

## Terms of Reference

### Feasibility Study for Systematic Disclosure for Myanmar

#### 1. Background

The Extractive Industries Transparency Initiative (EITI) is a global standard that promotes transparency and accountability in the extractive sector. It has a robust yet flexible methodology for disclosing company payments and government revenues from oil, gas and mining as well as other information about the extractive sector such as information about the legal framework and fiscal regime, licensing practices, state-owned companies, production, exports, etc. The requirements for implementing countries are set out in the EITI Standard<sup>1</sup>. For further information, please see [www.eiti.org](http://www.eiti.org).

Each implementing country creates its own EITI process adapted to the specific needs of the country. This involves defining the scope of information to be published and exploring how disclosure of information about the extractive sector can be integrated into government and company portals to complement and strengthen wider efforts to improve extractive sector governance.

To date, much of the information required to be disclosed by the EITI Standard has been collected and made public through EITI Reports. At the EITI Board meeting in February 2018, the EITI Board agreed to a set of recommendations regarding **encouraging systematic disclosure**.<sup>2</sup> The 2016 EITI Standard enables implementing countries to disclose the information required by the EITI Standard through routine government and corporate reporting systems such as websites, annual reports etc. The EITI Board agreed that “systematic disclosure should be firmly established as a default expectation, with EITI Reports used to address any gaps and concerns about data quality. Implementing countries could still continue to publish the annual EITI reports collating and analysing information from primary sources in order to make this information more accessible and comprehensible, especially for stakeholders that do not have access to online information.”

**Systematic disclosure** means that EITI’s disclosure requirements are met through routine and publicly available company and government reporting. This could include enabling public access to EITI data through public financial reporting, annual company or government agency reports, information portals, and other open data and freedom of information initiatives. A key concern will be ensuring that the published data is timely, disaggregated, comprehensive, reliable and accessible. This should include an explanation of the underlying audit and assurance procedures that the data has been subject to, with public access to the supporting documentation.

**Mainstreaming** refers to the process for realising this goal, which may include interim measures, pilots, and other capacity building activities.

The EITI continues to emphasize the importance of the multi-stakeholder dialogue in exploring options for systematic disclosure. A feasibility study provides an opportunity to examine opportunities for strengthening multi-stakeholder consultation and dialogue, and to make this

<sup>1</sup> <http://eiti.org/document/standard>

<sup>2</sup> <https://eiti.org/document/encouraging-systematic-disclosure>

participation more effective. This could include considering options for integrating MSG oversight into existing representative bodies.

## Scope of the TOR

MEITI-NCS seeks a competent and credible firm or individual to produce a feasibility study and develop a roadmap for embedding EITI disclosures in government and corporate systems in accordance with these terms of reference.

Myanmar submitted its application in May 2014 to become an ‘EITI Candidate’ country to the EITI Board. Myanmar’s first EITI report was successfully produced in January 2016. Myanmar’s 2<sup>nd</sup> and 3<sup>rd</sup> EITI reports for 2014-2015 and 2015-2016 financial years were successfully produced in March 2018. The first Myanmar EITI reports for forestry sector covering 2014-2015 and 2015-2016 financial years were completed in January 2019.

Myanmar was recognized as a country which has made meaningful progress in implementing the 2016 EITI standard. Myanmar still has 12 corrective actions to implement by April 2021 in order to achieve a satisfactory progress as a next step of Myanmar EITI. On 16 October 2019, the EITI Board recognized Myanmar to have made meaningful progress in implementing the EITI Standard.

The 4<sup>th</sup> EITI Report for 2016-2017 and 5<sup>th</sup> EITI Report for 2017-2018 sectors covering oil, gas and minerals are timely produced. Myanmar had met the EITI requirement to reveal the beneficial ownership by making this mandatory before 1<sup>st</sup> of January 2020. The 3<sup>rd</sup> and 4<sup>th</sup> MEITI Forestry Sector Reports for 2016-2017 and 2017-2018 are recently produced. The issue of systematic disclosure was discussed at the 21<sup>st</sup> MSG meeting held on 3 May 2019. The decision was made to conduct a feasibility study for systematic disclosure at the 24<sup>th</sup> MSG meeting held on 8 November 2019. Implementation of a systematic disclosure, including conducting a feasibility study and mainstreaming EITI requirements, is also included the MEITI Work Plan 2019-2021.

