Options for Applying EITI Standards on the Enabling Environment for Civil Society

Towards a systematic and evidence-based approach

Executive Summary

As indicated in Board Circular 161, the Implementation Committee (IC) has been tasked with taking forward the work of the working group on civil society participation. RWI has prepared this draft options paper for the IC's discussion. The paper focuses on the following points (details in the draft text):

1. There are very real and pressing credibility and practical risks that the EITI is currently facing due to the absence of clarity around the evaluation of the initiative's civil society requirements. These issues are important to the initiative's future because the EITI's own principles underscore that having an environment that enables civil society to speak freely and engage in public debate on natural resource governance issues is central to EITI's ability to have an impact.

2. Existing EITI requirements are clear regarding the necessity for applicant and implementing countries to have an enabling environment for civil society that includes respect for fundamental rights, free speech and public debate. However, these existing EITI requirements regarding civil society have not yet been translated by the Secretariat or the Board into detailed guidance on how to consistently evaluate whether a country's civil society environment is satisfactory or not.

3. As a result, concrete treatment of this issue has so far been discretionary and ad hoc, with rather low standards applied at country candidacy and a lack of rigorous evaluation made at validation. As the EITI International Secretariat has noted, "[i]n assessing Validation reports, the EITI Board has never concluded that a country has failed to meet the requirement on civil society engagement…[i]n no case has the Board concluded that obstacles to civil society has been a cause for suspending or delisting a candidate country, nor call for a Validation."[1] Yet the evidence is clear regarding the subpar environment facing civil society in a number of EITI countries that have been validated and labeled as 'compliant'.

4. As a matter of priority, EITI should address this fundamental lack of evaluation standards for the existing civil society requirements. While far from simple, there are concrete options for doing so in ways that are measurable, uniform and consistent with existing EITI requirements.

5. We present four options for developing a systematic approach that would clarify how the existing EITI requirements should be evaluated in practice. The first two options bracket the extremes of the range of a possible spectrum of approaches, and then we flesh out two intermediate options:

- *'Extreme' Option 1: Weak, Discretionary Standard at both Candidacy & Validation* – This option would maintain highly discretionary and relatively weak standards for evaluating civil society participation. In essence, this would imply maintaining the EITI's status quo.

[1] IC Paper 19-5-A

- *'Extreme' Option 2: High, Rigid Standard at both Candidacy & Validation* – At the other end of the options spectrum, this option would require that all candidate and compliant countries meet high, clear, objective and quantifiable evaluation standards for civil society environment. Countries not meeting these high standards would receive no support.

- *Intermediate Option 3: Relatively Low Candidacy Standard, Higher Validation Standard* – This options would feature relatively low (yet clear, quantifiable) civil society evaluation standards for becoming a candidate country, but require countries to make progress in order to obtain compliant status at validation.

- *Intermediate Option 4: High Standard at Candidacy & Validation + Support* – This option would feature relatively high (yet clear, quantifiable) civil society evaluation standards at both candidacy and validation, but would allow countries that fail to meet those (whether at candidacy or validation) to receive assistance and support with improving the civil society environment (without being part of the formal EITI process until applying and being accepted candidates).

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1. Overview: Background and the Major Challenge for EITI regarding Civil Society Environment

While EITI can showcase noteworthy achievements on a number of dimensions since its inception, it has so far lacked a strong evidence-based framework to evaluate the existence and quality of the enabling environment for civil society to operate. Thus, no evidence-based evaluation is consistently applied in EITI candidacy and validation decisions when it comes to the enabling environment for civil society. This is in spite of the fact that the enabling environment for civil society is supposed to be a central EITI principle and key to EITI's success in promoting transparency and accountability in natural resources.

Some may argue that in the early days of an ambitious international initiative like EITI patience and gradualism is warranted before a full-fledged rigorous framework is developed and agreed upon (particularly on sensitive matters), thereby explaining away the absence of such framework in EITI. Irrespective of the merits of such rationalization, it would no longer apply, since over a decade has elapsed since EITI's inception. Furthermore, the urgency and importance of concretely addressing this issue has become increasingly apparent, since there is growing concern and evidence about the subpar, and often deteriorating, enabling environment for civil society to operate in a number of countries already in EITI as well as prospective candidates.

The evidence clearly points to many EITI countries (and prospective candidates) that lack an enabling environment for civil society, making them unlikely to make meaningful progress on extractives sector transparency and accountability over time. This not only raises serious questions about the likelihood of successful EITI outcomes in many countries, but also more generally brings up credibility challenges about the EITI as a multi-stakeholder initiative and its actual standards.

