Following comments from the MSG received on 17 January 2024, the Validation report was finalised for consideration by the EITI Board.

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<sup>21</sup> See <https://eiti.org/validation>



## Resources

- Validation data collection file – [Stakeholder engagement](#)
- Validation data collection file – [Transparency](#)
- Validation data collection file – [Outcomes and impact](#)