## 2. Objective of the assignment

The objective of the assignment is to assess the feasibility of embedding EITI disclosures in government systems and corporate reporting. The consultant will produce a feasibility study that:

- (1) assesses to what extent information that is required in the EITI Standard, or is otherwise relevant for achieving the objectives outlined in the MSG’s workplan, is already made publicly available in governmental and corporate systems;
- (2) outlines any barriers or gaps in timely, comprehensive and reliable disclosures, as well as technical or financial support needs;
- (3) documents stakeholders’ views and willingness to embed EITI disclosures in governmental and corporate systems;
- (4) proposes a roadmap for embedding EITI disclosures and the process for future EITI implementation. This should include actions, responsible parties, timelines, resource and technical assistance needs. The roadmap shall have two phases.

- (5) Examines and recommends how the MSG can monitor progress and contribute to a gradual but successful implementation of the systematic disclosure over time through meaningful consultations and dialogue.

### 3. Scope of work

The feasibility study should carry out the following, but not limited to, activities with recommendations that can be implemented in two phases; immediate term and long-term.

- (1) Examine the MSG’s workplan in order to gain a clear understanding of the process, objectives and scope of Myanmar’s EITI implementation, and the extent to which the EITI implementation draws on and seeks to strengthen systematic disclosures. The consultant should also review the MSG’s annual reports to learn the activities undertaken by the MSG and examine whether any progress has been made in terms of strengthening systematic disclosures in addressing recommendations from the previous EITI reports.
- (2) Identify and make a list of all the relevant government agencies and companies that are responsible for producing, collecting and/or maintaining the information required by the EITI Standard (EITI Requirements 2 to 6, summarised in annex A);
- (3) Review the existing platforms of *the MEITI website and all other concerned governments’ websites and companies’ websites*, and assess what information required by the EITI Standard is already made publicly available by government agencies and in what format such as on-line cadastres and registers, government webpages on legal, fiscal and administrative arrangements for the sector, etc. The study should also review what data is made publicly available by *companies* in their reports and on their websites and explore options for extending this disclosure.
- (4) Assesses whether the information is timely (up to date), comprehensive (includes all information required by the EITI Standard), disaggregated (per the level of disaggregation required by the EITI Standard) and reliable (applies standard audit and assurance procedures). If there are several public sources for the data, the consultant should assess whether they are consistent.
- (5) Where information gaps are identified and/or where there are concerns about data reliability, recommends measures to address the gaps, including improving the timeliness, comprehensiveness, reliability, availability and accessibility of the information.
- (6) Assess if there is information available in government systems that is not publicly available but could *easily* be published online. The study should also identify any other obstacles to making the information required by the EITI Standard publicly available in government reporting systems.
- (7) Review previous EITI reports, including levels of discrepancies. The study should also assess the statutory rules for audits and actual auditing practices of government and corporate entities, as per EITI Requirement 4.9(a).
- (8) Consult with all the relevant stakeholders, particularly members of the MSG and other concerned government agencies involved in the extractive industries as well as companies, and

gauge their views and concerns over the idea of integrating EITI processes and disclosures in government and corporate systems.

The findings should be summarized in a table that maps all the required disclosures under the EITI Standard. A template is available here: <https://eiti.org/document/systematic-disclosure-toolkit>. Based on all the findings from the analyses and reviews above, the study should develop recommendations in two phases with consideration for the following. **Phase I** should identify short term solutions or “quick wins” such as creating shorter reconciliation reports to cover financial reporting and moving contextual information online. **Phase II** should find out longer term solutions with a focus on ensuring online and systematic disclosure of financial information across all the extractive sectors in Myanmar.