Regarding civil society voice and space, concerns typically arise at three stages in the EITI process: (1) when a country is applying to become an EITI candidate, (2) when a specific incident aimed against a civil society member occurs in an implementing country, and, (3) when a country is undergoing validation in order to receive compliant status. In the absence of a rigorous and evidence-based framework that would have otherwise guided a more uniform treatment ensuring that minimum standards are met, these concerns have generally been addressed on an ***ad hoc basis*** by the Outreach & Candidacy Committee, the Rapid Response Committee and the Validation Committee.

In fact, there is still a significant lack of clarity regarding how the civil society environment requirements should be tangibly evaluated, as well as regarding their systematic and uniform application. Incidents involving threats to civil society have been addressed with variable provision of context, and without clear rules for how the EITI may respond.

This policy note is a contribution to addressing these challenges. This is timely not only because of pending candidacy and compliance questions regarding countries lacking in civil society space (and generally lacking in terms of Voice & Accountability), but also because there is a proposal regarding an EITI working group on civil society participation aiming to address these issues in a more uniform and systematic manner. The Implementation Committee has now been tasked with undertaking such work.

(a) Mandate

Specifically, pursuant to the terms of reference circulated in Board Circular 160, **the objective of this work on civil society participation and standards in EITI is to:**

(i) **"Review the provisions in the EITI Standard related to civil society participation, including the civil society protocol, and consider whether any amendments to the current provisions are warranted;**

(ii) Consider current practices in implementing countries and the extent to which civil society is fully, actively and effectively participating in the implementation of the EITI; and

(iii) In particular consider whether the EITI is able, with the current provisions, to apply a **uniform standard** to all implementing and prospective candidate countries"

It is important that EITI stakeholders agree on goals and strategies regarding these important EITI objectives. This note focuses in particular on the first objective noted above (though the related issue of uniformity in the third objective is also explored), and seeks to outline some preliminary strategy options on civil society engagement in order to elicit feedback and hopefully move forward with concrete ways of addressing this glaring gap in EITI.

Section 2 of this note explores the current credibility and practical risks that the EITI is currently facing due to the lack of clarity around civil society requirements. Section 3 reviews what the EITI Standard already requires with respect to the enabling environment for civil society. Section 4 focuses on the current lack of guidance about how to evaluate the civil society requirements contained in the EITI Standard and proposes some options for clarifications of the existing requirements, which would remain

unchanged. Section 5 outlines conclusions and potential next steps. And following the end of the text in the concluding section, an Annex with empirical sources is also attached. Please note that at this stage these empirical sources are for illustrative purposes only.

2. What are the current risks to EITI?

Multilateral initiatives like EITI, by setting international standards of openness, aim to advance transparency through collaboration among governments, civil society and the private sector. In the case of EITI, the focus is on transparency in natural resources.

(a) Credibility Risks

As with many such international initiatives, a major challenge lies in eligibility and performance criteria. There is a perennial tension between having a modicum of membership standards that ensures that the initiative earns and maintains credibility and signals progress regarding its main objective, and the desire to embrace countries where progress is still pending yet the inclusion in the multilateral initiative may spur future reforms. This implies that a balance needs to be struck, avoiding either extreme, namely 'elite club' exclusivity on one extreme, or highly diluted membership standards, on the other.

At present, the more likely risk in EITI is with the latter scenario, namely the dilution of standards for membership and performance to the point of completely undermining the initiative's international credibility. With membership growth being seen by some as a major sign of the initiative's success, the perverse result is pressure to apply lower minimum entry criteria for civil society environment and/or subsequent civil society environment performance standards.

Candidacy: The application of EITI civil society criteria at candidacy has tended to be qualitative and often ad hoc, with significant scope for discretion. The process is largely devoid of objective, quantitative or standardized criteria to evaluate the enabling environment for civil society participation. The EITI International Secretariat's (the Secretariat) assessments of candidacy applications have begun including references to a few external indicators (such as the US State Department's Human Rights Country Reports and the International Center for Not-for-Profit Law's NGO Law Monitor, as well as assessments by groups like Human Rights Watch and Freedom House). However, in spite of the fact that many other indicators exist (see Annex 1 for an illustrative list), there is no set framework of indicators by which each applicant country is consistently evaluated.

Validation: There has also been a lack of uniformity in the way that validators have evaluated country compliance with civil society requirements. In general, validators have appeared more likely to undertake stringent and detailed evaluation of a county's compliance with technocratic reporting requirements than they have been to engage in a rigorous evaluation of whether a country has complied with civil society requirements. As the International Secretariat has noted, "[i]n assessing Validation reports, the EITI Board has never concluded that a country has failed to meet the requirement on civil society engagement…[i]n no case has the Board concluded that obstacles to civil society has been a cause for suspending or delisting a candidate country, nor call for a Validation."

Again, the rather ad hoc and discretionary approach until now is associated with a lack of objective, quantitative or standardized criteria to evaluate the enabling environment for civil society participation. The result is that validation is conferred on some countries where there is little or no space or voice for civil society, thereby muting or negating the potential for public debate and policy reform of any technical disclosures that a government may have acceded to on paper ('de jure').

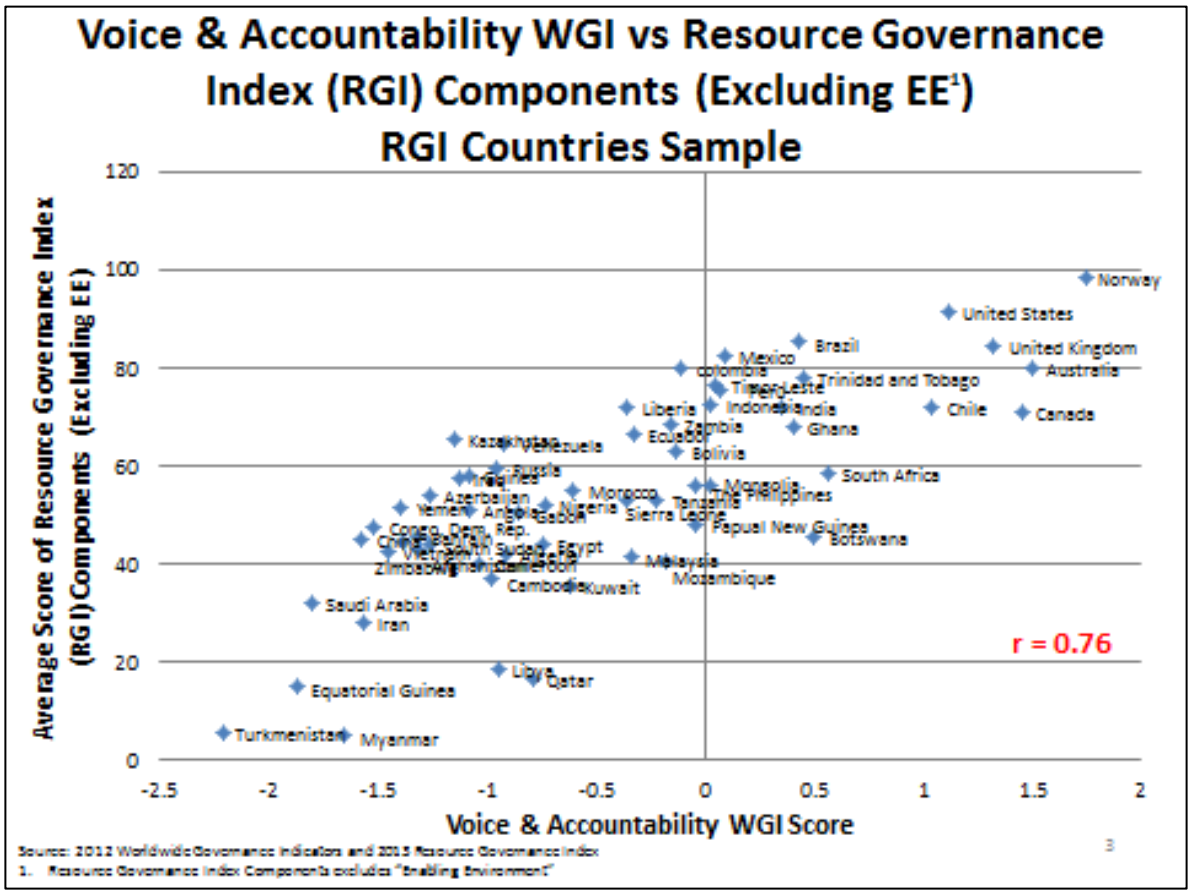
With such unsatisfactory approaches being taken both at candidacy and validation stages, there is now a high risk that the initiative's lack of consistency and low standards may become increasingly glaring, impairing EITI's credibility and concrete impact on the ground. In the worst cases, this practice may result in EITI actually helping enable continued civil society harassment, restrictions and abuse proceed apace under a new/enhanced veil of international legitimacy and good governance.

(b) Practical/Impact Effectiveness Risks

An enabling environment that supports free, full and independent civil society engagement is central to the EITI's theory of change, which is that natural resource transparency will stimulate greater public understanding and that "public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development" (EITI Principle #4). If the civil society component is lacking, the EITI will not be able to accomplish its objectives in practice.