- (1) Outline a credible approach to disclosure of financial information required by the EITI Standard (please refer to Annex A). The feasibility study is expected to make recommendations on how to embed financial disclosures in company and government systems, for example by integrating data into online license cadastres or including a database and/or reporting templates on government, company and/or national EITI websites.
- (2) In the event that auditing and assurance procedures are insufficient for EITI reporting purposes, the study should provide options for addressing quality assurance of financial disclosures. This could include full reconciliation as per ‘conventional’ EITI reporting, spot-checks reconciling certain transactions or a certain percentage of total disclosures, no reconciliation, etc. The consultant is expected to explain the rationale for the recommended options.
- (3) Develop a roadmap that is needed to fully embed disclosures in government and company systems, responsible parties, timelines, resource and technical assistance needs. Where significant work is needed to make the data publicly accessible through government systems, the roadmap should suggest a step-by-step approach specifying the information can be sourced from existing sources, and the information that would need to be partially or fully collected or disclosed through the EITI reporting process.
- (4) The roadmap should also make recommendations on how the MSG can monitor progress and contribute to a gradual but successful implementation of the systematic disclosure over time through meaningful consultations and dialogue.

#### 4. Deliverables

The assignment is expected to commence on 1 September 2020, culminating in the finalisation of the feasibility study by 5 December 2020. The proposed schedule is set out below:

Signing of contract	30 August, 2020
Kick-off meeting and Desk review	1 September – 4 September, 2020
Consultation with stakeholders and data collection	7 September – 30 October 2020

Draft a feasibility study covering Phase I and Phase II	10 November, 2020
Final feasibility study, including presentation of action plan and any recommendations on the future of the EITI process	25 November – 5 December, 2020

The consultant will report in English.

### 5. Anticipated Duration of Contract

It is anticipated that the contract will require a total of approximately 60 days over the duration of 4 months.

### 6. Consultants Requirements

The Consultant will need to demonstrate:

- A bachelor’s degree or preferably a master’s degree in law, economics, natural resource, public policy or other relevant fields.
- Relevant experience and technical knowledge in transparency and governance, public finance and financial accountability, and multi-stakeholder dialogue. Preferably, proven experience related to the EITI.
- Knowledge of the oil, gas and mining sectors or other natural resources sectors, preferably in Myanmar
- A demonstrable track record in similar work.
- Knowledge on policy, rules and regulations, legislation and revenue management oil & gas, gems jade, other minerals and pearl sector
- Knowledge on transparency of data and statistics with electronic system in governmental agencies
- Preferably having experience working with a wide range of stakeholders, government departments, private sectors and civil society
- Excellent communication and writing skills in Myanmar and English
- Ability to work effectively in avirtual setting during the Covid-19 crisis and capacity to overcome challenges with risk analysis plan

### 7. Administrative Arrangements

- The NCS will serve as a coordination role to arrange the necessary meeting with the MSGs and other relevant stakeholders
- The Consultant should make a request to the NCS at least one week in advance to arrange meetings with the MSGs and other relevant stakeholders
- The Consultant shall make a list of official documents such as laws, regulations, rules and guidelines that need to be reviewed. The NCS will make formal requests to the relevant government departments for the official documents that are not publicly available.

## 8. Reference Materials

- Encouraging Systematic Disclosure, <https://eiti.org/document/encouraging-systematic-disclosure>
- Examples of other Feasibility studies, [https://eiti.org/publications?search\\_api\\_views\\_fulltext="systematic+disclosure"](https://eiti.org/publications?search_api_views_fulltext=)
- Agreed upon procedure for mainstreamed disclosures, <https://eiti.org/document/agreed-upon-procedure-for-mainstreamed-disclosures>
- Systematic disclosure toolkit, <https://eiti.org/document/systematic-disclosure-toolkit>
- The EITI Standard, <http://eiti.org/document/standard>;
- The online Guide to implementing the EITI Standard, <https://eiti.org/guide>
- EITI implementation guidance notes issued by the International Secretariat, <https://eiti.org/guidance-notes-standard-terms-of-reference> , in particular the guidance notes on scoping (#9), defining materiality (#13), establishing/governing MSGs (#14), and creating open data policies (#27). The consultant is advised to contact the EITI International Secretariat for any questions or clarifications related to the EITI Standard and the implementation of the EITI requirements;
- Standard Terms of Reference for Independent Administrator services, <https://eiti.org/document/standard-terms-of-reference-for-independent-administrator-services>, including standard EITI reporting templates, available from the International Secretariat;
- [Implementing EITI for Impact: A Handbook for Policymakers and Stakeholders](#), in particular chapters 4 and 5;
- Examples of Scoping Studies, available from <https://eiti.org/guidance-notes-standard-terms-of-reference#examples-of-scoping-studies> and the International Secretariat; and
- Relevant government ‘s website link, laws and regulations’ website,
  - <https://www.moee.gov.mm/>,
  - <https://myanmarpearl.com/index.php/en/>,
  - <http://www.mge.gov.mm/>,
  - <http://www.mining.gov.mm/DM/Default.asp>,
  - <http://www.monrec.gov.mm/>,
  - <https://www.mopfi.gov.mm/en>,
  - <http://www.myanmareiti.org/en>
  - <https://bo.dica.gov.mm/>