Countries that lack a basic enabling environment for civil society participation and that have no demonstrable commitment to improve are highly unlikely to implement meaningful (and unconstrained) multi-stakeholder processes, and, more generally and as important, are unlikely to be able to translate data disclosures into concrete accountability on the ground so as to improve the management and governance of natural resources for the benefit of citizens. The link between civil society space and voice in a country and that country's effective disclosure and accountability in managing their natural resources is supported by evidence from worldwide data. As seen in Figure 1 below, countries that promote an enabling civil society environment (as measured by the multiple dimensions of the 'Voice & Accountability' WGI indicator) perform much better in terms of the key EITI objective of effective disclosure in natural resources (as measured by the Resource Governance Index–RGI). Conversely, countries where civil society space and voice is severely repressed are associated with low standards of effective natural resource transparency and accountability. Indeed, a collective understanding of civil society's critical role in achieving EITI's overall theory of change was what led the board to afford civil society such a central role in the implementation of the initiative during at its inception.

Figure 1:



The EITI reflects some measure of understandable political compromises. Yet this ought not to mean that difficult policy issues are skirted, particularly if they are central to the credibility, practical success, and concrete impact of EITI. Thus, at this juncture, addressing the status of EITI's civil society standards is highly warranted.

3. What does the EITI Standard actually require?

The EITI Principles and the EITI Standard contain numerous requirements related to civil society participation. All such requirements are continuing obligations. That is, the requirements must be met by countries at candidacy, throughout implementation, at validation, and after obtaining compliant status. However, it should be noted that, unlike the EITI reporting requirements, the civil society requirements are sign-up requirements, meaning they are *conditions precedent* to a country being able to participate in EITI. In would not seem to be by accident that the civil society provisions were placed as sign-up requirements. The rationale seems clear: EITI is a multi-stakeholder process aimed at sparking public debate, which means civil society needs to be able to participate and speak freely in order for EITI to function. The fact that they are also obligations that continue through and after validation underscores their centrality to a functional EITI process.

Certain stated EITI requirements are related specifically to **civil society engagement in the EITI process**:

- Civil society must be fully, actively and effectively engaged in the EITI process. (Standard §1.3(a))
- The fundamental rights of civil society and company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected. (Standard §1.3(b))
- There must be no obstacles to civil society participation in the EITI process. (Standard §1.3(c))
- The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI. (Standard §1.3(d))
- Stakeholders must be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate. (Standard §1.3(e)(ii))
- Stakeholders must be able to operate freely and express opinions about the EITI without restraint, coercion or reprisal. (Standard §1.3(e)(iv))
- The MSG nomination process must be independent and free from any suggestion of coercion. Civil society groups involved in the EITI as members of the MSG must be operationally, and in policy terms, independent of government and/or companies. (Standard §1.3(f)(ii))

What is clear, yet at times ignored or misunderstood, is that even the requirements that focus **specifically** on civil society participation in the EITI process do have a **relatively broad framing**, beyond the confines of the multi-stakeholder group, as they explicitly note that:

- the concept of civil society is "not restricted to members of the multi-stakeholder group",
- space for wider "public debate" is a key factor, and
- the status of "fundamental rights" must be evaluated.

Moreover, other **EITI requirements have an even wider scope, going beyond looking at civil society participation in the EITI process, and instead relating to a country's broader environment for civil society** as a whole:

- There must be an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. (Standard §1.3(b))
- Stakeholders must be able to speak freely on transparency and natural resource governance issues. (Standard §1.3(e)(i))
- Stakeholders must have the right to communicate and cooperate with each other. (Standard §1.3(e)(iii))

Importantly, **these existing broader requirements highlight** that:

- having an "enabling environment" for civil society, including with respect to "laws, regulations, and administrative rules", matters just as much as the more narrowly technocratic "actual practice in implementation of the EITI", and,
- looking narrowly at EITI participation is not sufficient, as civil society also "must be able to speak freely on transparency and natural resource governance issues".

In sum, the **existing EITI requirements are clear regarding the necessity for applicant and implementing countries to have an enabling environment for civil society that includes respect for fundamental rights, free speech and public debate.** Yet these existing requirements have not yet been translated by the Secretariat or the Board into detailed guidance on how to evaluate whether a country's civil society environment is satisfactory or not.

4. How can EITI address the risks?

(a) Clarify approaches to current requirements

The concern about lack of guidance on how to evaluate civil society requirements has resulted in numerous attempts to tackle civil society issues, including the establishment of a Rapid Response Committee and multiple efforts to convene a Working Group on Civil Society Participation. The development of an EITI civil society protocol in February 2011 has been useful, but has not provided sufficient clarity as challenges with consistently evaluating the enabling environment for civil society have persisted.

In order to move forward, the Board should clarify the EITI's approach to the existing civil society requirements with respect to:

- **Scope (the "linkage dilemma"):** In addition to specifying how the Standard's narrow references to obstacles that limit "participation in the EITI process" will be applied, it will also be warranted to detail the concrete application of standards regarding broader references in the Standard to "fundamental rights", needing an "enabling environment" for civil society participation, and requiring the ability to speak freely on "transparency and natural resource governance issues"?

- **Assessment:** What detailed criteria and specific indicators will be used to test whether the civil society environment complies with the requirements set out in the Standard? At what points in the EITI process will this be tested? Should the thresholds for passing the test be different at Candidacy and at Compliance? How to address the Standard's direction to evaluate a country's "laws, regulations, and administrative rules", alongside its recommendation to consider "actual practice in implementation of the EITI"?

- **Sanction mechanisms:** How will the EITI meaningfully respond to instances where the enabling environment for civil society is deficient? And when it deteriorates? How can responses be (to a large extent) standardized based on assessment indicators, making them more rigorous and evidence based, thereby reducing undue discretion and being ad hoc? How should responses vary between Candidacy and Compliance, taking into consideration that both come at very different stages, with different implied performance timetables and expectations?

Even if so far implementation in practice has been very weak, the stated requirements in the EITI Standard clearly contemplate a threshold that would ensure that countries with deficient civil society environments do not become EITI candidates or obtain compliant status. Until now this has not been followed in practice. Consistent with these requirements, the Board would now need to agree on the

details of what this threshold is and develop a set of guidelines and indicators to evaluate whether or not the threshold has been met at one or both of these key junctures.

In this context it is also important to consider the more fundamental (and constructively forward-looking) issue of **incentives**, which at present is a silent weakness of EITI: what **incentive to reform**, if any, does a country with very low standards of civil society voice and accountability face in order to become a candidate? Worse, if the country is allowed to become a candidate (since the 'bar' has been low), what incentive does the country face to improve in order to become compliant? The stark reality is that, at present, the answer to either question is none. In practice, EITI does not provide a meaningful incentive to improve. In the concrete options proposed below, we also address this issue.

Again, the underlying reason that the environment for civil society in an EITI country may need to improve is not because of any notion that "the EITI is a human rights initiative", but rather because the EITI's own principles and requirements underscore that having an environment that enables civil society to speak freely and engage in public debate on natural resource governance issues is a condition precedent to EITI's ability to have an impact.

(b) Clarify approach to EITI objectives

Related to the "Assessment" point noted above, a basic premise has been that a broad space for civil society engagement and public debate is a key determinant of effective natural resource transparency and accountability and thus for attaining the objectives of EITI. Specifically, at the core of EITI's theory of change is that natural resource transparency will stimulate greater public understanding, and that "public understanding of government revenues and expenditure over time could help public debate and inform the choice of appropriate and realistic options for sustainable development"(EITI Principle #4).

Yet there are two alternative paths to approach the practical implications of the above mentioned importance of civil society space and voice for EITI objectives. One would be to argue that high standards of civil society space are a prerequisite for entering the EITI fold, prior to the candidacy decision.

An alternative approach would stem from the dynamic argument that these EITI objectives can be accomplished by using the EITI process itself to open up an initially quite narrow space for civil society engagement and public debate in countries where such a space is currently absent.

The current challenge for EITI regarding the possible adoption of the second ('hoping-for-improvement') path lies in the 'incentive challenge' mentioned above: the absence of incentives for a country with a substandard civil society environment that is accepted as a candidate to improve thereafter.

It is in fact of interest to note that this EITI incentive challenge is consistent with the empirical evidence regarding how countries related to EITI have fared over time: Since 2007, EITI countries have not improved their performance on civil society space/voice and accountability indicators. This suggests that allowing countries with very low civil society standards into the EITI fold has not provided an incentive for them to improve. These sobering observations and findings do not necessarily imply that

this second path could not have potential in the future. But they suggest that it would be important to revisit the set of incentives that may have to be in place for improvements to take place between candidacy and compliance – an issue to be addressed in the options section below.

The challenge of having countries in EITI (candidate or compliant) exhibiting very low standards regarding civil society space is heightened by the reputational effects for EITI and its perceived attractiveness and effectiveness. The mere fact of participating in EITI is often considered to give a country the international community's imprimatur, and thus some governments with subpar standards of civil society space seek membership – while in the eyes of other countries and stakeholders the initiative loses credibility. Consequently, even if open public debate and civil society engagement were not core principles of the EITI, the **credibility** of the initiative as a global multi-stakeholder standard could be called into question if the EITI was seen as rewarding or endorsing countries with highly repressive civil society environments.

(c) Considering Practical Options to Address the Challenge of Civil Society Space in EITI

With the above background in mind, some concrete options for approaching the evaluation of the civil society environment requirements are presented here. In the first subsection below, framing these options, we present the two 'extremes', while in the second subsection we present two intermediate options (that may be deemed more realistic).