## 9. Submission of Proposal

The consultant shall submit financial proposal with cover letter, CV and responsibilities of team not later than **17:00 PM, 25 August 2020** (Myanmar Time) to following email address;

**MEITI - National Coordination Secretariat,**  
13-A, Mya Yadanar Street, 16 Ward, Yankin Township, Yangon, Myanmar  
[communication@myanmareiti.org](mailto:communication@myanmareiti.org)

### Annex A – disclosures required by the EITI Standard

This annex summarizes the information disclosures that are required by the EITI Standard and that should be assessed in the feasibility study. In undertaking the assessment, the consultant must refer to the disclosure requirements outlined in the EITI Standard to ensure that all details are fully considered. A tool for performing this assessment is available here:

<https://eiti.org/document/systematic-disclosure-toolkit>

- The legal framework and fiscal regime governing the extractive industries (EITI Requirement 2.1);
- The availability and comprehensiveness of a public license register as well as information about license allocation processes and procedures (EITI Requirements 2.2 and 2.3);
- The Myanmar policy and practices on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals and any reforms underway (Requirement 2.4);
- The availability of a public register of the beneficial owners of extractive companies (EITI Requirement 2.5);
- Where applicable, information about the role of state-owned enterprises (SOEs) in the extractive sector and the financial relationships between the government and the SOE, quasi-fiscal expenditures, and government ownership in oil, gas and mining companies operating in Myanmar (EITI Requirements 2.6, 4.5, 6.2);
- Key features of the extractive sector, including any significant exploration activities (EITI Requirement 3.1);
- Production and export data (EITI Requirement 3.2, 3.3);
- The revenue streams that must be disclosed in accordance with EITI Requirements 4, 5 and 6. The analysis should cover:
  - The taxes and other revenue streams listed in 4.1;
  - Any revenues related to the sale of the state’s share of production or other revenues collected in-kind (4.2),
  - Any revenues related to infrastructure provisions and other barter arrangements (4.3);

- Any revenues related to transportation payments (4.4);
- Any transactions between SOEs and other government agencies (4.5);
- Any revenues collected by subnational government from oil, gas and mining companies (4.6);
- Any transfers of extractive industry revenue between central and subnational levels of government (5.2); and
- Any mandatory and voluntary social expenditures by extractive companies (6.1).
- Information about revenue allocations and distribution of revenues in accordance with EITI Requirements 5.1 and 5.3; and
- Information about the contribution of the extractive industries to the economy for [year] in accordance with EITI Requirement 6.3.

**Annex B – List of Key stakeholders for consultation (but not limited to)**

No	Title	Stakeholders	Remark
1	Auditor General Office		
2	President Office		
3	Union Attorney General Office		
4	Ministry of Natural Resource and Environmental Conservation (MONREC)	Department of Mine, Department of Forestry, Myanmar Gemstone Enterprise, Mining Enterprise-1, Mining Enterprise-2, DGSE, ECD, MTE, MPE, minister office	
5	Myanmar Port Authority		
6	Ministry of Electricity and Energy (MOEE)	Oil and Gas Planning Department, Myanmar Oil and Gas Enterprise, Minister office	
7	Ministry of Planning, Finance and Industry (MOPFI)	Internal Revenue Department, Custom Department, Treasury Department, Budget Department, Minister office	
8	MIC	DICA	
9	Private sector	MFMA MGJEA	



		Myanmar Oil & Gas Service Association (MOGSA) Myanmar Forest Products Merchants Federation (MFPMF)	
10	MEITI	Champion of MEITI Chair and Vice-chair of MEITI MSG MSG members MEITI Sub-committees NCS office	
11	State and Regional Government	Government offices Chief minister and ministers	