(c1) Consider limitations of extreme options

(i) Extreme Option 1: Weak, Discretionary Standard at both Candidacy & Validation

At one extreme of the spectrum, the status quo: EITI could maintain highly discretionary and relatively weak standards for evaluating civil society participation. In essence, the upside of this approach is that it enables participation by a very wide range of countries, including ones where civil society might otherwise have no platform for dialogue, yet some argue that EITI may present an opportunity for some in civil society to participate in discussions. The downside is that it opens the door to embracing into the EITI fold some governments that provide such limited (if any) space for civil society as to make it highly unlikely that the EITI will be able to successfully accomplish its stated objectives. An additional downside is the credibility loss incurred by EITI not being seen as a legitimate global multi-stakeholder standard if governments that are widely known to be repressive of civil society are accepted as members -- and even deemed to have compliant status.

(ii) Extreme Option 2: High, Rigid Standard at both Candidacy & Validation

At the other end of the options spectrum, the EITI could require that all candidate and compliant countries meet high, clear, objective and quantifiable evaluation standards for civil society enabling environment, as in other (unrelated to civil society) aspects of the Standard. All current and incoming EITI countries would have to meet these civil society standards, and any countries that did not meet these standards would not receive any support from the EITI or its partners. The upside of this approach is that the existence of civil society openness lays a strong foundation for EITI being able to facilitate

public debate, increasing the likelihood that the initiative will successfully accomplish its objectives. The downside is that the pool of countries meeting the civil society prerequisites for EITI participation could be relatively self-selecting in terms of good governance, excluding many countries where reform is most needed.

(c2) Consider benefits of intermediate options

Mindful of the potential pitfalls of either extreme, the EITI should consider other, more intermediate options. Both of these intermediate options propose evaluation standards that would be clarifications of the existing civil society requirements, which would remain unchanged.

(i) Intermediate Option 3: Relatively Low Candidacy Standard, Higher Validation Standard

One option would be to have relatively low civil society evaluation standards for becoming a candidate country (though there would still need to be standards, and these standards would have to be made more clear, objective and quantifiable than they currently are), but require countries to make progress towards attaining reasonable standards in order to obtain compliant status at validation. Incoming candidate countries would be made aware of any identified weaknesses regarding the civil society environment, allowing them to set objectives for progress, and there would be another evaluation of the civil society environment at validation . At that time, the higher standards would be applied that would determine whether sufficient progress had been made (these too would need to be clear, objective and quantifiable). The benefit of taking this approach is that it would give countries that often most need reform the opportunity to use the EITI as catalyst for improvement, but at the same time it would hold them to account to make real progress or else face removal from the EITI.

The specific indicators[2] and thresholds that would be used to evaluate Requirement 1.3 (one set of indicators at candidacy and one set of indicators at validation) would need to be developed and published. The Outreach & Candidature Committee would apply the candidacy indicators in their assessment. As for the validation part, Section 3.2(4) of the Validation Guide already requires a "comprehensive and detailed assessment by the validator of the country's compliance with each requirement, taking into account stakeholder views." In practice, however, validators have not always assessed the existing civil society requirements with as much rigor as they have evaluated reporting requirements. Thus, in forging ahead, the Secretariat's template for the validator terms of reference and the validation assessment would need to emphasize a rigorous evaluation using the civil society validation indicators. The validation Committee would apply the validation indicators in their assessment.

The indicators established for candidacy and validation would likely inform the criteria that would be applied by the Rapid Response Committee to deal with specific incidents, though further clarity on which response mechanisms would be used would likely still be warranted.

[2] Note that the development of quantitative indicators should not exclude the complementary use of qualitative indicators.

(ii) Intermediate Option 4: High Standard at Candidacy & Validation + Technical Support

Another option would be to have the same relatively high civil society evaluation standards at both candidacy and validation (these too would need to be clear, objective and quantifiable), but to develop a program that would allow countries that fail to meet those standards (whether at candidacy or validation) to receive assistance and support with improving the civil society environment from the EITI and its partners. To avoid reputational misconceptions, there would need to be very clear messaging that countries in this program are not a part of EITI (e.g. the names for country activities should not closely imitate the EITI acronym). The benefit of taking this approach is that it would ensure that the EITI maintains credibility as a global standard, but at the same time it would allow countries that often most need reform to access support and work on improvement.

The practical implementation of such an approach would involve the same indicator development process as outlined in Option 1, with the difference being that only a single set of indicators would be applied at both candidacy and validation. The same clarifications with respect to validation as outlined in Option 1 would apply. The same concept that the indicators established for candidacy and validation informing the criteria used by the Rapid Response Committee also applies. The described program for under-performing countries would need to be developed and funded.

(iii) Uniformity

The desire to apply uniform standards to implementing and prospective countries is clear and reasonable, but this desire for consistency should not stifle necessary clarifications. The EITI should continue to set a global standard, one which countries can make their own. But if the EITI becomes so flexible that it fails to set clear thresholds on something as fundamental to the EITI process as the enabling environment for civil society, then the initiative's role as internationally recognized standard will be undermined.

Both of the intermediate options outlined above call for the establishment and application of clear, objective and quantifiable standards for the evaluation of civil society requirements at validation. Given that both prospective and implementing countries will undergo validation in the relatively near term (within three years), the clarified civil society evaluation standards that are applied at validation will serve as a fair and consistent "equalizer". The evaluation standards will be clarifications of the existing requirements, which would remain unchanged.

(iv) Measurability

One of the reasons that lack of guidance on evaluating civil society requirements likely exists is the perception that it is difficult to objectively measure such a complex issue. As noted above, the development of quantitative indicators should not exclude the complementary use of qualitative indicators. Nonetheless, quantitative indicators to evaluate the enabling environment for civil society do exist. To illustrate the plethora of potentially relevant indicators from many sources, Annex 1 lists a range of civil society variables that can be referenced, though note that these empirical sources are for illustrative purposes only. In addition to establishing qualitative and EITI-specific evaluation criteria, the

Board would need to select quantitative indicators that were most relevant to the EITI context. Yet the task at hand is measurable, even if the usual cautions in use of data will naturally apply.

5. Conclusion and Next Steps

The credibility risks and practical risks that the EITI is currently facing due to unclarity around civil society requirements are real and pressing. The existing EITI requirements are clear regarding the necessity for applicant and implementing countries to have an enabling environment for civil society that includes respect for fundamental rights, free speech and public debate.

But these existing requirements have not yet been translated by the Secretariat or the Board into detailed guidance on how to evaluate whether a country's civil society environment is satisfactory or not. There are serious questions at present regarding EITI standards for candidate countries, and also relating to compliance, when it comes to civil society voice and space to operate, with concomitant risks for the overall EITI initiative due to the very low (and even deteriorating) standards exhibited by a number of countries.

In this draft paper we presented the case for the EITI to address these fundamental and long-standing gaps as a priority at this juncture. Concretely, we offer various options for doing so in ways that are uniform, measurable, and that balance various objectives. Importantly, these options do address a major implicit flaw in the current EITI process, namely the lack of incentive provided for countries with low civil society standards to improve over time on this key enabling environment dimension.

Some operational ramifications emerge in terms of EITI's internal process. The Board and the Implementation Committee will need to thoroughly discuss these issues. Given the cross-cutting implications of the Implementation Committee's approach to this issue, it would seem prudent to have the Implementation Committee's eventual recommendation on these issues reviewed by the Outreach & Candidature Committee and the Validation Committee prior to submitting a recommendation to the full Board. A process for consulting with implementing countries would also be important. Ideally, countries that have pending applications before the Board should also be made aware that clarifications regarding the evaluation of the requirements on civil society environment are currently pending.

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** Annex 1 with existing indicators, some of which that may be relevant for CSO environment assessment, is enclosed below. Note that the list sources and indicators in the table below is neither exhaustive, nor implies that all indicators presented would necessarily be the best fit for the specific purpose of evaluating the civil society environment and participation. Existing indicators on civil society participation from government agencies are not presented here. The main objective here is to illustrate the extent to which potentially relevant indicators are present, even if far from perfect (as with virtually any topic).*

Annex 1: Potential Civil Society Assessment Related Indicators:

*An Illustrative List of Existing Sources, Variables, Country Coverage and Periodicity**

Source	Variables	Coverage, Frequency, and Most Recent Available
Afrobarometer (AFR) http://www.afrobarometer.org/	Satisfaction with democracy in one's country	35 countries, periodic rounds, latest in Nov 2013
	Willingness to sign petitions, join boycotts, attend peaceful demonstrations	
Amnesty International http://www.amnestyusa.org/	Political terror scale	157 countries, annual, latest 2012
Bertelsmann Transformation Index (BTI) http://www.bertelsmann-stiftung.de/	Political Participation	128 countries, every two years, latest 2012
	Presence of Interest groups	
	Association/assembly rights	
	Democracy Status	
Cingranelli Richards Human Rights Database (HUM) http://www.humanrightsdata.org/	Restrictions on domestic and foreign travel	202 countries, annual, latest 2011
	Freedom of political participation	
	Imprisonments because of ethnicity, race, or political, religious beliefs	
	Freedom of Speech	
	Freedom of assembly and association	
	Physical integrity rights index	
	Worker's rights	
Economist Intelligence Unit (EIU) http://www.eiu.com/	Democracy Index	167 countries, annual, latest 2012
	Accountability of Public Officials	
	Human Rights	
	Freedom of association	
	Political participation	
	Political culture	
	Civil liberties	
Freedom House (FRH, CCR) http://www.freedomhouse.org/reports	Political Rights	209 countries (197 for Press Freedom and 29 for Media Freedom), annual, latest 2013
	Civil Liberties	
	Press Freedom Index	
	Media Freedom	
	Civil Society	
	Accountability and public voice	
Fund for Peace and Foreign Policy Failed States Index http://ffp.statesindex.org/	Human rights	178 countries, annual, latest 2013
Gallup World Poll (GWP) http://www.gallup.com/poll/world.aspx?ref=b	Confidence in honesty of elections	Number of countries and frequency varies by report
Global Competitiveness Report (GCS)http://www.weforum.org/issues/global-competitiveness	Freedom of the Press	148 countries, annual, latest 2013-2014

Source	Variables	Coverage, Frequency, and Most Recent Available
Global Insight Business Condition and Risk Indicators (WMO) http://www.ihs.com/products/global-insight/index.aspx	Representativeness	200+ countries, frequency differs by country
Global Integrity Index (GII) http://report.globalintegrity.org/globalIndex.cfm	Civil Society Organizations	70 countries, every two years, latest 2009
	Media	
	Voting & Citizen Participation	
	Election Integrity	
	Legal framework	
ICNL and CIVICUS Enabling Environment National Assessment http://www.icnl.org/	CSO Formation	Under development
	Operation	
	Access to Resources	
	Expression	
	Advocacy	
	Peaceful Assembly	
	Internet Freedom	
	Government-CSO Relations	
	CSO Coalition and Cooperation	
	Taxation	
	Access to Information	
IFAD Rural Sector Performance Assessments (IFD) http://www.ifad.org/	Policy and legal framework for rural organizations	Number of countries varies by report, annual, latest 2012
Institutional Profiles Database (IPD) http://www.cepii.fr/institutions/EN/ipd.asp	Freedom of elections at national level	143 countries, every three years, latest 2012
	Freedom of the Press	
	Freedom of Association	
	Freedom of assembly, demonstration	
	Respect for the rights and freedoms of minorities	
	Freedom of movement for nationals around the world	
	Freedom of access, navigation and publishing on Internet	
	Genuine Media Pluralism	
International Research & Exchanges Board Media Sustainability Index (MSI) http://www.irex.org/project/media-sustainability-index-msi	Media Sustainability Index	80 countries, annual, latest 2013
International Social Survey Program http://www.issp.org/	Inequality in activity in civic organizations	Number of countries and frequency varies by report
	Inequality in membership in civic organizations	
	Activism in civic organizations	
	Membership in civic organizations	
Latinobarometro (LBO)	Satisfaction with democracy	18 countries, annual, latest 2013

Source	Variables	Coverage, Frequency, and Most Recent Available
http://www.latinobarometro.org/lat.jsp	Willingness to sign petitions, join boycotts, attend peaceful demonstrations	
Political Risk Services International Country Risk Guide (PRS) http://www.prsgroup.com/	Democratic accountability	140 countries, monthly
Reporters Without Borders Press Freedom Index (RSF) http://en.rsf.org/press-freedom-index-2013,1054.html	Press Freedom Index	179 countries, annual, latest 2013
Social Watch http://www.socialwatch.org/	Gender equity index	168 countries, annual, latest 2012
Trade unions rights violations survey http://www.ituc-csi.org/annual-survey-of-violations-of,271?lang=en	Trade unions rights violations	143 countries, annual, latest 2012
Transparency International Corruption Perception Index http://www.transparency.org/research/cpi/overview	Corruption Perception Index	177 countries, annual, latest 2013
Union of International Associations (UIA)Yearbook of International Organizations http://www.uia.be/yearbook	Presence of environmental organizations	300 countries, annual, latest 2013
	Presence of peace organizations	
	Organizational Capacity	
	Financial Viability	
	Advocacy	
	Service Provision	
	Public Image	
Vanderbilt University's AmericasBarometer (VAB) http://www.vanderbilt.edu/lapop/insights.php	Satisfaction with democracy	26 countries, every two years, latest 2012
World Justice Project Rule of Law Index (WJP) http://worldjusticeproject.org/rule-of-law-index	Fundamental Rights	97 countries, annual, latest 2013
World Values Survey http://www.worldvaluessurvey.org/	Willingness to sign petitions, join boycotts, attend peaceful demonstrations	87 countries, frequency varies, latest 2008
	Inequality in activity in civic organizations	
	Inequality in membership in civic organizations	
	Activism in civic organizations	
	Membership in civic organizations	
Worldwide Governance Indicators http://info.worldbank.org/governance/wgi/index.aspx#home	Voice and Accountability	215 countries, annual, latest 2012